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Dear Georgina

I am writing in response to Ofgem's minded-to decision to reject Connection and Use of System Code (CUSC) Modification Proposal CMP444: Introducing a cap and floor to wider generation TNUoS charges¹. This is a non-confidential response from the ENGIE group.

The contents of Ofgem's minded-to decision raise some important questions of its interpretation of the legal and regulatory framework. We ask Ofgem to answer the six questions in this response in order to both:

- Ensure a robust decision on P444; and
- Help determine what if any changes to the existing legal and regulatory framework are needed to implement a swift and effective locational investment signal as part of REMA.

Before setting out the questions, it may be helpful to repeat the views that ENGIE has provided on: (a) CMP 444 and; (b) the fundamental reform of TNUoS that is needed as part of REMA.

Background to this response: ENGIE's views previously expressed on (a) CMP 444 and (b) fundamental reform of TNUoS that is needed as part of REMA

¹ [Minded-to Decision on CMP444: Introducing a cap and floor to wider generation TNUoS charges | Ofgem](#)

ENGIE advocates for energy market design that best protects the interests of existing and future consumers. In that context, we stated the following in response to the CMP 444 Code Administrator Consultation, submitted on 14 March 2025:

Pending TNUoS reform as part of REMA, the cap and floor is needed as a temporary measure to protect the interests of current and future UK consumers by decarbonising GB's electricity supply at lowest cost.

In the same consultation response, we stated:

We hope that the CUSC principles align to the objective of decarbonising the power system at lowest cost to consumers, which is best met via a robust but temporary cap and floor pending fundamental reform as part of REMA. If the CUSC proves incapable of delivering this, it adds to the case for fundamental reform of the transmission charging regime sooner rather than later.

On 31 March 2025, I wrote to Dan Osgood, the Senior Responsible Owner (SRO) for the REMA programme at DESNZ. In that letter – on which you were copied – among other things I set out why and how TNUoS should be fundamentally reformed to best protect the interests of existing and future consumers. More specifically, we stated, *inter alia*:

- *The fundamental flaw with today's "locational" signal provided through TNUoS is that it is not known for certain at the point at which an investor decides where to locate their asset. Instead, the locational signal changes after the location has been decided.*
- *The current design of TNUoS – technically known as "Investment Cost Related Pricing" (ICRP) – may have made sense in an era of competition between fossil plant, intending to reveal both entry and exit signals. However, ICRP does not make sense in today's paradigm, where renewable investors compete to lock-in revenues via long-term CfDs and/or PPAs.*
- *Today's ICRP regime is both arbitrary – i.e. supply, demand and network developments outside of an asset's control leading to unexpected losses and gains – and expensive for consumers.*
- *A vastly better system would be for the locational signal to be known in full at the point at which location is chosen. Options for achieving this include: (i) central direction and (ii) fixed connection charges that vary by location.*
- *To enable swift and effective implementation of the new locational signal, we envisage the Government legislating to introduce the new mechanism and provide certainty for charges applied to existing assets.*

CMP 444 and the TNUoS framework: questions for Ofgem

- 1. Does Ofgem believe that it is unable to consider its principal objective and wider statutory duties in considering any CUSC modification unless and until it is first satisfied that the CUSC modification in question will better meet the CUSC's Applicable Charging Objectives (ACOs) than the status quo? If so, why does Ofgem hold this view?**

Further context to question 1:

Ofgem's principal objective is to protect the interests of existing and future consumers. ENGIE had previously understood that in considering CMP 444, Ofgem would do so in light of *both* its principal objective (including wider statutory duties) and the ACOs. ENGIE had understood this to mean that Ofgem would weigh CMP 444 against its principal objective and the ACOs *at the same time*. Ofgem had not given an indication as to whether it would give more or less weight to its principal objective vs the ACOs.

Contrary to our previous understanding, Ofgem states the following in its minded-to decision:

Had we been minded to conclude that any of the proposals would better facilitate achievement of the ACOs, we would then have considered whether to approve any such proposal, taking into account our principal objective and wider statutory duties².

