

Public

## 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](mailto: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](mailto:usc.team@nationalenergyso.com).

Respondent details	Please enter your details	
<b>Respondent name:</b>	Graham Pannell	
<b>Company name:</b>	BayWa r.e.	
<b>Email address:</b>	Graham.pannell@baywa-re.co.uk	
<b>Phone number:</b>	07823432508	
<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

### 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)

## Public

### 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.*

## Public

### 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?	<p>Mark the Objectives which you believe each solution better facilitates:</p> <table border="1"> <tr> <td data-bbox="448 1070 922 1137">Original</td><td data-bbox="922 1070 1404 1137"> <input checked="" type="checkbox"/> A   <input type="checkbox"/> B   <input type="checkbox"/> C   <input type="checkbox"/> D   <input type="checkbox"/> E </td></tr> </table> <p>A: better; B-E: neutral.</p> <p>A) This change would facilitate enhanced competition in generation, by decreasing uncertainty for projects, allowing them to proceed at competitive costs</p> <p>B) The change is structured so that cost-reflective locational signals are largely preserved, though slightly blunted should the caps and/or floors be hit</p> <p>C) No relevant developments apply</p> <p>D) Compliance with EC 838/2010 is maintained through the generation adjustment tariff. The chosen solution avoids undue discrimination between technology types, which EC 2019/943 prohibits.</p> <p>E) Tariff setting process ahead of each charging year is only made a little more complicated than baseline. The extra complexity and work are at this stage believed to be modest.</p>	Original	<input checked="" type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E
Original	<input checked="" type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E			
2	Do you support the proposed	<input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No		

## Public

	implementation approach?	Click or tap here to enter text.
3	Do you have any other comments?	Click or tap here to enter text.
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  I am the proposer of Alternative Request 6.
5	Does the draft legal text satisfy the intent of the modification?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  Click or tap here to enter text.
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  Click or tap here to enter text.

## 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  Agree with the Original Proposer's consideration on end date (report p14-15) – i.e. to raise another modification at the right time in future.
8	What level of certainty would be required from this	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

## Public

	modification to best support investment decisions? Please justify any additional protection required (for example grandfathering rights or any other levels of protection).	Appropriate certainty is provided by implementation of an appropriate cap/floor (Original or any of the alternatives 1-7) without end date (requiring a further modification to update/replace the cap/floor as necessary, in time with a future major intervention).
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>Flipping the question – a Cap/Floor proposal <u>with</u> an end date would add a degree of uncertainty which does <u>not</u> help an investment decision.</p> <p>Excluding an end date means a new modification would be required to change the Cap/Floor – as would be fully appropriate following e.g. a major REMA decision, or a similar major decision following Ofgem's work on the strategic future of TNUoS, and can be judged on its merit at that time. This allows investors to make broad assumptions in kind, pending their view on the potential major changes which may come (without the complexity of an artificial and potentially mis-timed end-date of cap/floor).</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>The Original and all of the Alternatives merit consideration, for better meeting Objective A (better facilitating effective competition) and broadly improving on the baseline methodology. Any conclusion on "Best" Alternative is subject to a holistic quantitative impact assessment; at this stage it is best if all of these solutions (Original and Alternatives 1-7) are progressed for such assessment.</p> <p>Alternative 6 better meets concerns around forecasted large changes in charges driven by the delivery of large-scale strategically-planned infrastructure, by excluding the forecast data for 2029/30 (see answer to question 11 for references). We support that this approach (excluding FY29/30) is part of Alternative 7.</p>

## Public

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?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>The objectives of the Ofgem letter are better met by excluding forecasted large changes in charges triggered by strategically planned network delivery. As per the proposal for Alternative 6:</p> <p>On 30 September 2024 Ofgem published an open letter<sup>1</sup> outlining their concerns around the uncertainty of long term TNUoS (Transmission Network Use of System) charges, and the risks posed by TNUoS volatility to HM Government's ambition of achieving a clean power system by 2030.</p> <p>NESO has developed an Original Proposal under CMP444 which aims to meet the principles set out in the Ofgem letter.</p> <p>The Ofgem letter includes (key points shown in <i>italics</i>):</p> <p>"...uncertainty around long-term Transmission Network Use of System ("TNUoS") charges, <i>particularly concerns driven by last year's 10-year projections</i>",</p> <p>"...industry overwhelmingly agreed with the need to improve the predictability of TNUoS charges and ensure that the locational signals conveyed by these charges are consistent with other market rules and signals, <i>including those related to strategic network planning</i>",</p> <p>"...These increases are primarily driven by the large-scale infrastructure investments that are required to decarbonise the electricity system. Examples of these developments include the 26 critical energy projects worth an estimated £20 billion under the Accelerated Strategic Transmission Investment ("ASTI"<sup>8</sup>) framework, and the Holistic Network Design ("HND"<sup>9</sup>)".</p> <p>The 10-year projection gave a view on TNUoS charges for the period 2029-2034. Further, a number of the most material ASTI and HND investments are to be delivered (such as to influence the TNUoS tariff calculation) cumulatively from the financial year 2029/30. On balance, taking the full context of the Ofgem letter and the challenges identified in the CMP444 proposal, we submit that the cap/floor calculation would better meet the relevant objectives by omitting forecast data for the financial year 2029/2030. This better avoids the concerns around large increases seen in the 10-year projection (which begins in 2029/30), and the increases seen in response to future strategic network planning, i.e. in response to large critical energy network projects delivered under the ASTI and HND frameworks (which materially begin accumulating from 2029/30).</p>

## Public

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):	
	<b>Alternative Request</b>	<b>Assessment</b>
	Original Solution	Broadly better meets objective A, overall better than baseline; potentially also 'Best' subject to holistic IA.
	Alternative Request 1	Broadly better meets objective A, overall better than baseline; potentially also 'Best' subject to holistic IA.
	Alternative Request 2	Broadly better meets objective A, overall better than baseline; potentially also 'Best' subject to holistic IA.
	Alternative Request 3	Broadly better meets objective A, overall better than baseline; potentially also 'Best' subject to holistic IA.
	Alternative Request 4	Broadly better meets objective A, overall better than baseline; potentially also 'Best' subject to holistic IA.
	Alternative Request 5	Broadly better meets objective A, overall better than baseline; potentially also 'Best' subject to holistic IA.
	Alternative Request 6	<p>Broadly better meets objective A, overall better than baseline; potentially also 'Best' subject to holistic IA.</p> <p>Choice of dataset better meets concerns on the impact of major strategic infrastructure investment than Original and Alternative 1-5, but note this can be merged with any of the above solutions.</p>
	Alternative Request 7	<p>Broadly better meets objective A, overall better than baseline; potentially also 'Best' subject to holistic IA.</p> <p>Choice of dataset better meets concerns on the impact of major strategic infrastructure investment than Original and Alternative 1-5</p>