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Workgroup Consultation Response Proforma

CMP444: Introducing a cap and floor to wider generation TNUoS Charges

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 usc.team@nationalenergyso.com by **5pm** on **29 January 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 usc.team@nationalenergyso.com.

Respondent details	Please enter your details	
Respondent name:	Alsarif Satti	
Company name:	National Grid Electricity Transmission (NGET)	
Email address:	alsarif.satti@nationalgrid.com	
Phone number:	07933523220	
Which best describes your organisation?	<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 checked="" 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 Workgroup, Panel or the industry for further consideration)

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For reference the Applicable CUSC (charging) Objectives are:

- a) *That compliance with the use of system charging methodology facilitates effective competition in the generation and supply of electricity and (so far as is consistent therewith) facilitates competition in the sale, distribution and purchase of electricity;*
- b) *That compliance with the use of system charging methodology results in charges which reflect, as far as is reasonably practicable, the costs (excluding any payments between transmission licensees which are made under and accordance with the STC) incurred by transmission licensees in their transmission businesses and which are compatible with standard licence condition C11 requirements of a connect and manage connection);*
- c) *That, so far as is consistent with sub-paragraphs (a) and (b), the use of system charging methodology, as far as is reasonably practicable, properly takes account of the developments in transmission licensees' transmission businesses and the ISOP business*;*
- d) *Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency **; and*
- e) *Promoting efficiency in the implementation and administration of the system charging methodology.*

* See Electricity System Operator Licence

**The Electricity Regulation referred to in objective (d) 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 & 6) 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;*
- 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.*

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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 ESO 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 better facilitate the Applicable Objectives?	Mark the Objectives which you believe each solution better facilitates:
		Original <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E
		<p>The Original Proposal does not better facilitate the Applicable Objectives. We consider it has a neutral impact on the majority of objectives and has a negative impact on Objective B as it has the potential to reduce the cost reflectively of charges to generators.</p> <p>More analysis is needed: The positive case for a cap and floor mechanism has not been demonstrated sufficiently to date. The Workgroup Consultation document notes that the impact on consumers “may be negative or positive overall and Ofgem will assess this for the original solution and each alternative proposal in their impact assessment”¹ (page 7 of the Workgroup consultation).</p> <p>We request that additional evidence is produced and made available that seeks to demonstrate a positive consumer case for the proposed change. The requested analysis will ensure that the Authority has at its disposal</p>

¹ The Authority's principal objective is to protect the interests of existing and future consumers in relation to gas conveyed through pipes and electricity conveyed by distribution or transmission systems, see: <https://www.ofgem.gov.uk/publications/our-powers-and-duties>

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	<p>the necessary evidence base to make a decision on CMP444. At a minimum, the additional analysis should:</p> <ul style="list-style-type: none"> • Be based on more than a single scenario. • Provide a quantitative assessment on the range of impact that the level of tariff fluctuation, absent the proposed CMP444 intervention, has on the risk profile of generators and therefore the cost of capital that could be necessary. • Provide a quantitative assessment of the impact on existing generators (who may face different charges than would otherwise be the case). • Assess the impact of the proposed reform on demand consumers were a short fall in revenue be recovered from demand. The application of a cap has the potential to create a revenue shortfall which will be recovered through other generators or demand. The negative effects of resulting cross-subsidies and distributional impacts should be assessed carefully. <p>We agree with the Workgroup members who noted that it is essential to give due consideration to all generators, not just those in Scotland (page 12 of the Workgroup consultation).</p> <p>Negative impact on cost-reflectivity: We consider that introducing a cap and floor to the level of wider generation TNUoS charges undermines, rather than improves, cost-reflectivity. We support reform to the charging methodology which will address any issues with the stability and predictability of charges on an enduring basis, rather than fixing the outputs of the current charging methodology as would be the case were this modification to be implemented.</p> <p>Compliance with legislation: The Original CMP444 proposal envisages that any reduction in revenue recovery from generation due to the cap/floor mechanism will be recovered via an increase in the generation adjustment tariff. In approving this modification, Ofgem</p>
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		<p>would have to be confident that the resulting tariff would be within the legally permitted range of €0 – 2.50/MWh.</p> <p>We ask that the Workgroup considers the following hypothetical scenario where the cap was reached, and this caused an under-recovery. In such a scenario, if addressing the under-recovery of revenue via an increase in the generation adjustment tariff led to a breach of the legally permitted range of €0 – 2.50/MWh, how would NESO respond to this situation? The additional analysis we have advocated for could assist in assessing the likelihood of this risk materialising.</p>
2	Do you support the proposed implementation approach?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>We support the proposer's ambition for a quick decision on CMP444 to allow developers to factor in the impact of the change ahead of the likely CfD AR7 bid submission window. This is consistent with the government's recent update on REMA², which committed to a decision across the REMA programme in time for the next CfD allocation round (AR7). However, a speedy process does not remove the need for robust evidence and justification for change. We consider that it is possible to develop the necessary evidence base under an urgent timetable and that further analysis is needed to support Ofgem make its decision.</p>
3	Do you have any other comments?	<p><u>Enduring charging reform may be necessary</u></p> <p>We appreciate that this proposal was raised in response to Ofgem's steer. However, Ofgem specifically envisaged that this solution would be temporary. Regardless of the outcome of Ofgem's decision, it's crucial that work proceeds at pace to consider broader reforms to ensure network charges retain the important principle of being cost reflective and that the issue of tariff volatility is addressed.</p>

