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FREETHS

The Great Grid Reshuffling – CMP434 and CMP435 consultations open

A significant and much awaited reform of the grid connections process is underway. These changes will be implemented through modifications to the Connection and Use of System Code (CUSC). The key code modification proposals are CMP434 (*Implementing Connections Reform*) and CMP435 (*Application of Gate 2 Criteria to existing contracted background*).

The CMP434 and CMP435 consultations opened on 25 July 2024 and will close on 6 August 2024. Project developers should take advantage of this narrow window of opportunity to shape the final modification report before it is submitted to Ofgem for approval. The implementation date for the reformed process is still targeted for 1 January 2025.

This note is intended to summarise both consultations but is not a substitute for a full review of the consultation documents. Given the overlap between the consultations, we recommend engaging with CMP434 first. A comparison between the two proposals can be found in Annex 6 of CMP435. Developers with existing connection agreements will need to pay close attention to CMP435.

CMP434

CMP434 introduces the new connections reform process. National Grid ESO's (ESO) proposal is broken down into 18 elements on which industry parties are invited to comment and/or agree or disagree. Working group considerations can be found in the main document from page 35 onwards and these considerations can help parties respond on specific points.

Elements 1 - 5

Element 1: The high-level concepts in 3 areas will be lightly codified, but the detail will be set out elsewhere in methodologies – Gate 2 Criteria, Project Designation and Connections Network Design. These will be prepared by the ESO and approved by Ofgem rather than going through the CUSC process. ESO expects a period of informal engagement with industry on these methodologies but no opportunities to raise Alternatives as per the CUSC modification process.

Element 2: This covers the introduction of annual application window and two formal gates i.e. Gate 1 and Gate 2 (the 'Primary Process'). For a quick recap on the gating system, please see this article. 'The intention is that a specific queue position for a developer will be based upon the time at which the Gate 2 criteria is met by each project within the respective Gate 2 batch'. There will be exceptions related to Project Designation and Connection Point and Capacity Reservation (see Elements 9 and 10 below).

Element 3: This element outlines which groups of customers which will follow the Primary Process. In scope customers will include BELLA/BEGA connected projects and small and medium embedded generators e.g. via Project Progression/Transmission Impact Assessments. Embedded demand is not in scope.

Element 4: The introduction of the concept of 'Significant Modification Application'. A Significant Modification Application would be required where (because of a change requested by the developer), the ESO reasonably believes there is a considerable impact on the design of the transmission system (including in relation to anticipatory investment), the operation of the transmission system and/or other users of the transmission system.

Element 5: This element clarifies differences in the Primary Process for various customer groups. This includes, for small and medium embedded generators, the concept of a 'Distributed Forecasted

Transmission Capacity' (DFTC) submission. DNOs will submit DFTCs to the ESO during the Gate 1 application window. This will allow the ESO and TOs to have a view of forecasted capacity for these embedded generators.

The ESO response to the DNO's DFTC submission will be similar to a Gate 1 offer i.e. it will provide an indicative connection date. The embedded generators will then need to notify their DNO that they have met the Gate 2 criteria, and if the DNO agrees it will submit a Gate 2 application to the ESO in the next Gate 2 application window. The proposal mentions at Element 12 that the assessment of these projects will be on the same basis as a request for Project Progression / Transmission Impact Assessment today.

Offshore projects must obtain a Letter of Authority (LoA) from The Crown Estate to submit a Gate 1 application to the ESO and Gate 2 criteria will involve obtaining land rights from The Crown Estate in relation to the seabed. For interconnectors and offshore hybrid assets, the LoA will pertain to potential offshore cabling, and Gate 2 criteria will require onshore convertor station land rights from relevant landowners.

Elements 6 – 11

Element 6: This element sets out process and criteria in relation to application windows and Gate 1, including introducing the offshore LoA equivalent mentioned above as a Gate 1 application window entry requirement for offshore projects. The first annual Gate 1 application window is anticipated to open on 1 January 2025 and close mid-February 2025. Once a Gate 1 offer has been signed, the developer will be subject to a longstop date (see Element 8 below).

Developers who have already met the Gate 2 criteria at the point of their Gate 1 application and who submit Gate 2 evidence within an annual Gate 1 application window, will be provided with a Gate 2 offer, rather than a Gate 1 offer.

Element 7: The ESO no longer proposes to introduce a new and formal fast track disagreement resolution process as part of CMP434. The proposal states that this will be separately and informally developed by the ESO at a later date.

Element 8: Developers will have a longstop date of 3 years from Gate 1 offer acceptance to Gate 2 offer acceptance. In practice, this will mean a period of around 2 years for a developer in Gate 1 to demonstrate compliance with Gate 2 criteria. The ESO will have discretion to extend the longstop date, and Element 8 gives examples of where such discretion may be exercised.

