

Workgroup Consultation			
<p>CMP330: Allowing new Transmission Connected parties to build Connection Assets greater than 2km in length & CMP374: Extending contestability for Transmission Connections</p> <p>Overview: CMP330: To amend the definition of Connection Assets in Section 14 of the CUSC to allow cable and overhead line lengths over 2km to be contestable where agreed between the Transmission Owner and the User. CMP374: To allow new connectees to construct transmission assets to facilitate their connection to the wider transmission network.</p>	<p>Modification process & timetable</p> <ol style="list-style-type: none"> 1 Proposal Form 20 May 2021 2 Workgroup Consultation 17 December 2021 – 17 January 2022 3 Workgroup Report 25 February 2022 4 Code Administrator Consultation 2 March 2022 – 23 March 2022 5 Draft Final Modification Report 21 April 2022 6 Final Modification Report 11 May 2022 7 Implementation 10 working days after Ofgem's Decision 		
<p>Have 5 minutes? Read our Executive summary</p> <p>Have 20 minutes? Read the full Workgroup Consultation</p> <p>Have 30 minutes? Read the full Workgroup Consultation and Annexes.</p>			
<p>Status summary: The Workgroup are seeking your views on the work completed to date to form the final solution(s) to the issue raised.</p>			
<p>This modification is expected to have a: High impact on Onshore Transmission Owners Medium impact on Generators and ESO</p>			
Governance route	This modification is being assessed by a Workgroup and Ofgem will make the decision on whether it should be implemented.		
Who can I talk to about the change?	<table border="0"> <tr> <td style="vertical-align: top;"> <p>Proposer: Andy Pace, Energy Potential Andy.pace@energy-potential.com Phone 07881 840 007</p> </td> <td style="vertical-align: top;"> <p>Code Administrator Chair: Ren Walker Lurrentia.walker@nationalgrideso.com Phone: 07976 940 855</p> </td> </tr> </table>	<p>Proposer: Andy Pace, Energy Potential Andy.pace@energy-potential.com Phone 07881 840 007</p>	<p>Code Administrator Chair: Ren Walker Lurrentia.walker@nationalgrideso.com Phone: 07976 940 855</p>
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How do I respond?	Send your response proforma to cusc.team@nationalgrideso.com by 5pm on 17 January 2022.		

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Executive summary

In December 2019, EnergieKontor raised CUSC Modification proposal CMP330 'Allowing new Transmission Connected parties to build Connection Assets greater than 2km in length' which seeks to amend the definition of Connection Assets in section 14 of the CUSC to allow cable and overhead line lengths over 2km to be contestable where agreed between the Transmission Owner and the User. Following a Workgroup consultation and Workgroup discussions, the original solution was amended.

The Proposer of CMP330, then raised CMP374 which seeks to allow new connectees to construct any length of connection assets, except where those connection assets are for shared use. The CUSC Panel on 28 May 2021 agreed that CMP330 and CMP374 should be amalgamated. This modification proposes to introduce contestability in building sole use connection assets. This will enable more flexibility for users looking to connect to the transmission network and potentially enabling quicker and lower cost connections.

What is the issue?

CMP330: To amend the definition of Connection Assets in section 14 of the CUSC to allow cable and overhead line lengths over 2km to be contestable where agreed between the Transmission Owner and the User.

CMP374: To allow new connectees to construct transmission assets to facilitate their connection to the wider transmission network.

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

Proposer's solution: To amend the CUSC Section 14 to allow contestability in the construction of connection assets and remove the link between contestability eligibility and TNUoS charging which creates a limit on contestable connections of 2km.

Implementation date: 10 Working days following an Authority decision.

Summary of potential alternative solution(s) and implementation date(s):

Potential alternative: To remove the limit of contestability for 132kV connections only. This option is different to the CMP330 original proposal that removed the 2km limit on connection assets for all transmission voltage levels. Implementation date is as original.

What is the impact if this change is made?

This modification will enable more flexibility for users looking to connect to the transmission network and potentially enabling quicker and lower cost connections.

Interactions

CMP330/CMP374 if approved by the Authority will have a consequential impact on the STC and STCPs. A subsequent STC modification proposal, [CM079 'Consideration of STC/STCP changes in relation to CMP330/CMP374'](#) has been raised.

What is the issue?

This modification proposes to introduce contestability in building sole use connection assets. This will enable more flexibility for users looking to connect to the transmission network and potentially enabling quicker and lower cost connections.

