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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>	Ciaran Fitzgerald	
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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 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 type="checkbox"/> i <input checked="" type="checkbox"/> ii <input type="checkbox"/> iii <input type="checkbox"/> iv <input type="checkbox"/> None
		<p>We agree with the proposer's assessment against the applicable objectives. We do not see that this modification would have any significant impact with regarding to objectives 1, 3 or 4.</p> <p>However, this modification better facilitates applicable objective by facilitating effective competition in the generation of electricity. Cancellation Charges are a means of protecting Transmission Owners in the event of project termination. In themselves, they are a risk to projects and therefore will in certain cases, deter projects from accepting connection contracts because of that risk. Some of those projects would be viable projects but are still deterred because of the level of risk and the early stage in the project lifecycle that the project may be in when offered a contract. This modification removes unnecessary level of risk to generation projects without increasing the risk to Transmission Owners. Therefore, its implementation will encourage more projects to accept a grid connection offer and continue through the development process until connecting, which creates better competition for the generation of electricity. This could be particularly beneficial to support investment in innovative and novel technologies which may require lower levels of financial risk at the early stages of development, in order to secure the levels of investment needed to develop the technology. The support and facilitation of innovation and new technologies is a particular benefit of this modification as allowing for new types of market participants will further enhance competition.</p>
2	Do you support the proposed implementation approach?	<input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No  <p>We agree with the implementation approach but strongly believe the code modification should be implemented prior to the issuing of Gate 2 offers as this is where the benefits/impact of the modification will be felt. If this is not</p>

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		possible within the timeline, then a potential alternative would be to issue a waiver for projects who choose to terminate Gate 2 contracts if this modification is not approved. Alternatively, it could be the case that securities are re-issued during the offer acceptance period and generators may need extended offer review period to account for this significant change. However, given the wider implications of both alternatives on the timeline for Connections Reform implementation, there must be a strong focus/push to implement the modification prior to the issuing of Gate 2 offers.
3	Do you have any other comments?	No
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 <a href="#">Workgroup Consultation Section</a> ) <input checked="" type="checkbox"/> No <input type="text" value="Click or tap here to enter text."/>
5	Does the draft legal text satisfy the intent of the modification?	<input type="checkbox"/> Yes <input type="checkbox"/> No <p>Abstain – We understand there are different opinions within the workgroup with regard to the specificity of the language used within the legal text. We would share the views of other developers that all parties will benefit from transparency and clarity over what projects will not be included within attributable works. However, we also understand the difficulties in being fully prescriptive and the desire to future proof the legal text such that further modifications to deliver the same core principles are not required. We believe this requires further exploration and discussion within the workgroup.</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
		N/A

## 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
		We do not propose any alternative definition but believe this requires further discussion in order to reach an agreed position within the workgroup.
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
		We understand NESO's reluctance to 'unfix' security and liability profile's as it goes against the fundamental principles of the process. However, it is also the case that we consider the baseline position as flawed, and generators may have signed up to a very high fixed liabilities at a very premature stage in project development. They would done so because the actual liability profile was very high because of the

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		inclusion of the works that have now become 'Excepted'. It could be considered that this change is significant enough that it merits an exception to the 'fix'. This exception could be based on this scenario and modification only. However, we would not want this change to hold up implementation of the modification and the benefits that it would bring, therefore we would support this being the aims of a subsequent modification.
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?	<input type="checkbox"/> Yes  <input type="checkbox"/> No  <p>Abstain – It is difficult to give a definitive view without quantitative analysis of the impact on the wider works cancellation charge which the 'transfer' of these works from Attributable to Wider Works have had. It seems logical that the excepted works should be included within the wider works and it could be anticipated that the increase in the wider works cancellation charge would be relatively low and the overall impact of the modification would be positive. However, some workgroup members have concerns over the disproportionate impact this could have on generators located within certain zones, which would be a negative unintended consequence of the modification and could be deemed unfair. If achievable within the timescales, case studies from an appropriate range of scenarios should be provided to give the workgroup an understanding of what the impact of this change would be. The workgroup can then consider the importance of trying to implement further changes within this modification and proceed with them where possible. However, if it is not realistic within the timescales required, we would not want the additional time required to remove 'Excepted' works from the wider works to delay the modification such that it is not implemented in time for the Gate 2 offers – as we expect that the modification would still have a net benefit to competition without the additional amendment.</p>

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10	Following on from Question 9, does this require a different modification if so?	<input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No  <p>If the timescales allow, then the current modification could be used to implement the additional changes required to remove 'Excepted' works from the wider works cancellation charge. However, if this cannot be achieved under the current timescales then a follow-up modification should be considered.</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.	<input checked="" type="checkbox"/> Yes  <input type="checkbox"/> No  <p>We believe it is extremely important that the solution is implemented in time for Gate 2 offers being issued. This is an unprecedented time when all connection offers will be receiving updated contracts – therefore it is essential that this significant change is implemented before the offers are sent out. As set out in the responses to Q1 and Q2 – not implementing this modification prior to Gate 2 offers going out has various potential negative outcomes – including a disruptive impact on the connections reform implementation programme or potentially deterring viable projects from accepting Gate 2 offers. To avoid these scenarios, the modification should be implemented as quickly as possible and before Gate 2 offers are finalised and sent to customers.</p>