

# CUSC Special Panel

**Tuesday 16 August 2022**

**Online Meeting via Teams**

# WELCOME

A wide-angle landscape photograph featuring a valley with a winding river and several bright, glowing orange-yellow lines that curve across the terrain, suggesting energy or data flow. In the background, large, rugged mountains are partially covered in snow under a dramatic, cloudy sky with sunlight breaking through.

**nationalgrid**ESO

# New modifications submitted



**CMP395 – Cap BSUoS costs and Defer payment to 2023/24 to protect GB customers**

**Lisa Waters – Waters Wye Associates (*on behalf of Scott Keen, Saltend Cogeneration Company Ltd*)**

# Critical Friend Feedback – CMP395

Code Administrator comments	Amendments made by the Proposer
<p>Suggested that the Proposal is linked more to CMP381</p> <p>Sought clarity on implementation timescales/decision date and provided potential timelines</p> <p>Clarified the proposed governance route</p> <p>Proposed changes to the narrative to ensure more neutral language</p> <p>Noted that it will be key in any Workgroup to show why £10 BSUoS cap is appropriate and why these costs are unforeseen and exceptional</p>	<p>Majority of proposed changes made – some of the narrative has been retained though</p>

# Ofgem's Urgency Criteria

Ofgem's current view is that an urgent modification should be linked to an imminent issue or a current issue that if not urgently addressed may cause:

- a) A significant commercial impact on parties, consumers or other stakeholder(s); or
- b) A significant impact on the safety and security of the electricity and/or gas systems; or
- c) A party to be in breach of any relevant legal requirements.

More information can be found at:

<https://www.ofgem.gov.uk/sites/default/files/2022-08/Urgency%20Guidance%20-%20FINAL.pdf>

# Proposer’s Justification vs Ofgem’s Urgency Criteria

The Proposer recommends that this modification should be treated as an Urgent Modification proposal and be assessed by a Workgroup

Ofgem’s Urgency Criteria	Proposer’s Justification
a) A significant commercial impact on parties, consumers or other stakeholder(s).	<p>The ‘significant commercial impact’ arises for both Suppliers and Generators (as well as customers who directly - or indirectly - pay BSUoS) as they could not have forecasted or expected such surges in BSUoS. Under the status quo arrangements those parties who pay BSUoS for the most part will be unable to immediately recover the amount concerned via retail tariff changes (for Suppliers) given price caps (which will defer the October- December 2022 BSUoS costs, based on data up to August 2022, to January-March 2023 and so on) and fixed price contracting etc., or via wholesale price increases (for Generators). These parties (and customers who directly pay BSUoS) face a significant commercial impact from this current issue (whilst customers who pay indirectly, for example, via the retail price cap face paying the higher BSUoS cost from October-December 2022 in January-March 2023 – so still this winter or in spring for the January-March period).</p> <p>The ‘significant commercial impact’ on customers is most keenly seen on industrial customers who often see BSUoS as a pass through and many of whom compete in international markets. In some of those markets’ energy prices are being capped. For them anything that reduces prices must be helping their competitive position in their own markets. Further lowering costs to sectors such as food manufacturing will also help to marginally ease the inflationary pressure the whole economy is witnessing.</p>

# Proposer's Justification vs Ofgem's Urgency Criteria

The Proposer recommends that this modification should be treated as an Urgent Modification proposal and be assessed by a Workgroup

Ofgem's Urgency Criteria	Proposer's Justification
b) A significant impact on the safety and security of the electricity and/or gas systems.	<p>The 'significant impact on the safety and security' of electricity arises, in particular for generators in GB, as they are faced with these sudden and substantial additional costs which they are unable to fully recover in the wholesale market given forward trading timescales. This, in turn, could threaten the commercial viability of some of those generators who, in these times of significant system management issues for the ESO (hence the highly abnormal additional BSUoS costs), could cease trading / operating which, could impact on the security of the GB electricity system.</p> <p>Those generators who are active in the Balancing Mechanism will be forced to "assume the worst" and price in BSUoS risks. Given concerns that NGESO will need most available generation over winter in some periods, this will significantly add to BSUoS costs in itself, potentially creating an inflationary impact on BSUoS on top of the wider market pressures.</p>
c) A party to be in breach of any relevant legal requirements	n/a