The TO continues to design the asset but the developer builds to the TO specification. The User will remain liable for the works until the asset is adopted by the TO, along with any additional unforeseen development costs which might result above and beyond the agreed adoption payment. The proposed solution is not looking to change the charging boundary but clarifying what works can be done contestably (i.e. breaking the link between how assets are paid for and delivered).

Why change?

This modification proposes to introduce contestability in building sole use connection assets. This will enable more flexibility for users looking to connect to the transmission network and potentially enabling quicker and lower cost connections.

What is the solution?

Proposer's solution

The Proposer explained that their solution seeks to amend the CUSC to allow contestability in the construction of connection assets and some non-shared Infrastructure assets, whilst removing the link between contestability eligibility and TNUoS charging which creates a limit on contestable connections of 2km. The Proposer advised that by amending this, it will allow construction of Connection Assets and some non-shared Infrastructure Assets without having to change the 2km rule which relates to charging. The proposed solution is not looking to change the charging boundary but clarifying what works can be done contestably (i.e. breaking the link between how assets are paid for and delivered). The Proposer stated that once the Connection Asset or Infrastructure Asset is built, it will be transferred over for the Onshore TO to adopt and manage and the assets will be charged as per the standard charging methodologies.

The key features of the solution are as follows:

High Level Principles for any "Adoption Agreement ¹ " to be included in the CUSC. The "Adoption Agreement" itself may be added as an Exhibit to CUSC at a later date (subject to a separate Modification)
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Allowance at application stage for Users to request Offers for both the contestable ² / non-contestable offers

The User triggering the contestable works will pay to complete the works. On completion, the Onshore TO will pay the User a fixed price to adopt the asset. The User will remain liable for the works until the asset is adopted by the TO, along with
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¹ The Adoption Agreement will essentially be a contract between the connecting party and the Onshore TO and how those assets are then handed over to the Onshore TO.

² Contestable Assets are Plant and Apparatus that will be procured and/or constructed by a User where the ownership of said Plant and Apparatus which will be transferred to a Relevant Transmission Licensee via an Adoption Agreement.

any additional unforeseen development costs which might result above and beyond the agreed adoption payment.

- The proposed solution is not looking to change the charging boundary, but is clarifying what works can be done contestably (i.e. breaking the link between how assets are paid for and delivered)

Workgroup considerations

The Workgroup convened 8 times to discuss the issue, detail the scope of the proposed defect, devise potential solutions, and assess the proposal in terms of the Applicable Code Objectives.

Consideration of the proposer's solution

This modification looks to clarify what sole-use works can be done contestably and how they are defined and managed, rather than trying to change the charging boundary or looking at how the assets are paid for once they are built. This will separate the link between the charging methodology and what contestable works are.

The Proposer stated that within their original solution, this would then mean that the Onshore TO would adopt the asset and make payment to whoever has constructed it. The User will have the same options as with existing contestability rules to pay Connection Charges post-adoption (e.g. on completion capital contributions).

Scenarios

In the early Workgroup discussion for CMP330, 12 scenarios were discussed covering the scope of the contestable works (shared works or sole use) across the differing stages of construction from design of the asset to post construction. With the refinement of the defect as CMP374, now amalgamated with CMP330, the conclusion of the Workgroup was to focus on the scenarios 1-4 to reflect sole use only. The Workgroup agreed to disregard the other scenarios to focus the scope of the defect. These can be found in Annex 3).

Sole Use Infrastructure Assets

The Proposer confirmed that the CMP374 solution is looking to allow developers to build sole use infrastructure assets. The Workgroup stated that the current rules on what is a sole use asset, connection asset, or a Transmission Connection Asset (TCA) are very clear within the CUSC. CMP374 will extend sole use beyond what has historically been ring fenced as sole use assets, TCA's or single user assets and move the boundary further out into infrastructure assets. This will then create a new sub-division of infrastructure assets, called "Sole Use Infrastructure Assets".

How to request contestable works - as part of a Mod-App or new application

The Workgroup were of the view that all options should be considered at application stage. The customer can then post-offer identify which works would fall under this requirement and can then be done contestably. The Workgroup agreed that a timeline was needed for approval, otherwise negotiations could become delayed. A Workgroup member highlighted that there was already a timeline to turn around normal connection offers back to the ESO within the STC and suggested that they could use something similar, with the ability of a referral to Ofgem if there are any disagreements.

