










Stage 02 – Workgroup Consultation	At what stage is this document in the process?												
<h1>CMP339:</h1> <h2>Consequential changes for CMP317/327 (TCR)</h2>	<table border="1"> <tr> <td>01</td> <td>Initial Written Assessment</td> </tr> <tr> <td>02</td> <td>Workgroup Consultation</td> </tr> <tr> <td>03</td> <td>Workgroup Report</td> </tr> <tr> <td>04</td> <td>Code Administrator Consultation</td> </tr> <tr> <td>05</td> <td>Draft CUSC Modification</td> </tr> <tr> <td>06</td> <td>Final CUSC Modification Report</td> </tr> </table>	01	Initial Written Assessment	02	Workgroup Consultation	03	Workgroup Report	04	Code Administrator Consultation	05	Draft CUSC Modification	06	Final CUSC Modification Report
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06	Final CUSC Modification Report												
<p>Purpose of Modification: To allow the appropriate development of the CMP317/327 Modification Proposal, alternatives may be required. This Modification Proposal will allow the CMP317/327 Workgroup to develop the appropriate definitions needed for the Original and any alternative Proposals and any other changes outside of Section 14 as appropriate.</p>													
	<p>This document contains the discussion of the Workgroup which formed in May 2020 to develop and assess the proposal. Any interested party is able to make a response in line with the guidance set out in Section 5 of this document.</p> <p>Published on: 13 May 2020</p> <p>Length of Consultation: 15 Working days</p> <p>Responses by: 04 June 2020</p>												
	<p>Low Impact: All CUSC Users as this will amend Sections other than Section 14 for the purposes of CMP317/327.</p>												

Contents		 Any questions?
1	About this document	2
2	Original Proposal	3
3	Proposer's solution	4
4	Workgroup Discussions	4
5	Workgroup Consultation	7
6	CMP339 Relevant Objectives	9
7	Implementation	10
8	Legal Text	10
9	Annex 1: Terms of Reference	11
10	Annex 2: Legal Text	12
Timetable		 rob.marshall@nationalgrideso.com
The Code Administrator recommends the following timetable:		 07824 518958
Workgroup Report presented to Panel	26 June 2020	Proposer: Jon Wisdom
Code Administration Consultation Report issued to the Industry	29 June 2020	 jon.wisdom@nationalgrideso.com
Draft Final Modification Report presented to Panel	23 July 2020	 07929375010
Modification Panel decision	31 July 2020	National Grid Representative: Jon Wisdom
Final Modification Report issued to Authority (25 WD)	3 August 2020	 jon.wisdom@nationalgrideso.com
Indicative Decision Date	8 September 2020	 07929375010
Decision implemented in CUSC (2WD after determination)	1 April 2021	

1 About this document

This report contains the discussion of the Workgroup which formed in April 2020 to develop and assess the CMP339 proposal.

Section 2 (Original Proposal) and Section 3 (Proposer’s solution) are sourced directly from the Proposer and any statements or assertions have not been altered or substantiated/supported or refuted by the Workgroup. Section 5 of the Workgroup contains the discussion by the Workgroup on the Proposal and the potential solution.

The CUSC Panel detailed in the Terms of Reference the scope of work for the CMP339 Workgroup and the specific areas that the Workgroup should consider.

The table below details these specific areas and where the Workgroup have covered them or will cover post Workgroup Consultation.

The full Terms of Reference can be found in Annex 1.

Table 1: CMP339 Terms of Reference

Specific Area	Location in the report
Consider the Authority’s TCR SCR Direction to the Company and any associated implications for this Modification.	Section 4, P6
Consider interactions with the DCUSA and BSC Modifications ensuring alignment on definitions.	Section 4, P6

2 Original Proposal

Section 2 (Original Proposal) are sourced directly from the Proposer and any statements or assertions have not been altered or substantiated/supported or refuted by the Workgroup. Section 4 of the Workgroup contains the discussion by the Workgroup on the Proposal and the potential solution.

Defect

For the ESO to fulfil the requirements of Ofgem’s TCR Direction (The Direction) other Sections of the CUSC may require further update to allow CUSC Modification Proposals CMP317/CMP327 to appropriately define the Original Proposal and any Workgroup Alternative CUSC Modification Proposals.

What

The Proposer considers that at the least changes will be required to Section 11 to allow the inclusion of new or amended definitions; however, further changes may be necessary depending upon the scope of changes considered by the CMP317/327 Workgroup.

Why

Under current CUSC governance separate proposals are required to be raised to alter Section 14 and other sections of the CUSC. This proposal will allow Sections of the CUSC other than Section 14 to be amended to support the development of CMP317/327.

How

Alter and add, at the least, defined terms to Section 11 as necessary for the development of CMP317/CMP327

3 Proposer's solution

Section 3 (Proposer's solution) are sourced directly from the Proposer and any statements or assertions have not been altered or substantiated/supported or refuted by the Workgroup.

