

Modification proposal:	<b>Connection and Use of System Code (CUSC) CMP428: User Commitment liabilities for Onshore Transmission reinforcement in the Holistic Network Design (CMP428)</b>		
Decision:	The Authority <sup>1</sup> directs that this modification be made <sup>2</sup>		
Target audience:	National Grid Electricity System Operator ('NGESO'), Parties to the CUSC, the CUSC Panel and other interested parties		
Date of publication:	11 June 2024	Implementation date:	14 June 2024

## Background

The Offshore Transmission Network Review ('OTNR') was launched by government in July 2020 to ensure that transmission connections for future offshore wind generation were delivered in an optimal way, considering the United Kingdom's ambitions for offshore wind energy in achieving Net Zero. The government's Ten Point Plan for a Green Industrial Revolution, published in November 2020,<sup>3</sup> set an ambitious offshore wind target of 40GW by 2030. In April 2022, the government announced a new British Energy Security Strategy ('BESS'),<sup>4</sup> which built on previous offshore wind targets to set an ambition of 50GW of offshore wind by 2030. To achieve the objectives of the OTNR, four workstreams were established operating in parallel, including the Pathway to 2030 ('PT2030').<sup>5</sup>

One of the objectives of the PT2030 workstream, is to ensure that all network infrastructure (both onshore and offshore) necessary to connect projects in scope, is designed in a co-ordinated manner with an optimal engineering solution.

<sup>1</sup> 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.

<sup>2</sup> This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

<sup>3</sup> [The ten point plan for a green industrial revolution - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/the-ten-point-plan-for-a-green-industrial-revolution)

<sup>4</sup> [British energy security strategy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/british-energy-security-strategy)

<sup>5</sup> [Decision on Pathway to 2030 | Ofgem](https://www.ofgem.gov.uk/consult/condocs/pt2030/pt2030_consult.htm)

The Holistic Network Design ('HND')<sup>6</sup> was published by National Grid Electricity System Operator ('NGESO') in July 2022 as part of the PT2030 workstream, with the objective to develop a co-ordinated approach to offshore wind connections, whilst ensuring an appropriate balance between environmental, social, and economic costs.

#### *OTNR: Decision on asset classification*

On 19 October 2022, the Authority published a decision<sup>7</sup> on the classification of assets included in the HND into three categories: onshore transmission (reinforcement), radial offshore (or point-to-point) transmission and non-radial offshore transmission. The purpose of the decision was to provide further guidance on the delineation between onshore and offshore assets within the HND and classification was based on the purpose for which the asset is constructed, rather than the physical location of the asset itself.

Under this framework, onshore transmission assets are defined as those assets constructed for the purpose of reinforcement of the existing onshore transmission network. This means assets in the HND classed as onshore transmission will run electrically parallel to the existing transmission network, as their primary function will be to transport power from onshore generating stations to another point on the transmission system. These onshore transmission reinforcement assets can transport electricity from congested regions behind boundaries onshore to other parts of the onshore system and is therefore deemed to provide wider system benefit.

#### *User Commitment arrangements*

When a User seeks connection to the transmission network, they may trigger reinforcement works. User Commitment arrangements place liabilities on Users that trigger specific reinforcement works to allow them to connect to the system, and defines the amount a User is liable for should they terminate their project or reduce their capacity before or after their Trigger Date.<sup>8</sup> This means that Users financially secure the network reinforcement and investment required to connect them. Security arrangements comprise of a generic liability to cover assets being built for the benefit of all Users (defined as Wider Works) and

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<sup>6</sup> [A Holistic Network Design for Offshore Wind | ESO \(nationalgrideso.com\)](https://www.nationalgrideso.com)

<sup>7</sup> [Offshore Transmission Network Review: Decision on asset classification \(ofgem.gov.uk\)](https://www.ofgem.gov.uk)

<sup>8</sup> Defined in CUSC Section 15 - *The Trigger Date will be (a) the 1 April which is three Financial Years prior to the start of the Financial Year in which the Charging Date occurs or (b) where the Charging Date is less than three Financial Years from the date of the Construction Agreement, the date of the Construction Agreement (in which case the Financial Year in which such date falls is the relevant Financial Year within the Cancellation Charge Profile working back from the Charging Date).*

a liability to cover specific generator driven investment i.e. the works required to connect a generator to an existing Main Interconnected Transmission System (MITS) node<sup>9</sup> (defined as Attributable Works). Therefore, whether asset build is driven by a specific User or for the wider benefit of all Users is determinative of the User Commitment liabilities faced by a connecting User.

