

Consultation - Supplemental Ofgem Guidance on the determination of disputes: Gate 2 to Whole Queue

1. Does the G2tWQ Determinations Guidance in Appendix 1 clearly set out the Authority's determination processes for disputes arising from the Gate 2 to Whole Queue exercise and its expectations of disputing parties?

We have previous experience of determinations for distribution connections, which we have found to be quite successful given that the dispute process can be done retrospectively. Historically, this has allowed for Ofgem to review network behaviours, and holds DNOs accountable in a monopolised setting. Our experiences with determinations at transmission level have been far less positive, and have lacked process, engagement and interest from Ofgem as well as NESO and TOs. Applying the approach used at a distribution level to transmission connections as well would have a beneficial impact on the current system where developers are subject to regular impacts such as delays, design errors and charges with little to no explanation.

We note that the range of workable beneficial outcomes available at the end of Ofgem's G2WQ disputes process is likely to be limited, including that it is unlikely that the Authority will be able to direct re-insertion into the connection queue ahead of the next evidence window due to the timescale for reaching a determination. We would encourage Ofgem, DNOs and NESO to publish SLAs/KPIs to aim for when dealing with these disputes due to the time sensitive nature..

The need to exhaust all available Alternative Dispute Resolution (ADR) before utilising this dispute process is fair but we cannot be waiting on existing CUSC dispute processes which take too long.

Due to the potential ramifications G2WQ outcomes could have on projects and businesses, this determination process needs the resource to provide fair, accurate outcomes quickly.

2. Is there any additional clarity that you think is needed on the determinations procedures in the G2tWQ Determinations Guidance?

With Ofgem's admittance of having a limited role, it is imperative that DNOs and NESO's formal dispute processes are published with clear and consistent procedures on what these look like.

We would also encourage Ofgem to confirm one way or another if re-insertion can or cannot happen – leaving this as 'unlikely' still opens the door and if this is categorically not going to be an outcome option, this needs to be communicated as so.

At time of writing, it is still unknown as to when the next window will be/open, and this causes concern and uncertainty, especially around the impact for a project if their dispute is upheld. Current indications from NESO are that the next window will not open

until Q2 2026 at the earliest, but more likely to be Q3 2026. By the time this window opens, closes and the next iteration of gate 2 offers are issued, this could be easily a whole calendar year before a project with a successful dispute outcome receives an offer. This will put at risk all stages of project development and delivery (surveys, planning consent, tenders, etc), and ultimately delay the overall project energisation date. As a minimum, a project with a successful dispute outcome at any level (DNO, NESO, Ofgem), must be protected for future windows and receive a gate 2 offer, even if the capacity exceeds zonal caps.

We foresee that disputes may be less about the validity of evidence submitted to prove readiness and more focused on the final queue ordering as a result of CNDM. This can have a significant impact on project connection in terms of POC, cost, curtailment levels and date of connection. Ordering will be reliant on original contract dates and these have never been published before but should now be visible to enable interpretation of results and ordering. The blending of D & T queues where transmission access confirmation was delayed by project progression process will be under scrutiny. Whether NESO have applied their connection point and capacity reservation or zonal rebalancing tools fairly will also be scrutinised and open to dispute under this process. Full Data transparency and reasoning will assist this .