The Workgroup discussed options to start considering contestable works at application and offer stage between Users, ESO and Onshore TOs. The Proposer's solution is to provide one offer outlining both contestable and non-contestable options for the User to review and consider, which would be consistent with industry practice carried out by DNOs. In practice, this could be presented as two separate offers, with the User only able to select one, with the alternative becoming void on acceptance of the linked offer.

A Workgroup member flagged concern that this would not be feasible based on existing connection offer timelines (3 months for the network companies to deliver a customer connection offer) as specified in the transmission licence, CUSC and STC/STCP provisions. The workgroup member believed these would need to be changed to provide longer duration for offer production, or the network companies would need to increase their staff and resources levels to accommodate this request which could potentially lead to material cost increases in Application Fees for all parties (including those not wishing to undertake contestability).

Other Workgroup members acknowledged this risk but were of the view that not all connections were of the level of complexity where the additional resource at the application assessment stage. Further, that they would not be offset by the reduced workload resulting from the absence of contestable asset construction and associated project management support on offer acceptance. This point notwithstanding, the current process already includes collaboration between User/TO/ESO, and any additional resource requirement could be addressed and managed as part of the post-application process.

Other Workgroup members advocated for a compromise situation, where the User would provide early sight of their intent for to undertake contestable works if they were able. Amendments to the existing connection application form would be a simple way to achieve this. The ESO and Onshore TOs would use reasonable endeavours to factor this consideration during the existing offer process and timeline. This could even include conversations between the TOs and Users during the offer process if possible. At the very least the ESO, Onshore TO and User would agree the scope of contestable works in a timely manner on production of an offer (regardless of whether it already factors contestable build), turning around any offer changes to scope and contestability etc. in good time during post-offer negotiations.

Workgroup Consultation Question: Do you agree with the proposed solution that one offer with two options (contestable/non-contestable) would represent the best approach?

Supplementary applications

The Workgroup discussed what would happen if a supplementary application is submitted by another User to connect into works already agreed to be built contestably with the Onshore TO.

The Proposer's solution is that the first User who has contracted to do contestable build should not be required to abandon these works due to the presence of another User, unless the TO's intervention criteria are met and the TO exercises their right to intervene. It was discussed that the TOs may not always exercise this right if the contestable works remain economic and efficient in the context of the subsequent applicant.

A Workgroup member stated that existing backgrounds would be taken into consideration when developing an offer for a subsequent applicant. A Workgroup member explained that the Transmission Owner would be aware of all the works that are going on to determine the most efficient thing to do, whether it be to connect another user into those works or intervene and take on the build themselves.

A Workgroup member queried the extent to which the first User (doing the contestable works) would be consulted as part of this process. The Proposer stated that if there is additional capacity that needs to be built which the TO is anticipating may be needed at a future date, then the TO would consider that investment as with any other reinforcement/network enhancement.

The Workgroup discussed the potential for a subsequent applicant to be able to provide a more economic and efficient contestable build than the first User. If this is the case this should not be prevented, but the Workgroup agreed this is only possible in the early stages of the contestable works development by the User.

Workgroup Consultation Question: Should there be a process to allow subsequent applicants to take over the contestable build already negotiated with the TO? If so, should this process have a 'point of no return' where this option is restricted?

TO Intervention Criteria

The Workgroup agreed that the Onshore TOs should have the right to intervene in contestable build, particularly in the event of any works becoming shared. The Workgroup discussed the principles for TO intervention, and these will be placed into the CUSC as part of this modification. These principles will also need to be included in the STC change under CM079.

The Workgroup discussed the need to develop principles for TO intervention to address the following:

- protection for end consumers
- protection for 2nd comers/other Users
- protection for TO strategic investment (and mitigating risks for TO RIIO performance)

- ensuring the continued safe development and operation of the transmission system
- ensuring collective compliance to relevant obligations in licences/codes/contracts; consideration of any relevant direction by BEIS/Ofgem.

Please see Annex 4 for the current draft position which will be developed over time, including receipt of stakeholder's views via consultation feedback.

The Workgroup agreed that these principles may be subject to interpretation, so they would also need to consider Ofgem's role within this, as an escalation point for disputes.

Workgroup consultation question: Are the proposed intervention criteria sufficient? Are there any additional criteria that should be considered? Please provide your views.

Delays and License Issues

There were discussions regarding what the liability would be on the licensee if there was a delay from the first User resulting in an impact on the second User. The ESO representative stated that they would not be giving offers to the second party that they couldn't deliver on. The ESO would consider how advanced the first party is and how long it will take to take over the works before making an offer to the second party.