- 2. Does Ofgem believe that “wider” TNUoS charges are cost reflective, given that they are the same for older and newer assets of equivalent type and capacity located in the same zone?**

Further context to question 2:

Ofgem states in its minded-to decision that:

“Wider charges are intended to reflect the incremental costs that a particular type of generator in a particular part of the country would likely confer to the system as compared to a generator connecting in a part of the country where the TO would incur no additional cost.”

The use of the phrase “would likely confer” indicates that wider charges under the status quo are intended to send a cost reflective signal to potential new generation

² Ofgem minded-to decision on CMP 444, paragraph 4.73

assets. We ask how cost reflectivity can possibly be achieved if the same charge is applied to older and newer assets of equivalent type and capacity located in the same zone, if the intent is indeed for individual users to “*face charges which are broadly representative of the costs they likely confer to the TOs*”.

3. How does Ofgem justify its apparent view that today’s regime meets ACO (e) better than alternatives?

Further context to question 3:

Ofgem appears to say that today’s regime meets ACO (e) because under today’s regime “*[w]ider charges are therefore cost-reflective in a relative but not absolute sense*” and “*users today face charges which are broadly representative of the costs they likely confer to the TOs*”.

However, ACO (e) could be interpreted differently. The precise wording of ACO (e) is:

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 in accordance with the STC) incurred by transmission licensees in their transmission businesses and which are compatible with standard licence condition C11 requirements of a connect and manage connection).

Prima facie it is not obvious that the wording of ACO (e) supports the status quo better than alternatives, including CMP 444. For example, ACO (e) could be read to simply mean that TNUoS charges in aggregate need to be sufficient for the transmission licensees to recover their costs allowed under their price controls.

4. Does Ofgem believe that unanticipated losses and gains occur under the status quo, given the unpredictability in TNUoS charges? If so, how does Ofgem believe that the magnitude and effect on consumers of such unexpected losses and gains under the status quo compares to CMP 444?

Further context to question 4:

Ofgem expresses the concern that there may be unanticipated losses and gains from implementing CMP 444, which may be detrimental to competition. However it does not examine the nature and extent of unanticipated losses and gains that occur under the status quo - which would be detrimental to competition today - and how they would compare with CMP 444.

5. Why would Ofgem not support a genuine improvement to the status quo even if it is temporary and for uncertain duration?

Further context to question 5:

Ofgem states that *“whilst there would be some increase in certainty about the level of charges under any of the CMP444 options, we anticipate that such an increase in certainty would be modest, in view of the expectation we set out in our September letter that any solution would be temporary (for example, depending on the pace of implementing REMA reform).”*

All else equal, why would Ofgem not implement something that provided even a “modest” increase in certainty? Also, DESNZ has said that it aims to deliver TNUoS reform “by 2029 at the very latest”. CMP 444 if implemented could therefore increase certainty for up to four years.

6. Does Ofgem agree that the purpose of competition is to protect the interests of existing and future consumers, as expressed in Ofgem’s Principal Objective and wider statutory duties?

Further context to question 6:

Ofgem states that:

“We recognise that reduced positive TNUoS charges might reduce clearing prices in upcoming CfD auctions, and that reduced negative charges might reduce inframarginal rents owing to the pay-as-cleared nature of the CfD. However, we do not consider that, in and of themselves, reductions in clearing prices and/or inframarginal rents are beneficial to competition, or indicative of effective competition. Reductions in clearing prices and/or inframarginal rents could be a result of good competition in the market (for instance where those reductions stem from an increase in liquidity), but they could also be a result of the introduction of distorting factors.”

We ask Ofgem whether it agrees that the reduction in CfD clearing prices and/or inframarginal rents would help meet its Principal Objective of protect the interests of existing and future consumers.

Concluding remarks

I hope that this response will help to draw out Ofgem's reasoning underpinning its considerations and final decision concerning CMP 444. By answering the questions set out above, Ofgem should help ensure a robust decision on CMP 444 and also help to move forward the wider debate about how TNUoS needs to be reformed, by facilitating a shared understanding of the existing and prospective legal and regulatory framework.

Kind regards

Alun Rees

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