
TMO4+ and “First Ready, First Connected” – musings from the workgroup reports

Overview

The following is an update to our initial Law Now titled “[TMO4+ and “First Ready, First Connected” – reforming a disorderly queue?](#)” dated 29 May 2024 which primarily reported on CUSC Modification Proposals (“**CMP**”) 434 and 435 as they were originally set out in National Grid Electricity System Operator’s (“**NGESO**”) original proposal form.

Since then, the connection reform process has continued at pace through a series of workgroup consultations, culminating in workgroup reports for the CMP [434](#) and [435](#) proposals being published on 25 July 2024. The workgroup reports document the findings and recommendations of the workgroups, which comprise industry experts and stakeholders, in respect of these CMPs. They also invite feedback from stakeholders (using the pro forma response form available [here](#)) on the latest proposals so as to ensure external feedback is considered before a recommendation by NGESO to the Code Panel and, ultimately, Ofgem is made. **Stakeholder feedback is required to be submitted to NGESO by no later than 5pm 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.

In this Law Now, we provide an update specifically on the latest developments set out in the CMP 434 and 435 workgroup reports. Developers with existing connection agreements will need to pay close attention to CMP435. For additional background and context to the TMO4+ proposals as well as some of the wider initiatives being discussed, please refer to our previous [Law Now](#).

Context

This time last year, Ofgem published its [Open Letter on future reform to the electricity connections process](#) highlighting the challenges faced in the connections reform process and expressing support for the range of shorter-term initiatives proposed by **NGESO** and the Energy Networks Association (“**ENA**”) to speed up timescales for new grid connections.

In November 2023 Ofgem and the Department for Energy Security and Net Zero (“**DESNZ**”) then published the [Connections Action Plan](#) (the “**CAP**”) which set out a summary of agreed actions for network companies, Ofgem and the Government to reduce grid connection timescales. The CAP identified six key practical actions:

- raising the barriers to entry for new direct connections to the transmission network by requiring the applicant to provide a letter of authority from the landowner in respect of the relevant site;
- termination rights/obligations in connection offers for new transmission connections where the relevant customer is failing to meet certain milestones in progressing their development – known as “Queue Management”;
- better utilisation of network capacity through less conservative assumptions in respect of how new connections will use capacity and better use of flexible/ “non-firm” connection arrangements;

- for projects that have secured and entered into connection offers, a move away from ordering the ultimate connection date on the basis of when the connection offer was entered into and towards prioritising projects that are ready to connect;
- improve transparency of data on the condition of networks such that those applying for new connections can be more targeted in their approach and sharpen the obligations and financial incentives on network companies to deliver timely connections and high-quality customer service.

However, despite the initiatives to date, the queue of projects that are in theory waiting to connect has continued to grow at an unprecedented rate and (for generation alone) as of 1 March 2024, stands at 701 GW across the transmission and distribution networks - this is estimated to rise to 800GW by the end of 2024. (We say in theory, as if all of these projects were connected, NGESO estimate we would have an amount of electricity generation that is over four times more than what is predicted we'll need by 2050.

The TMO4+ process



In essence NGESO's proposed "first ready, first connected" approach involves a radical change to prioritising connection dates for new power connections – moving away from determining this by reference to the timing of an application for a new connection and instead generally determining this by reference to when a project obtains certain land rights and applies for planning consent.

In December 2023, following an industry wide exercise to develop and explore options for connections reform and a formal consultation in June 2023, NGESO published its [Final Recommendations Report](#) which set out some of the longer-term proposals to reform the connection process.

Under NGESO's [original proposal](#) this fundamental change in approach would have only been applied to new connection applications (or applications for significant modifications to connection offers) received from 1 January 2025 onwards. However, in [April 2024 NGESO announced proposals](#) to widen the application of the move to the "first ready, first connected" approach, such that it will also retroactively apply to connection offers already in place and to refine the details to increase the potential for connection dates to move backwards.

Given the opaque nomenclature it may be easy to miss the fundamental nature of these proposals. However, the proposals as they currently stand make important amendments to connection offers – materially altering the risk profile for customers and applying across generation, demand and interconnector projects for direct transmission connections and a range of generation distribution connections.

