

CUSC Code Administrator Consultation Response Proforma**CMP317 - Identification and exclusion of Assets Required for Connection when setting Generator Transmission Network Use of System (TNUoS) charges; and CMP327 - Removing Generator Residual Charges from TNUoS (TCR)**

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 to cusc.team@nationalgrideso.com by **5pm on 20 July 2020**. Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the Panel.

If you have any queries on the content of this consultation, please contact Joe Henry joseph.henry2@nationalgrideso.com or cusc.team@nationalgrideso.com.

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For reference the applicable CUSC objectives are:

- That compliance with the use of system charging methodology facilitates effective competition in the generation and supply of electricity and (so far as is consistent therewith) facilitates competition in the sale, distribution and purchase of electricity;*
- That compliance with the use of system charging methodology results in charges which reflect, as far as is reasonably practicable, the costs (excluding any payments between transmission licensees which are made under and accordance with the STC) incurred by transmission licensees in their transmission businesses and which are compatible with standard licence condition C26 requirements of a connect and manage connection);*
- That, so far as is consistent with sub-paragraphs (a) and (b), the use of system charging methodology, as far as is reasonably practicable, properly takes account of the developments in transmission licensees' transmission businesses;*
- Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency. These are defined within the National Grid Electricity Transmission plc Licence under Standard Condition C10, paragraph 1 *; and*
- Promoting efficiency in the implementation and administration of the CUSC arrangements.*

**Objective (d) refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).*

Please express your views in the right-hand side of the table below, including your rationale.

Standard Code Administrator Consultation questions		
1	Do you believe that the CMP317/327 Original solution, or any WACMs better facilitate the Applicable CUSC Objectives?	<p>Summary</p> <p>We have summarised our view, then provided additional explanation in the following section.</p> <p>The alternatives which overall best facilitate the applicable CUSC Objectives are WACM72 and WACM79 because these are would be legally compliant and include the best combination of features. Out of these, WACM79 may be the better of these two.</p> <p>Original does not overall better facilitate the applicable CUSC objectives. This is because it is not legally compliant and would be worse than baseline because it would have a detrimental impact on effective competition.</p> <p>The following alternatives do overall better facilitate the applicable objectives. This is because they include a combination of features which are legally compliant and also better facilitate the other applicable CUSC objectives for the reasons outlined in more detail below :</p> <ul style="list-style-type: none"> • WACMs 49 to 62 (49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62) • WACMs 70 to 83 (70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83) <p>The other WACMs do not overall better facilitate the applicable objectives for the reasons outlined below.</p> <ul style="list-style-type: none"> • WACMs 1 to 48 • WACMs 63 to 69 <p>Approach to assessing alternatives</p> <p>We have assessed this view based on the key features which, in various permutations, make up each of the WACMs. We have attributed different degrees of importance to each feature which informs our view of the WACMs overall. We also highlight some interactions where the effect of a beneficial feature may mitigate the effect of a detrimental feature.</p>

	<p>Regarding assessment against the applicable objectives, we place a primary importance on objective “d” to ensure “Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency”. The primary objective of CMP317/327 is to ensure the CUSC is legally compliant with Regulation 838/2010, so any option which fails to deliver a legally compliant solution according to the letter of the law for Regulation 838/2010 would fail to be better than baseline.</p> <p>It is our view that applicable CUSC objective “a” is also of key importance for this modification, to better facilitate “...effective competition in the generation and supply of electricity.” This is because the purpose of Regulation 838/2010 is to deliver transmission charging arrangements across EU Member States which are in greater harmony with each other. Therefore, an option for CMP317/327 would better comply with Regulation 838/2010, as well as better complying with the applicable CUSC objectives, if it better met this underlying objective i.e. the spirit of the law for Regulation 838/2010.</p> <p>The Original is worse than Baseline because it still fails to be legally compliant, so could not be better with regard to Objective “d”. Further, the Original would result in average generator charges which are substantially more expensive than for current year 2020/21 and which would substantially exceed the 2.50 Euro cap, which would make it substantially worse than Baseline regarding both objective “d” and also objective “a” for effective competition.</p> <p>A further advantage of the Baseline compared with the Original, is that by, in the view of the CMA, excluding too much regarding assets required for collection, then this tends to result in a level of generator TNUoS charges which are towards the lower end of the range, therefore better with regard to objective “a” for effective competition. Also, in practice, by delivering TNUoS charges towards the lower end of the range, the Baseline has in practice left a degree of headroom to implicitly allow for the cost of constraint management and BSC costs which do contribute to the average cost of generator charges regarding compliance with Regulation 838/2010. Otherwise, if the Baseline methodology had delivered TNUoS charges towards the upper end of the range, then once constraint management and BSC costs</p>
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were properly taken into account, then average charges to generators would have been more likely to have breached the upper end of the range. This means that any option which is better than Baseline would also be better than the Original.

