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Workgroup Consultation Response Proforma

CMP444: Introducing a cap and floor to wider generation TNUoS Charges

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@nationalenergyso.com by **5pm** on **29 January 2025**. 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@nationalenergyso.com.

Respondent details	Please enter your details	
Respondent name:	Tony Diccico	
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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:

(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 Workgroup, Panel or the industry for further consideration)

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For reference the Applicable CUSC (charging) Objectives are:

- a) *That compliance with the use of system charging methodology facilitates effective competition in the generation and supply of electricity and (so far as is consistent therewith) facilitates competition in the sale, distribution and purchase of electricity;*
- b) *That compliance with the use of system charging methodology results in charges which reflect, as far as is reasonably practicable, the costs (excluding any payments between transmission licensees which are made under and accordance with the STC) incurred by transmission licensees in their transmission businesses and which are compatible with standard licence condition C11 requirements of a connect and manage connection);*
- c) *That, so far as is consistent with sub-paragraphs (a) and (b), the use of system charging methodology, as far as is reasonably practicable, properly takes account of the developments in transmission licensees' transmission businesses and the ISOP business*;*
- d) *Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency **; and*
- e) *Promoting efficiency in the implementation and administration of the system charging methodology.*

* See Electricity System Operator Licence

**The Electricity Regulation referred to in objective (d) 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 6) 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 ESO 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 facilitate the Applicable Objectives?	Mark the Objectives which you believe each solution better facilitates:					
		Original	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input checked="" type="checkbox"/> C	<input type="checkbox"/> D	<input checked="" type="checkbox"/> E
		<p>Locational TNUoS charges start to lose their rationale in a "Plan-led" world - generators should not be penalised for locating in areas which are best suited to enable the 2030 Clean Power objectives (and beyond) to be met. There is a fundamental question to be addressed on how TNUoS charges should be calculated in a plan-led world.</p> <p>We support this modification as an interim measure as it addresses a defect in the current charging methodology where the costs of upgrading the transmission system to meet climate change objectives are loaded onto new generation, leading to very high charges in northern Britain.</p> <p>We agree that the proposal holds the potential to improve competition through enabling more low carbon energy projects to bid into the Contracts for Difference (CfD) auctions. The proposal should improve substantially the investment in low carbon generation in Scotland by dampening the uncertainty over the outcome of the Review of Electricity Market Arrangements (REMA) and due to a potential tripling of generator Transmission Network Use of System (TNUoS) charges in northern GB.</p>					

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2	Do you support the proposed implementation approach?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>We support the proposed implementation approach and the proposed implementation date of April 2026. We understand that the proposed cap and floor does not require NESO to change its TNUoS forecasting approach or timetable and is able to be implemented by April 2026. We strongly support the intention to introduce this intervention to ensure market certainty ahead of the likely CfD Allocation Round 7 (AR7) bid submission window.</p>
3	Do you have any other comments?	<p>We acknowledge that long-term uncertainty around how charges will develop may increase costs for generators and create barriers to investment, ultimately risking the delivery of a clean power system by 2030 through Contracts for Difference ("CfDs") or merchant investments and reinvestments.</p>
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) <input checked="" type="checkbox"/> No <p>We believe that the Original and Alternatives proposed are sufficient to meet the Working Group objectives. However, a possible alternative would be to amend Alternative 1 to use a 4-year NESO forecast rather than the current 5-year forecast i.e. the 2029/30 charging year would be removed.</p>
5	Does the draft legal text satisfy the intent of the modification?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>Click or tap here to enter text.</p>

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6	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
		We do not believe that the proposed modification will have a significant effect on the generation mix and scheduled output and hence the effects on system balancing will be minimal.

Specific Workgroup Consultation questions

7	Do you believe the cap and floor should have an end date? If so, how long or what is the appropriate trigger.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		We do not support a Sunset Clause – such a clause would be difficult to introduce due to issues around the legal drafting. A Sunset Clause requires something definitive to be in place to replace it. We believe that it would be better to raise a new modification or legal change to bring the original modification to an end. One possible solution is for Ofgem and NESO to commit to review the cap and floor on generation TNUoS five years following approval of the modification by Ofgem.
8	What level of certainty would be required from this modification to best support investment decisions? Please justify any additional protection required (for example grandfathering rights or any other levels of protection).	<input type="checkbox"/> Yes <input type="checkbox"/> No
		Both the cap and floor are anticipated to be temporarily in place until the reforms through REMA are implemented, although no specific end date has been defined in this modification. Transitional arrangements and/or additional ongoing protection should be put in place for generators who have either secured a CfD or have made a final investment decision while the temporary arrangements are effective. Charges could be

