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## Workgroup Consultation Response Proforma

### CMP447: Removal of designated Strategic Works from cancellation charges/securitisation

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 **04 August 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 [sarah.williams@neso.energy](mailto:sarah.williams@neso.energy) or [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 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

I wish my response to be:

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(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)

## 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, the Electricity Balancing Regulation (EBR) Article 3 Objectives and regulatory aspects are:

- a) fostering effective competition, non-discrimination and transparency in balancing markets;

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- 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.*

### 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.**

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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 the Original solution better facilitates than the current baseline:
		<div>Original</div> <div> <input type="checkbox"/>i           <input checked="" type="checkbox"/>ii           <input checked="" type="checkbox"/>iii           <input type="checkbox"/>iv           <input type="checkbox"/>None         </div>
		<p>The Attributable liabilities and associated securities for generators who wish to connect (or are encouraged by the CP30 Action Plan to connect) at the periphery or beyond the extent of the existing transmission network are in many cases extremely high and present a barrier to entry. This is particularly so for smaller generators who are unable to provide security through credit rating and so face appreciable costs in providing security. CMP447 has the potential to reduce these liabilities and securities to a more reasonable level. Thus for objective (ii), competition is enhanced by widening the field of participants to include smaller generators, including community groups. For (iii), participation of renewables is facilitated as per point (g) of EBR article 3.</p> <p>Neutral for objectives (i) and (iv).</p>
2	Do you support the proposed implementation approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		<p>The proposed approach will only exclude transmission works which at some future date may be classified by Ofgem as Excepted Works (see also response to Q5), but with nothing to define or guide how or when/how often this classification will be done. This leaves existing contracted generators with no indication of whether or when liabilities associated with potential Excepted</p>

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		<p>Works will be relieved, so raising the possibility that otherwise viable projects will drop out at the Trigger Date. It also gives future connection applicants no certainty.</p> <p>The implementation approach needs to be more definite in specifying the criteria against which assessment for Excepted will be made, who will make the assessment (NESO proposing to Ofgem or Ofgem at their sole discretion?) and when/how often this will happen..</p>
3	Do you have any other comments?	<p>We note that the draft updated CMP192 guidance in annex 7 of this consultation still refers to the changes that were introduced in 2012 as the “new arrangements”. A more in-depth review and update of the document might be worthwhile.</p>
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<div> <input type="checkbox"/> Yes (the request form can be found in the <a href="#">Workgroup Consultation Section</a>)           <input checked="" type="checkbox"/> No       </div> <div> <p>Click or tap here to enter text.</p> </div>
5	Does the draft legal text satisfy the intent of the modification?	<div> <input type="checkbox"/> Yes           <input checked="" type="checkbox"/> No       </div> <div> <p>(i) Draft legal text for CUSC section 11 definition of Excepted Works adds “or so designated...”. In the context of this definition, “so designated” could be construed as meaning <i>designated as “onshore transmission (reinforcement)”</i> whereas the intention of the modification is presumed to be “designated as Excepted...” or legal text to that effect.</p> </div>

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		(ii) As per question 2 above, we believe a more detailed implementation is required, with suitable accompanying legal 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

## Specific Workgroup Consultation questions

7	Can you suggest a better definition, than those put forward in the Workgroup Consultation of how Ofgem might exercise its discretion in relation to designation of transmission works?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		<p>We believe that the implementation should not rely on Ofgem's sole discretion, but instead should address three aspects: criteria for assessment of Excepted; who makes the assessment; and when/how often.</p> <p>The following thoughts are offered for the workgroup's consideration:</p> <p>i) Criteria for assessment of Excepted</p> <p>Options could include one or more of:</p>

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		<p>- Works where TO funding is guaranteed under the relevant price control framework. This is thought to cover RIIO-ET2 LOTI and MSIP transmission investments and their replacement schemes under RIIO-ET3. This can be justified by reference to the Ofgem CMP094 decision letter <sup>1</sup>(see, for example, p.10: <i>"The Proposal identifies and removes a requirement to securitise for assets already guaranteed under the price controls framework"</i>), but needs a deeper understanding of funding mechanisms and the way in which funding is "guaranteed" to back up the justification.</p> <p>- As above, but qualified to require the works to be in line with CP2030 and 2035 planning (this would need a considered definition, perhaps linked to tCNSP, future CSNP and the CNDM methodology). This potentially acts as a filter for works that are already in flight and were approved prior to the CP30 Action Plan.</p> <p>Both of the above rely on a needs case being submitted to and approved by Ofgem.</p> <p>Transmission projects which are already in flight (and which may be important for the Gate 2 to</p>
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<sup>1</sup> <https://www.neso.energy/document/319816/download>