A Workgroup member explained that although the TO provides an offer, the ESO must also issue a Bilateral Connection Agreement to inform the second User, however this is contingent on the User or User's contractor completing the construction. It was highlighted that this is a third-party risk compared to the TO constructing in house.

Circuits that become partly shared

The Proposers view was that when a circuit becomes partly shared, the sole use elements will remain contestable and the Onshore TO will not take over the whole circuit, if the TO decides to intervene. The principle that should be applied is that any initial User should not be detrimentally affected in any way by any subsequent comer, and there should be a route of appeal. Another view within the Workgroup was that the Onshore TO should be taking over the whole circuit and not just the part that has become shared. Workgroup members also questioned whether there was the ability to isolate and segregate different parts of the circuit.

The Workgroup highlighted that any beneficiaries of a Whole System solution would also need to contribute towards the cost, not just the initial User.

Pre – Qualification Process

The Workgroup discussed the potential for a pre-qualification process due to the extension of the contestability definition to include non-shared Infrastructure Asset build. This stemmed from concerns raised by the Onshore TO representatives. They flagged to the Workgroup that the transmission licence, price control and code frameworks put significant

compliance burdens on the TOs in relation to Infrastructure Asset delivery to protect end consumers. For example, through the RIIO T2 price control, the Onshore TOs are subject to incentive penalties and other performance measures from Ofgem if they fail to deliver assets in accordance with agreed business plans.

A Workgroup member felt this needed to be replicated in some way in conjunction with this modification proposal to avoid risks of inefficient network investment or other project management/asset delivery issues caused by a failure by the User. This could negatively impact Onshore TO performance and lead to increased end consumer costs. The Workgroup discussed that if a license change is required as part of this modification, that it expects Ofgem to bring these changes forward if the modification was to be approved.

Whilst the Workgroup accepted that Infrastructure Assets are not built for the benefit of a single user (regardless of whether they are immediately shared or not), unlike Connection Assets, the Workgroup largely agreed that a combination of the TO intervention right and the terms and conditions of the Adoption Agreement should adequately mitigate any potential risk of negative end consumer or Onshore TO impact.

Workgroup Consultation Question: Do you agree that no additional safeguards are required for the delivery of non-shared Infrastructure Assets via contestable works? If not, what protections would you wish to see?

Contestable Asset Design

The TO will continue to design the network and what is built, this activity is unchanged from current baseline. The potential increased difficulty in delivered future network needs was acknowledged by the Workgroup but considered counteracted by current roles/responsibilities for network design being unchanged.

Workgroup members acknowledged that there would be the potential introduction of additional technical risks which historically have been mitigated through licence conditions and other associated regulatory safeguards. However, some Workgroup members highlighted it is expressly the purpose of the intervention criteria and the adoption agreement to put in place sufficient safeguards that the risks are mitigated to the same degree as when the assets are constructed by Transmission Operators. Members were clear to stress that the security and integrity of the system remains paramount, irrespective who constructs the assets, and that this will be protected by the proposed contractual mechanism of CUSC/STC codification and the Adoption Agreement.

Securities, Liabilities and User Commitment

The Workgroup discussed whether an amendment to CUSC Section 15 '*User Commitment Methodology*' was required. A Workgroup member highlighted that securities are linked to the money being spent, so, if the Onshore TO is not spending any money, then there is no requirement to amend Section 15 as this could result in Users to be committed and securing twice. A Workgroup member stated that there is no need for securities or an amendment to the CUSC for contestable works on connection assets so this shouldn't be any different for infrastructure assets.

The Workgroup concluded that as no amendments are needed to Section 15, some additional wording should be included in the legal text to clarify that Users shouldn't be funding anything that they are paying for themselves. The Workgroup confirmed that this would also require corresponding text in the STC/STCP to ensure that updates to the Onshore TO's spend profiles reflect any payments on completion or upfront for asset adoption.

The Workgroup discussed security liabilities for the second User, if the first User terminates and the TO takes over the build of the assets, and whether the second party can terminate without liability if they do not agree with the contract variation in costs, plus whether this would leave the Onshore TO with a stranded asset. The ESO representative stated that we would continue to follow the same process as today. If the works are being delivered by the TO, the ESO will be liable to the TO under Final Sums and the User would be liable to the TO under User Commitment. There is no change to User Commitment or Final Sums as a result of this modification.

The Workgroup questioned whether securities would have been in place prior to the acquisition by the TO of the build. The ESO representative's view was that the asset shouldn't be covered by security as it is the User's asset/risk until it is transferred to the TO, but there will be securities to cover TO's time linked to the asset, e.g., Project Management, assurance activities etc. This is subject to the spend profiles submitted to the ESO by the Onshore TOs, refreshed biannually. The STC modification CM079 should ensure there is no double counting risk in these spend profiles.

