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Workgroup Consultation Response Proforma

CMP470: Introducing an Oversubscribed Technologies Commitment Fee

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses to cusc.team@neso.energy by **5pm** on **30 April 2026**. Please note that any responses received after the deadline or sent to a different email address may not receive due consideration.

If you have any queries on the content of this consultation, please contact cusc.team@neso.energy

Respondent details	Please enter your details	
Respondent name:	Lloyd Garvie	
Company name:	Windline (Cairnbeg) Ltd	
Email address:	Lloydgarvie@gmail.com	
Phone number:	07710156355	
Which best describes your organisation?	<input type="checkbox"/> Consumer body <input type="checkbox"/> Demand <input type="checkbox"/> Distribution Network Operator <input checked="" type="checkbox"/> Generator <input type="checkbox"/> Industry body <input type="checkbox"/> Interconnector	<input type="checkbox"/> Storage <input type="checkbox"/> Supplier <input type="checkbox"/> System Operator <input type="checkbox"/> Transmission Owner <input type="checkbox"/> Virtual Lead Party <input type="checkbox"/> Other

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I wish my response to be:

(Please mark the relevant box)

☒ **Non-Confidential** (this will be shared with industry and the Panel for further consideration)

☐ **Confidential** (this will be disclosed to the Authority in full but, unless specified, will not be shared with the Panel or the industry for further consideration)

For reference the Applicable CUSC (Connection charging) Objectives are:

Means the Use of System Charging Objectives, as if references therein to the Use of System Charging Methodology were to the Connection Charging Methodology and in addition, the objective (where consistent with the other objectives) of facilitating competition in the carrying out of works for connection to the National Electricity Transmission System.

For reference the Applicable CUSC (non-charging) Objectives are:

- i. *The efficient discharge by the Licensee of the obligations imposed on it by the Act and by this licence*;*
- ii. *Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity;*
- iii. *Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency **; and*
- iv. *Promoting efficiency in the implementation and administration of the CUSC arrangements.*

* See Electricity System Operator Licence

**The Electricity Regulation referred to in objective (iii) is Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) as it has effect immediately before IP completion day as read with the modifications set out in the SI 2020/1006.

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For reference, (for consultation questions 5) the Electricity Balancing Regulation (EBR)

Article 3 Objectives and regulatory aspects are:

- a) fostering effective competition, non-discrimination and transparency in balancing markets;*
- b) enhancing efficiency of balancing as well as efficiency of national balancing markets;*
- c) integrating balancing markets and promoting the possibilities for exchanges of balancing services while contributing to operational security;*
- d) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector while facilitating the efficient and consistent functioning of day-ahead, intraday and balancing markets;*
- e) ensuring that the procurement of balancing services is fair, objective, transparent and market-based, avoids undue barriers to entry for new entrants, fosters the liquidity of balancing markets while preventing undue market distortions;*
- f) facilitating the participation of demand response including aggregation facilities and energy storage while ensuring they compete with other balancing services at a level playing field and, where necessary, act independently when serving a single demand facility;*
- g) facilitating the participation of renewable energy sources and supporting the achievement of any target specified in an enactment for the share of energy from renewable sources.*

What is the EBR?

The Electricity Balancing Regulation (EBR) is a European Network Code introduced by the Third Energy Package European legislation in late 2017.

The EBR regulation lays down the rules for the integration of balancing markets in Europe, with the objectives of enhancing Europe's security of supply. The EBR aims to do this through harmonisation of electricity balancing rules and facilitating the exchange of balancing resources between European Transmission System Operators (TSOs). Article 18 of the EBR states that TSOs such as the NESO should have terms and

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conditions developed for balancing services, which are submitted and approved by Ofgem.

Please express your views in the right-hand side of the table below, including your rationale.

Standard Workgroup Consultation questions			
1	Do you believe that the Original Proposal better facilitates the Applicable Objectives versus the current baseline?	Mark the Objectives which you believe each solution better facilitates than the current baseline:	
		Original	<input type="checkbox"/> i <input type="checkbox"/> ii <input type="checkbox"/> iii <input type="checkbox"/> iv <input checked="" type="checkbox"/> None
		<p>I oppose the implementation of CMP470 as currently drafted. While I recognize the need to manage the grid connection queue to meet Clean Power 2030 targets, the introduction of a retrospective "Commitment Fee" is a punitive measure that undermines investor confidence and contract law.</p> <p>It is to be retrospective and solely punitive, specifically designed to kill off development projects by pricing them out of their contracts. There is little connection between introducing such a punitive charge on all projects (regardless of the project's viability) and targeting actual project financial viability.</p> <p>As such, it is probably illegal in Scotland and will likely be subject to judicial review.</p> <p>Instead, NESO should implement a Market-Based Queue Exit Auction, where developers are incentivized to relinquish capacity in exchange</p>	

