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## **CMP308 – Minded-to decision and draft impact assessment**

19 January, 2022

Dear Ruben,

Thank you for the opportunity to respond the above consultation. This response is made on behalf of Uniper.

We support Ofgem's minded to decision to implement CMP308 and believe that the impact assessment shows that this would be beneficial by promoting the provision of energy and decarbonisation at a lower cost to customers. We also feel that the implementation of CMP361/362 would deliver further improvements. However, as the benefits of CMP308 have been concluded on a standalone basis and we strongly believe that this proposal should be implemented in April 2023, regardless of any decision on CMP361/362.

The answers to the specific questions raised in the consultation are as follows:

### **1. Do you agree with our assessment that CMP308 better facilitates the Applicable CUSC Objectives?**

Yes. CMP308 will improve competition in the wholesale market for electricity as well as in other markets such as for balancing services, by removing a significant distortion from the arrangements for trading within GB and across borders.

### **2. Do you agree that charging BSUoS charges only to Final Demand reduces distortions between Large Generators and other forms of generation? Please explain why.**

Yes. It removes a long standing distortion, where large and transmission connected generators have been charged BSUoS while other forms of generation have not. As BSUoS is charged to generation on the basis of each MWh generated, it represents an avoidable cost which has to be factored into pricing decisions made in energy and balancing services markets. Smaller embedded generation and imports over interconnectors are not exposed to this cost, which provides them with an unfair advantage. As the difference in charge that these parties are exposed to is unrelated to the costs that they impose on the system, it results in undue discrimination and distorts competition in the affected markets.

**3. Do you have any views on the impact of this proposal on Behind The Meter Generation and its competitiveness?**

CMP308 will not remove the distortion that exists between Behind the Meter (BTM) generation and other generation, but it will not exacerbate it either.

At present, behind the meter generation receives a benefit by avoiding BSUoS in two ways. The first direct benefit is the avoidance of paying demand BSUoS on every MWh of demand which is offset by BTM generation output. The second, less direct, benefit arises from the BTM generation offsetting the need to consume energy provided through the wholesale market at prices which very often will have been set by generation plant which is exposed to BSUoS. Therefore, these wholesale prices will be uplifted by the expected generation BSUoS price and the BTM generation allows the associated BTM demand to avoid the uplift.

If CMP308 is implemented, then as demand BSUoS rises as a consequence this will increase the direct BTM BSUoS benefit. However, the uplift in the wholesale price caused by generation BSUoS will be removed and so the indirect benefit will disappear. Therefore, the net result should largely be the same both before and after implementation of CMP308.

**4. Do you have any views on our reasoning on this proposal's effect on price signals or generation dispatch?**

Yes. It has been established that BSUoS does not provide a useful cost reflective signal to the market. Therefore, sending such a signal to generation serves no purpose and, as it directly affects bidding and pricing behaviour, could result in inefficient decisions being taken off the back of any signal that is inadvertently conveyed.

As BSUoS is an avoidable cost which is factored into the prices that affected generation offers into the market, then any dispatch decisions taken as a result of those prices can be distorted when only a subset of participants are exposed to BSUoS. This can result in inefficient self-dispatch decisions, where generators run to meet inefficient wholesale trades entered into as a result of the BSUoS charge distortion. It can also result in inefficient dispatch instructions from the system operator when BSUoS affects the prices offered for providing balancing services, such as through the Balancing Mechanism.

**5. Do you have any views on our reasoning on this proposal's effect on competition between different generator types?**

We agree with the reasoning. Current distortions hinder generation connected to the transmission network and larger embedded generation, whilst benefitting smaller embedded generation and interconnectors. Removing these distortions will of course redress the balance.

**6. Do you have views on our assessment of the decarbonisation impacts of this proposal, both in respect of emissions from the GB energy system and of overall emissions?**

We note the impact analysis of emissions has been carried out under two different assumptions, firstly assuming that interconnectors are zero carbon sources of energy and secondly assuming that increased generation in GB offsets similarly carbon

emitting generation at the other end of the interconnection. This former assumption is not correct. If GB generation displaces some of the interconnector imports as a result of this modification it is likely to be similar types of plant which is involved as they will have similar marginal costs. Therefore, for example, if a CCGT is brought on in GB it is likely that a CCGT on the other side of the interconnector is not dispatched as a result.

When looking at the impact on GB, any calculation of emissions should be made in relation to power consumed in GB rather than that generated in GB. It is expected that CMP308 will result in higher levels of power generated in GB, but this additional output will displace power which will have been generated in interconnected markets. This will either result in reduced imports to GB or increases exports from GB.