A Workgroup member stated that with larger projects they have used staged payments for contestable constructions at key milestones that are on a 6-monthly security spend rather than the Onshore TO paying a lump sum on adoption right at the end, once asset ownership has been transferred. The ESO representative agreed that this could be a simple one-off payment at the end, or it could be staged payments and this would be detailed in the Adoption Agreement.

User Self Build (USB) & DNO Adoption Agreements

The Workgroup reviewed high level terms and conditions for the Transmission Owner User-Self Build (USB) agreement and DNO adoption agreement. The Workgroup discussed whether there was a standard adoption agreement for User Self Build that could be used as a template. A Workgroup member shared an example of a FIDIC (*Fédération Internationale des Ingénieurs Conseils/ the International Federation of Consulting Engineers*) Contract, which is essentially an industry standard for engineering projects, and it is the basis on which their user self-build agreements are built. The Workgroup member explained that the FIDIC Contract is modified to suit each agreement

The Proposer stated the DNO adoption agreement was their preferred template for an agreement as it is a simpler form of contract. Other workgroup members representing the Onshore TOs raised significant concerns that the DNO form of the agreement simply does not adequately cover the breadth of obligations needed to deliver transmission assets, which could ultimately create risks for them, other Users, and end consumers.

The Proposer's view was that all the risk would sit with the developer and the Onshore TO's would not need to adopt the assets unless they met the required standards, and it would also allow the Onshore TO's to intervene if assets become shared. A Workgroup member highlighted that a lot of the detail in their User Self Build agreement is contained within the T&C of the DNO adoption agreement, rather than the actual contract. Another Workgroup member representing the Onshore TOs flagged that contestably built Infrastructure Assets cannot simply be 'not adopted' if they are not built to specification by a User. A limited scope adoption agreement would leave the Onshore TOs unreasonably exposed for rectifying failures to deliver these works by the User, incurring the price control penalties mentioned above.

The Onshore TO representatives in the Workgroup also explained that they have an output performance measure against Infrastructure assets in the price control and ultimately the assets will be paid for by the end consumer. The developer will be undertaking actions that a licensed entity would have otherwise undertaken and the assets that are adopted by the Onshore TO will be publicly owned assets. This is a greater undertaking than building distribution assets because of the voltages involved and the public safety and licence compliance consequences of getting this wrong. Consequently, Onshore TO's should put in place agreements (USB or otherwise) which ensure risks are mitigated adequately in the interests of all parties and end consumers, as happens for existing contestable build for Connection Assets. However, this should not act as a barrier to encouraging contestability, so the Workgroup developed a set of principles that would be within CUSC and must be adhered to by TOs when entering into agreements relating to contestable assets. These are explained in more detail below.

Adoption Agreement Codification

The Proposer noted that within their original solution there is a list of high-level principles that should be included in the adoption agreement within the CUSC, rather than codifying an adoption agreement. The Proposer stated that the adoption agreement itself could be added as an Exhibit to the CUSC later, however this would need to be done via a separate CUSC modification proposal. The Adoption Agreement will essentially be a contract between the connecting party and the Onshore TO and how those assets are then handed over to the Onshore TO. It would also need to cover delayed works, and any under/overspend, similar to any construction agreement. As well as additional provisions to cover scenarios where sole use become shared works, and what the process would be for the Onshore TO, to potentially take over those works.

The Workgroup sought the ESO's view on the potential codification of adoption agreement in its entirety, intervention points and whether they would want to set out pre-qualification criterion for Users in the CUSC. The ESO representative stated that the legal view on codifying the adoption agreement was as follows:

- There is some precedent for codifying proformas currently in CUSC and STC.
- Interface agreements are currently included as a proforma in CUSC. Interface agreements entered into between the Onshore TO and the User are on the basis they should be 'substantially in the form of' the proforma in CUSC. (see CUSC EXHIBIT O - PART I B for Interface Agreements)

- Also, the STC has a proforma of the transmission interface agreement to be entered into between the onshore TO and OFTO (and in the case of offshore build) between the Onshore TO and the user.
- If the solution were to codify the Adoption Agreement within the STC (Transmission Owner Construction Offer, TOCO) then clauses would also need to be mirrored in CUSC Construction Agreement.

