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Dear David,

Nadara | Bluefloat Partnership - CMP444 Minded-to Decision Response

It is our view that Ofgem's minded-to decision to reject CMP444¹ represents a significant policy misstep that fundamentally undermines the UK's Clean Power 2030 objectives and threatens the delivery of critical renewable energy targets.

Whilst we acknowledge Ofgem's analytical approach seeks to maintain charging methodology integrity, it doesn't address the investment uncertainty that prompted the original request for intervention by Ofgem. The decision prioritises theoretical cost-reflectivity over practical investment certainty at a critical point in the energy transition, potentially undermining the very market efficiency Ofgem seeks to protect.

The projected tripling of TNUoS charges in Northern Scotland by 2033 creates an existential threat to renewable development in Northern regions, particularly when projects are competing in an increasingly challenging global market for supply chain resources. The UK government's Clean Power 2030 Action Plan requires 43-50 GW of offshore wind and 27-29 GW of onshore wind.

Ofgem's rejection of CMP444 directly contradicts this national priority by:

- Creating investment uncertainty that will delay project development across all renewable technologies
- Undermining the viability of projects targeting imminent CfD rounds, which are critical for meeting 2030 targets
- Disproportionately impacting renewable generation in northern zones despite the considerable renewables resource potential.

We address the key questions in the Consultation below, but at a high level we have significant concerns with the outcome as it is our view that Ofgem's representations appear to us to be contradictory and confusing, in this minded-to decision and other associated representations. Ofgem's basis for rejection of all the proposals is inconsistent with its own representations in the letter calling for the cap & floor. Not only does this create uncertainty in a critical transitional period where coherence across separate policy reform workstreams is necessary, but to us appears to be acting contrary to wider government policy and also Ofgem's own stated objectives even in this policy workstream. We also outlined below our view that in the current

¹ [Minded-to Decision on CMP444: Introducing a cap and floor to wider generation TNUoS charges | Ofgem](#)

industry context in which this code modification is derived, the interpretation and application of cost reflectivity as the main criteria to reject the proposals should be reviewed and revised.

We have outlined more detail below, but we also note Ofgem's statutory duty under the Energy Act 2023 which requires Ofgem to consider how its decisions may assist the Secretary of State in meeting the government's net zero target, and we ask Ofgem to provide further context on how this statutory duty is addressed through this minded-to decision.

Questions

(1) To what extent do you agree with our assessment of the impacts of CMP444 options on cost reflectivity? Please provide your detailed rationale and any supporting evidence

ACO(e): *'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 in 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).'*

We disagree with Ofgem's assessment that CMP444 proposals are negative against ACO (e), and we urge Ofgem to revisit their interpretation of ACO(e) and their assessment of the proposals.

Ofgem's assessment erroneously assumes that the methodology applied in calculation of the wider tariff is cost reflective. The method they are applying does not represent the actual cost of transmission infrastructure build, it over-charges for system security and does not accommodate the network build through strategic planning. Ofgem's applied interpretation of cost reflectivity is derived from regulatory assumptions and circumstances that have fundamentally changed. The current technology mix and market circumstances combined with the required unprecedented level of network investment demand a more appropriate interpretation and application. The options presented in CMP444 represent a different approach to cost-reflectivity - one that balances locational signalling with other industry considerations to prioritise system-wide efficiency. TO costs assessed in the context of strategically planned reinforcements will be more cost reflective than an assessment of TO costs driven by imprecise and unreliable locational signalling.

It is widely understood by industry and accepted by Ofgem that TNUoS charges are volatile and unpredictable and as such do not provide a useful investment signal as they cannot be accurately predicted and so can't be utilised as such. This is why Ofgem requested the cap & floor intervention originally, and it is our view that Ofgem's rejection of all solutions only serves to reinforce this unpredictability and volatility at a time when investment certainty is critical.

The current methodology applies charges based on annual static assessments that do not reflect the long-term strategic network development required for Clean Power 2030. Useful and relevant cost-reflectivity needs to consider the planned evolution of the network over asset lifetimes. This is widely accepted across the industry, and any application of cost reflectivity that does not at the very least accommodate, but at best actively support the unprecedented capacity and network build that is required is in direct opposition with net zero ambitions and government strategic ambitions. It is our view that rejection of all options in CMP444 would actively maintain the status quo at a time when greater strategic alignment and transmission and market reform should be being facilitated by the exclusion of extreme distortive market signals.

Ofgem states that they 'consider that options which exclude more data from consideration are (at least in that respect) likely less cost reflective than options which are more inclusive'. Ofgem also acknowledges that NESO's 10 year 2024/25 to 2033/34 tariff projections are unlikely to materialise, and their representations to the CMP444 workgroup outlined that purpose of the intervention was to provide 'guardrails to prevent extreme charges from the 10-year TNUoS

projections being used as the basis to assess future charges'², This is an express acknowledgement that the extremes of the tariffs, at the very least, are not cost reflective and as a consequence should be capped (or floored). If they were truly cost reflective it would not be necessary to restrict them. On this basis it is entirely rational to look to exclude the extreme tariff forecasts from the inputs as a potential mechanism for arriving at an appropriate level of cap & floor. So we reject Ofgem's approach on exclusion of data on cost reflective grounds. A lesser point, but still relevant, concerns Ofgem's qualification that it is *likely* to be less cost reflective. This is Ofgem's own acknowledgement of the uncertainty of their own stated assumptions, and this uncertainty should either be assessed as to the degree to which it's appropriate to continue to be utilised as assessment criteria, or in fact removed completely from the assessment completely.

