CUSC Workgroup Consultation Response Proforma

CMP311 Reassessment of CUSC credit requirements for Suppliers, specifically for “User Allowed Credit” as defined in Section 3, Part III section 3.27 of the CUSC

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 by **29 October 2019** to cusc.team@nationalgrideso.com Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the Workgroup.

Any queries on the content of the consultation should be addressed to Chrissie Brown at christine.brown1@nationalgrideso.com

These responses will be considered by the Workgroup at their next meeting at which members will also consider any Workgroup Consultation Alternative Requests. Where appropriate, the Workgroup will record your response and its consideration of it within the final Workgroup Report which is submitted to the CUSC Modifications Panel.

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Company Name:	*Orbit Energy*
Please express your views regarding the Workgroup Consultation, including rationale. (Please include any issues, suggestions or queries)	**For reference, the Applicable CUSC Objectives for the Use of System** (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. **Objective (c) refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).*

Standard Workgroup consultation questions

Q	Question	Response
1	**Do you believe that CMP311 Original proposal (revised since originally proposed to just remove the Payment Record Sum) better facilitates the Applicable CUSC Objectives than current arrangements?**	No. This modification, if implemented will have a significant negative impact on electricity suppliers and will damage retail competition for no appreciable market benefit. It will therefore have a negative impact on relevant objective (b), which will substantially outweigh any marginal positive impacts on relevant objectives (a) and (c). Our reasoning is below. The Payment Record Sum (PRS) as a mechanism of providing additional credit was introduced by Ofgem in 2005 as a way of ensuring that growth in retail competition and entrance into the market of new and innovative suppliers was not prevented by excessive credit requirements. This has been a key factor in the increase of competition in the market (and the consequential reduction in the market share of the big six). The PRS is vital for ensuring competition in the retail sector. Smaller suppliers rely on PRS because they will not be able to rely on a credit Rating to obtain zero-cost credit like large suppliers, Independent Credit Assessment or Approved Credit Rating are not viable alternatives as they are either expensive or provide uncertain levels of unsecured credit . The only alternative to a PRS for smaller suppliers is therefore either a Letter of Credit or cash on account. The costs to the market are prohibitive if these alternatives are relied upon. As set out in the workgroup report, the estimated cost to the industry if the currently utilised PRS - £186.8m – is required to be covered by Letters of Credit would be £8.8m a year (if funded at 4% pa, which is not an unreasonable rate for smaller suppliers). This is near six times the cost exposure of 1.5m of the total bad debt incurred by NGESO from the collapse of suppliers in 2018/19. We note there is no mechanism for these additional costs to be recovered in the supplier default tariff cap and so this increase in capital requirements may be sufficient to push some suppliers into administration. The costs to the market in providing this additional security for suppliers outweighs the benefits those suppliers will enjoy. NGESO does not require this protection either. There is not a realistic prospect of NGESO being required to fund any resulting bad debt of these supplier failures. Bad Debts (and the funding costs of covering any interim shortfall) are passed through to other suppliers. It is not credible to assume that Ofgem

		would prevent this; it was confirmed in the workgroup meetings that if these credit guidelines are followed, then Ofgem would allow such a cost recovery. If NGESO does not follow the CUSC then it would be reasonable that it would bear the cost for these failures. To be clear we support NGESO following the CUSC requirements to remove any PRS benefit from late paying suppliers, rather than allowing bad debt to accrue in contravention of the CUSC requirements. We fail to see what risk NGESO is truly exposed to outside of a short-term carry cost, which it can recover . If this is a material issue for NGESO as a result of the price control changes it should be addressed in the RIIO-2 discussions, not via the CUSC. In summary these proposals represent significant and unwarranted costs to the market, far outweighing the cost to suppliers of covering bad debts that have arisen. NGESO is not exposed to any meaningful risk it cannot control and does not require this additional protection from this restriction in unsecured credit.
2	**Do you support the proposed implementation approach, both in terms of allowing at least 12 months to make arrangements and the Workgroup suggestion to commence in April with the Financial Year?**	The current proposed lead time of 12 months of decision is unreasonable. Such a short lead time will mean that any additional credit will have to be sourced within the financial year in which the Ofgem decision is made. As the potential costs are significant this unplanned for cost will negatively impact supplier's ability to maintain cashflow and may be a factor in that supplier exiting the market. We agree with the workgroup that 12 months should be seen as a minimum leadtime with any new credit requirements commencing in the April following that decision.
3	**Do you have any other comments?**	No
4	**Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?**	No

Specific questions for CMP311

Q	Question	Response
5	**What impact do you think this modification would have on suppliers entering the market?**	This modification will have significant negative impacts on the market. The CMA market investigation, as referenced by the workgroup, identified the significant negative impacts caused to competition by the existing credit burden on smaller suppliers, who must tie up significant levels of capital on an enduring basis to cover their exposure. Increasing the amount of credit required by suppliers for CUSC at the time of entering the market will only exacerbate this issue and raise the barrier to entry further. It therefore will deter more new market entrants than otherwise would have been the case.
6	**What impact do you think this modification would have on existing suppliers and what would be the cost to your business?**	The cost to our organisation will be considerable as we will be required to deposit significant working capital to cover the current unsecured credit requirements. Such costs are commercially confidential, but we would be happy to provide these costs to Ofgem. We do however estimate the costs to be in the region of £100,000s+ a year. Such a cost will have a significant negative impact in the short-term on our cashflow, and in the longer-term on our ability to operate in the market as a substantial proportion of our capital will be sterilised in maintaining this credit requirement. We would expect that other suppliers will also be impacted in the same manner. There is also the potential for this additional requirement to push some suppliers, who are already struggling, out of the market.
7	**Two potential solutions other than that Proposed have been discussed by the Workgroup, what are your views on these?**	Both alternatives have the same effect as the original (see response to question 1) and we do not support either. We address both in turn 1. Restricting PRS to new entrants will result in only a minimal reduction in the amount of additional credit cost that the market will incur as such organisations have low credit requirements at start-up. It will also create a “cliff-edge” where new organisations will be faced with a potentially significant increase in credit costs 2-3 years into operation. There are also practical problems with this requirement – for example would it apply from when the customer first signs the CUSC, or when it starts to supply significant numbers of customers?

		2. As we have covered above, engaging with an alternative credit agency to provide an Independent Credit Assessment is not a “zero cost” option and reliance on such a report is also a high-risk option as it may not result in a meaningful level of credit. Approved Credit Ratings are not open to many organisations We do not see how an “Approved Agency “ will address these limitations.
8	**What impact do you believe this modification would have on the Consumer?**	This modification will impede competition in the market by restricting the number of new entrants and forcing some existing parties out. This will restrict customer choice. In addition tying up large amount of capital in covering this fictitious risk will reduce the ability for suppliers to bring new and potentially innovative products to the market. This modification will therefore reduce customer choice and impede innovative energy products.