² See Review of electricity market arrangements (REMA): autumn update, 2024
<https://www.gov.uk/government/publications/review-of-electricity-market-arrangements-rema-autumn-update-2024>

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		<p>Improvement to the accuracy of TNUoS forecasts</p> <p>We accept that long-term remedies through charging reform will take time. In the meantime, there is merit in NESO working with Ofgem and stakeholders to improve the accuracy of TNUoS forecasts.</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 Workgroup Consultation Section)</p> <p><input checked="" type="checkbox"/> No</p> <p>Click or tap here to enter text.</p>
5	Does the draft legal text satisfy the intent of the modification?	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>We are not able to provide views on the draft legal text.</p>
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?	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>No comments</p>

Specific Workgroup Consultation questions

7	Do you believe the cap and floor should have an end date? If so, how long or what is the appropriate trigger.	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>Conceptually we support the Ofgem position that the cap and floor should be temporary, as it is not an appropriate long-term solution to the underlying concern around charging volatility. The enduring solution to the problem of charging volatility is to consider reforms to the charging methodology, rather than making</p>
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		<p>adjustments to the outputs of the existing charging methodology.</p> <p>Having said that, we recognise the impracticality of defining an appropriate trigger for the end date in the legal text, given the uncertainties around the timeline for other reforms including REMA and future changes to the charging methodology.</p>
8	<p>What level of certainty would be required from this modification to best support investment decisions? Please justify any additional protection required (for example grandfathering rights or any other levels of protection).</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>The rationale for grandfathering rights or other mechanisms of protection against future regulatory changes is to protect the legitimate expectations of investors who could not be reasonably expected to foresee future changes to the applicable regulatory arrangements at the time when they made an investment. Grandfathering can lead to different treatment of market participants, which can have negative consequences (e.g. on competition).</p> <p>By their nature, all charging arrangements are subject to change, as codified arrangements can be modified, subject to consultation and ultimately Ofgem approval. Proposing grandfathering for this particular modification would not be appropriate.</p> <p>CMP444 intends for the cap and floor to remain in place until the reforms through REMA, and consequential reforms to the TNUoS charging methodology, are implemented. Therefore, the decision on REMA is better placed to set out any grandfathering arrangements that should apply post-REMA.</p>
9	<p>Does the Original proposal with no specific end date provide Developers with sufficient confidence to make an investment decision? Please justify.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>As noted under question 7, conceptually, we support the Ofgem position that the cap and floor should be temporary.</p>

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		<p>However, we also recognise the challenges in defining an end date in the CMP444 legal text, given the uncertainties around the REMA programme or any future reforms to the charging methodology.</p> <p>In any case, the fact that CMP444 has been clearly communicated as a temporary solution (and stakeholders and the market do not hold any legitimate expectations to the contrary), undermines the case for grandfathering, even if, at this time, it is not possible to define the specific end date.</p>
10	Does the Original Proposal and any of the Alternatives raised achieve the objectives of the Ofgem letter?	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>Though we recognise that the Proposer has followed Ofgem's steer in designing this modification proposal, we stress that this does not remove the need for robust analysis to support the benefits case for this modification. We reiterate our main point under question 1 that additional analysis is needed for industry and Ofgem to make an informed assessment on whether the objectives set out in the Ofgem letter, the Applicable CUSC charging Objectives, and Ofgem's principal objective and duties are met.</p>
11	Do you agree with the data set proposed for the calculation of the cap and floor? If not, what data set would you propose? What is your view on the use of NESO's 5-year forecast of April 2024?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>We agree with the data set proposed for the calculation of the cap and floor, but with caveats. TNUoS forecasts are uncertain and highly dependent on input assumptions. It is important to be aware of the limitations of using this data set. As noted in our response to question 3, NESO should work with Ofgem and stakeholders to improve the accuracy of TNUoS forecasts. This would significantly improve the current arrangements and give market participants more certainty about their projected TNUoS costs.</p> <p>In addition, the additional analysis we have advocated for would provide assurances to Ofgem and the market</p>

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		that the data set proposed for the calculation of the cap and floor will not lead to unintended consequences.
12	Please provide your assessment of the Original Solution and the 7 Alternative Requests discussed by the Workgroup (additionally, please indicate your preferred solution with associated justification):	
Alternative Request		Assessment
Original Solution		We refer to our comments in question 1, where we highlight the need for additional analysis. Annex 7 suggests that some alternatives retain more variation between regions while other alternatives set a very narrow range in which TNUoS charges can fluctuate. The analysis could suggest that the solutions which allow more cross-regional variation have a lesser impact on reducing cost-reflectivity of the resulting charges.
Alternative Request 1		See comment under “Original Solution”.
Alternative Request 2		See comment under “Original Solution”.
Alternative Request 3		See comment under “Original Solution”. In addition, Alternative 3 requires additional consideration of the distributional impacts from recovering any breached cap and floor charges through the demand residual.
Alternative Request 4		N/A
Alternative Request 5		See comment under “Original Solution”.
Alternative Request 6		See comment under “Original Solution”.
Alternative Request 7		See comment under “Original Solution”.