If a User terminates their project (or reduces their capacity) before the Trigger Date, they will have to pay liabilities associated with their Attributable Works (also referred to as the Attributable Works Cancellation Charge). If they cancel after the Trigger Date, they will be liable to pay the Attributable Works Cancellation Charge and the Wider Cancellation Charge.<sup>10</sup> These arrangements are also reflected in the System Operator Transmission Owner Code (STC),<sup>11</sup> where connecting customers are required to provide securities associated with strategic reinforcement works approved by the Authority, notwithstanding that the build is not specifically triggered by the connection of the customer.

## **The modification proposal**

CMP428<sup>12</sup> (the 'Proposal') was raised by NGENSO (the 'Proposer') on 11 January 2024. Subsequently, on 21 February 2024, the Proposer requested that the Proposal be treated as urgent based on Ofgem's Urgency criteria.<sup>13</sup> On 29 February 2024, we approved<sup>14</sup> the decision to progress the modification on an urgent basis. It was noted in our urgency decision letter that there was potentially significant overlap between the Proposal and STC Modification Proposal CM094: *Amendment to Bi-annual estimate provisions*,<sup>15</sup> as they both seek to address similar defects for User liabilities within the HND. The Authority therefore approved an amended timeline to align both proposals and confirmed the intention to take a decision on CMP428 and CM094 in tandem. We have today also published our decision on CM094.

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<sup>9</sup> A MITS node is point on the network with four or more transmission lines, or two transmission lines and a Grid Supply Point (GSP).

<sup>10</sup> A component of the Cancellation Charge that applies on and after the Trigger Date as more particularly described in Part Two of the User Commitment Methodology

<sup>11</sup> [The System Operator Transmission Owner Code \(STC\) | \(nationalgrideso.com\)](https://nationalgrideso.com)

<sup>12</sup> [CMP428: User Commitment liabilities for Onshore Transmission \(reinforcement\) in the Holistic Network Design | ESO \(nationalgrideso.com\)](https://nationalgrideso.com)

<sup>13</sup> [Urgency Guidance \(ofgem.gov.uk\)](https://ofgem.gov.uk)

<sup>14</sup> [CMP428 - Decision on urgency \(ofgem.gov.uk\)](https://ofgem.gov.uk)

<sup>15</sup> [CM094: Amendment to Bi-annual estimate provisions | ESO \(nationalgrideso.com\)](https://nationalgrideso.com)

The Proposer considers that the existing definition of Attributable Works could capture assets which have been classified as onshore transmission reinforcement under the HND. As a result, the existing arrangements could require a User to provide significant User Commitment liabilities for assets which are for the purpose of delivering wider system benefit (and therefore more suitably classed as Wider Works), rather than being driven by the relevant User. Should this situation occur, the Proposer considers this would not be cost reflective.

### *CMP428 Solution*

CMP428 proposes to update the CUSC, so that assets designated by the Authority as onshore transmission reinforcement in the HND, or future asset classification decisions in the Beyond 2030 report,<sup>16</sup> will not be classified as Attributable Works, and no longer included within a User's Construction Agreement. This effectively means that Users will not incur User Commitment liabilities in respect of those assets.

To facilitate this, the Proposal would amend the existing definition of Attributable Works by introducing an exception for any works deemed by the Authority to be onshore transmission reinforcement ('Excepted Works').

The Proposal would see liabilities associated with assets designated as onshore transmission reinforcement removed from Attributable Works and flow through into the Transmission Owner's (TO) capital expenditure forecast and pass through into the Wider Cancellation Charge. The Wider Cancellation Charge is used to calculate reinforcement works that are within the MITS network. This Wider Cancellation Charge was considered outside the scope of CMP428, as Wider Cancellation liabilities are only applied after each affected User's Trigger Date, which are at present not an imminent issue. NGESO have signalled their intent to bring forward a modification to address these liabilities in the near future.

The Proposer considers the solution to better facilitate Applicable CUSC Objectives (ACOs<sup>17</sup>) (b) and (d), while considering the change to be neutral against the other ACOs. With respect to ACO (b), the Proposer believes that the Proposal will provide clarity to offshore

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<sup>16</sup> [Beyond 2030 | ESO \(nationalgrideso.com\)](https://www.nationalgrideso.com/beyond-2030)

<sup>17</sup> Applicable CUSC Objectives (ACOs) are defined in paragraph 15 of SLC C10 of NGESO's Transmission Licence. There are charging and non-charging objectives. They are contained in SLC C10(5) and SLC C5(5) respectively of NGESO's Transmission Licence. For the purposes of this decision, ACOs are referring to the non-charging objectives.

developers regarding the User Commitment liabilities and applicable methodology and reduce investment risk with respect to those liabilities. For ACO (d), the Proposer argues that the Proposal will provide greater clarity to industry on what assets are classified as Attributable Works for Users in the HND.

