Draft Final Self-Governance Modification Report

CM075

Clarification on TO Final Sums definition

Overview: The definition of TO Final Sums in Section J appears to contradict the provisions for calculating TO Final Sums amounts in Schedule 9. This change tidies up the definition to remove any ambiguity.

Modification process & timetable

1. **Proposal Form** — 01 December 2020
2. **Code Administrator Consultation** — 21 December 2020 – 13 January 2021
3. **Draft SG Modification Report** — 19 January 2021
4. **Final SG Modification Report** — 09 February 2021
5. **Appeals Window** — 09 February 2021- 02 March 2021
6. **Implementation** — 09 March 2021

Have 5 minutes? Read our Executive summary

Have 20 minutes? Read the full Final Final Self-Governance Modification Report

Have 30 minutes? Read the full Final Self-Governance Modification Report and Annexes.

Status summary: This Report will be submitted to the STC Panel for them to carry out their Determination Vote on whether this change should happen.

Panel recommendation: The Panel has determined unanimously that the Proposer's solution is implemented.

This modification is expected to have a: Low impact on Onshore Transmission Owners and NGESO.

Governance route	This modification has followed the Self-Governance route and proceeded straight to Code Administrator Consultation. The Panel will make the decision on whether it should be implemented.	
Who can I talk to about the change?	**Proposer:** Richard Woodward, NGET Richard.Woodward@nationalgrid.com Phone: 07964 541743	**Code Administrator Contact**: Jennifer Groome jennifer.groome@nationalgrideso.com Phone: 07966 130854
Appeals window	If you want to appeal this decision, please send your appeals form and relevant documentary evidence to industrycodes@ofgem.gov.uk by 5pm on 02 March 2021 and ensure you copy in stcteam@nationalgrideso.com	

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Executive summary

The definition of TO Final Sums in Section J appears to contradict the provisions for calculating TO Final Sums amounts in Schedule 9. This change tidies up the definition to remove any ambiguity.

What is the issue?

The current definition for TO Final Sums is ambiguous as to whether interest or financing of Construction and Engineering Costs is applicable for TO Final Sums claims. However, it is envisaged elsewhere in the code (e.g. Section 9 Clause 7.2), and accepted practice that all reasonable costs should be recovered from Users seeking to terminate Connection Agreements. The risk otherwise is that some User-specific costs for termination are socialised or incurred unreasonably by the Onshore TO.

What is the solution and when will it come into effect?

Proposer's solution:
To amend the STC legal text such that the TO Final Sums definition in Section J Clause 3 is clear about including interest during construction in Final Sums charges to the ESO.

Implementation date:

9 March 2021

What is the impact if this change is made?

The change will avoid ambiguity in the code and ensure that the Onshore Transmission Owners can recover their full costs from the ESO for making connections investment for the benefit of a single User, but where the User terminates their agreement prematurely (and works cannot be re-used for another customer).

Interactions

There is a counterpart definition of Final Sums in the CUSC, which borrows the same wording. Whilst it would be advantageous to have aligning definitions, the processes between ESO and Transmission Owners vs ESO and Users are codified separately.

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What is the issue?

The current definition for TO Final Sums is ambiguous as to whether interest or financing of Construction and Engineering Costs is applicable for TO Final Sums claims. However, it is envisaged elsewhere in the code (e.g. Section 9 Clause 7.2), and accepted practice that all reasonable costs should be recovered from Users seeking to terminate Connection Agreements. The risk otherwise is that some User-specific costs for termination are socialised or incurred unreasonably by the Onshore TO.

Why change?

To avoid ambiguity in the code and ensure that the Onshore Transmission Owners can recover their full costs from the ESO for making connections investment for the benefit of a single User, but where the User terminates their agreement prematurely (and works cannot be re-used for another customer).

What is the solution?

Proposer's solution

To amend the STC legal text such that the TO Final Sums definition in Section J Clause 3 is clear about including interest during construction in Final Sums charges to the ESO.