Amend the CUSC where necessary to support the Original Proposal and any Workgroup Alternative CUSC Modification Proposals as raised by the CMP317/327 Workgroup.

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

This Modification Proposal supports the Direction given to the ESO to implement the conclusions of Ofgem's Targeted Charging Review

Consumer Impacts

None, other than those of CMP317/327

4 Workgroup Discussions

The Workgroup convened 1 time in April 2020 to discuss the perceived issue, detail the scope of the proposed defect, devise potential solutions and assess the proposal in terms of the Applicable CUSC Objectives. The Workgroup will in due course conclude these tasks after this consultation (taking account of responses to this consultation).

1.0 Context of CMP317 and CMP327

CMP317 and CMP327 at the time of publication, are currently at Workgroup Group stage, post Workgroup Consultation. If you wish to familiarise yourself with the consultation which was published in February 2020, it can be found [here](#), and the consultation responses can be found [here](#).

Context of CMP317

Why has this modification been raised?

1.1 The ESO raised CMP317 in June 2019 because its TNUoS forecasts indicated that it would not be in compliance with the Limiting Regulation for the charging year 2021/22 unless it changed the charging formula in the CUSC. The Limiting Regulation requires that the average annual transmission charge for all generators must be within a range of €0-2.50/MWh in Great Britain.

1.2 In July 2016, Ofgem approved the implementation of CMP224 *‘Cap on the Total amount of TNUoS to be recovered from Generation users’*¹. At the time of approving CMP224, there were 2 interpretations for assets required for connection, with the physical assets required for connection considered to be GB “connection charges” only. At that time, Ofgem did not provide a concluded interpretation of the Limiting Regulation. This led to ambiguity in regards to whether the range was breached or not.

1.3 In charging year 2015/16, it was alleged that the ESO had breached the upper value of the Limiting Range, which, if true, would have resulted in an over recovery from Generators of £120m. CUSC modification CMP261 (*‘Ensuring the TNUoS paid by Generators in GB in Charging Year 2015/16 is in compliance with the €2.5/MWh annual average limit set in EU Regulation 838/2010 Part B (3)’*) was raised by SSE Plc, to remedy this alleged breach. The solutions raised during the Workgroup process for CMP261 concentrated on rebates to generators, for varying amounts and for the alleged overpayment to be returned to those impacted in varying timescales.

1.4 Ofgem decided² to reject CMP261 on the grounds that the range of the annual transmission charge for all generators was not breached during this time period. Ofgem concluded *“connection charges”, as defined by the CUSC, clearly fall within the scope of the connection exclusion in the Regulation. In addition, we take the view that, properly construed, the connection exclusion also covers most, if not all, local charges that pay for local assets required to connect the generator to the MITS. This is on the basis that the latter also amount to “charges paid by producers for physical assets required for connection to the system” within the meaning of the Regulation*³.

1.5 The CMP261 decision that Ofgem reached was subject to an appeal to the Competition and Markets Authority (CMA) brought about by the proposer of CMP261, and EDF Energy. In February 2018, the CMA upheld Ofgem’s initial decision. The CMA’s decision created the need for an explicit definition of Charges paid by producers for physical assets required for connection to the system (referenced to throughout this document as ‘excluded Charges’) for the purposes of applying the Limiting Regulation.

Context of CMP327

¹ <https://www.nationalgrideso.com/document/6946/download> - Ofgem decision on CMP224

² Ofgem decision letter on CMP261, July 2017 - <https://www.nationalgrideso.com/document/98011/download>

³ Ibid, p1.

1.6 CMP327 was raised as a result of The Authority's final decision on the Targeted Charging Review SCR in November 2019⁴. In that decision, The Authority directed The Company to raise a modification to change TNUoS Charging Methodology such that the Residual element of Generator TNUoS is £0 and ensure that the correct interpretation of 838/2010 is incorporated.

1.7 CMP327 was raised at the CUSC Panel in November 2019. It was decided by the CUSC Panel to apply to have CMP327 amalgamated with CMP317, due to the two modifications dealing with extremely similar subject matter. When the ESO raised the CMP327 modification, it made it clear that it felt that that modification should be assessed by the same Workgroup which had been assessing CMP317, and had by this stage held six Workgroup meetings. This was due to that fact that some of the work required under CMP327 would have already been undertaken by the CMP317 Workgroup. As such, work on CMP327 began with the same Workgroup, with new Workgroup members also afforded the opportunity to join the Workgroup to assess CMP327.

1.8 Ofgem decided to grant the CUSC Panel's request on 29 January 2019, stating that they had "come to the conclusion that the Proposals are sufficiently proximate to justify amalgamation on the grounds of efficiency and are logically dependent on each other"⁵.

