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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](mailto: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](mailto:cusc.team@neso.energy)

Respondent details	Please enter your details	
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<b>Which best describes your organisation?</b>	<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

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*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:**

- 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.*

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### 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.

**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>No. We believe the benefit of removing a proportion of non-viable BESS capacity faster than would be achieved by existing rules alone is far outweighed by the size of the OTCF £/MW charge and its detrimental impact on viable projects. Effectively....</p> <ul style="list-style-type: none"> <li>Smaller developers may not be able to secure the significant pre-FID securities leading them to be distressed sellers of projects and exposed to predatory buyers.</li> </ul>	

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		<ul style="list-style-type: none"> <li>It will divert a significant amount of working capital to uneconomic endeavours in a market with margins on development are continually tightening.</li> <li>If it is trying to nudge projects that have effectively decided to cancel out of the queue, but don't have the current incentive to do so, it is an unnecessary high-cost level. However, if it is to be used as a device to close out their desire to hold on to optionality it is a blunt instrument with no assessment as to its effectiveness. We worry in this context the developers with the deepest pockets, not necessarily the best or most ready projects, will be able to financially bully their way to the front of the queue.</li> </ul>
2	Do you support the proposed implementation approach?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  <a href="#">Click or tap here to enter text.</a>
3	Do you have any other comments?	<p>We note in page 7 of the consultation that it asserts that “many projects have very low cancellation charges or penalties”. we are a little sceptical of this statement as we have no evidence of this being the case and significant anecdotal information to the contrary. Given the massive increase in connections requirements and associated need for network buildout, we believe that most parties will be exposed to considerable liabilities.</p> <p>This is an example of several statements that have been made where the lack of quantitative evidence</p>

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		has made their accuracy difficult to validate. We would welcome some quantifiable information on this issue as soon as reasonably possible to validate some of these positions.
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<input type="checkbox"/> Yes (the request form can be found in the Workgroup Consultation Section of <a href="#">CMP470</a> ) <input checked="" type="checkbox"/> No 
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?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 
		Click or tap here to enter text.

## Specific Workgroup Consultation questions

6	Do you agree with the workgroup's understanding of the issues which oversubscription creates?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 
		Click or tap here to enter text.

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7	Do you have evidence which may support the Workgroup in understanding what proportion of projects in the Gate 2 queue are unviable?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <p>We do not believe compelling analysis exists. The best evidence that exists is the market modelling outcomes displayed in page 16 of the consultation. However, it should be noted that the highest forecast is almost 100% greater than the lowest forecast in the graph. This demonstrates the significant uncertainty in predicting BESS requirements into the future. As such we would be wary of interpreting this analysis as being the boundaries of the highest and lowest possible outcomes and can only be used as a rough indication at best.</p>
8	Do you have any comments on the Workgroups understanding of technical and economic viability of projects?	<input type="checkbox"/> Yes <input type="checkbox"/> No <p>We agree project viability can be impacted by a wide breadth of commercial and technical issues, which can be both absolute and binary or can change in their impact over time and in external conditions.</p> <p>However, we would argue that given BESS is both modular and a mature technology, the ability to significantly outperform competitors on capex efficiency is limited. We would also argue that revenue opportunities will become more uniform over time as third party optimisers, coupled with</p>

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		<p>increasingly uniform market knowledge, reduce the opportunity for supra normal profit.</p> <p>Therefore, we would argue that once technical issues have been resolved, the biggest commercial decision on whether to proceed, will be a developer's queue position/connection date relative to the rest of the market (BESS). Effectively whether the project is entering an already saturated market.</p> <p>As such a relatively small commercial incentive, coupled with clear understanding of a projects relative position in the queue will be a significant influence on determining whether a project remains viable.</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 agree that the 50% threshold seems an appropriate value but would argue that the 25% deactivation value is too low (equates to 7.25GW). Given the level of uncertainty in BESS forecast needs, NESO current intent not to make pro-active provision for attrition and the current geo political situation, it would seem appropriate to retain a margin over target quotas. Most of the commercial risk associated with this over subscription would be borne by the developers.</p>
10		<input type="checkbox"/> Yes    National



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	Do you think the OTCF should apply based on national or regional oversubscription?	<input type="checkbox"/> No
		We have no strong opinion on this. The economic or operational rationale for the way capacity was originally allocated on a zonal basis in CP30 was never effectively articulated. Coupled with the DESNZ restructuring of zonal quotas and significant capacity transfers across regions in the CNDM process, it is not clear what the zonal imperative is. Therefore, unless we receive clarity from NESO, we would suggest assessment on a national basis seems fine.
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  We believe the OTCF should complete when the developer meets the QM7 milestone. At this point the project is committing to progress to connection and in doing so commit significant amounts of capital, including signing on to debt agreements, far beyond that which is at risk due to the OTCF. As such we believe that the project would have resolved all its binary technical and commercial risks and is of negligible risk of cancelling the project. If it does cancel the project in most cases, it will be exposed to existing significant connection liabilities. As noted in the consultation, while it needs to be confirmed, it is NESO's initial understanding that nobody has defaulted on their connection liabilities to this point.

