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Code Administrator 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 June 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:	Charles Saywell	
Company name:	Apatura	
Email address:	Charles.saywell@apatura.energy	
Phone number:	07701259863	
Which best describes your organisation?	<input type="checkbox"/> Consumer body <input type="checkbox"/> Demand <input type="checkbox"/> Distribution Network Operator <input type="checkbox"/> Generator <input type="checkbox"/> Industry body <input type="checkbox"/> Interconnector	<input checked="" type="checkbox"/> Storage <input type="checkbox"/> Supplier <input type="checkbox"/> System Operator <input type="checkbox"/> Transmission Owner <input type="checkbox"/> Virtual Lead Party <input checked="" type="checkbox"/> Other - Developer

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I wish my response to be:

(Please mark the relevant box)	<input checked="" type="checkbox"/> Non-Confidential (<i>this <u>will be shared</u> with industry and the Panel for further consideration</i>)
	<input type="checkbox"/> Confidential (<i>this will be disclosed to the Authority in full but, unless specified, <u>will not be shared</u> with the Panel or the industry for further consideration</i>)

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 question 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;*

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- 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 Code Administrator Consultation questions		
1	Please provide your assessment for the proposed solutions against the Applicable Objectives against the current baseline.	Mark the Objectives which you believe the proposed solutions 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
		WACM1 <input type="checkbox"/> i <input type="checkbox"/> ii <input type="checkbox"/> iii <input type="checkbox"/> iv <input checked="" type="checkbox"/> None
		WACM2 <input type="checkbox"/> i <input type="checkbox"/> ii <input type="checkbox"/> iii <input type="checkbox"/> iv <input checked="" type="checkbox"/> None
		WACM3 <input type="checkbox"/> i <input type="checkbox"/> ii <input type="checkbox"/> iii <input type="checkbox"/> iv <input checked="" type="checkbox"/> None
		WACM4 <input type="checkbox"/> i <input type="checkbox"/> ii <input type="checkbox"/> iii <input type="checkbox"/> iv <input checked="" type="checkbox"/> None
		WACM5 <input type="checkbox"/> i <input type="checkbox"/> ii <input type="checkbox"/> iii <input type="checkbox"/> iv <input checked="" type="checkbox"/> None
		WACM6 <input type="checkbox"/> i <input type="checkbox"/> ii <input type="checkbox"/> iii <input type="checkbox"/> iv <input checked="" type="checkbox"/> None
		Click or tap here to enter text.
2	Do you have a preferred proposed solution?	<input type="checkbox"/> Original <input type="checkbox"/> WACM1 <input type="checkbox"/> WACM2 <input type="checkbox"/> WACM3 <input type="checkbox"/> WACM4

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		<input type="checkbox"/> WACM5 <input type="checkbox"/> WACM6 <input checked="" type="checkbox"/> Baseline <input type="checkbox"/> No preference
		<p>Aptura’s preferred outcome is the Baseline (no change), and we do not support the Original proposal or any of the WACMs we cannot support a proposal to implement any of them. Please see our answer to Q4 for full reasonings.</p>
3	Do you support the proposed implementation approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		<p>No. Our substantive reasoning is set out in full in our response to question 4. The comments below address the implementation approach specifically, on the assumption (which we do not accept) that some form of the modification were to proceed.</p> <p>We consider the proposed approach to be premature and poorly sequenced. Practical application is targeted at the April or July 2027 securities statement, which falls ahead of, or alongside, a series of developments that are each likely to materially change the position that the OTCF is intended to address: the publication of the Strategic Spatial Energy Plan in Autumn 2027, which may revise upward the capacity targets against which oversubscription is measured; the outputs of NESO’s 2026 annual Connections Methodologies consultation, which is considering the protection clauses and other</p>

