

Modification proposal:	Connection and Use of System Code (CUSC) CMP384: Apply adjustments for inflation to manifest error thresholds using Indexation (CMP384)		
Decision:	The Authority ¹ directs that this modification be made ²		
Target audience:	National Grid Electricity System Owner (NGESO), Parties to the CUSC, the CUSC Panel and other interested parties		
Date of publication:	31 March 2023	Implementation date:	1 April 2023

Background

Transmission Network Use of System (TNUoS) charges are the charges paid by users of the electricity transmission system. They are calculated annually and levied by National Grid Electricity System Operator (NGESO). If an error in the calculation of charges is identified after the fact, a reconciliation of individual Users' charges will only be carried out where manifest error thresholds are met. "Manifest error" in this context refers to an error in input into the calculation of TNUoS charges, with the "threshold" being a minimum value of the variance to the resultant tariffs (that such an error created or led to) that must be reached for a direct resolution of charge or credit to be made between NGESO and Users. When an error breaches the specified criteria currently set out within the Connection and Use of System Code it is termed a 'Manifest Error'. Any error under the value specified by the manifest error threshold is generalised across users in the following charging year.

In October 2006, we approved a manifest error threshold at a level appropriate for the scale of TNUoS costs at the time. This threshold was set at a level of materiality relative to overall TNUoS costs which balanced certainty of charges against the need for

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.

reconciliation in material circumstances. The manifest error threshold set in 2006 is a fixed value and does not reflect the increase in TNUoS charges since that time. As such, manifest error thresholds are effectively narrower than they were in 2006 relative to TNUoS revenue, producing more resolutions of relatively smaller quantities.

The modification proposal

Scottish Power Renewables (the 'Proposer') raised modification CMP384 on 8 February 2022. On 9 February 2022, the CUSC Panel (the 'Panel') applied for urgency. We rejected this on 11 February 2022 as we disagreed that the issue to which the proposal related, if not urgently addressed, may cause a significant commercial impact.³ Further, we expressed concerns that an urgent modification process would not allow small parties, who could be impacted by the modification, to adequately participate in its development.

CMP384 seeks to adjust manifest error thresholds to be more reflective of current TNUoS costs by applying an indexing approach to the calculation (retail price index (RPI) to 31 March 2021 creating the 2021 baseline, Transmission Owner Price Index (TOPI) annually thereafter). The CMP384 Original Proposal sets out a baseline value for manifest error threshold in 2021. For each subsequent charging year, the threshold is calculated by applying TOPI indexation to the value of the previous year. In practice, this means that for the 2022 charging year, TOPI indexation is applied to the baseline value set for 2021 in the Original Proposal.

The Proposer considered that the Original Proposal would be positive in terms of Applicable CUSC Charging Objectives (ACCOs) (a) (b), (c) and (e) and neutral against Objective (d). In their view, the proposal would better facilitate effective competition as it would reduce the possibility of an unforeseen over/under recovery impacting users directly which creates an unlevel playing field. They also believe that the charging methodology will both be more reflective of TNUoS costs and better matched to developments in transmission licensees' businesses when thresholds are subject to indexation through TOPI. Furthermore, the Proposer believes that the modification will improve efficiency as a higher threshold will result in fewer corrections and thus reduce ad hoc unexpected charges for Users late in the process.

³ We considered that the proposal did not address an unforeseeable event, but rather sought to amend an accepted and understood threshold for how an unforeseeable event would be managed. Our decision can be found at: <https://www.nationalgrideso.com/document/239741/download>.

Ultimately the Workgroup decided against raising any Workgroup alternative proposals as they decided that indexation was the most pragmatic approach in that it was easy to understand and in line with other sections of the CUSC.

The Workgroup Consultation resulted in four responses with no alternatives raised and all respondents agreeing that the Original Proposal better facilitates Applicable CUSC Charging Objectives (a), (b), (c) and (e). The only issue raised was a lack of pre-warning alert system in place to make Users aware that a manifest error has been identified or that a manifest error involving the User is close to hitting the threshold. Workgroup members agreed that this did not need to be codified within CUSC but could instead be communicated by NGESO providing quarterly updates at the Transmission Charging Methodologies Forum (TCMF). We agree that such a measure could mitigate the impact of corrections resulting from manifest errors by ensuring that amended charges are signalled appropriately to Users, giving them the opportunity to make appropriate preparations.

CUSC Panel⁴ recommendation

At the CUSC Panel meeting on 30 September 2022, the Panel unanimously considered that CMP384 would better facilitate the CUSC charging objectives and therefore recommended its approval. The majority of the Panel agreed that the modification better meets ACCOs (a), (b), (c) and (e), while having a neutral impact on (d).

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 12 October 2022. We have considered and taken into account the responses to the industry consultation on the modification proposal which are attached to the FMR⁵. We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable charging objectives of the CUSC;⁶ and

⁴ The CUSC Panel is established and constituted from time to time pursuant to and in accordance with section 8 of the CUSC.