# Timeline for CMP395 – Proposed Urgent Timeline - Workgroup

Milestone	Date	Milestone	Date
Modification presented to Panel	16 August 2022 (9am)	Code Administrator Consultation (3 working days)	13 September 2022 (12pm) to 16 September 2022 (5pm)
Workgroup Nominations (3 working days)	16 August 2022 (12pm) to 19 August 2022 (5pm)	Draft Final Modification Report (DFMR) issued to Panel	20 September 2022
Ofgem grant Urgency	19 August 2022 (5pm)	Panel undertake DFMR recommendation vote	21 September 2022 (before 12pm)
Workgroup 1 and 2 (assuming Ofgem have granted Urgency) – education, assess proposed cap and limit and identify potential alternatives, review analysis, draft legal text finalise Workgroup Consultation	22 and 24 August 2022	Final Modification Report issued to Panel to check votes recorded correctly	21 September 2022 (2pm to 4pm)
Workgroup Consultation (4 working days)	26 August 2022 (9am) to 1 September 2022 (5pm)	Final Modification Report issued to Ofgem	21 September 2022 (4pm)
Workgroups 3 and 4 - Assess Workgroup Consultation Responses, finalise solutions and Workgroup Vote	5 and 8 September 2022 – 8 September 2022 1.30-4.30pm	Ofgem decision	By 28 September 2022 (5pm)
Workgroup report issued to Panel	12 September 2022	Implementation Date	30 September 2022
Panel sign off that Workgroup Report has met its Terms of Reference	13 September 2022 (Before 10am)		

# Timeline for CMP395 – Proposed Urgent Timeline – Workgroup (no Workgroup Consultation)

Milestone	Date	Milestone	Date
Modification presented to Panel	16 August 2022 (9am)	Draft Final Modification Report (DFMR) issued to Panel	20 September 2022
Workgroup Nominations (3 working days)	16 August 2022 (12pm) to 19 August 2022 (5pm)	Panel undertake DFMR recommendation vote	21 September 2022 (before 12pm)
Ofgem grant Urgency	19 August 2022 (5pm)	Final Modification Report issued to Panel to check votes recorded correctly	21 September 2022 (2pm to 4pm)
Workgroup 1 and 2 (assuming Ofgem have granted Urgency) – education, assess proposed cap and limit and agree potential alternatives, review analysis, finalise solutions, legal text and Workgroup Vote	24 August 2022 and 1 September 2022	Final Modification Report issued to Ofgem	21 September 2022 (4pm)
Workgroup report issued to Panel	5 September 2022	Ofgem decision	By 28 September 2022 (5pm)
Panel sign off that Workgroup Report has met its Terms of Reference	7 September 2022 (Before 10am)	Implementation Date	30 September 2022
Code Administrator Consultation (7 working days)	7 September 2022 (12pm) to 16 September 2022 (5pm)		

# Timeline for CMP395 – Standard Timeline - Workgroup

Milestone	Date	Milestone	Date
Modification presented to Panel	16 August 2022 (9am)	Code Administrator Consultation (15 working days)	1 February 2023 to 22 February 2023 (5pm)
Workgroup Nominations (15 working days)	16 August 2022 (12pm) to 7 September 2022 (5pm)	Draft Final Modification Report (DFMR) issued to Panel	23 March 2023
Workgroup 1 and 2 (assuming Panel prioritise as High or Medium to High - education, assess proposed cap and limit and identify potential alternatives, review analysis, draft legal text finalise Workgroup Consultation)	29 September 2022 and 18 October 2022	Panel undertake DFMR recommendation vote	31 March 2023
Workgroup Consultation (15 working days)	28 October 2022 to 18 November 2022 (5pm)	Final Modification Report issued to Panel to check votes recorded correctly	4 April 2023
Workgroups 3 and 4 - Assess Workgroup Consultation Responses, finalise solutions and Workgroup Vote	29 November 2022 and 15 December 2022	Final Modification Report issued to Ofgem	12 April 2023
Workgroup report issued to Panel	19 January 2023	Ofgem decision	TBC
Panel sign off that Workgroup Report has met its Terms of Reference	27 January 2023	Implementation Date	TBC

# What can only be changed by Urgency - CUSC

Milestone	Standard Timescale	Referenced in CUSC Section 8	Referenced in CACOP V5.1	Referenced in Terms of Reference	Comments
<b>Workgroup Nominations</b>	15 working days	No	No	No	15WD appears to be industry practice but nothing preventing Panel agreeing to a shorter period without the need for Urgency
<b>Workgroup Consultation</b>	15 working days	Yes – 8.20.7 and 8.20.8(d)	Yes - Principle 10 ( <i>Standard 15 Business Days</i> )	Yes	CACOP Principle 10 states a standard 15 business days. In theory, Panel under 8.20.7 and 8.20.8(d) can set a shorter period (as part of the Terms of Reference; however the standard Terms of Reference states 15 WD) without the need for Urgency
<b>Workgroup Report to Panel</b>	5 working days	No	No	No	Panel can agree to a shorter period without the need for Urgency.
<b>Code Administrator Consultation</b>	15 working days (1 month if EBGL)	Yes – 8.22.2	Yes - Principle 10 ( <i>Standard 15 Business Days</i> )	No	CACOP Principle 10 states a standard 15 business days. 1 month if EBGL.
<b>DFMR to Panel</b>	5 working days	Yes – 8.23.3	No	No	Must be 5WD notice (8.23.3)
<b>FMR to Panel to check Votes</b>	5 working days	Yes – 8.23.5	No	No	Must be 5WD notice (8.23.5)