For reduced imports it will mean that power generated in an interconnected market will be replaced by GB generated power in order to meet GB demand. It would be reasonable to assume that the economics and therefore fuel types of the generation displaced and that replacing it will be similar. Indeed, as the BSUoS distortion has been removed it is likely that the displaced plant is less efficient than that replacing it, as the merit order is now based on true marginal costs. This could also mean lower carbon intensity, assuming they are exposed to similar carbon pricing. Therefore, it is possible if not likely that GB consumed power is of a lower carbon intensity as a result of the modification.

For the situation where CMP308 results in increased exports, then this will affect the carbon intensity of power consumed in the interconnected market. Additional carbon may be emitted within the GB generation fleet, but it would be incorrect to attribute it to the GB market as the associated additional generation will be consumed in the interconnected market. However, it is also reasonable to assume that the displaced power which has been replaced by GB exports is less efficient, for the same reasons as mentioned above for reduced GB imports, and similarly therefore could result in lower carbon intensity plant being run, benefitting the interconnected market.

**7. Do you have views on whether and the extent to which the changes proposed in this modification have already been incorporated into supplier decisions?**

We cannot be fully certain whether suppliers have factored the effects of CMP308 into their operational decisions. However, we believe that the changes proposed under this modification have been signalled with sufficient notice that suppliers should have factored this in for an April 2023 implementation date.

**8. Do you have views on the impact of this proposal on existing supply contracts, including the possibility of costs or delayed benefits to consumers stemming from windfall gains to industry parties, or double payments?**

As we mention in our response to question 7, we believe that given the degree of notice that the industry has received of the coming change, suppliers should have factored the change into contractual and tariff arrangements. Wholesale markets should have reflected the reduction in BSUoS on generators too. Therefore, we consider the risk of delayed benefits or windfall gains to be negligible.

However, if CMP308 was to be delayed beyond April 2023 then, given that the effects should have been factored in, there is a risk that this would create windfall gains for suppliers who would benefit from lower wholesale costs and higher retail contract prices, whilst the underlying BSUoS charges have not changed accordingly.

**9. Do you have views on this proposal's impacts on generator and supplier risks, including on exposure to volatile charges?**

The same amount of cost will be recovered through the industry, but in a more direct manner through suppliers. There is no reason to believe that generators are better at managing BSUoS costs than suppliers. Therefore, the risks should be managed just as effectively by suppliers, perhaps more so as they will be able to reflect this directly in their prices to customers, in contrast to generators who have to reflect this in a more indirect and complex manner through the prices they offer to wholesale and balancing services markets.

**10. Do you have views on the interactions between this proposal and other changes in the sector, including other BSUoS charging reform proposals?**

Yes, we believe that CMP361/362 should be implemented too in order to maximise the benefits to customers of this change. However, should there be a delay in implementing CMP361/362, we believe that CMP308 should be implemented anyway as the market should already be anticipating this change for April 2023.

**11. Do you have views on the modelled assessment of consumer and energy system benefits? Please provide quantitative analysis and any further information.**

These seem reasonable and in line with what we would have expected from a qualitative perspective.

**12. Is our assessment of non-monetised costs and benefits reasonable? Are there any other factors we should consider?**

The assessment appears appropriate to us.

**13. Do you consider the consumer and system benefits identified in our consultants' modelling to represent a reasonable view of the potential effects of this modification?**

Yes.

**14. Do you consider that Ofgem has duly considered all relevant consumer and system benefits? Are there any areas which could benefit from further analysis?**

Yes. This seems to be a comprehensive assessment and represents a significant improvement on the analysis undertaken for CMP201, when the idea of removing BSUoS from transmission connected generation was first raised.

One element which does seem to be missing from this analysis is an assessment of how CMP308 might affect interconnector investment. It would seem reasonable to expect that if an artificial price differential is maintained between different market areas that this might over-stimulate the demand for interconnection, resulting in inefficient investment in interconnector capacity. We note that the modelling assumes that interconnector capacity does not alter between the factual and counterfactual situations which might indeed be the case, but cannot simply be assumed without an assessment.

In reality, this potential omission should not alter the conclusions of the analysis, which is that CMP308 is beneficial to the system. However, the level of those benefits may be understated by the present analysis. Therefore, we would not recommend re-running the analysis, as this may delay the implementation of CMP308, but it should be recognised that the benefits may in fact be higher than assessed.

**15. Our modelling assumes that CfD adjustment payments designed to compensate contract holders for the BSUoS charges they face will no longer be paid in the event generation is not liable for BSUoS charges. Do you agree with this assumption, and do you have views on our assessment of the risks associated with existing CfD contracts?**

This assumption seems reasonable. We do not have direct experience of how CfD indexation operates for BSUoS charging. However, we understand from the minded to decision document and from relevant BEIS and the Low Carbon Contracts Company (LCCC) publications, that the contracts issued under Contracts for Difference Allocation Round 4 will contain terms to remove this indexation from the point that CMP308 is implemented, while pre-existing contracts will need to be adjusted through discussions between LCCC and the generators concerned. We would assume that these discussions would be successful as we are not aware of a reason as to why a relevant CfD generator would reasonably object to this adjustment. Should a generator seek to prevent the adjustment being undertaken, we assume that Ofgem and/or BEIS would take action to prevent it from receiving a windfall at the expense of customers.