We seek below to unpack in basic terms how NGESO are suggesting the TMO4+ process should operate in the latest workgroup consultations. ***However, we emphasise that at the time of writing these continue to be relatively high-level and will therefore be subject to further change as the relevant implementation consultations and Ofgem approval decision processes continue to take place. Dates stated below are subject to NGESO's aggressive timescales for implementation by 1 January 2025 being achieved.***

For new transmission connection applications received after 1 January 2025:

New process in chronological order	Timing	Further Explanation
Annual Application Window: Applications for new connection offers must take place within a particular annual window, currently anticipated to open for applications on 1 January 2025 and close mid-February 2025.	Within January and February, each year, commencing 2025*.	Under the current process connection applications can be submitted to NGESO at any time. This new approach appears designed to assist NGESO in co-ordinating its network design across a known batch of projects that have submitted applications with the annual window. In the event a project has met the gate 2 criteria at the point of their gate 1 application, this will also need to be evidenced at the point that the developer wishes to receive its gate 2 offer, instead of a gate 1 offer, within that application window. See below for treatment of connections for relevant embedded small and medium-sized generation projects.
Applications for new connection offers are checked for validity on a similar basis to the current position (i.e. limited requirements), with the key additional requirement versus the present position being: – “Letter of Authority” requirement: For onshore connections: letter (template form to be provided) confirming that either (i) the relevant project developer has formally engaged in discussions with the landowner(s) in respect of the rights needed to enable the construction of the project on their land, or (ii) the project developer is the land owner. The position for offshore project connections appears to be subject to ongoing further consideration.	NGESO suggest that the current 3-month timescale for NGESO to provide connection offers will be amended to align with this wider process. Reviewed by NGESO as part of assessing a new connection application	See separate CMP427 for further detail on this change in respect of onshore connections. CMP427 proposal form also references the potential for a separate CUSC modification process for letters of authority offshore project connections.

New process in chronological order	Timing	Further Explanation
“Gate 1” Connection Offer issued: The most fundamental aspect of these reforms is that the timings up to reaching this point in the process will not dictate a project’s position in the queue for connections. Instead, this will be determined by when a project reaches later milestones, as set out below. This position has a number of broad knock on consequences on the offer issued at this “gate 1” stage: – the offer will only provide an indicative connection date and connection point; – the offer will not require credit support from the customer in respect of early termination liabilities to be provided by the customer, in contrast to the current position; and – the separate project progression “queue management” termination rights in favour of NGESO will not apply to these offers. The gate 1 offer will contain a fully detailed contract for all relevant agreements required with the relevant clauses inserted, however the appendices will not be populated until the Gate 2 offer stage. Note however that all of these elements will be added back into connection offers as a project reaches the “gate 2” criteria set out below. Stakeholder feedback has so far centred on the perceived limited value of gate 1 offers for developers given that no certainty of project progression is attached to the offer. Longstop: Once a gate 1 offer has been signed, it is proposed to place a time limit between gate 1 offer acceptance and gate 2 offer acceptance – the current thinking is	Timescales for customer to choose whether to accept gate 1 connection offers to be confirmed, but once accepted, it is proposed that there be a longstop date of 3 years from gate 1 acceptance in which to proceed to gate 2 acceptance. Timescale for customers to accept issued connection offers to be confirmed.	In essence, unlike the present position where the timing of an initial connection offer is key to determining a project’s position in the queue versus other new connections, this early connection offer will be a very different beast of very limited relevance to this queue position. NGESO no longer proposes to introduce a new and formal fast track disagreement resolution process as part of CMP434. The proposal states that the current CUSC dispute resolution process will continue to apply and an optional and informal fast track process will be developed at a later date.

New process in chronological order	Timing	Further Explanation
that this will be 3 years from gate 1 offer acceptance, with NGESO having discretion to extend this timeframe. This 3-year time period is noted to include the time required to actually obtain a gate 2 offer, and so in practice, will mean a period of around 2 years for a developer to demonstrate compliance with gate 2 criteria. The gate 1 agreement will be terminated where the 3-year time period has passed, and a gate 2 offer has not been accepted. The longstop date concept has been introduced to replace the initial proposal of a gate 1 capacity holding security, which is no longer under consideration.		
“Gate 2” – securing a place in the connection queue: Connection offers will only be adjusted to being full form and position in the queue for completion of a new connection will only be determined where the following “gate 2” criteria are demonstrated as achieved. This “gate 2” connection date may be earlier or later than the originally estimated “gate 1” connection date, depending on when the gate 2 criteria are achieved versus other projects. – Land Rights: land rights in respect of 100% of the land required for the project (calculated using the Energy Density Table (see further guidance on this here) shall need to be evidenced, either through an option to purchase (which must have at least a 3-year period and contain an on-going requirement for the developer to keep the land under option by seeking further agreements until the completion date of the project) accompanied by a lease or purchase	Assessment to take place “at regular intervals throughout the year” for projects that apply to NGESO. The process and steps for the gate 2 process are currently expressly noted to remain under review based on stakeholder feedback to the consultation.	NGESO state that capacity freed up by the TMO4+ approach will be used to offer better connection dates to future projects, as well as existing projects that have met the gate 2 criteria, if they wish to be accelerated.