# CMP395 – the asks of Panel

- **AGREE** that this Modification should proceed to Workgroup
- **NOTE** that there appear not to be any impacts on the Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the CUSC
- **VOTE** whether or not to recommend Urgency
- **AGREE** timetable for Urgency
- **AGREE** Workgroup Terms of Reference
- **NOTE** next steps:
  - Under CUSC Section 8.24.4, we will now consult the Authority as to whether this Modification is an Urgent CUSC Modification Proposal
    - Letter to be sent to Ofgem 16 August 2022
    - Ofgem approval of Urgent treatment sought by 5pm on 19 August 2022
    - 1<sup>st</sup> Workgroup to be held 22 August 2022

# CMP395 – Possible Terms of Reference

- Consider whether or not a £10/MWh cap on BSUoS is appropriate or justify if another £/MWh cap is more appropriate
- Consider if the £10/MWh cap on BSUoS should be in place from 1 October 2022 to 31 March 2023 or a different time period
- Consider the impacts on Generators, Suppliers and Consumers of deferring the additional BSUoS costs above the cap to the 2023/24 charging year
- Consider the limit on the total BSUoS costs that would be deferred
- Consider how costs should be recovered and from whom
- Consider invoicing / billing timeline in the context of the Implementation Date

# New modifications submitted

*CMP396 – Re-introduction Of BSUoS on  
Interconnector Lead Parties*

**Lisa Waters – Waters Wye Associates (on behalf of Scott Keen,  
Saltend Cogeneration Company Ltd )**



# Critical Friend Feedback – CMP396

Code Administrator comments	Amendments made by the Proposer
<p>Provided thoughts to clarify the relevant European Legislation</p> <p>Sought clarity on implementation timescales/decision date and provided potential timelines</p> <p>Clarified the proposed governance route</p> <p>Proposed changes to the narrative to ensure more neutral language</p> <p>Added acronyms</p>	<p>Majority of proposed changes made – some of the narrative has been retained though</p>

# Ofgem's Urgency Criteria

Ofgem's current view is that an urgent modification should be linked to an imminent issue or a current issue that if not urgently addressed may cause:

- a) A significant commercial impact on parties, consumers or other stakeholder(s); or
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More information can be found at:

[https://www.ofgem.gov.uk/system/files/docs/2016/02/urgency\\_criteria.pdf](https://www.ofgem.gov.uk/system/files/docs/2016/02/urgency_criteria.pdf)

# Proposer's Justification vs Ofgem's Urgency Criteria

The Proposer recommends that this modification should be treated as an Urgent Modification proposal and go straight to Code Administrator Consultation

Ofgem's Urgency Criteria	Proposer's Justification
a) A significant commercial impact on parties, consumers or other stakeholder(s).	<p>The 'significant commercial impact' on customers is most keenly seen on industrial customers who often see BSUoS as a pass through and many of whom compete in international markets, including with customers who are not contributing to BSUoS despite being supplied by the GB market. In some of those markets' energy prices are being capped. For them anything that creates a more level playing field should improve their competitive position. Further lowering costs to sectors such as food manufacturing, even by a small amount, will also help to marginally ease the inflationary pressure the whole economy is witnessing.</p> <p>There is also a significant issue of fairness. If the GB customers are picking up costs associated with supply to their party countries those customers should pay their fair share. This is not always easy, but Ofgem has said that BSUoS is a residual charge that all Final Demand should pay.</p>
b) A significant impact on the safety and security of the electricity and/or gas systems.	n/a
c) A party to be in breach of any relevant legal requirements	n/a

# Timeline for CMP396 – Proposed Urgent Timeline - Workgroup

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Workgroup report issued to Panel	12 September 2022	Implementation Date	30 September 2022
Panel sign off that Workgroup Report has met its Terms of Reference	13 September 2022 (Before 10am)		

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# CMP396 – the asks of Panel

- **AGREE** that this Modification should proceed to Workgroup
- **NOTE** that there appear not to be any impacts on the Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the CUSC
- **VOTE** whether or not to recommend Urgency
- **AGREE** timetable for Urgency
- **AGREE** Workgroup Terms of Reference
- **NOTE** next steps:
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    - Letter to be sent to Ofgem 16 August 2022
    - Ofgem approval of Urgent treatment sought by 5pm on 19 August 2022
    - 1<sup>st</sup> Workgroup to be held 22 August 2022

# CMP396 – Possible Terms of Reference

- Consider interactions with [Electricity Regulation 714/2009 – Article 14](#) “Charges for access to networks”
- Consider the principle that the interconnector itself remains a “transmission line”, but the energy flows are treated as if going to Final Demand anywhere in the GB market.
- Consider impacts of charging BSUoS to Interconnector Lead Parties.
- Consider invoicing / billing timeline in the context of the Implementation Date.

The background features several thick, flowing yellow lines. In the upper left, a series of curved lines form a shape reminiscent of a stylized 'C' or a protective shield. In the lower right, three parallel diagonal lines slope upwards from left to right. The overall aesthetic is modern and minimalist.

**AOB**

Close

