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Dear Trisha,

Authority decision to direct that the modification report on Connection and Use of System Code (CUSC) CMP303: 'Improving local circuit charge cost-reflectivity' be revised and resubmitted

EDF Energy raised CMP303 for consideration by the CUSC Panel on 27 July 2018. The Panel decided to send CMP303 to a Workgroup to be developed and assessed against the CUSC Applicable Objectives. On 18 April 2019, the CUSC Panel submitted a Final Modification Report (FMR) for CMP303 to us.

The Proposer raised CMP303 'to make part of the TNUoS charge more cost-reflective through removal of additional costs from local circuit expansion factors that are incurred beyond the connected, or to-be-connected, generation developers' need.' The FMR included nine Workgroup Alternative Code Modifications ("WACMs"), in addition to the Original Modification.

We have determined that we cannot properly form an opinion on CMP303 based on the submitted FMR. We therefore direct that the FMR is revised and resubmitted to take into account our concerns expressed below.

1. Concerns

We have identified two principal concerns with the FMR: the Workgroup has not undertaken sufficient analysis, and the legal text is not sufficiently robust.

1.1 Analysis

We have a number of concerns with the analysis provided in the FMR. At various points in the FMR, the Workgroup commits to undertake more detailed analysis. For example:

'In order to fulfil the requirements of this modification, the Workgroup agreed that the costings of mono-directional vs bi-directional transmission links would need to be understood in full.' (p.7)

'The Workgroup endeavoured to understand how tangible and detrimental the current charging baseline error, as perceived by the Proposer, was within the CUSC.' (p.8)

'NGESO made it clear throughout their analysis that these figures are very high level; the Workgroup will need to explore this further following the development of the solution within the Workgroup.' (p.9)

'As this is only initial and very high level analysis, the workgroup will need to consider their solution in detail. Due to the intricacies of the Transport and Tariff Model, the modification will have to be very clear on what calculation will need to take place and also the information provision from the TO and how this fits into the model. This will ensure that the analysis is reflective of the modification's intent.' (p.2 of Annex 4 – NGESO Impact Analysis)

On the basis of the FMR, the Workgroup does not appear to have fully-completed these tasks. Furthermore, the Terms of Reference¹ (ToR) for the Workgroup state (p.2) that it should consider and report on specific issues, including:

- a) *Understanding the impacts on wider and local tariffs*
- b) *Understanding the impact on generation and demand concerned*
- c) *Consideration of the overall benefits of the change v impact on consumers.*

Any such analysis has only been undertaken in a cursory manner and does not provide a robust basis to inform our decision making for CMP303.

In addition, the Panel's consideration of the FMR raised two points that have not been fully explored by the Workgroup.

The first is that some of the WACMs propose, as part of the solution, excluding a proportion of the converter costs from the expansion factor for HVDC and AC subsea cables. The analysis presented by the Workgroup is inconclusive as to whether or not these WACMs are consistent with our decision on CMP213.² Some Workgroup members have used CMP213 to support these WACMs, while one Panel member cited CMP213 in rejecting these WACMs.

The second concerns a lack of analysis of the extent to which CMP303 would be consistent with respect to historical connections and/or onshore circuits. Some Panel members questioned whether CMP303 would lead to differential treatment of generators, with the potential to undermine competition.

1.2 Legal text

The drafting of the legal text appears not to have been fully-completed, as there are drafting notes in the legal text in the FMR. Some of the legal text in the FMR also shows changes against earlier versions of the modification proposal considered by the Workgroup, rather than the baseline of the existing CUSC text.

More substantively, we have outstanding concerns relating to how legally robust the proposed text will be. In particular, it is not clear from the FMR whether or not existing provisions (e.g. in the System Operator (SO) – Transmission Owner (TO) Code (STC)) would be sufficient for the sharing of relevant costs (of additional functionality) between a TO and National Grid Electricity SO (NGESO). Page 9 of the FMR notes '*that the nature, timing and information of the data flows between the respective TOs and NGESO would need to be clarified if the modification were to be implemented.*'

On a related point, it is not clear that the proposed wording would be robust in practice in terms of the generator agreeing to the incremental costs as proposed by the relevant TO. Such a potential disagreement between the generator and TO may undermine the intent of the modification, which is to identify costs beyond those needed by the generator.