Element 9: This element proposes to create a concept and associated methodology **that will enable ESO to 'designate' specific projects**. As a result, ESO would have the power to accelerate the queue position of designated projects, including allowing such projects to proceed straight to Gate 2 where a project could meet Gate 2 criteria and where providing a Gate 2 offer is time critical. Such projects could also be placed higher up in the queue for network design purposes and have priority access to capacity and/or earlier connection dates compared to other projects in their batch.

As mentioned in Element 1, it is proposed that only the concept of Project Designation is included in the CUSC with the proposed methodology to be published separately and approved by Ofgem. The methodology is currently envisaged to specifically designate projects which are (i) are critical to Security of Supply, (ii) are critical to system operation and/or (iii) materially reduce system / network constraints.

Element 10: This element outlines the proposed changes under modification CM095 which aims to extend the existing bay reservation process used by the ESO's Network Services Procurement (Pathfinders). This is to avoid potential situations where connection points and capacity which the

ESO would otherwise require for specific purposes (as detailed under Element 10) are allocated to projects which have met the Gate 2 criteria within the Gate 2 process.

Element 11: The establishment of **Gate 2 criteria**. The main criteria is focused on obtaining **land rights**. The developer must have secured rights to lease or own the land (an exclusivity agreement is not sufficient). This includes:

- Land rights which relate to 100% of the land required for the developer's project to meet the Gate 2 criteria. This 100% requirement will be calculated using the Energy Density Table as defined under CMP427 and this guidance document.

- A red line boundary for the project site showing the land the developer has secured. This does not have to correspond to the red line boundary set out in the LoA submitted at Gate 1, provided the difference is an allowed change within the planned ESO's Significant Modification Application guidance.

- An option agreement (taking into account rent-free periods) for at least a 3-year period. There will be an ongoing requirement for the developer to keep the land under option by seeking further agreements (or keeping or extending the same agreement already in place) with the landowner until the Completion Date of the project.

- The option should be accompanied by a lease or purchase agreement that reflects the minimum operational timeline for the type of project - it is currently suggested this will be for a minimum 20 years. Alternatively, the developer can provide evidence of existing ownership or an existing land lease with a remaining term of a minimum of 20 years from the submission of Gate 2 evidence.

Once a project is within Gate 2, there will be **ongoing land requirements on the developer and the developer will need to submit the project's application for planning consent.**

- **Land:** It is proposed to use the red line boundary for the project site provided at Gate 2 as the basis for ongoing compliance. Any amendments made to the red line boundary post Gate 2 will have to meet criteria specified by the ESO in the proposed Gate 2 Criteria Methodology. The ESO is proposing that for whatever capacity is built within the original red line boundary, only 50% of that number can then be located outside of the original red line boundary.

- **Planning:** Developers to submit application for planning consent (currently transmission queue management milestone 'M1') at the earlier of: (i) M1 calculated backwards from the connection date or (ii) M1 calculated forwards (based on a standard time period for each planning type) from the date of acceptance of the Gate 2 offer. Including the forwards calculation could mean developers may have to submit planning earlier than if the deadline were calculated backwards from their connection date. Suggested standard time periods are set out in Element 1, ranging from 1 - 3 years and exemplified in Annex 6.

Elements 12 - 18

Element 12: This element sets out the general arrangements for Gate 2, with a timeline diagram (larger version available in Annex 4) of the overall process and outlines what a Gate 2 offer will contain. The ESO's intention is to consider applications for Gate 2 in regular intervals, currently 3 tranches per year is the suggestion.

Element 13: Developers will **self-certify that they have met Gate 2 criteria** via a self-declaration letter signed by a director of the developer.

Element 13 outlines what this letter must contain, which includes the date the project achieved Gate 2 criteria, the red line boundary, land status information, and statements to the director's best knowledge that no-one else has rights over the land and the developer is not applying for transmission and distribution within the same land.

The developer must upload evidence of necessary land rights, likely to the ESO's Connection Portal. There will be sample checks of the evidence of secured land rights, including duplication checks in respect of overlapping boundaries.

Element 14: This element addresses the issue that the connection point requested by developers during Gate 2 could be different to what is provided in their Gate 2 offer, affecting project viability. Developers will have a 12-month period from the acceptance of a Gate 2 offer to move their project site closer to the offered connection point without losing their queue position, provided they meet the Gate 2 criteria at the new site within this period. If not, the project reverts to Gate 1 status.

Element 15: The ESO's initial view is that there needs to be changes to the current codified timescales to align with the Primary Process timescales, i.e. move away from an ability to apply for a connection at any time and the requirement on ESO to make offers within 3 months of an application.

