

Modification proposal:	Connection and Use of System Code (CUSC) CMP323: Updating the CUSC governance process to ensure we capture the EBGL change process for Article 18 Terms and Conditions (CMP323)		
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:	23 June 2020	Implementation date:	25 June 2020

Background

On 8 October 2019 we confirmed, upon satisfaction of certain conditions, that some provisions of the CUSC form the national terms and conditions (T&C) related to balancing³ required by Article 18 of the Regulation (EU) 2017/2195 establishing a guideline on electricity balancing (the EBGL Regulation).⁴ One of the conditions is the completion of CMP323.

Once all the conditions are met, the T&C take effect. Any future changes to the T&C related to balancing must be made in accordance with Articles 4 to 7 and Article 10 of the EBGL Regulation.

Currently, the change process of the CUSC is not fully aligned with the change process in the EBGL Regulation. The EBGL Regulation requires among others that a one-month consultation takes place and gives responsibility to the Electricity System Operator (ESO) to give justification for the inclusion or omission of consultation responses.⁵ The approval of a modification to the T&C must also come from the Authority.

The modification proposal

The ESO (the proposer) raised this modification proposal on 27 September 2019. CMP323 proposes to amend a number of sections of the CUSC to align the CUSC amendment process with the amendment process of the EBGL Regulation for a CUSC modification affecting the T&C related to balancing. The changes to the CUSC governance process include:

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.

³ Our 8 October 2019 decision is accessible at: <https://www.ofgem.gov.uk/publications-and-updates/decision-transmission-system-operators-proposal-terms-and-conditions-related-balancing>

⁴ Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing. The EBGL came into force on 18 December 2017. Accessible at: <https://eur-lex.europa.eu/legalcontent/EN/TXT/PDF/?uri=CELEX:32017R2195&from=EN>

⁵ In accordance with our multiple TSO allocation, available at: <https://www.ofgem.gov.uk/publications-and-updates/decision-assignment-transmission-system-operator-obligations-under-guideline-electricity-balancing-regulation-within-gb>

1. Introducing a one-month consultation;
2. Providing a sound justification as to why any responses to the consultation were included or omitted from the final modification;
3. Requiring the Authority approval on any modification that affect the T&C, hence removing the option for self-governance; and
4. Inserting a two months deadline for the resubmission of modifications that affect the T&C, if it follows an official send back from the Authority.

The proposer considers that CMP323 would have a positive impact on the applicable CUSC objectives (c)⁶ and (d).⁷ The original proposer reasoned CMP323 better facilitated these objectives as CMP323 captures the required EBGL Regulation processes in the CUSC. This allows for efficient management of the CUSC when an amendment to the T&C is required and ensures alignment of the CUSC and EBGL Regulation.

CUSC Panel⁸ recommendation

At the CUSC Panel meeting on 24 April 2020, a majority of the CUSC Panel considered that CMP323 would better facilitate the applicable CUSC objectives and the Panel therefore recommended its approval. The CUSC panel agreed, by majority, that CMP323 better facilitated the applicable CUSC objectives (c) and (d).

Our decision

We have considered the issues raised by the modification proposal and the final Modification Report (FMR) dated 6 May 2020. We have considered and taken into account the responses to the industry consultation(s) on the modification proposal which are attached to the FMR.⁹ We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable objectives of the CUSC;¹⁰ and
- directing that the modification be made is consistent with our principal objective and statutory duties.¹¹

Reasons for our decision

We consider this modification proposal will better facilitate the applicable CUSC objectives (c) and (d) and has a neutral impact on the other applicable objectives.

⁶ CUSC objective (c) is compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency for the Cooperation of Energy Regulators.

⁷ CUSC objective (d) is promoting efficiency in the implementation and administration of the CUSC arrangements.

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

⁹ CUSC modification proposals, modification reports and representations can be viewed on NGEESO's website at: <https://www.nationalgrideso.com/industry-information/codes/connection-and-use-system-code-cusc/modifications>

¹⁰ As set out in Standard Condition C10(1) of the Electricity Transmission Licence, see: <https://epr.ofgem.gov.uk/Content/Documents/Electricity%20transmission%20full%20set%20of%20consolidated%20standard%20licence%20conditions%20-%20Current%20Version.pdf>

¹¹ 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.

(c) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency

The majority of the panel agreed that CMP323 has a positive impact on the applicable CUSC objective (c). We agree with the assessment of the panel. CMP323 better facilitates the applicable CUSC objective (c) by ensuring that the change process in the CUSC is aligned with that of the EBGL Regulation, which complements the Electricity Regulation. This should ensure that any CUSC modification which affects the T&C related to balancing is carried out in a process which is compliant with the EBGL Regulation. We therefore consider CMP323 to have a positive impact on the applicable CUSC objective (c).

(d) promoting efficiency in the implementation and administration of the CUSC arrangements

The majority of the panel also agreed that CMP323 has a positive impact on the applicable CUSC objective (d). We again agree with the assessment of the panel. CMP323 better facilitates the applicable CUSC objective (d) by capturing the required change process of the EBGL Regulation within the CUSC. This ensures that the CUSC can be efficiently managed and gives industry clarity on the process should a CUSC modification arise that affects the T&C related to balancing. As a result of CMP323, a single modification would comply with both the rules of the CUSC and the EBGL regulation. We therefore consider CMP323 to have a positive impact on the applicable CUSC objective (d).

Decision notice

In accordance with Standard Condition C10 of the Transmission Licence, the Authority, hereby directs that modification proposal CMP323: Updating the CUSC governance process to ensure we capture the EBGL change process for Article 18 Terms and Conditions be made.

Leonardo Costa
Senior Manager SO/DSO

Signed on behalf of the Authority and authorised for that purpose