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		<p>measures that bear directly on the level of oversubscription; and the completion of the G2TWQ process and the first Gated Application Window, after which the queue will be far better understood. A number of Workgroup members made the same point – that committing to implementation before this information is available risks acting on an incomplete and rapidly changing evidence base.</p> <p>The evidence available to the Workgroup was, in our view, insufficient to calibrate or implement the mechanism with confidence. In particular, there was limited data on the existing securities and liabilities of projects in the queue, and effectively none for the substantial volume of distribution-connected, embedded projects (estimated at around 27GW of Gate 2 capacity across Phases 1 and 2) that the modification would nonetheless capture. We do not consider it appropriate to implement a charge of this kind, and at the levels proposed, without first understanding its impact on those projects.</p> <p>Finally, the implementation approach would not, of itself, achieve the outcome it is designed to support. Transmission Owners would remain licence-bound to plan and build to the full queue, so network design for the oversubscribed volume is likely to be undertaken (and in some cases re-worked) regardless of the OTCF. We see no urgency that justifies implementing now rather than allowing the steps above to play out: there is nothing to prevent a proposal of this kind being brought forward in future, including on an urgent basis, should the position after G2tWQ provide a clear,</p>
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		<p>evidenced case for it. Implementing prematurely, by contrast, risks unintended consequences and a further modification to correct them – an inefficient use of industry resource and damaging to investor confidence.</p>
4	<p>Do you have any other comments?</p>	<p>Apatura does not support the Original proposal or any of the WACMs. We consider the Baseline (do nothing) to be the best option against the Applicable CUSC Objectives, and we note that a significant number of Workgroup members reached the same conclusion. Our reasons are set out below, and reflect concerns that were raised consistently throughout the Workgroup and consultation process.</p> <p>The OTCF is anti-competitive and discriminatory. This is our central objection, and it applies equally to the Original and to every WACM. The fee operates as an escalating ‘pay-to-stay’ charge that selects projects on the basis of access to capital rather than genuine deliverability, investability or consumer value. It bites hardest on projects with the lowest existing securities and on developers with the least available working capital – which, perversely, are often the most financially efficient projects and not the least viable. In practice it would force viable projects held by smaller, less well-capitalised and frequently high-quality independent developers out of the queue. Where those projects sit near the front of the queue, the likely result is not termination but acquisition by larger, better-capitalised developers: capacity simply changes hands, the queue does not shorten, and oversubscription is not resolved. The outcome is</p>