### **CUSC Panel<sup>18</sup> recommendation**

The CUSC Panel (the 'Panel') met on 26 April 2024 and voted on CMP428 against the ACOs. The Panel unanimously considered that the Proposal would better facilitate ACO (b) and (d) than the existing provisions within the CUSC (the 'Baseline'), and the Panel therefore recommended its approval. All nine Panel members unanimously considered the Proposal to better facilitate ACO (b), with four members considering ACO (d) to also be better facilitated. Further details on the views of the Panel members are set out in the Final Modification Report (FMR).<sup>19</sup>

### **Our decision**

We have considered the issues raised by the Proposal and the FMR dated 26 April 2024. We have also considered and taken into account the responses to the industry consultations on the Proposal which are attached to the FMR. We have concluded that:

- implementation of the Proposal will better facilitate the achievement of the ACOs; and
- directing that the modification be made is consistent with our principal objective and statutory duties.<sup>20</sup>

### **Our assessment against CUSC Applicable Objectives**

We consider the Proposal will better facilitate ACOs (b) and (d) and has a neutral impact on the other applicable objectives.

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<sup>18</sup> The CUSC Panel is established and constituted from time to time pursuant to and in accordance with section 8 of the CUSC.

<sup>19</sup> [CMP428 Final Modification Report | ESO \(nationalgrideso.com\)](#)

<sup>20</sup> The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

***(b) facilitating effective competition in the generation and supply of electricity, and (so far and consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity;***

The Proposer states that CMP428 will prevent assets in the HND classified as onshore transmission reinforcement from being classified as Attributable Works and will therefore avoid imposing significant liabilities on Users unnecessarily. They consider this will incentivise development of offshore generation which aids competition and therefore is positive in relation to ACO (b). The Panel members unanimously agreed that the Proposal better facilitates ACO (b). Overall, the Panel considered the Proposal to benefit competition by removing significant User Commitment liabilities on circuits used by offshore wind assets, where these circuits provide wider system benefit. Ultimately, they considered the Proposal to improve cost reflectivity of User Commitments, thus increasing competition in the market by reducing additional risk for Users connecting to the same node as onshore transmission reinforcement circuits.

*Our view*

We agree that the Proposal better facilitates competition in the generation of electricity. Under the current arrangements, we recognise in theory users could face liabilities in respect of onshore reinforcement works, which could place them at a disadvantage to other Users in the HND. We consider that as these circuits deliver wider system benefit and have been identified by the NGESO as necessary to facilitate the HND and offshore wind co-ordination, the associated liabilities could be a disincentive for certain Users to connect.

We consider the Proposal to be positive against this objective as it ensures that Users that connect earlier to circuits designated as onshore reinforcement, are not disadvantaged as compared to those Users that choose to connect at a later date, or to those Users that choose to connect elsewhere in the system. We believe that implementing the Proposal and the resultant changes to User Commitment liabilities will aid investment decisions and ensure Users that choose to connect to circuits that deliver wider system benefit, are not treated unfairly in this scenario.

***(d) promoting efficiency in the implementation and administration of the CUSC arrangements.***

The Proposer states that CMP428 will better facilitate ACO (d) as it will provide clarity to industry on the definition of Attributable Works and therefore liabilities for those Users in the HND. A minority of Panel members considered the Proposal to better facilitate this objective agreeing with the Proposer's rationale, with two members considering the Proposal to have a negative impact, suggesting that a solution referencing policy documents elsewhere was inefficient, with a preference to introduce specific definitions into the CUSC. Several Panel members noted that the Proposal aligns with Ofgem's previous policy decision on OTNR asset classification and thus aids efficiency and administration of the CUSC.

#### *Our view*

We agree that the Proposal better facilitates efficiency in the implementation and administration of the CUSC charging methodology. We consider the Proposal provides improved clarity to Users in relation to how assets classified as onshore transmission within the HND will be treated for the purposes of User Commitment liabilities. We agree with the Proposer and Panel that the CMP428 solution ensures alignment with the policy intent of our previous decision on asset classification for assets in the HND, and given the material impact of the liabilities, we consider this would provide early clarity on securities arrangements. We therefore consider the Proposal to mitigate against the risk of any potential confusion in relation to the treatment of assets classified within the HND and thus improves the efficiency of the current CUSC arrangements.

Furthermore, we believe that by referencing our policy decisions on which assets will be classed as onshore transmission reinforcement in the HND (and any future asset classification decisions for further offshore developments) in the Excepted Works definition, will reduce ambiguity for NGESO when calculating User Commitment liabilities for any User planning to connect to these assets. Therefore, we disagree with the view that the introduction of references to policy decisions within the CUSC in this instance causes a negative impact with respect to this objective.