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		<p>for a payment, ensuring the queue is thinned at the least cost and with the highest degree of fairness.</p> <p>2. Core Objections to CMP470</p> <ul style="list-style-type: none"> • Breach of Contractual Principles: In no other commercial sector would a party be permitted to retrospectively and unilaterally introduce penal clauses into existing signed contracts – simply because they have over-committed their own resources. <p>Many developers have spent significant funds in good faith; recent NESO reorganisations have turned viable projects with committed contracts into "Gate 1" connections. Those with Gate 2 contracts now face the prospect of these penal charging fees to maintain their contract. This is a violation of regulatory certainty.</p> <ul style="list-style-type: none"> • Lack of Evidence: There is currently no empirical evidence provided by the Proposer to suggest that a flat fee of £10,000–£25,000 per MW will effectively "clear" the queue of the correct projects. It will penalize smaller companies with viable projects while allowing well-funded, larger companies with less viable and non-viable projects to remain. • Inappropriate Risk Allocation: This proposal shifts the burden of NESO's over-subscription entirely onto the developer, regardless of the developer's adherence to existing milestones. <p>3. Alternative Proposal: The "Exit Auction" Mechanism</p> <p>Instead of a "punish-to-thin" approach, NESO</p>
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		<p>should facilitate an Exit Auction. This would allow for a more efficient reallocation of capacity:</p> <ol style="list-style-type: none"> 1. Voluntary Exit: Developers with Gate 2 contracts could bid a "strike price" to vacate their position. 2. Least Cost to Consumer: By paying developers to exit, NESO ensures that only those who value their connection the least (i.e., the least viable projects) leave the queue first. 3. Preservation of Investment Signal: This treats capacity as a valuable asset and respects the development spend already committed by the industry, maintaining the UK's reputation as a stable environment for energy investment. <p>This would not be subject to legal challenge, would only remove less viable and non-viable projects, and has greater delivery certainty.</p>
2	Do you support the proposed implementation approach?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>As above, I oppose the implementation of CMP470 as currently drafted. While I recognize the need to manage the grid connection queue to meet Clean Power 2030 targets, the introduction of a retrospective "Commitment Fee" is a punitive measure that undermines investor confidence and contract law.</p>

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		<p>Instead, NESO should implement a Market-Based Queue Exit Auction, where developers are incentivized to relinquish capacity in exchange for a payment, ensuring the queue is thinned at the least cost and with the highest degree of fairness.</p>
3	Do you have any other comments?	<p>As stated above, I oppose the implementation of CMP470 as currently drafted. While I recognize the need to manage the grid connection queue to meet Clean Power 2030 targets, the introduction of a retrospective "Commitment Fee" is a punitive measure that undermines investor confidence and contract law. Instead, NESO should implement a Market-Based Queue Exit Auction, where developers are incentivized to relinquish capacity in exchange for a payment, ensuring the queue is thinned at the least cost and with the highest degree of fairness.</p> <p>2. Core Objections</p> <ul style="list-style-type: none"> • Breach of Contractual Principles: In no other commercial sector would a party be permitted to unilaterally introduce penal clauses into existing signed contracts simply because they have over-committed their own resources. Many developers have spent significant funds in good faith and now introducing a penalty fee to maintain their contract is a violation of regulatory certainty. The fee is clearly a penalty fee because it is being introduced with the express purpose of making contracted parties terminate. • Lack of Evidence: There is currently no empirical evidence provided by the Proposer to suggest that a flat fee of £10,000–£25,000 per MW will effectively "clear" the queue of the correct projects. It is just as likely to penalize viable but capital-constrained projects while allowing well-funded, non-viable

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		<p>projects to remain.</p> <ul style="list-style-type: none"> • Inappropriate Risk Allocation: This proposal shifts the burden of NESO's over-subscription entirely onto the developer, regardless of the developer's individual progress or adherence to existing milestones. <p>3. Alternative Proposal: The "Exit Auction" Mechanism Instead of a "punish-to-thin" approach, NESO should facilitate an Exit Auction. This would allow for a more efficient reallocation of capacity:</p> <ol style="list-style-type: none"> 1. Voluntary Exit: Developers who have seen their projects become less viable could bid a "strike price" to vacate their position. 2. Least Cost to Consumer: By paying developers to exit, NESO ensures that only those who value their connection the least (i.e., the least viable projects) leave the queue first. 3. Preservation of Investment Signal: This treats capacity as a valuable asset and respects the development spend already committed by the industry, maintaining the UK's reputation as a stable environment for energy investment.
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<p><input checked="" type="checkbox"/> Yes (the request form can be found in the Workgroup Consultation Section of CMP470)</p> <p><input type="checkbox"/> No</p> <p>I wish to propose the Exit Auction Mechanism as described above and an Alternative Request has been submitted.</p>
5	Do you agree with the Workgroup's assessment that the modification does not	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>

