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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 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 or cusc.team@neso.energy

Respondent details	Please enter your details	
Respondent name:	Lenka Peskova	
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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)

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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 checked="" type="checkbox"/> i <input checked="" type="checkbox"/> ii <input type="checkbox"/> iii <input checked="" type="checkbox"/> iv <input type="checkbox"/> None
		ESB Generation and Trading (ESB GT) believes the applicable objectives are facilitated better by the proposal than the current baseline.	
2	Do you support the proposed implementation approach?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		ESB GT believes that implementation approach is appropriate to the scale of the issue. Please see further comments within question 11 regarding Gate 2 offers alignment.	
3	Do you have any other comments?	No further comments	
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	
		Click or tap here to enter text.	
5	Does the draft legal text satisfy the intent of the modification?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		Further comments included within the consultation specific questions.	
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?	
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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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		<p>While ESB GT does not argue with powers given to Authority to designate specific works, we would like to encourage the development of guidelines which will allow developers to ascertain what works might be designated. The openness of the definition in the proposed legal drafting is crucial for future-proofing however more detailed guidance would be appreciated, e.g. all ASTI and LOTI works are expected to be designated unless Authority states otherwise. This would also help with the development of the initial list of designated works needed for implementation if the modification is approved.</p> <p>Additionally, within the guidance it should be stated how often is the list expected to be updated and the associated timelines. We appreciate the additional administrative burden of our proposals; however, we believe it is necessary to create a</p>

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		more predictable environment and therefore encourage development of investment projects.
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>ESB GT agrees with the proposed legal drafting.</p> <p>Additionally, outside of the scope of CMP447, we believe a revision of the securities process may be needed in the future to ensure a better balance between cancellation liabilities and the Attributable Works maturity. Especially in cases where the Attributable Works are at the later stages of construction and some of the attributable works are already completed but the associated liabilities are still in place. We understand the importance of keeping developers accountable, however there may be a case for adjustments of the approach in the future.</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 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	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<p>ESB GT supports appropriate anticipatory investments such as those considered under the Central Strategic Network Plan.</p> <p>The funding of these appropriate anticipatory investments should be taken into account when re-allocating attributable works to wider works, balanced against the need for generators to be accountable for stranded assets that they are responsible for (outside of these appropriate planned anticipatory investments).</p>

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	remove them from the wider works cancellation charge?	
10	Following on from Question 9, does this require a different modification if so?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Any future modification should be accompanied with the impact assessment regarding approved funding for network investment and projects incentives to connect.
11	Is it important is it for this solution to be implemented in time for Gate 2 offers being issued? Please explain your rationale.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No ESB GT believes it's strongly preferable this modification is implemented in time for Gate 2 offers. This will allow the offers to be accepted quicker without requests for recalculation in cases where offer is issued before the implementation date, but the implementation date falls within the offer acceptance window. To ensure the process is as seamless as possible the Authority should publish the list of designated works alongside of the modification approval.