Assets required for connection

The Competition and Markets Authority decision regarding the CMP261 appeal was very clear that the CMA's view was the correct legal interpretation of Regulation 838/2010 could only be based on a consistent EU wide interpretation and could not be defined purely in terms of domestic member state legal, or regulatory definitions. This means the view of the CMA was that it is irrelevant what GB regulations may call a particular tariff element, so the only way a solution could be legally compliant is if it used a set of definitions which can stand on their own independently from GB domestic naming conventions. This leads to a clear decision regarding this feature of alternatives:

- **“All local circuits and substations”** – Any option which relies on this definition of assets required for connection **could not be** the correct definition and could not be legally compliant, so **would not** be better than Baseline. The definition is too wide and it would result in the exclusion of assets which legally should not be excluded and would thus result in a risk of inadvertently breaching the 2.50 cap. One of the clearest illustrations of why this definition is not appropriate is that it would designate island links as assets required for connection, in the event that the CUSC defined these as local circuits. Also, this definition would make the value of the “connection exclusion” entirely dependent on the CUSC definition of what is, or isn't a MITS node, which would clearly contradict the CMA's decision.
- **“Generator Only Spurs”** – This is definition **does** appear to be consistent with the CMA decision and interpretation regarding CMP261.
- **“All local circuits & local substations except for pre-existing assets and shared assets”** - This is definition **does** appear to be consistent

with the CMA decision and interpretation regarding CMP261. It is only necessary to consider local circuits and substations, because MITS circuits can be ruled out of the exclusion because in order to be classed as MITS, the CUSC has already carried out a test and identified that those circuits are already shared. Therefore no circuits or substations currently classed as MITS could fall into the connection exclusion.

Congestion costs and BSC costs

We are satisfied that it is clear that BSC costs and congestion costs are transmission charges paid by generators, so are caught by Regulation 838/2010, and these do not fall into any of the “exclusion categories”. They are not for ancillary services, and they are not for assets required for connection.

Congestion costs are materially the larger of these two costs, so any solution which fails to explicitly take account of congestion costs as part of ex-ante tariff setting, would not be applying a legally correct definition of Regulation 838/2010 and would fail to guarantee that generator charges would be set at a level which would comply with Regulation 838/2010. So any option which fails to explicitly take account of, at least, congestion charges, **cannot** be considered better than baseline.

If there is any doubt regarding whether it is legally correct to take congestion and BSC costs into account, then it would be better within objective “d” to take a conservative approach to ensuring compliance with the law. In this way, it would be better to select an option which **does** explicitly take account of both congestion and BSC costs because this would better ensure legal compliance with Regulation 838/2010, irrespective of whichever legal interpretation is viewed to be correct.