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		<p>If the proposer is adamant that this additional incentive must be kept to commissioning, we would suggest that the floor should be on the connection liabilities/cancellation charge, not the connection securities. We do not believe that securities will drive the required behaviour any more effectively than liabilities but will require the posting a greater amount of inefficient cash deposits and detrimentally impact developer cashflows and working capital.</p>
12	Do you agree with the proposal to apply the OTCF as a securities floor?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>We would propose that OTCF is developed as a liabilities floor that requires the proportion of securities to be posted as per the existing cancellation charge methodology. Pre trigger securities are 100% of liabilities so the securities floor will equal the liabilities floor until the project is very well developed. Post the trigger date, this liability will still need to go on the balance sheet. Although not yet confirmed it has been indicated by NESO that nobody has defaulted on their cancellation charge obligations when their project has been cancelled prior to connection/energisation. We would welcome NESO clarity on this point as if there is very little risk of parties defaulting on their cancellation charge then a floor on liabilities would create a similar incentive as a securities floor but would have the benefit of sterilising less working capital.</p>

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13	Do you agree with the level of the OTCF, including minimum and maximum levels if changing over time?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>Whilst we agree that some form of incentive should be introduced, we believe that the values in the proposal are out of proportion in relation to what is trying to be achieved. As such it will have significant implications for the ability for many developers to complete and commission their projects.</p> <ul style="list-style-type: none"> <li>○ Smaller developers may not be able to generate the required pre-FID capital leading them to be distressed sellers of projects and exposed to predatory buyers.</li> <li>○ It will divert a significant amount of working capital to uneconomic endeavours in a market with margins on development are continually tightening.</li> <li>○ If it is trying to nudge projects that have effectively decided to cancel out of the queue, but don't have the current incentive to do so, it is an unnecessary high-cost level. However, if it is to be used as a device to close out their desire to hold on to optionality, it is a blunt instrument with no assessment as to its effectiveness. We worry in this context the developers with the deepest pockets, not necessarily the best or most ready projects, will be able to financially bully their way to the front of the queue.</li> <li>○ It should also be noted that the connection process already contains a significant number of commercial incentives and obligation milestones that a project is exposed to in order to retain its queue position. Whilst early</li> </ul>
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		nudging to remove non-viable projects is welcome, we should not forget that other measures are already in place which would complement the self-regulation the market will undertake due to economic and funding realities.
14	Do you agree that the OTCF should be applied to projects which co-locate an oversubscribed technology with another technology?	<p><input type="checkbox"/>Yes</p> <p><input checked="" type="checkbox"/>No</p> <p>The stated defect is that if non-viable projects remain in the queue for a period this restricts the ability of the network companies to utilise that capacity for viable projects sitting behind them and allow these projects to be advanced in date. If the BESS is a second technology connecting to an existing generation connection, then whether the BESS connects or not will have no impact on the ability to advance the later project. This is reinforced by the point that current NESO modelling does not assume that BESS connections impact wider reinforcement requirements. As such it is not contributing to the issue identified and should not be impacted by it.</p> <p>We would argue, where the second technology does not require any additional attributable works to be completed then it is not contributing to the described defect and should not be exposed to the OTCF.</p>
15	Do you agree that the OTCF should apply as well as the PCF?	<p><input type="checkbox"/>Yes</p> <p><input checked="" type="checkbox"/>No</p> <p>Although we accept that the likelihood of the PCF and OTCF overlapping would be rare, in those</p>

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		<p>circumstances cost could be disproportionate given the point of development of the project. Ofgem accepted the argument and analysis that the PCF was sufficient that it would be greater than the optionality value of projects with slightly negative IRR and incentivise them to exit the queue. If this is sufficient to cause a project in such a state to withdraw from the queue any additional securities are redundant and just lead to inefficient deployment of capital.</p>
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?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Click or tap here to enter text.</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</p> <p><input type="checkbox"/> No</p> <p>Click or tap here to enter text.</p>
18	Do you agree with the proposed Alternative Request 1 solution?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>

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		<p>We have sympathy for the concern raised that Dx parties, who don't currently have a TL offer, who wish to pursue one to advance the Dx element of their connection, will have to sign their existing G2 offer before such a TL offer can be evaluated.</p> <p>However, although expressed as an intent by DNO's, there is no guarantee that these subsequent TL offers will all be made in the year post all DNO G2TWQ being signed. So, this outcome is not certain. This then must be weighed up against the fact that March 2028 is very far in the future and so would limit the ability to resolve the defect highlighted in the proposal. If the implementation is delayed until this date, we would argue that market self-regulation and QM milestones will have already dramatically reduced queue over-subscription. Therefore, waiting this long might lead to the conclusion that this modification is no longer needed.</p> <p>It should also be noted that March 2028 is the point at which all Dx offers have been made, not all offers have been accepted or rejected. Therefore, the DNO's will not have a final view of the generation background position until possibly two months later than this. This then means that the OTCF may not be implemented until a year later which would be the Sept 2028 securities run.</p>
19		<p><input type="checkbox"/>Yes</p> <p><input type="checkbox"/>No</p>

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	<p>Do you agree with the proposed Alternative Request 1 solution?</p>	<p>We believe that the price is in the rough magnitude of what would be required to incentivise a non-viable project to exit the queue. However, we believe the most efficient economic decisions are made when the whole market has the best knowledge possible. We are concerned that some parties will have to make decisions regarding their projects before the full list of accepted offers has been published. This could mean those with earlier issued connection contracts might be disadvantaged by not knowing the position of the entire queue and make decisions that lead to sub optimal market outcomes.</p> <p>We are also concerned that the test for over subscription is based on the potential for offers to be accepted rather than offers being accepted. We would argue that is putting the horse before the cart.</p> <p>We are also concerned that the alternative proposal has removed the deadband proposed in the original which recognised that predictions of future BESS requirements are only estimates and allows some room for market participants to exercise some judgment as to the optimum level of BESS. Also, due to lumpy &amp; higher barriers to entry for new BESS applications now that connection reform has been implemented, it is better for a market to be slightly oversupplied rather than undersupplied where the commodity is both a necessity and relatively demand inelastic in nature.</p>
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