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		<p>Whole Queue process) will already have such approval. However, the timing may be problematic for future gated application rounds, where the needs case and approval for any works arising from the batched network design for that application round are likely to be some time after Gate 2 offers are made.</p> <ul style="list-style-type: none"> <li>- Works that serve multiple/more than one user, as might arise in the holistic designs emerging from the batched network design process.</li> <li>- A special case of works that accommodate multiple users arises when the transmission system is extended a significant distance beyond present boundaries, particularly subsea links to island groups and possibly extension to other remote locations. Liabilities in such cases are typically extremely high.</li> </ul> <p>The present CUSC 11 definition of Attributable Works explicitly states that establishing a new transmission substation or MITS node is Attributable. The workgroup might consider a change to the definition so that construction works to establish a new transmission substation or MITS node are defined as Excepted or are otherwise excluded from Attributable.</p> <p>A MITS node by definition serves multiple users and purposes, and so is of wider system benefit than being attributable to specific users. However, extensions to island groups will not necessarily</p>
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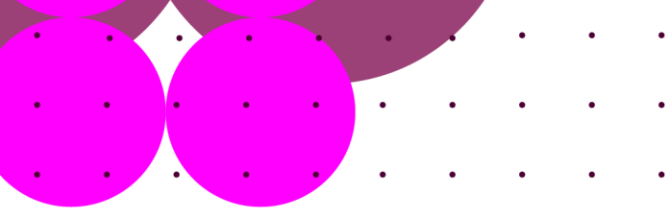


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		<p>establish a new MITS node at the island end (e.g. the Shetland-Caithness DC link), so re-formulating the definition of Attributable to exclude works to establish a transmission substation which is “remote” and has more than one user would be preferred.</p> <p>Workgroup discussion may clarify whether any of these options would bring unacceptable repercussions elsewhere in the system.</p> <p>ii) Who makes the assessment? We suggest that NESO undertakes the assessment, for ratification by Ofgem.</p> <p>iii) When/how often? An early initial assessment is urgently required for the present Gate 2 to Whole Queue exercise.</p> <p>Subsequent assessments could be built in to the batched network design process which is expected to accompany each gated application round under the CMP434 arrangements. This should ensure that works are classified as Excepted or otherwise prior to acceptance of Gate 2 contracts under the enduring regime.</p>
8	Can you suggest an alternative approach to adjustment of the ‘fix’ of the Attributable Works to that in the Original Proposal?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <a href="#">Click or tap here to enter text.</a>

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9	Do you consider that if works are to be removed from the Attributable works cancellation charge (and therefore not securitised via the Attributable Works component of a Generator's potential cancellation charge), because they are designated as "Excepted", the definition of wider works cancellation charge should be altered so as to remove them from the wider works cancellation charge?	<div> <input type="checkbox"/> Yes         </div> <div> <input checked="" type="checkbox"/> No         </div> <div> <p>This topic deserves consideration (as was highlighted in Ofgem's decision letter for CMP428), but would detract from the critical path for resolving this modification in time for the gate 2 to whole queue process. We think it would be better addressed under a separate CMP.</p> </div>
10	Following on from Question 9, does this require a different modification if so?	<div> <input checked="" type="checkbox"/> Yes         </div> <div> <input type="checkbox"/> No         </div> <div> <p>Click or tap here to enter text.</p> </div>
11	Is it important is it for this solution to be implemented in time for Gate 2 offers being issued? Please explain your rationale.	<div> <input checked="" type="checkbox"/> Yes         </div> <div> <input type="checkbox"/> No         </div> <div> <p>It is asking a lot for generators to enter into a new contract without sight of liabilities and breaks with past practice, where liability and security statements have been issued in good time before contracts are signed.</p> </div>



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