

Modification proposal:	Connection and Use of System Code (CUSC) CMP371: Assessing CUSC Modification Proposals against charging and standard objectives (CMP371)		
Decision:	The Authority ¹ has decided to reject ² this modification proposal		
Target audience:	National Grid Electricity System Operator (NGESO), Parties to the CUSC, the CUSC Panel and other interested parties		
Date of publication:	10/06/2022	Implementation date:	Not applicable

Background

The CUSC contains provisions that require a modification proposing to amend the Charging Methodologies (a Charging modification) to not contain additional changes to any other section of the CUSC.³ However, implementing a Charging modification may also require consequential changes to other parts of the CUSC (Non-Charging modification), for example the definitions in CUSC Section 11, meaning both a Charging modification and a Non-Charging modification would be needed. As required by the Electricity Transmission Licence (ETL), each of these modifications are assessed against two different sets of applicable CUSC Objectives.⁴

Following publication of the Code Governance Review (CGR) final proposals in 2010, [CAP188](#),⁵ was raised to modify the CUSC to create a change process for the relevant charging methodologies, as well as other CGR reforms. The CAP188 working group considered the options of either separate modification proposals for Charging and Non-charging modifications (which was the chosen approach), or a combined modification proposal approach (as now proposed by CMP371).

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

³ CUSC Section 8.16.2.

⁴ [Electricity Transmission Standard Licence Conditions 27 05 2021 \(ofgem.gov.uk\)](#) SLC10.1 (Standard CUSC Objectives), SLC C5.5 (Use of System Charging Methodology) and SLC C6.11 (Connection Charging Methodology)

⁵ <https://www.ofgem.gov.uk/sites/default/files/docs/2010/12/cap188d.pdf>

The modification proposal

NGESO (the Proposer) raised CMP371 on 15 April 2021 with the aim to improve the efficiency of the CUSC modification process.

CMP371 proposes to remove the requirement that a Charging modification may not contain any proposal to modify any other section of the CUSC. Instead, a single modification could be raised with the charging and non-charging components of the modification assessed against the applicable CUSC Objectives.

The proposal is to update the CUSC so that Charging and Non-Charging changes can be included in one CMP in order to remove the current practice of raising two separate modifications.

The Proposer considers that CMP371 would facilitate CUSC Objective (d)⁶ better than the baseline because it would improve efficiency in the code arrangements by removing the need to raise two CMPs when proposing to change the Charging Methodology in the CUSC.

CUSC Panel⁷ recommendation

At the CUSC Panel meeting on 25 June 2021, a majority of the CUSC Panel (the Panel) considered that CMP371 would better facilitate the CUSC Objectives, and the Panel therefore recommended its approval. The majority of Panel considered that Objective (d) would be positively impacted by CMP371 on efficiency grounds and that it would have a neutral effect on the remaining Objectives.

One panel member disagreed that CMP371 should be recommended for approval on the basis that the modification would negatively impact Objective (a).⁸

⁶ (d) promoting efficiency in the implementation and administration of the CUSC arrangements

⁷ The CUSC Panel is established and constituted from time to time pursuant to and in accordance with section 8 of the CUSC.

⁸ (a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR)⁹ dated 7 July 2021. We have considered and taken into account the responses to the industry consultation on the modification proposal which are attached to the FMR. We have concluded that implementation of the modification proposal will not better facilitate the achievement of the Objectives of the CUSC.¹⁰

Reasons for our decision

We consider this modification proposal will not better facilitate applicable CUSC Objective (a). We consider CMP371 to have a neutral impact on applicable CUSC Objectives (b), (c) and (d).

(a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence

Of the four respondents to the Code Administrator consultation, three supported CMP371. One respondent considered the modification would adversely impact this Objective, citing that approval of CMP371 runs contrary to Objective (a) and would result in NGESO being in breach of its licence obligations¹¹ under the ETL. This respondent is the same CUSC panel member that objected in the June Panel meeting.

Standard Licence Condition (SLC) C10.6(a) of the ETL demarks two types of proposals for modification, either to: (i) the CUSC (other than in respect of proposals for modification of the charging methodologies), and (ii) the charging methodologies. This second type of modification proposal (changes to the charging methodologies) was added by a licence change¹² resulting from the Code Governance Review in 2010.

The distinction in the ETL to allow for these two types of modification (Charging and Non-charging modifications) is continued in the applicable CUSC Objectives as defined in SLC C10.15, whereby in relation to a proposed modification of the charging methodologies

⁹ CUSC modification proposals, modification reports and representations can be viewed on NGET's website at: <https://www.nationalgrideso.com/industry-information/codes/connection-and-use-system-code-cusc/modifications>

¹⁰ As set out in Standard Condition C10(1) of the Electricity Transmission Licence, see: <https://epr.ofgem.gov.uk/Content/Documents/Electricity%20transmission%20full%20set%20of%20consolidated%20standard%20licence%20conditions%20-%20Current%20Version.pdf>

¹¹ Standard Licence Condition 10 of NGESO Electricity Transmission Licence

¹² [Direction modifying SCLs B12, C3, C4, C5, C6, C10, C14 of transmission licence in July 2010](#)

only, the Objectives set out at SLC C5.5¹³ and SLC C6.11¹⁴ apply as relevant. In relation to any non-charging modification the Objectives as set out in SLC C10.1 apply.

We note that legal advice provided by NGESO in 2010 for the CAP188 working group was not conclusive on whether a combined modification approach was permissible under the ETL, however the working group concluded that a separate modification approach was the most appropriate to adopt.

We consider that the ETL does not expressly allow for a combined modification. To allow for a combined modification, one would have to read in words to that effect. The current approach in the CUSC of keeping the processes separate is in keeping with the broader context of the relevant ETL provision, designed to create distinguishable and separate charging modifications from non-charging modification proposals.

For this reason, we assess that CMP371 would have a negative impact against Objective (a) compared to the status quo as the code arrangements would less closely align with the licensee's obligations under the ETL.

(d) promoting efficiency in the implementation and administration of the CUSC arrangements

The proposer and most of the Panel are of the view that CMP371 positively impacts CUSC Objective (d) on efficiency grounds. We welcome proposals that will result in improvements to efficiency in the implementation and administration of the industry codes. However, our view under Objective (a) above counterbalances the possible efficiency gains in code administration. For this reason, we consider that, overall, this modification proposal has a neutral impact on Objective (d).

Further considerations

We consider that the defect described by the Proposer in CMP371 can be largely resolved in practice by taking an administrative approach to achieve efficiency benefits. We are aware that the CUSC code administrator, with support of the Panel, is already taking practical steps to improve the efficiency in the code modification process when a

¹³ Use of System Charging Methodology

¹⁴ Connection Charging Methodology

Charging modification that has associated Non-charging modification(s) is raised. These include:

- holding workgroup meetings together or in proximity to each other to ensure joint working;
- presenting the workgroup reports together;
- running industry consultations in tandem; and
- submitting the final modification reports for both modifications in a combined document to the Authority.

We are also mindful of the upcoming reforms to energy code governance¹⁵, which may provide opportunity to further review the apparent defect identified in CMP371.

Decision notice

In accordance with Standard Condition C10 of the Transmission Licence, the Authority has decided that CUSC modification proposal CMP371: 'Assessing CUSC Modification Proposals against charging and standard objectives' should not be made.

David Hall

Interim Deputy Director Industry Rules

Signed on behalf of the Authority and authorised for that purpose

¹⁵ [Government response to the consultation on Energy Code Reform \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/energy-code-reform)