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Code Administrator Consultation Response Proforma

CMP435: Application of Gate 2 Criteria to existing contracted background

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@nationalenergyso.com by **5pm GMT on 26 November 2024**. Please note that any responses received after the deadline or sent to a different email address will not be accepted.

Please be aware that late responses will not be accepted.

If you have any queries on the content of this consultation, please contact elana.byrne@nationalenergyso.com and catia.gomes@nationalenergyso.com or cusc.team@nationalenergyso.com

Respondent details	Please enter your details	
Respondent name:	Richard Knights	
Company name:	Evolution Power Limited (EPL)	
Email address:	Richard.knights@evolutionpower.co.uk	
Phone number:	07808682050	
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 checked="" 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)

Confidential (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)

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For reference, the Applicable CUSC (non-charging) Objectives are:

- a) *The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;*
- b) *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;*
- c) *Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and*
- d) *Promoting efficiency in the implementation and administration of the CUSC arrangements.*

**The Electricity Regulation referred to in objective (c) 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.*

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?	Mark the Objectives which you believe the proposed solution(s) better facilitates:
		Original <input checked="" type="checkbox"/> a <input type="checkbox"/> b <input checked="" type="checkbox"/> c <input checked="" type="checkbox"/> d
		WACM1 <input checked="" type="checkbox"/> a <input type="checkbox"/> b <input checked="" type="checkbox"/> c <input checked="" type="checkbox"/> d
		<p>In our view Element 13 is ill conceived and promotes the benefits of speculative developers at the expense of non-speculative developers.</p> <p>Some developers, including larger electricity industry players, have applied for and accepted individual grid offers with multiple technologies with no intension of delivering all of the technologies and potentially not all the capacity. Other speculative developers have applied for and accepted individual grid offers with neither having commenced land acquisition nor considered whether land might be available for the accepted TEC. These speculative developers bear some responsibility for the current problems that require connection reform.</p>

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		<p>Developers should neither be allowed to change technology, nor TEC through the Gate 2 to Whole Queue process. Should this be allowed to proceed it constitutes a failure to facilitate effective competition in the generation of electricity.</p> <p>It is our view that it is unfair for the Gate 2 process to allow changes in TEC or changes in technology without the requisite change in Bilateral Connection Agreement through a Mod App. There are currently accepted offers for connections with a wide range of technologies listed; this has been one of the speculative approaches some developers have used and should not be rewarded with a “back door” method to change offers. Also, developers who have speculated capacity and not obtained sufficient land should not be allowed to change capacity to the detriment of those who have professionally applied for capacity and diligently obtained land to meet Gate 2.</p> <p>WACM1 accentuates the above matter as it allows parties who have been unfairly effected by Element 13 to withdraw. However, it is fundamentally flawed as unless NESO provides an updated queue position by technology (it is currently unclear how hybrid connections will be placed in queues) any applicant will have insufficient information to make a rational decision and will err on the side of either applying for advancement or keeping their Gate 2 application as it is. We therefore consider that the approach will have minimal impact upon the number of projects to be assessed.</p> <p>In summary Element 13 opens the door for applicants who have speculated though obtaining offers with a technology mix and speculated on capacity to change their offers without a Mod App, and WACM1 is clearly designed for those effected to withdraw, but will have minimal impact on the number of projects to be assessed as there is unlikely to be sufficient queue data. Individually and together Element 13 and WACM1 work directly against facilitating effective competition in the generation of electricity, and are a matter of justice.</p>
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2	Do you have a preferred proposed solution?	<input checked="" type="checkbox"/> Original <input type="checkbox"/> WACM1 <input type="checkbox"/> Baseline <input type="checkbox"/> No preference Click or tap here to enter text.
3	Do you support the proposed implementation approach?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Click or tap here to enter text.
4	Do you have any other comments?	<p>Element 13</p> <p>We are supportive of the Element 13 in CMP434.</p> <p>However, in CMP435 we are extremely concerned at the additional intention to allow developers with current offers to change their TEC and/or their technology mix without changing their Bilateral Connection Agreement through a Mod App. These developers have either speculated on technologies or on their ability to obtain land and to allow them to change rewards speculation at the expense of those developers who have not speculated. We consider the CMP 435 changes to Element 13 to be unfair. Accepted offers with a wide range of technologies are clearly speculative, to allow those parties to modify their applications outside of the normal Mod App procedure gives an unfair advantage over applicants who have carefully selected technologies and procured appropriate land. Similarly, developers who have speculated on capacity and been unable to obtain land should change TEC through the Mod App process not through Gate 2 Criteria which gives them an unfair advantage over developers who have not speculated in the same way and obtained sufficient land. We understood that the Gate 2 process is specifically designed to prevent speculation, (e.g. an offer</p>

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		<p>without land), and to provide an opportunity for speculative developers to change TEC and/or technology through Gate 2 Criteria totally undermines trust in NESO’s processes.</p> <p>We do not expect the CUSC to allow applicants to change from a speculative mix of technologies to a determined one/two through Gate 2 process by having “played the system”. Similarly, if a developer has only been able to obtain a proportion of land needed for the TEC, and therefore failed to meeting Gate, why should they, be allowed to reduce TEC to meet Gate 2 and potentially be ahead of a developer who has expended time and money obtaining sufficient land. This situation is not fair and reasonable and must not be allowed to happen; there is a simple matter of justice at stake here.</p> <p>Gate 2 criteria have been in existence for long enough for developers to have made Mod Apps in advance of Q2 2025.</p> <p>The CMP 435 modification of CMP434 Element 13 works directly against facilitating effective competition in the generation of electricity, and is a matter of justice.</p> <p>Element 19</p> <p>It is not clear to us how a developer with a current offer for multiple technologies will demonstrate Gate 2 criteria. We consider it to be particularly important for land to be demonstrated for each of the technologies and related capacities applied for within the current offer.</p>
5	Do you agree with the Workgroup’s assessment that the modification does not impact the Electricity	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

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	Balancing Regulation (EBR) Article 18 terms and conditions held within the CUSC?	Click or tap here to enter text.
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