¹ The Workgroup ToR start on page 90 of the FMR.

² CMP213: Project TransmiT TNUoS Developments: <https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/modifications/cmp213-project-transmit-tnuos-developments>

Furthermore, 5d of the Workgroup ToR states that the group should '*clarify source and process of information required to determine the cost to be proportioned*'. The legal drafting does not do this.

WACM4 (and its variants) relate to a so-called 'DUoS offset' whereby the costs of additional functionality are levied on distribution rather than transmission customers. Without prejudice to our final decision on this modification or the whole systems principle this is seeking to support, we have not been presented with compelling evidence that the proposed approach for these WACMs is legally robust. We echo the concerns of a number of Panel members that it is unclear that these proposed changes to the CUSC are the appropriate route for giving effect to this proposed mechanism.

2. Additional steps

We therefore direct that additional steps are undertaken by the CUSC Panel to address these concerns. A revised FMR should address the points below.

2.1 Analysis

The revised FMR should include more robust analysis to ensure that the specific issues, 5a-c of the ToR, are addressed. It should clarify where the analysis proposed in the FMR has been undertaken and record the Workgroup's and Panel's conclusions of said analysis. In considering the impacts of the proposal, it should also take into consideration the issues recently raised by CMP317³ and Ofgem's Targeted Charging Review minded-to decision⁴ on setting the Transmission Generation Residual to zero, both of which have the potential to change the impact of CMP303.

Additional analysis should also be undertaken to address the two points of concern raised by Panel members. This analysis should:

- a) present analysis on the extent to which the WACMs relating to a proportion of convertor costs (being considered as additional functionality) are consistent with the conclusions of previous modification CMP213; and
- b) evaluate the proposed modification in terms of the impact on competition with historical and onshore circuits.

2.2 Legal text

The revised FMR should provide assurances that the proposed legal text would be robust in practice, including addressing the ToR requirement 5d. This should include consideration of the need for safeguards to avoid a potential for conflict of interest where the relevant TO and generator are part of the same parent group or where they disagree on what is to be considered as an additional/incremental cost.

We note that a separate proposal has been made by Scottish Hydro Electric Power Distribution in relation to the Scottish Islands which could affect the 'DUoS offset' WACMs. Our latest view on this proposal and further information can be found on our website.⁵

Furthermore, the legal drafting should take into account our approval of CMP301, published alongside this letter, which affects some of the same legal text as is proposed to be amended by this modification.

³ CMP317: Identification and exclusion of Assets Required for Connection when setting Generator Transmission Network Use of System (TNUs) charges: <https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/modifications/identification-and-exclusion-assets>

⁴ <https://www.ofgem.gov.uk/publications-and-updates/targeted-charging-review-minded-decision-and-draft-impact-assessment>

⁵ <https://www.ofgem.gov.uk/publications-and-updates/consultation-shepd-proposal-contribute-proposed-transmission-links-shetland-western-isles-and-orkney>

3. Other issues

Finally, we note that some of the shortcomings with the FMR would appear to be partly as a result of the accelerated timetable for taking forward this proposal. While we acknowledge the desire for certainty in advance of the current Contracts for Difference (CfD) allocation round, we consider the accelerated timetable has in this case served to undermine the robustness of the conclusions of the Workgroup. We also consider that the proposed legal text would not have necessarily removed the uncertainty with respect to network charging that the Proposer was seeking, and that this is just one of a number of other uncertainties to be factored into CfD bids.

After addressing the issues discussed above, and revising the FMR accordingly, the CUSC Panel should re-submit it to us for decision as soon as practicable.

Yours sincerely

Andrew Burgess
Deputy Director, Charging and Access
Duly authorised on behalf of the Authority