



Making a positive difference
for energy consumers

Trisha McAuley OBE
Independent Chair
CUSC Panel
c/o National Energy System Operator
Faraday House, Gallows Hill
Warwick, CV34 6DA

31 October 2024

Delivered by email.

Dear Trisha,

Approval for CMP444: *Introducing a cap and floor to wider generation TNUoS charges to be treated as an urgent CUSC modification proposal*

On 21 October 2024, National Energy System Operator ('NESO' or the 'Proposer') raised Connection and Use of System Code (CUSC)¹ Modification Proposal CMP444² (the 'Proposal'). The Proposer requested that the Proposal be treated as urgent based on Ofgem's Urgency criteria.³

The CUSC Panel (the 'Panel') met on 25 October 2024 to consider the Proposal and the request for urgency. On the same day, the Panel wrote to inform us⁴ of its majority view that CMP444 should proceed as an Urgent CUSC Modification Proposal.⁵

We have considered both the Panel's and the Proposer's arguments in relation to urgency and decided that the Proposal will progress on an urgent basis. We have set out our reasoning below.

¹ [CUSC | National Grid ESO](#)

² [CMP444: Introducing a cap and floor to wider generation TNUoS charges](#)

³ [Ofgem Guidance on Code Modification Urgency Criteria](#)

⁴ [References to the "Authority", "Ofgem", "we", "us" 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.](#)

⁵ [CMP444: Urgency Request Letter](#)

Background

On 30 September 2024, we published an Open Letter⁶ detailing our response to the developing uncertainty around long-term Transmission Network Use of System (“TNUoS”) charges. The letter, in summary, encouraged the NESO to raise a code modification proposal to develop a temporary intervention to protect the interests of consumers by reducing the uncertainty associated with projected future TNUoS charges. We set out our thinking on how best to balance retaining a cost-reflective locational long-run investment signal that complements other market arrangements, alongside minimising costs for consumers while reducing uncertainty to investors to deliver Clean Power 2030.⁷ Our initial view stated that a temporary Cap and Floor would be particularly helpful to achieve these objectives. The Proposer has developed an intervention aligned with those views.

Urgency request

In its urgency request, the Proposer explained why it was requesting urgency, highlighting one of the three criteria set out in Ofgem’s Guidance on Code Modification Urgency Criteria (‘Ofgem’s Urgency Criteria’): *(a) A significant commercial impact on parties, consumers or other stakeholder(s).*

The Proposer considers the Proposal should proceed under an urgent timeline on the basis that they believe the current issue, if not addressed, may cause a significant commercial impact on parties, consumers or other stakeholders, in particular, generation and storage developers. The Proposer identifies the projected escalating TNUoS costs for generation in the north of Great Britain (GB) risks driving up consumer costs via increased Contract for Difference (CfD) bids, that incorporate a larger risk premium than would otherwise be necessary, or deterring investment in new generation which could put the achievement of Clean Power 2030 goals at risk.

Panel view

At the Panel meeting on 25 October 2024, a majority of Panel members agreed to recommend to Ofgem that CMP444 should be progressed as an Urgent CUSC Modification Proposal. The Panel’s arguments for and against urgency are set out in their letter of 25 October 2024.

The majority of the Panel agreed with the Proposer’s justification for urgency against Ofgem’s criterion (a) *A significant commercial impact on parties, consumers or other*

⁶ [Ofgem | Open Letter: Seeking industry action to develop a temporary intervention to protect the interests of consumers by reducing the uncertainty associated with projected future TNUoS charges](#)

⁷ [Chris Stark to lead Mission Control to deliver clean power by 2030 - GOV.UK](#)

stakeholder(s). One Panel member argued that the proposed solution was designed to be of minimum impact on users charges overall and voted against urgency. Overall, the Panel acknowledged that the defect identified by the Proposer posed a significant commercial risk, and urgency was required to ensure the solution, if approved, could impact TNUoS arrangements for upcoming CfD auctions in summer 2025.

Our decision

In reaching our decision, we have considered the details within the Proposal, the justification for the Proposer requesting urgency, the Panel's letter recommending urgency and the proposed timeline.

We agree that the progression of the Proposal satisfies Ofgem's Urgency Criteria (a). Without making an assessment as to its merits, we acknowledge the Proposal seeks to address the imminent and current issues outlined in our Open Letter, which, if not urgently addressed, may cause significant commercial impacts to generators, including those taking decisions as regards CfDs, merchant investments or reinvestments. This in turn, would be expected to lead to increased cost to consumers from an expected increased cost of capital or risk premia flowing through to these investments, wholesale prices, and balancing costs.

The Proposer and one Panel member both highlighted that the effect of the Proposal in mitigating negative commercial impacts would be greater if a decision is made by summer 2025, because to the extent the modification is approved, generator users can reflect the updated position in their bids for CfD Allocation Round 7 ("AR7"). We agree that urgency should facilitate due consideration of this issue and the impacts of the proposed intervention ahead of the AR7 bidding window and in recognition of His Majesty's Government Clean Power 2030 objective.

For the avoidance of doubt, in accepting the request for urgency, we have made no assessment of the merits of the Proposal and nothing in this letter in any way fetters our discretion in respect of the Proposal.

If you have any comments or questions about this letter, please contact David Jones at david.jones@ofgem.gov.uk.

Yours sincerely,

Pedro Arcain

Head of Charging Operations and Balancing

Energy System Management and Security

Duly authorised on behalf of the Authority