**16. Do you have views on the impacts of this proposal on end consumers, including large users and vulnerable users?**

We note the analysis suggests that if implemented on its own CMP308 may impose additional costs on those who consume relatively more demand during the night. We are not clear whether it has been assumed that the affected customers are on fixed priced, market following, or time of use tariffs. We expect that those customers with higher than average overnight demand would be more likely to be on some form of time of use tariff to take advantage of off peak energy prices. These tariffs should reflect to some extent the difference in wholesale prices between peak and off peak times and should therefore be affected by the removal of BSUoS costs from wholesale prices. If the BSUoS costs are higher overnight, then we would expect the differential in wholesale prices between peak and off peak to increase which should offset, at least to some extent, the higher increase in overnight BSUoS costs.

However, we also agree with the observation that if CMP361/362 is implemented to introduce fixed price BSUoS, the overnight impact of BSUoS will be removed. This is the right thing to do as BSUoS should not be providing time of use signals to the market.

**17. Do you agree with our assessment that reduced costs to generators are likely to feed through into lower wholesale prices?**

Yes. BSUoS is an avoidable cost to those generators who are still exposed to it. Therefore, it has to be reflected in the prices that they offer into wholesale and balancing services markets. CMP308 removes the competitive disadvantage that they have been suffering compared with other wholesale market participants who do not pay BSUoS.

Having removed this distortion, it stands to reason that generators will indeed stop reflecting these costs in the prices they offer. Otherwise, the relevant generators would voluntarily retain the competitive disadvantage they were seeking to remove through the implementation of the modification. This will then be reflected in the prices that are set in the wholesale and balancing markets.

**18. Do you agree with our assessment that this policy will not have any significant material impacts on vulnerable users?**

Yes, this seems correct.

**19. Do you agree with our assessment that this modification is unlikely to lead to any significant impacts on essential services or supply chains?**

We agree that the levels of cost are unlikely to have significant impacts on essential services and supply chains. As we mention in our response to question 16, we believe that reductions in wholesale prices should offset to some extent the increase in BSUoS that suppliers experience. Competition in the retail market should ensure that this is passed onto customers.

**20. We would note that increases in demand costs will need to be incorporated into the Price Cap methodology. Do you have any views on this area?**

We are not in a position to comment further on this issue, but agree with the basic conclusion that the price cap should be allowed to adjust to reflect the changes in demand costs, and indeed wholesale prices, that would arise under CMP308.

**21. Do you agree with our proposed implementation date of 1 April 2023? Please provide your reasoning.**

Yes. This change should be implemented as soon as possible. April 2023 will be 2 years and 4 months after Ofgem's response to the Balancing Services Task Force's second report, which recommended that implementation of the change should be 2 years after an Ofgem decision. This recommended timescale was a compromise position achieved between members of the task force. Some felt that the proposal should be implemented as soon as possible as the distortion had existed for a long time and was getting significantly worse as BSUoS costs increased, whilst others felt that a longer lead time was required to allow all current fixed price supplier contracts to expire.

We believe that suppliers have had a significant amount of time to prepare for this change. Apart from the more formal notice provided in Ofgem's response to the second Balancing Services Task Force report in December 2020, we note that in the Targeted Charging Review SCR launch letter in August 2017, Ofgem stated that "*if BSUoS remains a cost-recovery charge, it would make sense to consider aligning charging for BSUoS with any reformed transmission and distribution residual charging arrangements developed as part of this SCR*". At that point the working assumption was that residual charges would be removed from generation. To back this up, on the 6 November 2017 Ofgem said in an update on the TCR "*we think that there are strong arguments to support recovering residual charges from demand, rather than from generators or a combination of demand and generators*." Therefore, over 5 years will have passed since this second, more definitive, statement was made about Ofgem's thinking on BSUoS charging. This should have at the very least provoked a response from suppliers to factor this risk into future contract terms and forecasting.



The actual distortion was formally recognised 10 years ago when National Grid raised the original proposal to remove BSUoS from generation, CMP201, in December 2011. An April 2023 implementation of this modification is therefore more than overdue from the perspective of transmission connected generators.

**22. Do you have any other information which is relevant to this consultation?**

No thank you.

I hope the above proves helpful. Should you have any further questions, please contact me in the first instance.

Yours sincerely

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