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impact the Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the Code?	CMP470 introduces a high financial barrier (up to £25,000 per MW) for specific technologies (like BESS) to remain in the queue. It fundamentally changes the requirements for parties who wish to become Balancing Service Providers (BSPs). Article 18 mandates non-discrimination. CMP470 is discriminatory because it targets "oversubscribed technologies" specifically. If these technologies are primary providers of balancing services (which Battery Storage is), then altering its ability to connect to the grid modifies the landscape for balancing providers. It is also financially discriminatory and geographically discriminatory.
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Specific Workgroup Consultation questions

6	Do you agree with the workgroup's understanding of the issues which oversubscription creates?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		<p>Whilst there may be oversubscription, there is no evidence that the proposal will deal with the oversubscription, nor does it solely affect unviable projects, nor does it control the timescale of clearance. It is also contractually unfair on developers who have proceeded on the basis of signed contracts.</p>
7	Do you have evidence which may support the Workgroup in	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

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	understanding what proportion of projects in the Gate 2 queue are unviable?	<p>Why is there an assumption that there are any unviable projects in the Gate 2 queue? Is there any evidence that there are unviable projects, or is this just an assumption without any evidence?</p> <p>My alternative proposal, an auction for developers to bid to be paid to terminate their contracts is a far more certain method of removing the least viable capacity from the queue.</p> <p>The current CMP470 Proposal is just as likely to remove viable projects because it is a penal financial burden. That will simply remove projects based on the pre-FID financial strength of the developer, rather than the viability of the project.</p>
8	Do you have any comments on the Workgroups understanding of technical and economic viability of projects?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>The introduction of a retrospective "Commitment Fee" is a highly punitive measure that undermines investor confidence and contract law.</p> <p>In no other commercial sector would a party be permitted to unilaterally introduce penal clauses into existing signed contracts simply because they have over-committed their own resources.</p> <p>There is currently no empirical evidence provided by the Proposer to suggest that a flat fee of £10,000–£25,000 per MW will effectively "clear" the queue of the correct projects.</p>

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		It penalizes viable projects while allowing well-funded, non-viable projects to remain. It is applied regardless of the developer's individual progress or adherence to existing milestones.
9	Do you agree with the proposed activation threshold of 50% oversubscription and deactivation threshold of 25% oversubscription?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No For the reasons stated above I do not agree with the CMP470 proposal at all.
10	Do you think the OTCF should apply based on national or regional oversubscription?	<input type="checkbox"/> Yes <input type="checkbox"/> No Neither. I do not agree with the CMP470 proposal.
11	Do you agree with the proposed timing of the OTCF from implementation or Gate 2 contract signature (whichever is sooner) up to energisation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No I do not agree with the CMP470 proposal. Gate 2 contracts should not be upended in this way.
12	Do you agree with the proposal to apply the OTCF as a securities floor?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No I do not agree with the CMP470 proposal.
13		<input type="checkbox"/> Yes

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	Do you agree with the level of the OTCF, including minimum and maximum levels if changing over time?	<input checked="" type="checkbox"/> No I do not agree with the CMP470 proposal.
14	Do you agree that the OTCF should be applied to projects which co-locate an oversubscribed technology with another technology?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No No. many good and viable hybrid/co-located projects have already been ruined by the G2WQ process. This will simply exacerbate the destruction of investor confidence.
15	Do you agree that the OTCF should apply as well as the PCF?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Click or tap here to enter text.
16	Do you agree that any OTCF funds relating to a customer which does not go on to energise should be returned to consumers via TNUoS?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No This is taking funds from a connection customer and giving the funds to consumers?
17	Do you agree that NESO should have the option not to implement the OTCF	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

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	if the activation threshold is breached?	I do not agree with the CMP470 proposal.
18	Do you agree with the proposed Alternative Request 1 solution?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <p>Whilst this AR delays implementation, which is in itself welcome, it still suffers from all the same drawbacks, potential illegality and lack of focus on viability as the OP.</p>
19	Do you agree with the proposed Alternative Request 2 solution?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <p>If accepted, the date of receipt of the offer should not be used as the trigger point for the 9 month period. The appropriate trigger date for the commencement of the 9 month period should be the contract date - i.e. the date of execution by NESO and return of the fully executed contract to the developer. Many of the offers contain mistakes and require time to amend and we do not know when NESO will execute and return the counterparts. Whilst hopefully unlikely, there is the potential that the payment could become due before NESO has even completed and returned the contract.</p>