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Code Administrator Consultation Response Proforma

CMP435: Application of Gate 2 Criteria to existing contracted background

Industry parties are invited to respond to this consultation, expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses to cusc.team@nationalenergyso.com by **5pm GMT on 26 November 2024**. Please note that any responses received after the deadline or sent to a different email address will not be accepted.

Please be aware that late responses will not be accepted.

If you have any queries on the content of this consultation, please contact elana.byrne@nationalenergyso.com and catia.gomes@nationalenergyso.com or cusc.team@nationalenergyso.com

Respondent details	Please enter your details	
Respondent name:	Matthew Dowds	
Company name:	Muirhall Energy	
Email address:	md@muirhallenergy.co.uk	
Phone number:	01501643405	
Which best describes your organisation?	<input type="checkbox"/> Consumer body <input type="checkbox"/> Demand <input type="checkbox"/> Distribution Network Operator <input checked="" type="checkbox"/> Generator <input type="checkbox"/> Industry body <input type="checkbox"/> Interconnector	<input type="checkbox"/> Storage <input type="checkbox"/> Supplier <input type="checkbox"/> System Operator <input type="checkbox"/> Transmission Owner <input type="checkbox"/> Virtual Lead Party <input type="checkbox"/> Other

I wish my response to be:

(Please mark the relevant box)

☒ **Non-Confidential** (*this will be shared with industry and the Panel for further consideration*)

☐ **Confidential** (*this will be disclosed to the Authority in full but, unless specified, will not be shared with the Panel or the industry for further consideration*)

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For reference, the Applicable CUSC (non-charging) Objectives are:

- a) *The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;*
- b) *Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity;*
- c) *Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and*
- d) *Promoting efficiency in the implementation and administration of the CUSC arrangements.*

**The Electricity Regulation referred to in objective (c) is Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) as it has effect immediately before IP completion day as read with the modifications set out in the SI 2020/1006.*

Please express your views in the right-hand side of the table below, including your rationale.

Standard Code Administrator Consultation questions		
1	Please provide your assessment for the proposed solution(s) against the Applicable Objectives?	Mark the Objectives which you believe the proposed solution(s) better facilitates:
		Original <input checked="" type="checkbox"/> a <input checked="" type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
		WACM1 <input checked="" type="checkbox"/> a <input checked="" type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
		Both the Original and WACM1 better facilitates the CUSC objectives than the baseline.
2	Do you have a preferred proposed solution?	<input checked="" type="checkbox"/> Original <input type="checkbox"/> WACM1

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		<input type="checkbox"/> Baseline <input type="checkbox"/> No preference
		<p>WACM1 warrants consideration, as it may be unfair to projects adversely affected by network changes (resulting from the introduction of CMPs) to not have the opportunity to assess the impact of nearby projects on their development. However, the objective of the reform is to streamline the connection queue, ensuring that only deliverable projects receive connection offers. If a project's viability is so sensitive that it depends on the presence or absence of other projects in the queue, it could be argued that it should not qualify for Gate 2. Furthermore, introducing a 'Pause' under WACM1 risks delaying implementation and adding unnecessary complexity, which may outweigh the potential benefits of adopting this option.</p>
3	Do you support the proposed implementation approach?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		<p>Muirhall support the implementation approach, however we have concerns with a 2 week application window. This will be quite demanding on smaller developers and does not give much allowance for personal circumstances such as illness/annual leave. 3 weeks would still hold the same risk but would give developers a better chance to be prepared and respond appropriately.</p>
4	Do you have any other comments?	<p>Muirhall broadly supports the majority of proposals within this CMP. However Muirhall strongly disagrees with the following items-</p>

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		<ul style="list-style-type: none"> • Gate 2 Criteria and Financial Instrument <ul style="list-style-type: none"> ○ Muirhall propose that if a Financial Instrument were to be introduced at Gate 2, then the requirement to have Planning or Land is appropriate. ○ However, If the Financial Instrument is not introduced at Gate 2, then the Gate 2 Criteria should change to requiring Land and Planning to be Submitted. ○ Muirhalls preference is that a Financial Instrument is not introduced and that the criteria for Gate 2 is a higher level than is currently proposed ie Planning would need to be submitted and Land aquired. ○ This arrangement best meets the objectives of the connections reform and attempts to mitigate against smaller developers being unable to afford the £20k/MW Financial Instrument. • Ongoing Gate 2 Compliance - Planning <ul style="list-style-type: none"> ○ The forecasted 3 Year timeline for a S36 does not align with Muirhalls expectation of what the ECU can deliver. Although the ECU have made commitments to accelerate planning decisions, the minimum planning timeline is 4-6 Years from submission. Therefore if 3 Years is introduced in the reform, it is vital that there is sufficient flexibility within the 'Third Party' Delays criteria to allow for programme milestone delays outside the control of the developer. • Capital Payments <ul style="list-style-type: none"> ○ Muirhall do not believe it is acceptable for Transmission Owners to avoid refunding capital costs. ○ Projects will have paid £100ks - £millions in capital payments and may not achieve
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		<p>or be awarded a Gate 2 contract. This will result in payment inefficiencies and increased spend, which may unfairly impact projects. For example –</p> <ul style="list-style-type: none"> ▪ ‘Project A’ may not receive a Gate 2 connection offer. ▪ ‘Project A’ will then move to Gate 1 but not receive a refund. ▪ ‘Project B’ which qualifies for Gate 2 at the same location presumably has to pay for the same assets that ‘Project A’ has contributed towards. ▪ Following which, ‘Project B’ qualifies for Gate 2 and will have a new capital profile for assets to enable a connection. <p>○ Transmission Owners could, in theory, receive payment multiple times for the same assets, many of which may be reusable or could be reassigned to other Gate 2 qualified projects. As a result, Transmission Owners must carefully assess the payments made by each developer and issue refunds to projects that do not qualify for Gate 2.</p>
5	Do you agree with the Workgroup’s assessment that the modification does not impact the Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the CUSC?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		N/A