#### **Interaction with CM094: Amendment to Bi-annual estimate provisions**

In our decision on urgency for CMP428, we considered the modification and its significant overlap with another urgent modification, STC Modification Proposal CM094: '*Amendment*

to *Bi-annual estimate provisions*'. Given the interdependencies between these modifications, we believed that it would be most appropriate to consider the merits of CMP428 in parallel with CM094.

CMP428 and CM094 propose separate solutions aiming to address a similar defect for User Commitment liabilities, albeit seeking to achieve this through different methodologies. CMP428 looks to ensure that there are no liabilities for transmission works classified as onshore reinforcement under HND once they have been classified as such by the Authority. In comparison, CM094 would see Users post securities for their liabilities until such time the Authority approved a needs case, which may not fully mitigate against potential cancellations as presently affected Users would be required to post securities until the next Security Period.<sup>21</sup> As the solutions are distinctly different in nature, it would create a misalignment between the respective codes should both be approved.

We recognise that both CMP428 and CM094 are consistent with our previous policy intent of encouraging coordinated expansion of the offshore network. We agree that User liabilities should be apportioned in a fair manner, as asking specific Users to secure liabilities wholly for these assets would likely discourage offshore developers from connecting to these circuits and jeopardise government Net Zero targets.

Whilst we have concluded that both the Proposal and CM094 are positive against their respective applicable code objectives and consistent with our principal objective and statutory duties<sup>22</sup>, we have concluded that it is not possible for both modifications to be approved and implemented. This is because the solutions are different and operationally incompatible with one another. Whilst both seek to resolve a similar defect with User Commitment liabilities, they do so through different codes, two different timeframes for when the changes would be effective and the respective proposed legal texts are not consistent with one another. Considering that the legal text proposes different terminology and operational processes for the removal of securities, approving both proposals would create a situation wherein there would be conflicting legal text across two codes relating to User Commitment arrangements and securities. This is not an acceptable approach nor is it a precedent the Authority would be comfortable with.

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<sup>21</sup> The Security Period refers to the period of time which the Users need to securitise for and relates directly to the Bi-Annual Estimates wherein the statements are produced for the Users detailing their securities following provision of information from TO to ESO

<sup>22</sup> The Authority's statutory duties in this context are detailed mainly in the Electricity Act 1989 (in particular, but not limited to section 3A) as amended.

As a result, we have considered which of the two options is preferable and have concluded CMP428 is a better solution. We believe the solution in CMP428 will more effectively mitigate the risk of cancellations, in that liabilities are excluded from Attributable Works for affected Users from the implementation date of decision. Under the proposed solution, CM094 would see Users post securities for their liabilities until such time the Authority approved a needs case, which may not fully mitigate against potential cancellations as presently affected Users would be required to post securities until the next Security Period. CMP428 therefore better facilitates our statutory duties and principal objective, including protecting the interests of existing and future consumers.

It is the view of the Authority that the two code bodies involved in these two modification Proposals could have engaged with each other more proactively in order to align the solutions of CM094 and CMP428, respectively.

The Authority encourages that, prior to raising a modification Proposal in future, relevant engagement and analysis is undertaken to understand other code modification proposals raised against a similar defect. If it is deemed necessary to raise a similar modification, we actively encourage respective Workgroups and Panels to proactively engage with each other in order to align their proposals and solutions to ensure consultation and solutions are compatible and as effective as possible.

### **Next Steps**

We encourage NGESO to bring forward a modification that addresses the Wider Cancellation Charge and treatment of Wider Works, to reflect how the introduction of the 'Excepted Works' definition as part of CMP428 and the associated costs would be reflected, if at all, in wider charges.

We recognise that some Users will have opted to fix their liabilities at the point of contracting, and that the benefit of this CMP428 may not, without further proposals being brought forward, be felt by them. We believe NGESO should now consider whether, or the extent to which i) consequential changes to the processes contained within the CUSC or STC are required as a result of this CMP428; and ii) arrangements for existing Users who have already selected to fix their liabilities should be reviewed. We will consider any further proposals and associated requests for Urgency on their specific merits.

## **Decision notice**

In accordance with Standard Condition C10 of the Transmission Licence, the Authority, hereby directs that modification proposal CMP428: *User Commitment liabilities for Onshore Transmission (reinforcement) in the Holistic Network Design* be made.

**Eleanor Wood**

**Deputy Director for Network Charging and Wholesale Market Reform  
Energy System Management and Security**

Signed on behalf of the Authority and authorised for that purpose