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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 usc.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 usc.team@neso.energy

Respondent details	Please enter your details	
Respondent name:	Stephen Clarke	
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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

I wish my response to be:

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(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.

For reference, (for consultation questions 5) the Electricity Balancing Regulation (EBR) Article 3 Objectives and regulatory aspects are:

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

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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?	<p>Mark the Objectives which you believe each solution better facilitates than the current baseline:</p> <table border="1"> <tr> <td>Original</td> <td> <input type="checkbox"/>i <input type="checkbox"/>ii <input type="checkbox"/>iii <input type="checkbox"/>iv <input checked="" type="checkbox"/>None </td> </tr> </table> <p>We do not consider that the Original Proposal, as currently drafted, better facilitates the Applicable Objectives compared with the current baseline. While we acknowledge that oversubscription of Battery Energy Storage Systems (BESS) creates real challenges for network planning, the escalating securities-floor structure (up to £25k/MW) is in our view disproportionate.</p> <p>It risks driving viable developers – particularly smaller and mid-cap players, and those with longer-dated portfolios – out of the market and thereby undermining objective (ii) (effective competition). The investor risk profile created by an open-ended 'pay-to-stay' ramp would, we believe, deter the very capital required to deliver the Clean Power 2030 (and emerging post-2030/2035) capacity targets, with negative downstream consequences for objectives (ii) and (iv).</p>	Original	<input type="checkbox"/> i <input type="checkbox"/> ii <input type="checkbox"/> iii <input type="checkbox"/> iv <input checked="" type="checkbox"/> None
Original	<input type="checkbox"/> i <input type="checkbox"/> ii <input type="checkbox"/> iii <input type="checkbox"/> iv <input checked="" type="checkbox"/> None			
2	Do you support the proposed	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

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	implementation approach?	<p>We do not support the proposed implementation approach. We agree that practical application should not begin before all G2tWQ and first Gated Application Window offers have been signed or lapsed (and welcome that this has been moved out to the July 2027 securities statement), but the underlying mechanic – an escalating £/MW floor up to £25k/MW – is too heavy-handed.</p> <p>If a securities-based mechanism is to be introduced at all, we favour the simpler, lower-quantum, refundable approach proposed in Alternative Request 2 (see Q19), subject to the clarifications sought at Q16.</p>
3	Do you have any other comments?	<p>We support the Workgroup's recognition that BESS oversubscription is real and creates costs for consumers and impedes network planning, but believe the design of the Original Proposal is too heavy-handed and would have a series of unintended consequences:</p> <ul style="list-style-type: none"> • Disproportionate impact on developers. A 1 GW pipeline could face an additional £25 million in security under the £25k/MW cap, payable for circumstances that may be entirely outside the developer's control, for example a lengthy delay in a planning application being determined through on fault of the applicant (the developer). The Workgroup itself records concerns that this would disproportionately impact smaller developers and risk anti-competitive market consolidation. • Risk to CP30/35 delivery. By raising the cost of remaining in the queue, the Original could squeeze out viable but cash-constrained

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		<p>projects ahead of larger, well-capitalised players – and could trigger material attrition before the Strategic Spatial Energy Plan (Autumn 2027) has reset capacity targets. The result could be undershooting the very CP30 (and post-2030/2035) targets the modification is intended to support. Additional risk that it favours larger projects rather than a healthier spread of small, medium and large projects across the voltage levels? If a few of the large projects don't come forward it's a bigger problem.</p> <ul style="list-style-type: none"> • Investor confidence. The introduction of an escalating, technology-wide 'pay-to-stay' ramp shortly after CMP434/435 protections came into effect changes the rules for projects that have already accepted Gate 2 Offers in good faith. We share the Proposer's concern that 'reneging on connection contracts twice would be unwise' – and we believe the Original Proposal does precisely that for any developer whose project becomes uneconomic for reasons outside its control. • Root cause. A substantial proportion of the oversubscription is itself a consequence of NESO's protections (CMP434/435). It is not obvious that an escalating fee on developers is the proportionate first response – particularly while parallel actions by NESO and DESNZ on protection clauses 3a/3b, bay-sharing and pragmatic network design remain undecided. <p>We are therefore minded to support Alternative Request 2 (Firstway Energy) as a more proportionate</p>
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		<p>solution, subject to the clarifications sought at Q16 below.</p> <p>We also note that the proforma question Q19 appears to refer to 'Alternative Request 1' in error — we have answered Q19 in respect of Alternative Request 2 (Firstway Energy).</p>
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<p><input type="checkbox"/> Yes (the request form can be found in the Workgroup Consultation Section of CMP470)</p> <p><input checked="" type="checkbox"/> No</p> <p>Not at this stage. We are content for Alternative Request 2 (with the clarifications requested at Q16) to be progressed by the Workgroup. If those clarifications are not addressed, we reserve the right to consider raising a separate Alternative Request at a later stage.</p>
5	Do you agree with the Workgroup's assessment that the modification does not impact the Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the Code?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