2.0 Consideration of TCR SCR Authority Decision

2.1 The workgroup considered the Authority's TCR and SCR decision and impact assessment issued in November 2019⁶. CMP327 was raised as a result of this decision. The workgroup acknowledged that the changes brought about by the CMP339 original solution are required in order to support the modifications raised at the direction of Ofgem.

3.0 Consideration of impacts on BSC and DCUSA definitions

3.1 The workgroup recognise that modifications are underway in the Balancing and Settlement Code, and the Distribution Connection Use of System Agreement to fulfil The Authority's direction outlined in their TCR SCR decision.

3.2 The workgroup considered whether they had to consider DCUSA definitions of generator/producer under the Terms of Reference. The workgroups assumption is that definitions within the DCUSA and the BSC are not required.

3.3 Throughout CMP317/327 discussion, there has been much debate as to whether BSC costs, and Congestion Management Costs, are to be included in calculation of average generation transmission charges, under the Limiting Regulation (838/2010).

⁴ Ofgem final decision and impact assessment – Targeted Charging Review:

https://www.ofgem.gov.uk/system/files/docs/2019/12/full_decision_doc_updated.pdf

⁵ Ofgem Letter to CUSC Panel, granting permission for the modifications to be amalgamated -

<https://www.nationalgrideso.com/document/162076/download>.

⁶ https://www.ofgem.gov.uk/system/files/docs/2019/12/full_decision_doc_updated.pdf

This debate came about in response to Ofgem’s decision on BSC modification, P396⁷, which indicated that Elexon’s administrative costs should come under the calculation charges. The proposer highlighted that definition of Congestion Management around BSUoS, if needed would only be implemented as a definition in Section 11 of the CUSC, and that the same would apply to BSC charges if they were to be included within the range of the Limiting Regulation.

3.3 The workgroup raised a practical question around the relevance of definitions cross code. The proposer highlighted that as CMP339 a CUSC only change, it doesn’t rely on definitions in the BSC or the DCUSA. It was considered that although some of the assets required for connection go via DNO assets, this would not be relevant for developing definitions, as this had been resolved in CMP317/CMP327 discussion.

3.4 The workgroup recognised that any definitions raised are cross referenced with other codes to avoid any duplication or misunderstanding.

3.6 Embedded generation and whether there could be crossover with the DCUSA definitions was also discussed. The proposer stated that it was his understanding that anyone who pays TNUoS are captured in the average annual charges for generation, including users who hold a BEGA, and that this was already clear in CUSC Section 14.

3.7 The workgroup considers the terms “generators” and “producers” to be the equivalent for the purposes of this modification. Some workgroup members expressed that the definition of generators/produces under the Limiting Regulation may be different in other codes. The proposer highlighted that the Limiting Regulation talks about transmission charges from producers. The workgroup were made aware that during the CMA appeal on CMP261, that generator and producer meaning the same were agreed as common ground.

5 Workgroup Consultation

The CMP339 Workgroup is seeking the views of CUSC Parties and other interested parties in relation to the issues noted in this document and specifically in response to the questions highlighted in the report and summarised below:

Standard Workgroup Consultation questions:

- 1: Do you believe that CMP339 Original proposal better facilitates the Applicable CUSC Objectives?
- 2: Do you support the proposed implementation approach?
- 3: Do you have any other comments?

⁷ Ofgem Final Decision on P396 - <https://www.elexon.co.uk/wp-content/uploads/2020/03/P396-Authority-Decision-Letter.pdf>

- 4: Do you wish to raise a Workgroup Consultation Alternative request for the Workgroup to consider?

Additional Workgroup Questions:

- 5: The workgroup's assumption is that definitions within the DCUSA and the BSC are not required for the purpose of this modification and do not relate to it. Do you agree?
- 6: The workgroup considers the terms "generators" and "producers" to be the equivalent for the purposes of this modification. Do you agree? If not, could you please explain why.
- 7: Do you feel these draft definitions are sufficiently clear and unambiguous and discharge the purpose of this modification?

6 CMP339 Relevant Objectives

Impact of the modification on the Applicable CUSC Objectives (Standard):	
Relevant Objective	Identified impact
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	Positive
(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;	None
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	None
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	Positive
*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).	

This modification is expected to have a positive impact against CUSC applicable objectives A and D as this proposal will ensure that the CUSC remains fit for purpose with the implementation of the Authority's TCR decision. The rationale for the Decision(s) made by the Authority in respect of the Targeted Charging Review SCR can be found in the Authority/GEMA publications relating to that SCR. There is no expected impact upon CUSC applicable objective B and C.

7 Implementation

This modification should be implemented alongside CMP317 and CMP327

8 Legal Text

Legal text will be formulated alongside that of CMP317 and CMP327.

9 Annex 1: Terms of Reference

Annex can be found at:

<https://www.nationalgrideso.com/industry-information/codes/connection-and-use-system-code-cusc-old/modifications/consequential>

10 Annex 2: Legal Text

Legal text will be formulated alongside CMP317/327

