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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	
<b>Respondent name:</b>	Kyle Murchie	
<b>Company name:</b>	Roadnight Taylor	
<b>Email address:</b>	Kyle@roadnighttaylor.co.uk	
<b>Phone number:</b>	07500808658	
<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:

(Please mark the relevant box)

☒ **Non-Confidential** (*this will be shared with industry and the Panel for further consideration*)

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☐ **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;
- 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;

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- 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.**

### Standard Workgroup Consultation questions

1	Do you believe that the Original Proposal	Mark the Objectives which you believe the Original solution better facilitates than the current baseline:
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	better facilitates the Applicable Objectives versus the current baseline?		
		Original	<input type="checkbox"/> i <input checked="" type="checkbox"/> ii <input type="checkbox"/> iii <input type="checkbox"/> iv <input type="checkbox"/> None
		The proposed modification improves competition by supporting a consistent securitisation of transmission investment while facilitating a more appropriate allocation of liabilities.	
2	Do you support the proposed implementation approach?	<input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No	
		<p>While the general approach and urgency is supported, there is need for acceleration or a countermeasure in the short term to mitigate the risk faced by Users expected to receive a Gate 2 Offer in late 2025.</p> <p>Securities are frozen until March 2026, yet Users must continue to provide securities in line with their last security statement. Users are anticipating Security and Liability statements as part of their Gate 2 Offer, thus even if securities remain frozen at the time of signing the offer, new liabilities would apply. In the Orkney example presented within the consultation pack, the difference in cancellation charge is £47.01 million. There is therefore a risk that some projects that have passed the Gate 2 Readiness checks, Strategically Align and gain a requested advancement are unable to accept their offer due to a cancellation charge the business / investors cannot accept.</p> <p>Similar challenge for Non-Embedded Users with Final Demand projects where CMP417 is not expected to be implemented ahead of Gate 2 Offers being issued. Combined, the present implementation timeframe for CMP447 and CMP417 could have numerous unintended consequences on large demand projects (often</p>	

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		associated with Data Centre and Hydrogen related investments).
3	Do you have any other comments?	<p>Please see subsequent sections.</p> <p>Primary comment centres around the lack of methodology, allowing Ofgem to designate Excepted Works while not outlining the methodology for designation, nor set out where and how such a designation will be communicated.</p>
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<p><input type="checkbox"/> Yes (the request form can be found in the <a href="#">Workgroup Consultation Section</a>)</p> <p><input checked="" type="checkbox"/> No</p> <p>Not at this time. May seek to raise an alternative as Workgroup Members, but it is preferred that the Original is refined to address the comments raised.</p>
5	Does the draft legal text satisfy the intent of the modification?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>It is agreed that projects with a Fixed Attributable Works Cancellation Charge should have costs associated with any Exempted Works removed. While Users should continue to have a choice of Fixed or Variable profiles, these should always be based on actual works that are User driven and not classed as Strategic Works. Thus, the CUSC Section 15 changes to the legal text are supported.</p> <p>Noted that the erroneous square brackets should be removed from Section 11 and the definition of Attributable Works.</p> <p>Changes to CUSC Section 11 seek to extend the definition of Excepted Works to include onshore transmission reinforcement that is "designated by the</p>

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		<p>Authority". Yet this modification does not currently outline the methodology for designation, nor set out where and how such a designation will be communicated. The impact of CMP447 cannot accurately be assessed given it does not define the route to designation of Excepted Works, thus it is recommended the Workgroup address ahead of the Final Modification Report being issued to Ofgem.</p> <p>At time of Ofgem decision, Users require a clear list of network investments that will be classed as Excepted Works at time of implementation. This will also aid TOs and NESO during the preparation of Gate 2 Offers and the April 2026 to September 2026 security period. Additionally, a methodology for future designation of Excepted Works is recommended, noting some aspects of the development may need to sit outside of the formal CUSC Mod.</p> <p>Importantly, the proposed legal text does not appear to prevent Excepted Works designation being reversed in the future. Needs Cases do change and it is not inconceivable that an investment classed as Strategic today may not be classified in the same way a few years down the line as designs mature and wider industry change comes into effect. The legal text could be modified to address. As a minimum the Workgroup should clearly set out the intention and any risk.</p>
6	Do you agree with the Workgroup's assessment that the modification does not	<input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No

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	impact the Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the Code?	No further comment.
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### 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 would anticipate greater support for the first option where designation is announced / approved by Ofgem with a list of the associated transmission schemes. This improves transparency and implementation.</p> <p>However, there is still a large gap between the Original Proposal and Ofgem designating projects which will need to be closed ahead of implementation and ideally within the Workgroup as far as practicable.</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 <p>Not at time of drafting.</p> <p>Generally agree CMP447 should facilitate removal of costs associated with any Exempted Works.</p>
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	<input type="checkbox"/> Yes <input type="checkbox"/> No <p>While this topic has been discussed within the Workgroup, it goes beyond the intended scope of CMP447 with multiple factors including the way in</p>

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	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?	<p>which wider works are forecast and impact of CMP192 on the published costs all requiring consideration.</p> <p>Including a more significant change to wider works cancellation charge will likely lengthen the development time of this urgent modification. While the concerns noted should be addressed, it is recommended that this be done under a separate CUSC Mod which is designed to rectify several perceived issues with the present securities and liabilities approach.</p>
10	Following on from Question 9, does this require a different modification if so?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>As above.</p>
11	Is it important is it for this solution to be implemented in time for Gate 2 offers being issued? Please explain your rationale.	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>As discussed previously.</p> <p>Users are anticipating Security and Liability statements as part of their Gate 2 Offer, thus even if securities remain frozen at the time of signing the offer, new liabilities would apply. In the Orkney example presented within the consultation pack, the difference in cancellation charge is £47.01 million. There is therefore a risk that some projects that have passed the Gate 2 Readiness checks, Strategically Align and gain a requested advancement are unable to accept their</p>

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		<p>offer due to a cancellation charge the business / investors cannot accept.</p> <p>Similar challenge for Non-Embedded Users with Final Demand projects where CMP417 is not expected to be implemented ahead of Gate 2 Offers being issued. Combined, the present implementation timeframe for CMP447 and CMP417 could have numerous unintended consequences on large demand projects (often associated with Data Centre and Hydrogen remated investments).</p>
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