New process in chronological order	Timing	Further Explanation
agreement reflecting the typical minimum operational timelines for the type of project in question – it is currently suggested this will be for a minimum of 20 years from the date of exercise of the option OR evidence of existing ownership, or existing land lease with a minimum remaining term of 20 years from submission of the gate 2 evidence. An exclusivity agreement will not be sufficient. For offshore wind NGESO propose the requirement will be the award of a Crown Estate/Crown Estate Scotland Agreement for Lease and <i>“possible also when capacity is reserved by an appropriate entity in relation to a leasing round”</i>. For interconnectors and offshore hybrid assets, evidence from The Crown Estate/Crown Estate Scotland <i>“or possibly an appropriate onshore equivalent instead e.g. land rights for onshore converter substation”</i>. – Redline boundary: the developer will need to provide a red line boundary for the project site showing the land they have secured. – Planning: the developer will be required to submit the project’s application for planning consent at the earlier of (i) queue management Milestone 1 calculated back from the connection date; or (ii) M1 calculated forwards (based on a standard time period for each planning type) to move from acceptance of the Gate 2 offer to M1.		
The current information on how these deadlines will interact with the current equivalent termination milestone deadlines appears to us very unclear – we hope further clarity		

New process in chronological order	Timing	Further Explanation
on this will be provided as the consultation process develops. Alternative NGESO designation: NGESO continue to suggest that it would have the power to accelerate the queue position (and therefore connection date) of designated projects – they view this of limited application e.g. for projects identified as (i) critical to security of supply and/or, (ii) critical to system operation and/or (iii) materially reduce system/network constraints. It is expected that designated projects will still be required to meet gate 2 criteria, however, the queue position of designated projects would then be prioritised within the next available gate 2 batched assessment. 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. At the time of writing, much of the detail is yet to be developed and the rules around how project designation would work in practice remain unclear. Gate 2 Criteria Evidence Assessment: A self-declaration letter signed by a director of the developer applying evidencing: - The red line boundary for the project; - The land status information i.e. the nature of the land rights the developer holds over the applicable land; - A statement that to the best of the director's knowledge, no-one else has any rights over the land for the purposes of energy and the developer is not applying for both transmission and distribution with the same land;		

New process in chronological order	Timing	Further Explanation
Evidence of the requisite land rights must also be uploaded to a connection portal for review by NGESO.		
Impact of achieving the “gate 2” criteria (set out above): Full connection offer issued with security for termination liabilities, a secured place in the queue, and relevant queen management milestone termination rights. Limited rights to amend the red line boundary of projects versus land rights demonstrated.	The intended approach appears to be that following a successful gate 2 application a new connection offer will be made, which can either be accepted or not accepted by the customer. We assume a failure to accept by a particular deadline will lead to a loss of the connection offer.	Disputes: As above, there is no longer an intention to introduce a fast track disagreement resolution process.
On-going compliance: - Red line boundary: In addition to the requirement that developers continue to evidence that it continues to hold the appropriate land rights, measures are also being considered to ensure developers cannot amend their project site location beyond gate 2. The original red line boundary provided at gate 2 is to be used as the basis for any ongoing compliance in relation to secured land.		The current proposal for red line boundary compliance is that at each queue management milestone, the developer has sufficient acreage (again calculated using the Energy Density Table) of land rights and/or consents for the full capacity of all technologies in the connection agreement. In addition, where a developer builds capacity outside of its original red line boundary, there is the potential that this will impact on its total contracted capacity depending on how much capacity remains within the original boundary. The proposal is that for whatever capacity is built within the original boundary, only 50% of that number can then be located outside of the boundary.

For transmission connection offers where the connection offer is in place prior to 1 January 2025 but which are not yet connected/haven’t reached their completion date:

New process in chronological order	Timing	Further Explanation
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.		

