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Date: 23 March 2021

Dear Trisha,

**CMP367 'Urgent housekeeping modification as a result of 1 April implementations'
– decision on urgency**

On 19 March 2021, the CUSC Code Administrator, National Grid Electricity System Operator ('the Proposer'), raised Connection and Use of System Code (CUSC) Modification Proposal CMP367 ('the Proposal').¹ The Proposal seeks to amend Section 14 of the CUSC due to the overlap of the implementation of CMP333² and CMP360³ (if approved by the Authority⁴). It also seeks to realign numbering within Section 14. The Proposer requested that CMP367 be treated as an Urgent CUSC Modification Proposal.

The CUSC Modifications Panel (the 'Panel') considered the Proposer's urgency request at its meeting on 22 March 2021. On the same day, the Panel wrote to inform us of its unanimous view that CMP367 should be treated as urgent.

We have considered both the Panel's and the Proposer's arguments. We have decided that CMP367 should be progressed on an urgent basis. We have set out our reasoning below.

¹ [CMP367 'Urgent housekeeping modification as a result of 1 April implementations' | National Grid ESO](#)

² [CMP333: BSUoS – charging Supplier Users on gross demand \(TCR\) | National Grid ESO](#)

³ [CMP360 'Aligning Section 14 of the CUSC 'Balancing Services Use of System Charging Methodology' to the licence changes introduced by RIIO-2 in respect of the 'System Operator Revenue Restriction' | National Grid ESO](#)

⁴ References to the "Authority", "Ofgem", "we", and "our" are used interchangeable 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.

Background

CMP333 was approved by the Authority on 3 December 2020. As more fully described in our CMP333 decision letter⁵, it made changes to Section 14 of the CUSC to give effect to the Authority's decision as part of the Targeted Charging Review⁶ that Balancing Services Use of System charges ('BSUoS Charges') are to be applied on a gross volumetric basis at the Grid Supply Point (GSP).

CMP360 is currently with the Authority for determination and proposes to revise various formulae and definitions for the calculation of External and Internal BSUoS Charges for each settlement period, also as contained within Section 14 of the CUSC.

The Proposer has highlighted that, if CMP360 is approved by the Authority, the respective legal text amendments for these two CUSC Modification Proposals will be misaligned.

The Proposal

The Proposer has requested to amend Section 14 of the CUSC due to the overlap of the implementation of CMP333 and CMP360 (if approved by the Authority).⁷ The Proposal would also amend paragraph numbering to ensure consistency in Section 14.30 following implementation of CMP281.⁸

In its urgency request, the Proposer explained why it was requesting urgency, highlighting one of the three urgency criteria: '*(c) a party to be in breach of any relevant legal requirements*'. The Proposer considers that this is an imminent issue or a current issue that if not urgently addressed may cause them to be in breach of their obligations. In addition, they consider that, if the Proposal was not treated as urgent, there would not be a version of legal text to implement from 1 April 2021 which has been consulted on or approved in its complete form.

Panel View

The Panel considered the request for urgency by reference to Ofgem's Guidance on Code Modification Urgency.⁹ At the Panel meeting on 21 March 2021, the Panel unanimously agreed to recommend to Ofgem that CMP367 should be progressed as an Urgent

⁵ [CMP333: BSUoS – charging Supplier Users on gross demand \(TCR\) \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/publications-and-updates/targeted-charging-review-decision-and-impact-assessment)

⁶ <https://www.ofgem.gov.uk/publications-and-updates/targeted-charging-review-decision-and-impact-assessment>

⁷ We note that CMP367 will only be required in the event that CMP360 is approved by the Authority. Given that the proposed implementation date of both modifications is 1 April 2021, we consider it appropriate that CMP367 is progressed notwithstanding that the Authority's determination on CMP360 is pending. For the avoidance of doubt, granting this request for urgency, does not fetter our discretion in respect of CMP360.

⁸ The Authority's decision on CMP281 was published on 14 May 2020 and has led to misalignment in the paragraph numbering in Section 14 of the CUSC. [CMP281: Removal of BSUoS Charges From Energy Taken From the National Grid System by Storage Facilities | National Grid ESO](#)

⁹ Ofgem (2016) [Ofgem Guidance on Code Modification Urgency Criteria | Ofgem](#)

Modification Proposal. The arguments for and against urgent treatment are set out in the letter from the Panel. The Panel agreed an appropriate urgent timetable for CMP367 and agreed with the Proposer's recommendation that CMP367 would need to be implemented by the commencement of the next charging year on 1 April 2021.

Our decision

In reaching our decision on urgency of the Proposal, we have considered the Proposal and the Panel's views on urgency. We have assessed the request against the urgency criteria set out in our published guidance¹⁰, and in particular, whether the Proposal is linked to an imminent or current issue that, if not urgently addressed, may cause a party to be in breach of any relevant legal requirements.

We are satisfied that the progression of the Proposal meets Ofgem's Urgency Criteria (c) as, if not urgently addressed, the issue CMP367 seeks to address may lead to a breach of legal requirements. We agree that any risk that there may not be a clear BSUoS methodology within the CUSC for NGENSO to implement and follow should be considered, and if necessary addressed, prior to commencement of the next charging year on 1 April 2021.

We agree that the modification should follow the urgent timetable set out in the Panel's letter so as to ensure that the changes, if approved by the Authority, can be implemented by 1 April 2021.

For the avoidance of doubt, in granting 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.

Yours sincerely,

Harriet Harmon

Acting Head of Electricity Network Charging

Duly authorised on behalf of the Authority

¹⁰ Ofgem (2016) [Ofgem Guidance on Code Modification Urgency Criteria](#)