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		<p>consolidation, distressed sales to better-resourced buyers, and a barrier to entry that is inconsistent with effective, competitive markets and with the principles of non-discrimination and proportionate, market-based intervention. Several respondents went further and questioned the proposal’s compatibility with wider competition law. For these reasons we consider the proposal clearly negative against Applicable Objective (ii).</p> <p>Allow the queue to work naturally. We believe the market will resolve the current oversubscription without intervention, and that the connection queue should be allowed to do so. As projects towards the front of the queue connect and build out, the forecast revenues available to projects further down the queue will fall below the level needed to support investment, and the economics will compel these less viable projects to exit. This is the mechanism by which an efficient level of capacity is reached, and it acts on genuinely uneconomic projects rather than on the basis of which developer happens to hold the most capital. The notion that remaining in the queue is a cost-free option is, in any event, overstated: projects must still maintain land option agreements, re-apply for planning consent over time, and fund the ongoing costs of keeping their project vehicles open, and the overwhelming majority already carry non-trivial liability exposure that ramps as works progress. Most non-viable projects will therefore self-terminate as these costs bite. We also share the view, expressed by others, that the existing tools have not yet been given time to take effect: the</p>
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		<p>Queue Management Milestones and the unfreezing and ramping of User Commitment securities are both significant drivers of attrition that have barely begun to operate in the post-Connections Reform queue, and a project's place in the queue is more appropriately tested by its progression against contractual milestones than by its ability to fund an additional fee.</p> <p>It is a blunt instrument that targets the wrong thing.</p> <p>The mechanism uses a flat £/MW charge as a proxy for what is fundamentally a physical constraint – the availability of substation bays, attributable works, connection configuration and wider network capacity. A per-MW fee bears little relationship to a project's actual network impact, and disproportionately penalises larger projects, even though those projects can often deliver the lowest-cost energy through economies of scale and may offer the best consumer outcomes. The result may be to discourage larger, more efficient projects and reduce the average scale of those that remain. Evidence presented to the Workgroup indicated that even a relatively low fee would represent a material cost across the large majority of the BESS queue – enough to threaten projects that are genuinely investable but cannot absorb the additional development cost and risk. We are not persuaded that a financial charge of this design will reliably remove the least viable projects; it is at least as likely to remove viable projects held by the least well-funded developers, which would be a perverse outcome.</p>
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	<p>The underlying issue sits outside the CUSC and should be addressed there. The root of the concern is that Transmission Owners are licence-bound to plan and build to the full circa 90GW queue rather than to the circa 30GW Clean Power 2030 target. That obligation – not the behaviour of developers – is what drives the risk of network over-design, and it cannot be changed by a CUSC charge. The appropriate levers lie elsewhere: in NESO’s Connection Methodologies (including the treatment of the protection clauses that created the oversubscription in the first place), in Transmission Owner measures such as bay-sharing and delayed or flexible bay allocation, in the existing arrangements for charging customers for early design effort, and in options such as a TEC amnesty that minimise the cost of voluntary withdrawal rather than penalising those who remain. The issue would be far better tackled in the round – by Government and the Authority – across the Methodologies and CUSC governance frameworks that industry cannot itself align.</p> <p>The CP30 target is not a reliable benchmark, and optionality has value. The proposal treats the Clean Power 2030 capacity figure as a firm ceiling against which any excess is, by definition, unwanted. We are not convinced this is sound. The targets were set at a point in time, rest on a ten-year forecast for a relatively new and fast-moving technology, and may well be revised upward – the forthcoming SSEP is understood to point to materially higher storage volumes over the longer term, and projected growth in electricity demand, generation and storage suggests GB may ultimately</p>
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	<p>need more BESS than currently targeted. In a system undergoing huge transformation, where future requirements are more uncertain than ever, there is surely real value in retaining a deeper pipeline of ready-to-connect projects that affords flexibility and adaptability if requirements change. Forcing capacity out now, on the basis of a single point-in-time target, risks an over-correction that is difficult and costly to reverse and that the Proposer itself acknowledged the solution must be designed to avoid.</p> <p>The mechanism adds disproportionate complexity and administrative burden. The OTCF introduces a further layer of technology triggers, activation and deactivation thresholds, biannual recalculation, escalation steps, co-location rules and project-specific securities calculations, sitting on top of the Progression Commitment Fee and the existing User Commitment arrangements that Users already find difficult to navigate. This adds cost, uncertainty and administrative burden for NESO and parties to the Code, and works against Applicable Objective (iv). We do not consider that the limited and uncertain benefits claimed for the mechanism outweigh this additional complexity, particularly where, as set out above, it is unlikely to deliver the intended reduction in oversubscription.</p> <p>There is a real cost to investor confidence. Connections Reform has already required difficult adjustments for the industry. Layering a further financial obligation onto projects that have signed or will shortly sign Gate 2 Offers risks damaging investor</p>
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		<p>confidence, raising the cost of capital, and reducing the attractiveness of the UK as a place to invest in clean energy – ultimately to the detriment of consumers and the wider Net Zero programme. This concern is heightened by the prematurity of the proposal and the thinness of the supporting data, as set out in our response to question 3.</p> <p>For all of these reasons, Apatura supports the Baseline and does not consider that the Original proposal or any WACM better facilitates the Applicable Objectives. To the extent the Authority is minded to intervene at all, we would urge that it does so through the more appropriate routes identified above, and only once the position following G2tWQ, the SSEP and NESO’s methodologies review is clear.</p>
5	<p>Do you agree with the Workgroup’s assessment that the modification <u>does not</u> impact the Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the Code?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <hr/> <p>Click or tap here to enter text.</p>