Specific Workgroup Consultation questions

6	Do you agree with the workgroup's understanding of the issues which	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
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	oversubscription creates?	<p>Broadly yes. We agree that material oversubscription of a technology distorts network planning, drives unnecessary capital expenditure, and creates delays for non-oversubscribed technologies. We would, however, emphasise three points:</p> <ul style="list-style-type: none"> • The immediate root cause is the breadth of the protections introduced via CMP434/CMP435 rather than developer 'gaming'. • 'Viability' is a poor binary, and the Workgroup's distinction between 'uninvestable' and 'unviable' should be carried into solution design. • Any developer-side measure must be calibrated alongside the Transmission Owner licence obligations and emerging NESO/DESNZ actions on protections, bay-sharing and pragmatic network design – otherwise developer-side measures alone will not deliver the intended outcome.
7	Do you have evidence which may support the Workgroup in understanding what proportion of projects in the Gate 2 queue are unviable?	<p><input type="checkbox"/>Yes</p> <p><input checked="" type="checkbox"/>No</p> <p>We do not hold proprietary forecaster data that we can share. We note the Workgroup's reference to Aurora, Afry and Baringa modelling.</p>
8	Do you have any comments on the Workgroups understanding of	<p><input checked="" type="checkbox"/>Yes</p> <p><input type="checkbox"/>No</p>

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	technical and economic viability of projects?	<p>Yes. Project viability is multi-dimensional and largely outside the developer's control between committing to the project (i.e. securing land and a grid connection agreement and then incurring a planning application with its associated costs and fees) and the Final Investment Decision (FID). Planning circumstances, third-party land rights, supply-chain pricing, capital costs, revenue forecasts and the prevailing financing market all change over time. A project may be 'investable' today and 'uninvestable' six months later, and vice versa, for reasons that have nothing to do with the developer's competence.</p> <p>A flat, escalating £/MW commitment fee does not discriminate between these states; it applies to all developers equally regardless of merit. We support the Workgroup's recognition that 'uninvestable' is a more useful frame than 'unviable' – and we believe this strengthens the case for a low, fixed, refundable mechanism (Alt 2) over the Original ramping fee.</p>
9	Do you agree with the proposed activation threshold of 50% oversubscription and deactivation threshold of 25% oversubscription?	<p><input type="checkbox"/>Yes</p> <p><input checked="" type="checkbox"/>No</p> <p>We accept the design intent of the deadband (50% activation, 25% deactivation) if a threshold-based mechanism were to be adopted – it sensibly avoids on/off cycling and over-correction. However, our preferred approach is Alternative Request 2, which removes the need for activation/deactivation thresholds altogether.</p> <p>If thresholds are retained, we would be concerned that a 50% activation point could trigger fees across</p>

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		an entire technology cohort even where a substantial subset of those projects is genuinely viable, and that the deadband itself does not address the proportionality concerns raised at Q1, Q11 and Q13.
10	Do you think the OTCF should apply based on national or regional oversubscription?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>If a threshold-based OTCF were adopted, we agree that national application is appropriate, for the reasons set out by the Proposer (regional volatility risk; alignment with how protections are applied; small regional pipelines for some technologies). However, the question is moot under Alternative Request 2, which we prefer.</p>
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 <p>We do not support the proposed timing of the OTCF under the Original Proposal. Applying an escalating £/MW floor up to energisation creates open-ended exposure across the entire project lifecycle – including the period between Gate 2 acceptance and FID, where most of the discrete and non-discrete risks crystallise and where many of those risks are outside the developer's control (planning circumstances, third-party land,, financing markets).</p> <p>Alternative Request 2's earlier, one-off, refundable payment achieves the queue-attrition objective</p>

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		without this open-ended exposure, which is why we prefer it.
12	Do you agree with the proposal to apply the OTCF as a securities floor?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		<p>We do not support the floor approach. A floor structure penalises projects with naturally low securities – for example, projects bay-sharing on existing substations, where attributable works are minimal. These are often the lowest-impact, lowest-cost-to-consumer connections, and exactly the projects that should be retained in the queue. A simpler, fixed one-off payment (Alternative Request 2) avoids this perverse outcome.</p>
13	Do you agree with the level of the OTCF, including minimum and maximum levels if changing over time?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		<p>We do not support the proposed levels. The escalating structure up to £25k/MW is materially excessive: for a 1 GW pipeline this represents £25 million of additional security, payable for reasons that may be entirely outside the developer's control. The Workgroup has itself recorded concerns about disproportionate impact on smaller developers, the risk of anti-competitive consolidation, and the unfairness of increasing fees for circumstances beyond a developer's control.</p> <p>We support the lower, fixed level proposed in Alternative Request 2 (£1.5k/MW), which provides a</p>