Some Workgroup members disagreed with the ESO legal position. They felt that the existing USB agreement (not codified) already dealt with the transfer of ownership of assets, from a specific specification, where the cost of that work is then paid back to the developer. All they needed to do was to increase the range of assets that can be built under that existing USB agreement. Other views within the Workgroup were that the Onshore TOs underlying principles for the USB agreement were a broader type of agreement which included the scope of assets, project milestones, liability, indemnity and warranties.

Workgroup consultation question: Do you agree with the principles of what needs to be included in the Adoption agreement as set out in Annex 4.

Recovery of TO/SO Costs, e.g. Project Management Costs

The Proposers solution states that the additional TO/SO associated with the contestable works as agreed within the adoption agreement will be passed through and the User will pay for them.

Alternatives

Consideration of other options

132KV in Scotland

The Proposer highlighted that within the CMP330 Workgroup Consultation, they raised an alternative solution which was to *remove the 2km limit used in the definition of connection assets for 132kV network asset only*. The Proposer explained that this alternative proposal is different to the original proposal that removed the 2km limit on connection assets for all transmission voltage levels.

A concern highlighted by a Workgroup member was that this alternative could be seen as undue discrimination. As it would be creating a distortion by connection voltage, i.e. an inability for certain customers to do something that others could, which could be difficult to justify.

The Workgroup sought a view from Ofgem on this, who followed up with the following questions for the Workgroup to consider:

What is the justification for applying this change to 132kV only? For example: how are 132kV specifically negatively impacted by the existing rule?; how does this compare with the (perceived) detriment experienced by other voltage levels?

The Workgroup discussed this question and concluded that there is already discrimination and inequality of treatment within the different licencing/charging arrangements for transmission and distribution. i.e. the 2km restriction is not applied consistently across GB. This is because the restriction currently applies at all transmission voltages which includes 132kV in Scotland but 132kV is not a transmission voltage in England and Wales. The proposed alternative is addressing the discrimination that already exists between England/Wales and Scotland.

What would be the impacts of such a change? For example: If 132kV and 275/400kV are competitors, would 132kV competitors have a competitive advantage as a result of this change? Similarly, if 132kV in Scotland competes with 132kV in England and Wales, how would this change impact the existing landscape and playing field?

It was highlighted that 132kV is typically installed very compactly within very narrow slot trenches, whilst 400kV is different in terms of construction, consenting, environmental disturbance and impact. Therefore, there is more volume and natural interest towards 132kV because of the simplicity of construction.

The Workgroup also made the following points:

- This alternative is removing/addressing the discrimination that already exists between England/Wales and Scotland.
- Not many parties/if any are building larger voltages, but lots of parties are/would like to build 132kV. If parties could build this themselves, then there would be a reduction in discrimination. Most of the benefit of the Modification would therefore be seen at 132kV.

Workgroup consultation question: A potential alternative solution is that the contestability could be limited to just 132kV in Scotland, which in the Proposer's view is in line with treatment of 132kV in England and Wales. Do you think this is appropriate? Please provide justification for your views.

Workgroup consultation question: Are there any issues for stakeholders to extend contestability to building assets above 132kV.

Interactions

CMP288 'Explicit charging arrangements for customer delays and back feeds & CMP289 'Consequential change of CMP289'

The Workgroup discussed the potential for interactions with CMP288/289 – a modification seeking to explicitly set out the process for Onshore TO's (via ESO) to levy charges for unforeseen or unavoidable User-led costs for project delays or requirements for back-feed. The Workgroup agreed any interaction was minimal, and the primary issue was ensuring that any additional unforeseen/unavoidable costs incurred by the User doing contestable work was not charged back to the them as a 'double charge'.

CMP376 'Inclusion of Queue Management process within the CUSC'

The Workgroup agreed that the process to negotiate and agree an Adoption Agreement for contestable build should be not unreasonably be applied in consideration of compliance to contract milestones and tolerance periods related to the proposals under CMP376. The interaction to the two modifications would be flagged by Workgroup members spanning both groups.

STC Modification

An STC modification (CM079) has been raised to consider the corresponding obligations needed in that code to facilitate this proposal if approved. The timing of both modifications needs to be aligned so that a package of proposed change can be sent to Ofgem at the same time. The Workgroup agreed that the principles will be set out in the CUSC but detailed within the STC and how the definitions will be consistent across both codes.

SQSS

The solution makes no change to SQSS directly. The Onshore TO will still design the assets and there is no change to the standards. There are no impacts to the SQSS.

