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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:	Dr Gordon Watson	
Company name:	Sustainability Unlimited	
Email address:	gwatson@su-llp.com	
Phone number:	07856454236	
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 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

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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 checked="" type="checkbox"/> iv <input type="checkbox"/> None
		WACM1 <input type="checkbox"/> i <input checked="" type="checkbox"/> ii <input type="checkbox"/> iii <input checked="" type="checkbox"/> iv <input type="checkbox"/> None
		WACM2 <input type="checkbox"/> i <input type="checkbox"/> ii <input type="checkbox"/> iii <input checked="" type="checkbox"/> iv <input type="checkbox"/> None
		WACM3 <input type="checkbox"/> i <input type="checkbox"/> ii <input type="checkbox"/> iii <input checked="" type="checkbox"/> iv <input type="checkbox"/> None
		WACM4 <input type="checkbox"/> i <input type="checkbox"/> ii <input type="checkbox"/> iii <input checked="" type="checkbox"/> iv <input type="checkbox"/> None
		WACM5 <input type="checkbox"/> i <input checked="" type="checkbox"/> ii <input type="checkbox"/> iii <input checked="" type="checkbox"/> iv <input type="checkbox"/> None
		WACM6 <input type="checkbox"/> i <input checked="" type="checkbox"/> ii <input type="checkbox"/> iii <input checked="" type="checkbox"/> iv <input type="checkbox"/> None
		To be clear at the outset, I am not persuaded the case for any change has been made, and on cost-reflectivity grounds I have real reservations about every option here: charging fully-secured commitment fees against works that do not exist is not cost-reflective, and cost-reflectivity is the bedrock principle these arrangements exist to protect. The marks above identify, on that sceptical footing, where each option nonetheless improves on the current baseline.

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		<p>Objective (i): neutral. I do not see any option as a better discharge of the Licensee's obligations than the baseline.</p> <p>Objective (iii): neutral. Nothing here turns on the Electricity Regulation.</p> <p>Objective (ii): the Original is actively anti-competitive. A flat per-MW securities floor filters developers by the size of their balance sheet, not by the quality or deliverability of their projects. It rewards being big over being good. The only variants that meaningfully soften that harm are those carrying a per-project cap (WACM1, WACM5 and WACM6), which at least tether the fee to a project's own commitment profile rather than to an arbitrary universal number. I have marked (ii) for those three on that basis, with WACM5 my preferred of a bad bunch.</p> <p>Objective (iv): I accept that every workable variant would shrink the Gate 2 queue and so improve the administrative efficiency of the CUSC arrangements, and I have marked (iv) across the options accordingly. But efficiency bought by squeezing out smaller, less-capitalised, yet perfectly viable developers is efficiency delivered through bad policy design, and the Panel should be clear-eyed that this is what it is buying.</p>
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 <input checked="" type="checkbox"/> WACM5 <input type="checkbox"/> WACM6

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		<input type="checkbox"/> Baseline <input type="checkbox"/> No preference
		<p>My preferred solution is WACM5. To be clear, I do not support CMP470 in principle and am not persuaded the case for any change has been made.</p> <p>But of the options on the table, WACM5 does the least damage: it pairs a per-project cap with disapplication once Queue Management Milestones are met and a two-stage rate that goes easiest on far-dated connections, so it softens the anti-competitive blow while still serving the queue-management aim. I am therefore expressing a preference for it as harm reduction, not endorsement. One caveat: whichever option proceeds, the co-located exemption should be closed (as WACM4 does), so that like is treated as like.</p>
3	Do you support the proposed implementation approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		<p>No. The horses have already bolted. BESS developers began signing Gate 2 offers months before this consultation and bolting on a new and potentially large securities liability mid-flight forces investors to make decisions in the dark and to reprice commitments already made in good faith.</p> <p>Changing the deal after parties have committed is corrosive to investor confidence, and the message it sends will be heard well beyond BESS. Whatever the precise activation date, applying this to projects already in train is retrospective in effect, and I cannot support it.</p>

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4	Do you have any other comments?	<p>A few broader points.</p> <p>First, this is bad for investment, full stop. We have spent recent years hitting BESS with the stick (Connections Reform, CP30, the CMP448 Project Commitment Fee, and now CMP470) and done a poor job of offering any carrot. Anyone holding a Gate 2 offer will cling to it for dear life, and a further financial threat will not change that; it will only harden positions. We have shown the army the edge of the cliff but not the escape route, then wondered why they keep fighting. Sun Tzu would call those poor tactics, and I do not believe this modification will have the large effect it intends no matter what option is chosen. It will remove a scant few from the queue while creating more cost and uncertainty for everyone in the process.</p> <p>Second, it is not cost-reflective. Paying fully-securitised liabilities against works that do not exist is, frankly, ridiculous, and grid connections have never worked this way. We reward businesses for siting projects in good locations; that is a competitive advantage, fairly won. Just because someone else was sharper than you in finding a cheap connection point does not entitle you to retcon the past. Much of the energy behind this proposal reads more like sulk policy than sound policy.</p> <p>Third, and most seriously, this is anti-competitive and discriminatory. It is dressed up as an 'Oversubscribed Technologies Commitment Fee', but that label is wallpaper: in effect and by design it targets BESS, and BESS alone, for the foreseeable term. A measure that is technology-neutral on paper but BESS-specific in practice is discrimination against a technology class, and it sits very uncomfortably with the principle of non-discrimination and with the effective-competition objective the CUSC exists to uphold.</p>
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		Finally, on design: if some version of this modification proceeds regardless of the above, close the carve-outs. The co-located exemption in the Original is a loophole, and loopholes breed distortion and gaming. Whatever option is chosen, loopholes should be removed.
5	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?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <p>No, not without qualification. I accept that CMP470 does not, on its face, amend the Article 18 terms and conditions for balancing services held within the Code. But 'no textual change' is not the same as 'no impact'.</p> <p>By raising a balance-sheet barrier to entry that bites specifically on battery storage, a technology central to system balancing and flexibility, the measure will shape the future pool of balancing service providers, thinning it and tilting it toward large incumbents. The Workgroup's clean finding of no EBR relevance is too dismissive of those indirect but real effects on competition, liquidity and entry in the balancing markets. The narrow Article 18 box may be unticked, but the broader EBR objectives are not untouched.</p>