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Code Administrator Consultation Response Proforma

CMP471: Interim Contract Variation Process Ahead of CMP434

Gated Application Window

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 **25 September 2026**. 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 cusc.team@neso.energy

Respondent details	Please enter your details	
Respondent name:	Philip Pateman	
Company name:	Aukera Energy	
Email address:	Philip.pateman@aukera.energy	
Phone number:	07717 531378	
Which best describes your organisation?	☐ Consumer body ☐ Demand ☐ Distribution Network Operator ☒ Generator ☐ Industry body ☐ Interconnector	☐ Storage ☐ Supplier ☐ System Operator ☐ Transmission Owner ☐ Virtual Lead Party ☐ Other

I wish my response to be:

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(Please mark the relevant box)	☒ Non-Confidential (<i>this will be shared with industry and the Panel for further consideration</i>)
	☐ Confidential (<i>this will be disclosed to the Authority in full but, unless specified, will not be shared with the Panel or the industry for further consideration</i>)

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, (for consultation questions 5) 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

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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 Code Administrator Consultation questions		
1	Please provide your assessment for the proposed solution(s) against the Applicable Objectives against the current baseline.	Mark the Objectives which you believe the proposed solution(s) better facilitates than the current baseline:
		Original ☐ i ☐ ii ☐ iii ☐ iv ☒ None
		WACM1 ☐ i ☐ ii ☐ iii ☐ iv ☒ None
		WACM2 ☒ i ☒ ii ☐ iii ☒ iv ☐ None
		WACM3 ☐ i ☐ ii ☐ iii ☐ iv ☒ None
		The original proposal is not consistent with the aims of the TMO4+ connection reforms, which were designed to ensure that only projects aligned with Clean Power 2030 and which were ready to meet their connection dates would be allowed to remain in or to join the connections queue, given that the proposal would allow projects which are no longer ready or which were not ready to meet the connection date in their current offer or Existing Agreement to request a later connection date. This is counter to one of the main objectives of TMO4+: to stop projects which were not being developed or which were delayed from simply changing their connection date in order to remain in the queue. WACMs 1 and 3 would even more significantly undermine some of the most fundamental aspects of connections reform, as these would allow Users to delay their connection date <u>and</u> extend their queue management milestone dates. This would put us back to a situation where projects which

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		are not ready and which developers have failed to progress could simply push back their connection date and extend their queue management milestones in order to keep their place in the connections queue, which would come at the expense of other projects which are progressing and seeking to secure a Gate 2 offer in a future gated application window. We believe that this would be wholly inconsistent with the aspirations for and intentions behind the development and implementation of TMO\$4+. In addition, having seen the headline results from the NESO RFI, we believe that an unrestricted right to request a later connection date would lead to a significant number of requests being submitted and that this could lead to further delays to the issuing of the remaining Gate 2 offers still to be issued as part of the Gate 2 to Whole Queue Exercise, and could also delay the timing of first gated application window under the enduring CMP434 regime – concerns which NESO and the three TO's all raised in their work group consultation responses. However, we recognise that some projects may have been impacted by issues outwith their control, meaning they are no longer able to meet their current or expected completion date and that there is benefit in the introduction of a mechanism which would allow Users in these circumstances to request a later connection date in line with their updated project programme. This would be in addition to – and separate from – the mechanism by which projects can request amendments to their queue management milestones as set out in the latest NESO queue management guidance. For these reasons we believe that that WACM 2 is consistent with the applicable objectives i), ii) and iv).
2	Do you have a preferred proposed solution?	☒ Yes ☐ No If yes, please indicate below which one. WACM2

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3	Do you support the proposed implementation approach?	☒ Yes ☐ No Click or tap here to enter text.
4	Do you have any other comments?	We want to take this opportunity to highlight that the proposal and workgroup report in a number of areas talk about connection dates no longer being aligned with realistic project timelines and ‘disproportionate’ costs as if somehow the challenges these projects face are due to an inappropriate connection date, when the reality is that it is that the proposal is designed to allow developers to delay their connection when it is <u>their</u> project delivery timelines which have fallen behind and become divorced from their contracted connection date. Securities, liabilities and capital contributions are all tied to connection dates which developers had previously agreed to and are tied to the delivery of the requisite network infrastructure so we do not believe that these should be seen as ‘disproportionate’ or ‘misaligned’, rather it is developers’ project timelines which have become misaligned from the delivery of grid. We think it is also important to highlight that projects can already request a connection date delay if they are subject to ‘force majeure’ type

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		event(s) under Section 3.2 of the construction agreement and can also request delays to Queue Management Milestones under 16.5 of the CUSC and through the exceptions process set out in the latest version of NESO's Queue Management Guidance. WACM2 would extend the right to request a connection date delay to a wider specified set of reasons as set out in CUSC Section 16.5.
5	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?	☒ Yes ☐ No Click or tap here to enter text.