Legal text

The legal text for this change can be found below:

Changes shown in red
"TO Final Sums" the amount payable by NGESO on termination of a TO Construction Agreement being the aggregate from time to time and for the time being of:
(a) all Engineering Charges arisen prior to the date of termination, as well as any associated financing costs (e.g. Interest During Construction);
(b) Any other fees, expenses and costs (excluding costs on account of interest charges incurred by the Transmission Owner) of whatever nature reasonably and properly incurred or due by the Transmission Owner in respect of any part of the Transmission Construction Works;

What is the impact of this change?

This modification ensures the Onshore TO's investments in sole use connections are recovered from the Users triggering them, specifically in the event of that User initiating termination with the ESO. It sets signals that Users triggering works are liable for all the resulting costs, including in the event of termination. It ensures that STC definitions line up with associated processes elsewhere in the code.

Code Administrator Consultation summary

The Code Administrator Consultation was issued on the 21 December 2020 closed on 13 January 2021 and received one response and no late responses. A summary of the response can be found in the table below, and the full response can be found in Annex 3.

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Code Administrator Consultation summary	
Question	
Do you believe that the CM075 Original Proposal better facilitates the Applicable Objectives?	NGESO responded: Yes
Do you support the proposed implementation approach?	NGESO responded: Yes
Do you have any other comments?	NGESO was supportive of the change and noted that while the STC Definition does not align with the CUSC definition of Final Sums, it presents no challenges as they are applicable to different specifics within the individual codes.
Legal text issues raised in the consultation: None raised.	

Panel determination vote

The Panel met on the 27 January 2021 to carry out their Determination vote. They assessed whether a change should be made to the STC by assessing the proposed change and any alternatives against the Applicable Objectives.

Vote 1: Does the Original (Proposer's Solution), facilitate the objectives better than the Baseline (the current STC)?

Panel Member: **Robert Wilson / Nicola Bruce, National Grid**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original								
Voting Statement								

Panel Member: **Neil Sandison / Neil Bennett / Patricia Dunne, Scottish Hydro Electric Transmission plc. (SHET)**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original								
Voting Statement								

Panel Member: **Milorad Dobrijevic / Deborah Macpherson, Scottish Hydro Electric Transmission plc. (SHET)**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original								
Voting Statement								

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Panel Member: **David Lyon / Mike Lee Offshore Transmission Owner Representative (OFTO)**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original								
Voting Statement								

Panel Member: **Richard Woodward / Ian Bottomer, National Grid Electricity Transmission (NGET)**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original								
Voting Statement								

Vote 2 – Which option is the best?

	Best Option	**Which objectives does this option better facilitate? (If baseline not applicable).**
National Grid Electricity System Operator (NGESO)		
Scottish Hydro Electric Transmission plc. (SHET)		
Scottish Hydro Electric Transmission plc. (SHET)		
Scottish Power Transmission plc. (SPT)		
Offshore Transmission Owner (OFTO)		
National Grid Electricity Transmission (NGET)		

Panel conclusion
The Panel unanimously/by majority determined that the Proposer's solution should be implemented.

When will this change take place?

Implementation date:
09 March 2021

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Date decision required by
27 January 2021

Implementation approach
No system change is required, and no implementation costs are associated with this modification.

Interactions

There is a counterpart definition of Final Sums in the CUSC, which borrows the same wording. Whilst it would be advantageous to have aligning definitions, the processes between ESO and Transmission Owners vs ESO and Users are codified separately.

Acronyms, key terms and reference material

Acronym / key term	Meaning
ESO	Electricity System Operator
TO	Transmission Owner
CUSC	Connection User of System Code
NGET	National Grid Electricity Transmission
NGESO	National Grid Electricity System Operator

Annexes

Annex	Information
Annex 1	Proposal form
Annex 2	Self-Governance Statement
Annex 3	Code Administrator Consultation response - NGESO

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