

To all parties with an interest in
electricity transmission network
charges

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Dear interested parties,

Commission Regulation (EU) 838/2010

We have today published our decision on the issue which was remitted to us by the Competition and Markets Authority's order of 12 December 2022.¹ The question raised by that issue was whether or not certain BSUoS Charges paid by generators should now be taken into account for the purposes of the calculation prescribed by Part B of the Annex to Commission Regulation (EU) 838/2010 ("**the Limiting Regulation**"). As explained in the notice of our decision, that question is now academic, since BSUoS Charges are no longer payable by generators.

The purpose of this letter is to address two further matters relating to the Limiting Regulation, namely (i) a question which we have been asked by certain industry participants in relation to previous charging years; and (ii) the issue regarding the treatment of Large Distributed Generation referred to at pages 25-26 of the CMP317/327 decision notice.²

Previous charging years

Certain industry participants have approached us to ask whether or not we consider that there is a need, in light of the Court of Appeal's judgment of 8 November 2022, for any retrospective adjustments to charges paid during any previous charging year.

We have considered the Court of Appeal's judgment and data regarding charges paid in previous charging years. In light of that, our present view is that "*annual average transmission charges*" (within the meaning of the Limiting Regulation) paid by producers in Great Britain have not in any charging year fallen outside the range of €0-2.50/MWh. We therefore do not presently consider that there is a need for any retrospective adjustments to the charges which were paid during any previous charging year.

If any industry participant considers that there should be any retrospective adjustment to charges which were paid during any previous charging year, it is open to them to raise a code modification proposal to that effect. We will give careful and open-minded

¹ [SSE code modifications appeal - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/sse-code-modifications-appeal)

² [CMP317 & CMP327: Excluding assets required for connection and removing Transmission Generator Residual | Ofgem](#)

consideration to any such proposals, and nothing in this letter should be taken to fetter our discretion or prejudice any future decision that we may make.

Large Distributed Generation

In our CMP317/327 decision notice, we asked NGESO to bring forward a CUSC modification proposal to remove the charges and volumes associated with Large Distributed Generators from the calculation that is intended to ensure that annual average transmission charges (within the meaning of the Limiting Regulation) fall within the range €0-2.50/MWh.

NGESO subsequently raised CMP368/369 to seek to address this point. However, for the reasons set out in the relevant decision notices, we concluded that none of the proposals in CMP368/369 could be approved.³ We therefore request that NGESO bring forward a further proposal to remove the charges and volumes associated with Large Distributed Generators from the calculation (while also ensuring that there is no discrimination between Transmission-Connected Generators and Large Distributed Generators in respect of charges paid / credits received⁴).

Yours sincerely,

Harriet Harmon

Head of Electricity Transmission Charging
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³ [CMP368 and CMP369 Decisions | Ofgem](#)

⁴ In this regard, we expect the follow-on modification to remove the charges and volumes associated with LDG from the relevant calculation in the CUSC, while also ensuring that any Adjustment Tariff resulting from the calculation is paid to all TNUoS-liable generators, including LDG.