Element 16: The introduction of a new Connection Network Design Methodology (CNDM). This will set out how connections network design will be undertaken in relation to the gating process and how capacity will be allocated. The ESO is proposing to include a new 'capacity reallocation mechanism' to determine how capacity released by terminated projects will be reallocated. As mentioned in Element 1, the CNDM will be among three methodologies which are not codified.

Element 17: This element further details the DFTC submission process mentioned in Element 5 above whereby each DNO and transmission connected iDNO will submit to the ESO a forward-looking view of forecasted MW volume of connections that may be made in the future, as well as a view of connected generation and accepted but not connected generation. DNOs and transmission connected iDNOs will be required to provide a DFTC submission to the ESO in the Gate 1 annual application window.

Element 18: This element sets out the process for how DNOs and transmission connected iDNOs notify the ESO of small and medium embedded generators which meet Gate 2 criteria. As mentioned in Element 5, this will largely follow current practice with DNOs using the existing Project Progression/Transmission Impact Assessment process to submit Gate 2 applications on behalf of embedded customers.

CMP435

CMP435 seeks to apply Gate 2 criteria to existing contracted parties in the connection queue. These parties will need to provide evidence of their projects satisfying Gate 2 criteria by a given date, currently anticipated to be 31 January 2025.

If a project satisfies the Gate 2 criteria, then it will retain its current connection point and connection date and the developer will also be able to apply for an advanced connection date. If the project does not satisfy the Gate 2 criteria, their existing queue position will be nullified, and their existing contract will transition to a Gate 1 style document with an indicative connection date and indicative connection point.

The following CMP434 elements are not part of the CMP435 proposal, and only apply (or are the same as) CMP434: 2, 4, 6, 7, 12, 15, 17 and 18. Elements 19 and 20 are specific to CMP435.

Elements which are the same as CMP434 with some variation

- **Element 1:** References to Significant Change and Material Technology Change are removed as Significant Modification Applications are not part of the CMP435 proposal.

- **Element 3:** The table of in-scope projects is updated to clarify that it applies to existing contracted parties.

- **Element 5:** DFTC and the requirements for an Offshore LoA equivalent at Gate 1 have been removed as not relevant to CMP435.

- **Element 8:** Clarification that for existing connection contracts the 3-year longstop date commences at the point their offer becomes akin to a Gate 1 offer (i.e. ESO notification the project has failed Gate 2 Criteria). The application of a longstop date to already contracted small and embedded generators is also included.

- **Element 9:** Amended to refer to 'Gate 2 to Whole Queue process' as the relevant process for CMP435.

- **Element 10:** Amended as per Element 9 above.

- **Element 11:** Any option agreement for existing connection agreements only needs to meet the CMP434 minimum option length requirements from Ofgem's decision date for the CMP435 modification so any options signed before this date do not need a minimum option length. Projects that have met queue management milestone M1 and/or progressed beyond M1 will also not need to meet the CMP434 minimum option length requirements.

- **Element 13:** With the self-declaration letter, developers can also identify if they wish to advance the current contracted connection date and if so to which connection date, if possible.

- **Element 14:** Only applicable to: (i) developers who hold a Step One agreement issued under the temporary two-step connection process or an agreement where the location of the connection site is unknown or expressly indicative or (ii) in the event transitional arrangements are implemented, where developers are for a period of time prior to go-live provided with offers with an indicative connection point and date.

- **Element 15:** Amended as per Element 9 above.

New elements which are only part of the CMP435 proposal

Element 19: This establishes the retrospective application of Gate 2, with all existing contracted projects having their connection agreements converted to either a Gate 1 or a Gate 2 agreement. There will be 4 groups:

- **Group 1**: Projects with existing signed agreements that do not meet Gate 2 criteria by the deadline (31 January 2025). These projects will be notified by ESO they have not met Gate 2 and their agreements will be modified to Gate 1 agreements.

- **Group 2**: Projects that meet Gate 2 criteria by the deadline but do not want connection date advancement. They will continue with their current agreements until they are updated by the ESO to include ongoing Gate 2 compliance requirements, such as forward-facing queue management milestones.

- **Group 3**: Similar to Group 2 but projects which want a connection date advancement. Their agreements will continue until they receive an update.

- **Group 4**: The ESO is seeking Ofgem approval for Transitional Offers for new applications to apply from the 7 August 2024 to the CMP434/CMP435 go-live date. Group 4 will include projects with Transitional Offers that meet Gate 2 criteria but cannot request advancement, as they would not have a fully studied agreement by the proposed self-declaration deadline (31 January 2025). These projects will need to submit a Modification Application for a fully studied agreement.

Element 20: This introduces a cut over period to transition from the current process to the new process so that all projects are in a clear contracted position before 1 January 2025. The cutover period will begin 10 Business Days after the Authority approves CMP434, CMP435, CM095, and CM096 and will apply to all inflight offers including Transitional, Modification Applications and Project Progressions.