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for energy consumers

Trisha McAuley OBE
Independent Chair
CUSC Panel
c/o National Grid ESO
Faraday House, Gallows Hill
Warwick, CV34 6DA

29 February 2024

Delivered by email.

Dear Trisha,

Approval for CMP428: User Commitment liabilities for Onshore Transmission circuits in the HND to be treated as an urgent CUSC modification proposal

On 11 January 2024, National Grid Electricity System Operator ('NGESO' or the 'Proposer') raised Connection and Use of System Code (CUSC)¹ Modification Proposal CMP428² (the 'Proposal'). On 21 February 2024, the Proposer requested that the Proposal be treated as urgent based on Ofgem's Urgency criteria³.

The CUSC Panel (the 'Panel') met on 23 February 2024 to consider CMP428 and the request for urgency. On 26 February 2024, the Panel wrote to inform us⁴ of its majority view that CMP428 should proceed as an Urgent CUSC Modification Proposal.⁵

We have considered both the Panel's and the Proposer's arguments in relation to urgency and decided that CMP428 will progress on an urgent basis. We have set out our reasoning below.

¹ [CUSC | National Grid ESO](#)

² [CMP428: Amendment to Bi-annual estimate provisions](#)

³ [Ofgem Guidance on Code Modification Urgency Criteria](#)

⁴ [References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets \(Ofgem\) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.](#)

⁵ [CMP428: Urgency Request Letter](#)

Background

In July 2022, NGEN published the Holistic Network Design⁶ (HND) which, in summary, aims to develop a coordinated approach to increased offshore wind connections in the context of a target to connect 50GW of offshore wind in GB by 2030. The Authority subsequently published a decision on asset classification⁷ for the HND, categorising the transmission assets as either onshore transmission, radial (or point-to-point) offshore transmission, or non-radial offshore transmission.

The Proposer suggests applying the current definition of 'Attributable Works' to the HND will mean certain onshore transmission circuits, which deliver wider system benefit, will be classed as Attributable Works, and generators connected to those circuits, will be responsible for the associated liabilities.

The Proposer believes the current definition will result in unjustifiably high securities that will inhibit otherwise viable low carbon generators from making HND investment decisions and may jeopardise net zero ambitions.

Urgency request

In its urgency request, the Proposer explained why it was requesting urgency, highlighting one of the three criteria set out in Ofgem's Guidance on Code Modification Urgency Criteria ('Ofgem's Urgency Criteria'): (a) *A significant commercial impact on parties, consumers or other stakeholder(s).*

The Proposer considers the Proposal should proceed under an urgent timeline on the basis that should the modification be approved, it would need to be implemented before the deadline of 14 June 2024 to be effective in mitigating the risk of unnecessarily high securities for viable low carbon generators.

Panel view

At the Panel meeting on 23 February 2024, a majority of Panel members agreed to recommend to Ofgem that CMP428 should be progressed as an Urgent CUSC Modification Proposal. The Panel's arguments for and against urgency are set out in their letter of 26 February 2024.

The majority of the Panel agreed with the Proposer's justification for urgency against Ofgem's criterion (a) *A significant commercial impact on parties, consumers or other stakeholder(s).* One panel member argued that the commercial impact remained unclear and voted against urgency. Panel acknowledged that the Proposer was unable to share the

⁶ [A Holistic Network Design for Offshore Wind | National Grid ESO](#)

⁷ [Offshore Transmission Network Review: Decision on asset classification | Ofgem](#)

specific detail of the commercially sensitive information related to the modification and understood the implementation date was not arbitrary.

Our decision

In reaching our decision, we have considered the details within the Proposal, the justification for the Proposer requesting urgency, the Panel's letter recommending urgency and the proposed timeline. We have also considered the significant overlap with STC Modification Proposal CM094 (*'Amendment to Bi-annual estimate provisions'*)⁸, a modification we recently granted urgency.⁹

We agree that the progression of the Proposal satisfies Ofgem's Urgency Criteria (a). Without making an assessment as to its merits, we acknowledge the Proposal seeks to address a current issue which, if not urgently considered, may cause significant commercial impacts to connecting users by leaving them liable for increased costs which do not align with the intent of our previous policy decision.

The Proposer has provided an example of a current offshore project in the HND which could face cancellation if the present definition of Attributable Works is applied, as it would be held responsible for the associated £2.6bn in User Commitment liabilities. We accept that, for this stated offshore project in particular, early clarity on the securities arrangements will mitigate the risk of potential cancellations, unnecessary delays and ensure due consideration is given to this issue ahead of liabilities coming forward. In our view, given the scale of strategic transmission investment planned over the course of the decade there is also likely to be a greater number of future affected customers across GB.

As set out in our urgency decision on CM094, we believe that it would be appropriate to consider the merits of CMP428 in parallel with CM094 given the significant overlaps. Subsequently, we agree with the CMP428 proposed timetable as it broadly aligns key dates across the two code modification processes. We will not issue a decision in isolation of either modification that fetters our discretion in respect of either proposal.

Given the potentially material and immediate impact for industry parties, it is unclear why the Proposer did not pursue urgency at the earliest opportunity for this code modification. In the future, we would encourage Proposers to provide full consideration of the wider impacts of a proposed modification and how these may vary according to implementation timeline.

We encourage the Panel and Workgroup to proactively engage with interested parties, including the Panel and Workgroups of other relevant modifications as soon as possible to ensure consultation is effective notwithstanding the truncated timeline.

⁸ [CM094 - Amendment to Bi-annual estimate provisions | ESO \(nationalgrideso.com\)](#)

⁹ [CM094 Urgency Decision](#)

For the avoidance of doubt, in accepting the request for urgency, we have made no assessment of the merits of the Proposal and nothing in this letter in any way fetters our discretion in respect of the Proposal.

If you have any comments or questions about this letter, please contact David Jones at david.jones@ofgem.gov.uk.

Yours sincerely,

James Stone

Principal Policy Expert - Transmission Charging

Duly authorised on behalf of the Authority

Appendix 1 –Urgent Timeline

Modification Stage	Proposed Dates
Modification presented to Panel	26 January 2024
Ofgem decision on Urgency	29 February 2024
Code Administrator Consultation (3 business days)	15 April – 18 April 2024
Draft Final Modification Report issued to Panel & Industry	23 April 2024
Draft Final Modification Report issued to Panel to check votes recorded correctly	26 April 2024
Final Modification Report to Authority	26 April 2024
Implementation	14 June 2024