⁵ CUSC modification proposals, modification reports and representations can be viewed on NGESO's website at: <https://www.nationalgrideso.com/industry-information/codes/connection-and-use-system-code-cusc/modifications>

⁶ As set out in Standard Condition C5(5) of NGESO's Transmission Licence, see: <https://epr.ofgem.gov.uk//Content/Documents/Electricity%20transmission%20full%20set%20of%20consolidated%20standard%20licence%20conditions%20-%20Current%20Version.pdf>

- directing that the modification be made is consistent with our principal objective and statutory duties.⁷

Reasons for our decision

We consider this modification proposal would better facilitate ACCOs (c) and (e) and has a neutral impact on the other applicable objectives.

(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

The majority of the CUSC Panel and the all Workgroup members voted in favour of ACCO (a) being better facilitated by the Original Proposal. The Proposer believes that the modification proposal will reduce the possibility of an over/under recovery impacting Users directly (i.e. by increasing the materiality thresholds, it is more likely that errors will be smeared across Users) which addresses what they perceive as an uneven playing field under the existing arrangements. Further statements on ACCO (a) by the Workgroup and Panel did not expand upon this point to articulate precisely why they considered competition to be enhanced by the Original Proposal, other than reiterating that the proposal addresses the uneven playing field which arises as a result of the unforeseeability and uncertainty of corrections under the existing arrangements.

Our position

We do not consider that the Workgroup have provided sufficient evidence to demonstrate that there is a competition law issue to address to result in a more level playing field, as in both the Original proposal and the baseline Users are subject to the same manifest error threshold, and thus equally likely to face last-minute corrections. We consider that the Original Proposal has a neutral impact on Applicable Objective (a) as under both the baseline and the Original Proposal the absolute value of the threshold will be consistent between all Users, but will have differing effects depending on (and relative to) an individual User's TNUoS liability. The Original Proposal does not alter this, and so we consider that having a higher overall threshold has no clear impacts on competition.

⁷ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

(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

The majority of the CUSC Panel and all of the Workgroup voted in favour of ACCO (b) being better facilitated by the Original Proposal, the rationale being that the revised manifest error threshold will better reflect overall transmission operator costs.

Our position

We agree that indexing the manifest error threshold to transmission operator costs through TOPI will increase the broad reflectivity of charges, as the threshold will be more reflective of actual magnitude of costs incurred by operators. However, the Original Proposal will, on an individual level, reduce reflectivity as fewer corrections will be made when errors are discovered and, as such, the charges of Users will be less reflective than when the threshold was lower. We believe that these two counteracting impacts on reflectivity constitute a neutral overall effect on Applicable Objective (b).

(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

The CUSC Panel voted seven to one and the Workgroup voted unanimously in favour of Applicable Objective (c) being better facilitated by the Original Proposal, the rationale being that indexing manifest error threshold by transmission operator costs better reflects changes in business such as inflation and increased running costs.

Our position

We agree that the Original Proposal better facilitates Applicable Charging Objective (c) as manifest error thresholds, when indexed to TOPI, will better take account of developments in transmission licensees' businesses such as increased overall costs. By

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indexing thresholds to TOPI, future thresholds will be more adaptive to yearly changes in such costs and therefore more reflective of transmission operator business.

(e) to promote efficiency in the implementation and administration of the use of system charging methodology

Both the CUSC panel and the Workgroup voted in favour of Applicable Objective (d) being better facilitated by the Original Proposal, the rationale being that a higher manifest error threshold will result in fewer direct adjustments with Users, producing less administrative work in the setting of TNUoS charges. Additionally, they argue that the reduction in reconciliations which tend to take place at short notice late in the charging year will reduce uncertainty and inefficiency for Users.

Our position

We agree that the Original Proposal will better facilitate ACCO (e) as, while reducing the number of corrections creates a certain amount of administrative work in transferring corrections to be spread across all Users in the following charging year, this is notably less work than that required in carrying out direct credit or charge arrangements with Users.

Decision notice

In accordance with Standard Condition C10 of the Transmission Licence, the Authority, hereby directs that modification proposal *CMP 384: Apply adjustments for inflation to manifest error thresholds using Indexation* be made.

Other Comments

In our decision⁸ on urgency of the proposal, we noted the importance of engaging with stakeholders from across the market, including smaller Users who are more likely to be materially affected. It is not clear from the FMR that smaller parties effectively participated in the Workgroup or that detailed consideration was given to the impact on them. Notwithstanding our approval of the proposal, we continue to believe that further consideration as to how the arrangements apply to the smaller Users would be appropriate. Should any party wish to bring forward a further modification proposal, we will consider it on its merits.

Harriet Harmon

Head of Electricity Transmission Charging

Signed on behalf of the Authority and authorised for that purpose

⁸ On 11 February 2022, we decided to reject the request for urgency for CMP384. Our decision letter can be found at [CMP384 Urgency Decision \(final\).pdf \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/cmp384-urgency-decision-final)