CATO (Competitive Appointed Transmission Owner)

National Grid's Electricity System Operator (ESO) has been asked by Ofgem to develop proposals for the potential introduction of early model competition in onshore transmission. The ESO Early Competition Project Team have worked with partners from in and outside the energy industry to identify how competition could be introduced to cocreate proposals on how models for early competition could be implemented. The proposed solution for this Modification has been discussed with the ESO Early Competition Project Team. The general feedback from the team is that ESO is supportive of competition in network development to deliver more cost-effective solutions. While it is recognised that this solution is not the same as Early Competition Plans, the team are supportive of consideration of proposals to increase competition in network development. The Early Competition Plan, to date, has focused on code mapping requirements for system need rather than for general connections. In this context, and with visibility of early sight of the proposed summary solution, the ESO Early Competition Project Team do not consider there is a conflict with Early Competition Plans and are happy for the Workgroup to continue to progress the solution.

Ofgem comments from Ofgem Early Competition Team

Ofgem consulted on proposals for introducing early competition into the Electricity Transmission sector earlier in the year. It intends to provide an update on these proposals following consultation in early 2022. Where any early competition arrangements are finalised, Ofgem will work with the ESO to help ensure that any required changes to codes are appropriately considered. At this point in time, Ofgem do not consider that there is a case for any ongoing work on early competition to have an impact on the timely consideration of these modifications.

Impacts/Benefits of this modification

The Workgroup discussed the impacts and benefits of the modification proposal.

A Workgroup member sought to understand from the Proposer and the rest of the Workgroup how the original solution would ensure that any Infrastructure Assets

delivered via new contestable works provisions would lead to cost savings and efficiencies for the benefit of end consumers and other users, as well as for the benefit of the User doing the works.

The Workgroup member also wanted to understand how the proposal would ensure that network development would happen economically and efficiently by a User who is only bound by the CUSC and any USB/adoption agreement, as opposed to licence and price control arrangements which manages the performance of the Onshore TO.

The Proposer and some other Workgroup members acknowledged the following:

- Facilitating developers to build a wider range of contestable assets is already common at Distribution level.
- Their view was that this will lead to greater competition, resulting in cost savings and efficiencies, delivering wider benefits to the consumer and industry with reduced costs potentially resulting in lower use of system costs after completion.

A Workgroup member mentioned their view that the role of Transmission Owner is much broader than constructing contestable assets. Some Workgroup members discussed that the heightened focus and greater flexibility of a developer constructing renewable projects and connections allows for a greater clarity of purpose and intent. Single-minded developers are better placed to identify, design and construct solutions that will progress the ESO's net zero targets and the government's wider climate change objectives.

A Workgroup member suggested that contestable assets being built by stakeholders other than the TOs could potentially have the benefit of freeing workload on the part of the TOs.

Workgroup members outlined that the proposed modification would also be in line with wider regulatory direction being advocated by Ofgem.

In relation to the risk of stranded assets or inefficient investment members acknowledged the current position where wider reinforcement and investment considerations are included in connection offers, and reflected how these identical considerations would be included in offers, which include the build of contestable assets by wider stakeholders. Members agreed that the current position whereby there is continued engagement and collaboration between TO and developer would be particularly useful in discussions concerning the scope of the options regarding developer contestable build.

Workgroup consultation question: Will the CMP330/374 Original Proposal / possible alternatives impact your business. If so, how?

Workgroup consultation question: Do you think this change will benefit your organisation, other organisations, or end consumers? Please provide evidence and/or examples to support this.

Workgroup consultation question: Do you believe this proposal brings forward any additional risks of the Onshore TO's, other than those already identified? Do you think a license change is required to mitigate the risks fully?

Draft legal text

The legal text will be drafted after the Workgroup Consultation has been completed.

What is the impact of this change?

Proposer's assessment against Code Objectives

Proposer's assessment against CUSC Charging Objectives	
Relevant Objective	Identified impact
(a) 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;	Positive By enabling new connectees to the transmission network to potentially source a cheaper and/or quicker connection by opening up more Connection Assets to contestability.
(b) 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);	Neutral
(c) 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;	Positive This introduces competition in building connection assets which results in the more efficient delivery of networks.
(d) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	Neutral
(e) Promoting efficiency in the implementation and administration of the system charging methodology.	Neutral
*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).	

Standard Workgroup consultation question: Do you believe that CMP330/374 Original proposal better facilitates the Applicable Objectives?

When will this change take place?

Implementation date

10 Working days following the Authority's decision.

Date decision required by

A decision on CMP330/CMP374 is required as soon as practical following the Final Modification Report being submitted to the Authority.