New process in chronological order	Timing	Further Explanation
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.		
NGESO aiming for the implementation of the new approach to be confirmed.	30 September 2024	This will be contingent on the approval and implementation of the relevant code/licence modifications. Ofgem agreed on 1 May 2024 that the relevant CUSC industry code amendments should be treated as urgent amendments.
Date decision required by	13 December 2024	This represents the current proposed timeline for this modification (as of 25 July), which is pending Authority approval.
Time period for connection offer holders to submit evidence that they meet the gate 2 criteria (see the table above for what these criteria are).	October 2024 to 31 December 2024	See CMP 434 proposal form.
Projects that have submitted evidence that they meet the gate 2 criteria have their submissions assessed by NGESO:	By 31 January 2025	See CMP 434 proposal form.
- Projects who have not submitted applications or are deemed to have failed to meet the criteria have their offers amended to gate 1 offers, with indicative connection dates and connection sites being provided, and the removal of termination liability security. - Projects who have successfully fulfilled gate 2 criteria within the period in the row above will retain their existing connection date and connection site and will also have the option to elect to be considered for an earlier connection date based on the reformed queue. As noted in the table above, it appears to also be envisaged that those applying for new connection offers in this 2025 window that fulfil the gate 2 criteria will also be granted a gate 2 offer.	January 2025 and February 2025	See CMP 434 proposal form.

Impact on connections to the distribution network:

New process in chronological order	Timing	Further Explanation
Timing of applications and issue of “Gate 1” connection offers: Applications for new connection offers for embedded small and medium generation projects (“Relevant Embedded Projects”), can be made to the relevant Distribution Network Operators (“DNOs”) at any time of year (i.e. no need for applications to take place within a particular annual window) given that they will benefit from the Distribution Forecasted Transmission Capacity (“DFTC”) (as described in further detail below). Similar to the position for transmission connection offers described above, we understand that for these types of generation projects the intention is that the distribution connection offer issued at ‘gate 1’ will only provide an indicative connection date and connection point, with no assignment of queue management milestones.	Applications to the DNO to be made at any time of year.	At this stage it is not clear what the equivalent ‘gate 1’ criteria will be for Relevant Embedded Projects – we hope further clarity will be provided in due course.
“Gate 2” – securing a place in the connection queue and the DNO interface with NGESO: It appears to be envisaged that Relevant Embedded Projects will be required to meet equivalent “gate 2” criteria and submit demonstrable evidence to the DNO, who will act as an intermediary and manage the interface with NGESO. As with transmission connections, such connection offers will be adjusted to being full form and a position in the queue will be determined once the necessary “gate 2” criteria (as set out above) have been demonstrated as achieved.	It is currently anticipated that there will be three gate 2 windows in which to submit evidence of gate 2 criteria satisfaction per annum.	At this stage it is not clear what the DNO-NGESO process consists of – we expect further clarity will be set out in the CUSC.

New process in chronological order	Timing	Further Explanation
Coordinated network design and DFTC: As part of the transmission-distribution interface, DNOs will be required to use best endeavours to create a reasonable DFTC forecast (formerly referred to as Reserved Developer Capacity or RDC) in the gate 1 application window in respect of Relevant Embedded Projects, which will facilitate the methodology used to model the coordinated network design. DNOs will be required to apply for DFTC (for Relevant Embedded Projects meeting the specified MW thresholds) within the annual TMO4+ application windows.	For CMP434 'go live' (currently targeted to be 1 January 2025), the current thinking is that the DFTC forecasts will initially cover a 12-month period in the 2025 submission. However, for subsequent years, the expectation is that the forecasting will be cast out further to cover a 24-month period.	At the time of writing, the specified thresholds for Relevant Embedded Projects are 1MW and 100MW capacity in England and Wales but only up to 30MW in the South and up to 10MW in the North of Scotland (although it is noted that the nominal limits remain subject to review). NGESO provide that generation projects which are above these upper threshold limits would be subject to the TMO4+ gate 1 application window process and would need to apply directly to NGESO (as well as the relevant DNO). Generation projects below 1MW may need to utilise DFTC depending on the impacts to the transmission system.

What happens next:

The following sets out a high-level overview of the key next steps in the modification process and the current proposed timeline as of 25 July 2024, which is pending Ofgem approval:



- As noted above, stakeholders have until 6 August 2024 to respond to the workgroup consultations. The workgroup will then examine these responses and consider the points raised.
- NGESO, as Code Administrator, will then conduct a formal consultation to gather feedback from relevant CUSC parties and stakeholders on the workgroup reports and prepare a series of final recommendations. (20 September 2024)
- Based on the consultation feedback, NGESO will prepare a draft final modification report. This report will incorporate any changes deemed necessary following comments received on the workgroup report. A refined proposal for further consideration by a CUSC panel will then be produced. (26 September 2024 – 10 October 2024)
- A final modification report incorporating any further feedback will then be presented and submitted to Ofgem for decision-making. (16 October 2024)
- If the modification is approved by Ofgem, the implementation phase where changes are formally integrated into the relevant industry documents will begin. (1 January 2025).

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