

Workgroup Consultation Response Proforma**CMP330: Allowing new Transmission Connected Parties to build Connection Assets greater than 2km in length**

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 16 February 2021. Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the Workgroup.

If you have any queries on the content of this consultation, please contact Ren Walker Lurrentia.Walker@nationalgrideso.com or cusc.team@nationalgrideso.com

Respondent details	Please enter your details
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For reference the Applicable CUSC (charging) 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; and*
- Promoting efficiency in the implementation and administration of the system charging methodology.*

**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 regarding the Workgroup Consultation in the right-hand side of the table below, including your rationale.

Standard Workgroup Consultation questions

1	Do you believe that the CMP330 Original Proposal better facilitates the Applicable Objectives?	<p>We believe the proposal has a negative impact in respect of objective (a), in distorting the charging from user to user based on a user's construction choices rather than reflectively upon costs.</p> <p>The proposal is neutral in respect of objectives (b) to (e).</p> <p>We believe the Working Group needs to consider further the trade-offs between the benefit to a single user against the drawbacks affecting other users and consumers in general.</p> <p>Normally a changed charging arrangement would be proposed to remedy a defect in the charging arrangements. The objectives test would be whether the proposed charging arrangement better met the objectives than the current charging arrangement. In this case a change of charging arrangements is proposed but its purpose is expressly not to remedy a charging defect.</p> <p>The proposed solution seeks to enable contestable construction of longer single user circuits by amending the connection asset charging boundary, and therefore this appears to be the wrong solution for the stated problem.</p> <p>Addressing a construction related scope defect with a significant charging methodology change, where considerable implications from distortion and inconsistency of charging will arise, seems inappropriate given that alternate solutions are possible that would not impact on the current charging boundary consistency.</p>
2	Do you support the proposed implementation approach?	<p>If changes are needed then we would support a process that includes appropriate STC changes. Alignment to 1st April 2022 would be preferred given the proposed change has impact upon annual iteration process submissions.</p>

Standard Workgroup Consultation questions

3	Do you have any other comments?	<p>The proposal has drawbacks that need further careful consideration. There is interplay between a User's contestability choice and the effect on the charging boundary. There are three main elements to this risk.</p> <p>Firstly, we expect a User will choose contestable construction when construction costs are low. We believe there is a significant risk that a User will not choose contestable construction when costs are high and so benefit from the entire length of >2km single user assets being classified as infrastructure with attendant avoidance of connection charges. This is an immediate distortion of User behaviour that we envisage with under the proposed solution.</p> <p>Secondly, in RIIO T2 (for NGET) the connection and infrastructure assets are funded by the same single uncertainty mechanism. If Users can 'cherry pick' the cheap connections, TOs will systematically underperform against the UMs which assumed an average, leaving it and other users and consumers financially disadvantaged.</p> <p>Thirdly, the risk identified above is compounded if the User is unable to demonstrate robust control of its contractors and the project-risks. To mitigate this TOs may need to increase their oversight of these projects and control of costs, with additional TO overheads arising.</p> <p>Finally, NGET is not funded in T2 to undertake the construction of new overhead lines. Where these are required and the cost exceeds a defined threshold, NGET can apply to Ofgem for additional funding. The request to Ofgem will need to demonstrate a robust need case and that the costs are efficient. While each connection will be considered on its merits, demonstrating both these criteria have been met could be challenging, particularly at the early stages of a customer's project.</p>
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Standard Workgroup Consultation questions

4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<p>We believe options to address the stated defect have been unduly constrained by the proposal having a specific solution and legal text in mind. A solution focussed directly on contestable construction scope – included in Section 14 – could be considered by the Working Group.</p> <p>“14.7 Contestability</p> <p><i>14.7.1 Some connection activities may be undertaken by the User <u>conditional upon the approval of the Company and the relevant Transmission Owner</u>. The activities are the provision, or construction, of connection assets <u>single user assets</u>, the financing of connection assets <u>single user assets</u> and the ongoing maintenance of those <u>single user assets</u>. While some Users have been keen to see contestability wherever possible, contestability should not prejudice system integrity, security and safety. These concerns have shaped the terms that are offered for contestability in construction and maintenance.”</i></p> <p>We believe that such alternative solutions, that do not impact on the charging boundary, still need to be fully scrutinised for their consequences. We do not suggest that the above solution is not without its consequences, since the User would no longer be financially exposed to the consequences of its decisions / actions during construction.</p>
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Modification Specific Workgroup Consultation questions

5	What, if any role should Ofgem have in this proposed new process?	We do not believe a direct primary role for Ofgem would be required under the proposal, given Users’ existing rights to refer agreements (which may include provisions to ensure adequate cost control).
6	Should there be a clearer limit on the length of a Connection Asset construction?	<p>We believe any length limit in respect of Connection Assets, for the purposes of charging, should be consistent irrespective of the contracted means of delivery.</p> <p>The intent of the 2km limit was to draw an appropriate distinction between connection assets and funded infrastructure. Any change in connection asset length limitation should on a common basis, providing a fair a suitable balance of allocation of costs between all Users and consumers.</p>