Implementation approach

CMP330/CMP374 amends Section 14 of the CUSC, however changes to the STC/STCP's are also required because of this proposal. It is essential that the Workgroup factor in the changes required to the STC to allow time for implementation.

Standard Workgroup consultation question: Do you support the implementation approach?

Interactions

- | | | | |
|---|---|--|--------------------------------|
| <input type="checkbox"/> Grid Code | <input type="checkbox"/> BSC | <input checked="" type="checkbox"/> STC | <input type="checkbox"/> SQSS |
| <input type="checkbox"/> European Network Codes | <input type="checkbox"/> EBR Article 18 T&Cs ³ | <input type="checkbox"/> Other modifications | <input type="checkbox"/> Other |

The STC and STCP's will need to be amended to take account of the processes introduced under this modification to allow contestability. A consequential STC/STCP change ([CM079 'Consideration of STC/STCP changes in relation to CMP330/374'](#)) has been raised.

How to respond

Standard Workgroup consultation questions

1. Do you believe that CMP330/CMP374 Original proposal better facilitates the Applicable Objectives?
2. Do you support the proposed implementation approach?
3. Do you have any other comments?
4. Do you wish to raise a Workgroup Consultation Alternative request for the Workgroup to consider?

³ If the modification has an impact on Article 18 T&Cs, it will need to follow the process set out in Article 18 of the Electricity Balancing Regulation (EBR – EU Regulation 2017/2195) – the main aspect of this is that the modification will need to be consulted on for 1 month in the Code Administrator Consultation phase. N.B. This will also satisfy the requirements of the NCER process.

Specific Workgroup consultation questions

5. Do you agree with the proposed solution that one offer with two options (contestable/non-contestable) would represent the best approach?
6. Should there be a process to allow subsequent applicants to take over the contestable build already negotiated with the TO? If so, should this process have a 'point of no return' where this option is restricted?
7. Are the proposed intervention criteria sufficient? Are there any additional criteria that should be considered? Please provide your views.
8. Do you agree that no additional safeguards are required for the delivery of non-shared Infrastructure Assets via contestable works? If not, what protections would you wish to see?
9. Do you agree with the principles of what needs to be included in the Adoption agreement as set out in Annex 4.
10. A potential alternative solution is that the contestability could be limited to just 132kV in Scotland, which in the Proposer's view is in line with treatment of 132kV in England and Wales. Do you think this is appropriate? Please provide justification for your views.
11. Are there any issues for stakeholders to extend contestability to building assets above 132kV.
12. Will the CMP330/374 Original Proposal / possible alternatives impact your business. If so, how?
13. Do you think this change will benefit your organisation, other organisations, or end consumers? Please provide evidence and/or examples to support this.
14. Do you believe this proposal brings forward any additional risks of the Onshore TO's, other than those already identified? Do you think a license change is required to mitigate the risks fully?

The Workgroup is seeking the views of CUSC Users and other interested parties in relation to the issues noted in this document and specifically in response to the questions above. Please send your response to cusc.team@nationalgrideso.com using the response pro-forma which can be found on the [CMP330/CMP374 modification page](#). In accordance with Governance Rules if you wish to raise a Workgroup Consultation Alternative Request please fill in the form which you can find at the above link.

If you wish to submit a confidential response, mark the relevant box on your consultation proforma. Confidential responses will be disclosed to the Authority in full but, unless agreed otherwise, will not be shared with the Panel, Workgroup or the industry and may therefore not influence the debate to the same extent as a non-confidential response.

Acronyms, key terms and reference material

Acronym / key term	Meaning
BSC	Balancing and Settlement Code
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code
EBR	Electricity Balancing Guideline
STC	System Operator Transmission Owner Code

STCP	System Operator Transmission Owner Code Procedures
SQSS	Security and Quality of Supply Standards
T&Cs	Terms and Conditions
ESO	Electricity System Operator
TO	Transmission Owner
TNUoS	Transmission Network Use of System (TNUoS) Charges
OFTO	Offshore Transmission Owner
BCA	Bilateral Connection Agreement
CATO	Competitively Appointed Transmission Owners
USB	User Self – Build

Reference material

- [CMP330 Workgroup Consultation](#)
- [CMP330 Workgroup Consultation Responses](#)

Annexes

Annex	Information
Annex 1	Proposal forms
Annex 2	Terms of reference
Annex 3	Scenarios Spreadsheet
Annex 4	Illustrative adoption agreement