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		meaningful commitment signal without rendering otherwise viable portfolios unbankable.
14	Do you agree that the OTCF should be applied to projects which co-locate an oversubscribed technology with another technology?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>In principle yes – provided the exemptions identified by the Workgroup (oversubscribed technology connecting after the other; addition of the oversubscribed technology with no additional attributable works) are clearly drafted and operationally workable for NESO and DNOs. The exemption framing should ensure that genuinely co-located projects with minimal additional network impact are not disproportionately penalised. Our broader preference for Alternative Request 2 reduces the materiality of this question.</p>
15	Do you agree that the OTCF should apply as well as the PCF?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <p>No. We agree with the Proposer’s observation that, in practice, the OTCF and PCF will rarely apply to the same project. To avoid drafting risk and unnecessary complexity, we would prefer an explicit ‘backstop’ provision so that only one of the two mechanisms applies to any single project – not both. This is consistent with the principle of efficient and proportionate administration of the CUSC arrangements (objective (iv)).</p>
16	Do you agree that any OTCF funds	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

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<p>relating to a customer which does not go on to energise should be returned to consumers via TNUoS?</p>	<p>We need significant clarification before we could agree to this. As drafted, the Original Proposal treats any failure to energise – including failures that are entirely outside the developer’s control (refused planning consent on a previously consented site; withdrawal of essential third-party land rights; ground conditions discovered post-acceptance at the full design / construction stage; subsequent material adverse regulatory change; force majeure) – as a forfeiture event in which the OTCF security is retained and passed to consumers via TNUoS. This is harsh and risks deterring investment in marginal-but-needed projects.</p> <p>Alternative Request 2’s ‘fully refundable on energisation’ wording is similarly silent on the treatment of fees where a project does not reach energisation through no fault of the developer.</p> <p>We would like the Workgroup to set out, in the Workgroup Report (and reflected in the legal text):</p> <ul style="list-style-type: none"> • A defined, narrow set of ‘developer-at-fault’ circumstances in which the fee is forfeit (e.g. voluntary termination; failure to meet a milestone the developer was capable of meeting). • A defined set of ‘non-fault’ circumstances in which the fee is returned to the developer (or the security released without forfeit) – including, at a minimum: refused planning consent (where applied for in good faith); withdrawal of essential third-party land or consents; force majeure; and material adverse regulatory or planning policy change.
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		<ul style="list-style-type: none"> A clear governance route (e.g. NESO assessment with Ofgem oversight) for marginal cases. <p>Without this clarity, neither the Original nor Alternative Request 2 can be supported with confidence; the risk that a developer loses its commitment fee for circumstances out with its control is, in our view, unfair and would distort investment decisions in a manner inconsistent with objective (ii).</p>
17	Do you agree that NESO should have the option not to implement the OTCF if the activation threshold is breached?	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Yes. We support NESO discretion (with Ofgem overrule) on whether to activate the OTCF when the trigger threshold is met. Markets and pipelines move quickly and a hard automatic activation could over-correct in unforeseen circumstances. The same logic supports our position at Q16: governance should retain the flexibility to refrain from harsh outcomes where circumstances warrant.</p>
18	Do you agree with the proposed Alternative Request 1 solution?	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>We share Root Power's concerns about the timing of the Original Proposal – particularly regarding natural queue attrition and the importance of allowing flexible-connection assessments to be completed (recommencing in March 2027) before the OTCF bites. However, Alternative Request 1 retains the underlying escalating £/MW securities-</p>

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		<p>floor structure of the Original. Our concerns at Q1, Q11, Q12 and Q13 therefore remain.</p> <p>We would prefer Alternative Request 2, which addresses the underlying mechanism rather than the timing alone.</p>
19	Do you agree with the proposed Alternative Request 1 solution?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Yes — subject to the clarifications sought at Q16. (We note the proforma's Q19 appears to refer to Alternative Request 1 again in error; we have answered in respect of Alternative Request 2 — Firstway Energy.)</p> <p>We support Alternative Request 2 as the most proportionate approach to encouraging queue attrition: a single, modest, refundable commitment fee (£1.5k/MW; payable 9 months from Gate 2 acceptance; refundable on energisation):</p> <ul style="list-style-type: none"> • Delivers a clear, early signal to all Gate 2 BESS developers without escalating 'pay-to-stay' exposure. • Allows the market the time to test project viability and naturally attrit projects that cannot be funded. • Avoids the anti-competitive risk of squeezing smaller developers and consolidating the market in favour of the largest balance sheets. • Is administratively simpler for NESO and DNOs.

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	<ul style="list-style-type: none"> • Preserves the investor risk profile required to deliver CP30 and post-2030/2035 capacity targets. <p>We would, however, ask the Workgroup to:</p> <ul style="list-style-type: none"> • Clarify, as set out at Q16, the precise circumstances under which the £1.5k/MW fee is returned to the developer — particularly where energisation does not occur for reasons out with the developer's control (e.g. refused planning consent, withdrawal of third-party rights, force majeure, material adverse regulatory change). • Consider whether £1.5k/MW is calibrated correctly to drive meaningful attrition, given the Workgroup's observation that the level may be insufficient. • Confirm the interaction with the PCF, the treatment of co-located projects, and the implications for any future modifications. <p>Subject to those points being addressed, this Alternative is in our view a clear improvement on the Original Proposal.</p>
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