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		<p>capped (or floored) for the duration of any CfD or PPA at the levels set by the transitional modification to provide investment certainty and help meet the CP30 policy objectives.</p> <p>We believe that full grandfathering is essential for all existing assets and committed investments where investment decisions were made based on national pricing and lacked certainty regarding the final REMA reform package. The Government must promptly clarify the process of grandfathering to uphold investor confidence. This should first involve detailed consultation and analysis to inform decision-making and mitigate negative market impacts and any potential distortion of competition between projects.</p>
9	Does the Original proposal with no specific end date provide Developers with sufficient confidence to make an investment decision? Please justify.	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Yes, if additional protection is put in place to provide investment certainty, either as a result of CMP444 implementation or grandfathering as a result of the REMA enduring solution.</p>
10	Does the Original Proposal and any of the Alternatives raised achieve the objectives of the Ofgem letter?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Yes, the Original does partially achieve the objectives of the Ofgem letter to provide investment certainty by capping transmission charges. However, the reduction in the Tariff under the Original Solution may not be large enough to deliver the investment required to achieve the Clean Power 2030 policy objectives. Alternative 1 achieves Ofgem's objectives and we believe provides a better solution as it sets the cap at a more appropriate level to incentivise investment. All of the other alternatives also meet some of the objectives. One issue</p>

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		that needs to be addressed, is the effect on the Generator Adjustment component of the possible alternatives. We have some concerns that there may be uncertainty created by swings in the Generator Adjustment due to the application of some of the alternative proposals. We would like to see more evaluation during the WG process to clarify/quantify this issue.
11	Do you agree with the data set proposed for the calculation of the cap and floor? If not, what data set would you propose? What is your view on the use of NESO's 5-year forecast of April 2024?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The NESO 5-year forecast includes the 2029/30 charging year which includes ASTI costs. We believe therefore, that it would be more appropriate to use a 4-year forecast which removes 2029/30 as this would be more cost-reflective.
12	Please provide your assessment of the Original Solution and the 7 Alternative Requests discussed by the Workgroup (additionally, please indicate your preferred solution with associated justification):	
Alternative Request		Assessment
Original Solution		The Original does partially achieve the objectives of the Ofgem letter to provide investment certainty by capping transmission charges. However, the reduction in the Tariff under the Original Solution may not be large enough to deliver the investment required by Clean Power 2030 and the floor might be set too low.
Alternative Request 1		This Alternative Proposal leads to an effective floor in Southern zones as well as a cap in the Northern zones. The use of deciles, rather than standard deviations, is more statistically appropriate given the non-normal distribution of peak transmission charges. We believe that this is the best alternative and better than the Original. We believe that this alternative could be improved by using a 4-year forecast which excludes year 2029/30.
Alternative Request 2		We are unsure of the economic rationale for a two-tier cap in Northern Britain and this may also be more

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	difficult to implement than other alternatives. The proposed approach in this alternative (and in Alt 3) uses one standard deviation to produce the cap and the floor – this gives a less economically appropriate solution than Alt 1. This alternative would also not have a meaningful impact on the cap compared to the original proposal until after 2030 according to NESO's projections. After that point, the proposal would reduce the cap for zones 8-12 in Scotland, though most likely only after the CP30 objective was met.
Alternative Request 3	We are unsure of the economic rationale for a two-tier cap in Northern Britain and this may be more difficult to implement than other alternatives. The lack of a reduction in the generation adjustment charge to make up for lost revenues due to the cap would mean costs would have to fall on residual demand TNUoS charges. This could have a seriously negative impact on British consumers and key businesses at a time when standing charges are already expected to rise and the UK's relatively high energy costs are already deterring investment.
Alternative Request 4	Withdrawn
Alternative Request 5	We believe that this alternative would deliver the policy goals required to achieve CP30 which is a key objective set out in Ofgem's letter on future transmission charging. We believe that this option should be explored further.
Alternative Request 6	We see some merit in only using 4 years' worth of forecast costs when calculating the cap and floor. This proposal is projected by NESO to noticeably limit generation TNUoS charges north of the B6 boundary while having a minimal impact on the reduction in credits in the South compared to the original proposal. Therefore, ESB supports this alternative being considered further.
Alternative Request 7	This alternative would lead to the implementation of a cap and floor while balancing the need to preserve locational signals through introducing a maximum cap and maximum range of charges between zones.

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	<p>However, the downside is that this alternative would lead to a reduced impact on the generation TNUoS cap on zone 1-4 charges in Scotland in financial year 2029/30 when there are significant high-cost investments needed in those regions prior to 2030. Therefore, we believe that this alternate request fails to meet fully the objectives of the Ofgem open letter.</p>
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