Modification Specific Workgroup Consultation questions		
7	Can you identify/list scenarios in which this agreement shouldn't be given?	<p>Any assessment process that leads to a TO accepting or declining contestable construction should ensure that contestability delivers efficient economic outcomes and at no greater cost than a TO would be able to achieve with non-contestable construction. Against this background, we see the need for the TO retaining control in accepting the construction method, specification, and have enhanced oversight of the user, when contestable construction might not deliver against TO efficiency objectives.</p> <p>There is also the scenario where a TO requires additional or higher capability of contestably constructed assets to deliver efficient investment for other users and at lower cost to consumers. Where terms cannot be agreed with the User, TOs must be able to reserve its right to conduct the construction contrary to the wish of the User.</p>
8	<p>The Workgroup is considering what the length beyond 2km might be appropriate and would welcome views as to whether it should be prescribed as</p> <ul style="list-style-type: none"> i) as a set length; or ii) to the nearest economic point of connection to the NETS; or iii) be unlimited; or iv) another option (if so please explain). <p>Which of these four options do you believe is appropriate and in respect of option 1 do you have a view as to what the set length should be?</p>	<p>We believe that any set length would need to be justified by the Working Group, specifically the purpose for a longer length limit given the deepening impact on the Connection Charge/TNUoS boundary that would arise.</p> <p>Justification would also be needed in the permitting of any site-specific length of connection asset to be agreed, again recognising the distortion that site specific arrangements create.</p>
9	Should there be a clearer limit on the length of a Connection Asset construction?	We refer to question 8.

Modification Specific Workgroup Consultation questions		
10	Should the 2km cap be removed or a new cap be put in place. Please justify a new cap and to what level?	The 2km limit is there to provide a consistent charging boundary. Whilst the limit could be a different fixed value, we suggest that the limit should be the same irrespective of the means of asset construction to (a) ensure there are consistent charging signals for all users; and (b) avoid the perverse incentives we have outlined above.
11	Should the commercial charging boundary limitation of 2km vary from one connection to another dependent on basis of construction choices of a User?	<p>No as this means signals vary from user to user leading to unequal treatment and variance in other users' and consumers' exposure.</p> <p>For the basis of charging, the split between TNUoS and connection charges, to vary solely because of the method of construction appears to be without merit.</p> <p>For example, taking two users, one choosing to contestably construct 10km of lower cost assets (as connection assets) and a second user choosing to leave construction of 10km of higher cost assets (as infrastructure) with the TO. The first user will benefit from low connection charges and avoid local TNUoS charges. The second user will avoid high connection charges but benefit from averaged local TNUoS charges.</p>
12	Should the cap on length of Connection Assets be removed or revised?	We refer to question 8.
13	Should approval be required from the Transmission Owner and NGESO for connections in excess of 2km? Please provide rationale as to on what basis the approval would be denied?	There are circumstances where the construction of long single user assets would be more efficiently undertaken by the TO directly where broader investment requirements exist above the User's immediate connection needs. A TO or NGESO should be able to decline a contestable basis of construction where this is appropriate.

Modification Specific Workgroup Consultation questions		
14	Should additional costs incurred over and above the cost the TO would have incurred be fully paid for by the User concerned? Are there any circumstances where the TO should fund some/all of these costs?	<p>In respect of additional TO funding, a TO should have flexibility to install higher capability of assets than the immediate User requires. This allows efficient network development for broader benefit e.g. it avoids multiple single-user assets. The TO will however require a funding mechanism to support TO requested enhancements to the connection solution.</p> <p>In respect of cost control and efficient network development and with protection of the consumer in mind, the TO's ability to avoid cost overruns, such as by Fixed Price or Capped Price adoption of contestable assets, must be available. Capped Efficiency Sharing contract forms may also address this risk. Fundamentally a TO should not be obliged to absorb cost overruns outside of its direct control that will ultimately be borne as extra cost by consumers.</p> <p>We note that Fixed or Capped Price contracts generally result in a contractor price risk premium. For a User constructing very few transmission assets, perhaps with a one-off contractor, this may result in a higher price, for adoption, than the cost of the same work undertaken by a TO's more regular repeat business contractors where portfolio economy of scale more readily support individual project risk.</p> <p>We believe these aspects fall within the TO's remit of efficiently managing its investment in assets and outside the scope of the CUSC or this proposal.</p>
15	Where a Transmission Connection Asset has been capitally contributed and a second Party wishes to connect to those Assets, it is proposed to re-classify those assets as infrastructure assets. It is proposed to implement arrangements similar to the second comer rule for the capitally contributed element. Do you agree with this suggestion?	<p>We accept that there is a need for refunding capital contributions to the first User but we do not believe this would be in the form of payment from the second User.</p> <p>If a sole-user asset becomes shared, and it's been capitally contributed to, then a refund from the TO will be needed and this would need to be funded as infrastructure capex.</p> <p>This additional expenditure, of refunding capital contributions in respect of connection assets now categorised as infrastructure, may need to be agreed with Ofgem.</p>

Modification Specific Workgroup Consultation questions

16	Do you foresee any legal or regulatory barriers or introducing a second comer rule equivalent into the CUSC for this purpose?	<p>We do not believe any legislative barriers exist as no refunding from one User to another occurs.</p> <p>The refunding of capital contributions upon a Connection Asset when recategorized as Infrastructure, would be from the TO regulatory asset base. The partial refund of contributions, according to remaining asset life, would be a TO investment cost transaction but one requiring an additional regulatory mechanism to fund.</p>
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