Target in the Range

The target within the range primarily relates to the CUSC applicable objective “a” regarding “effective competition”. Most EU member states use a target of less than 0.50 Euros, while it is common to not charge generators at all. Further, the fact that southern GB generators receive TNUoS net credits means that charges for northern

	<p>generators are pushed to even further exceed the upper end of the range and exceed even the most expensive EU member states, while average GB TNUoS tariffs can only be said to remain compliant by averaging across all GB generators including negative charges. This assists in informing the view of different targets within the range:</p> <ul style="list-style-type: none"> • “No target within the range” – This would fail to be better than Baseline, or the Original with regards to Objective “a”, regarding effective competition. An option which included this feature would be a relatively poor solution, however, if it included a legally compliant definition of assets required for connection and explicitly took account of at least congestion charges, then it could still be considered to be better than Baseline overall. If a solution was selected which used this detrimental feature of “no target within range”, then it could be mitigated by other future changes such as to the Reference Node through Ofgem’s AFLC SCR, or other change with similar result to reduce the average collection from generator charges towards the lower end of the range. • “1.25 Euros” – This feature would likely be better than “no target within the range”, but would still leave GB generators paying substantially more expensive transmission charges on average compared with generators they compete against in other countries. So this feature would still be problematic with regard to objective “a” for effective competition, but it could still be described as better than Baseline with respect to objective “a”. • “0, 0.25, or 0.50 Euros” – Options with these features would perform best with regards to objective a for effective competition. These features are substantially better than Baseline with regards to the “target in the range” for objective “a”. These options would result in average GB generator charges which are broadly in line with the level they currently pay in charging year 2020/21, so they would avoid worsening the market distortion and competitive disadvantage for GB generators compared with generators in other countries.
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Targeting the lower end of the range would have a further benefit by reducing the risk of inadvertently breaching the upper end of the cap in practice, in the event that a legally non-compliant option may be selected which failed to use a correct definition of assets required for connection and which failed to explicitly take account of the cost of congestion management and BSC costs when ex-ante setting tariffs. Targeting the lower end of the range in this way could mitigate the risk and impact of such non-compliant options, therefore could have an impact which, in practical terms, may be “less worse” regarding objective “d”. The impact of each of these values would be similar, however, the best solution would be to target 0 Euros because that would deliver the best result with regard to objective a for effective competition.

Phasing

For options where there may be a large step change in the cost of TNUoS which generators pay following the introduction of CMP317/327, then it would **better** facilitate effective competition to include a form of phasing. This could prevent a harmful swing in generator charges whereby this modification may cause a substantial step-change increase in generator charges which could then be reversed following the implementation of changes within the AFLC SCR. However, for options which would result in average generator charges broadly in line with the current level for 2020/21, then phasing would not be required.

Best solution

The **best** option is a close call between WACM79 and WACM72. These two options are each substantially **better** than all of the other alternatives and our preference out of these two is WACM79. This is because both of these options include a legally compliant definition of “assets required for connection”, they both explicitly take account of constraint costs and BSC costs and they both use the best target within the range with regards to effective competition by targeting 0 Euro. The difference between these is that WACM72 uses the definition of “generator only spurs”, while WACM79 uses the definition of “all local circuits & local substations

		<p>except for pre-existing assets and shared assets”, so WACM79 takes account of “pre-existing assets” which is in line with the CMA decision regarding CMP261.</p> <p>Neither require phasing because they would not cause a detrimental step change in generator charges because they would both result in average generator charges which are broadly in line with the level which generators are currently paying for charging year 2020/21.</p> <p>Neither require an error margin, because an error margin is not required when targeting 0 Euro because variations in generation volume, or exchange rate have no effect. Also the direction of risk would only be towards outturn average charges being greater than 0 Euro, not lower than 0 Euro. Higher charges could occur due to an event such as if, a generator earning a TNUoS credit failed to generate up to their full TEC, so received a credit of smaller value than ESO assumed when setting tariffs, which would tend to increase the average GB TNUoS charge.</p>
2	Do you support the proposed implementation approach?	Yes
3	Do you have any other comments?	The Authority should assess the alternatives in the context of the Access and Forward Looking Charges SCR regarding potential changes to the TNUoS Reference Node. Changes to the Reference Node could provide a complimentary, or alternative method for facilitating compliance with Regulation 838/2010.