Necessarily any cap and floor must bite to be effective, and this impacts on the cost reflectivity of those impacted tariffs. The fact that a solution is effective should not be used as an argument to support its rejection on cost reflectivity grounds as it is precisely this form of intervention that was requested by Ofgem in the September 2024 Open Letter³. Ofgem's representations through its September 2023 letter⁴, September 2024 letter and July 2025 Minded-to decision are inconsistent, contradictory and confusing. Ofgem's ambition is articulated in their September 2024 Open Letter where it indicates that the intervention should accommodate the balance between:

- *Retaining a cost-reflective locational long-run investment signal that complements other market arrangements; and*
- *Minimising system costs for consumers while reducing uncertainty to investors to deliver Clean Power 2030, in a context of uncertainty around the outcomes of REMA's broader market reforms.*

Ofgem's Minded-to decision does not reflect a balance but instead applies a rigid application of a narrow interpretation of cost reflectivity to the exclusion of all other strategic considerations. We appeal to Ofgem to revert to the wording of ACO(e) and consider whether the interpretation being applied is a correct interpretation of the Objective, and whether TO costs might more realistically be reflected in a costs assessment modelling approach that accommodates strategic network planning.

We are also confused about Ofgem's conflicting representations about the timings of the proposals. Ofgem's September 2024 letter and also NESO's CMP444 Proposal⁵ explicitly called for a temporary mechanism, and this was reinforced by Ofgem's representations through the CMP444 workgroup. Ofgem's 21 July 2025⁶ letter on reforming network charging signals references CMP444, outlining that 'After careful consideration, we published our minded to decision to reject the proposals on 10 July . We do not consider that a cap and floor on network charges is an enduring solution to improving the predictability and effectiveness of network charges'. Whilst published in the context of ongoing reform, this seems to add another rationale for the rejection of CMP444, that it does not represent an enduring solution. However as

² Final Modification Report: <https://www.neso.energy/industry-information/codes/cusc/modifications/cmp444-introducing-cap-and-floor-wider-generation-tnuos-charges>

³ [Open Letter: Seeking industry action to develop a temporary intervention to protect the interests of consumers by reducing the uncertainty associated with projected future TNUoS charges](#)

⁴ [Open letter on strategic transmission charging reform](#)

⁵ [download](#)

⁶ [Open Letter: Reforming network charging signals to align with the Government's decision on the future design of Great Britain's electricity system](#)

explained above, the CMP444 proposals were never presented as enduring solutions, so cannot be rejected on that basis.

(2) Do you agree with our assessment of the impacts of CMP444 options on competition between generators? Please provide your rationale and any supporting evidence. If you have contemporaneous documents and/or data to support your assessment of the interactions between CMP444 options and competition in generation we would encourage you to share it with us alongside this consultation response, clearly marking any confidential data.

ACO(d): *‘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.’*

We disagree with Ofgem’s neutral assessment and contend CMP444 proposals would better facilitate competition.

Ofgem’s analysis underestimates the competitive impacts of TNUoS uncertainty across all renewable technologies. The current position with the projected increase in charges creates barriers to entry for renewable projects in higher TNUoS regions, ie Northern zones, reducing competitive tension in CfD auctions across all technologies. The proposed changes to AR7 to apply a maxima in the fixed-bottom offshore wind pot does not sufficiently address the TNUoS disparity between North and South and does not provide any adjustment for other technology types. There is significant variability in the projected TNUoS costs across zones 1-13 and the maxima is applied uniformly across projects in the north. The proposed changes still assess the merit order stack based on cost and Scottish projects will always rank higher in the merit order as TNUoS costs significantly increase the strike price that can be achieved. This means that developments in northern regions still face disproportionate competitive disadvantage, despite offering optimal renewable resource potential and strategic importance for national energy security.

Implementation of one of the CMP444 proposals would improve this position and increase effective competition to varying degrees and ensure investment in North Scotland projects.

(3) To what extent do you agree with our views on the interactions between cost-reflectivity and competition? Please provide evidence (qualitative or quantitative) supporting your answer.

ACO(d): *‘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.’*

We are of the view that the current interpretation of cost reflectivity being applied in the assessment of the proposals is economically inefficient. Cost-reflectivity and competition are complementary objectives that must be balanced to deliver optimal consumer outcomes.

The current approach to cost reflectivity emphasises locational marginal costs signals based on network incremental costs, which was relevant and appropriate for a stable system with predictable generation patterns and incremental network development. With the massive growth of intermittent and distributed generation this no longer applies as the annual snapshots don’t reflect the huge long term strategic investments that are required to deliver the network or the capacity ambitions outlined though the SSEP and CSNP. Cost reflectivity needs to be aligned with this strategic outlook, and the costs need to be more reflective of the capacity mix and infrastructure build to deliver an optimal network, otherwise the signals will only act to limit effective competition. Short-term cost signals are being prioritised at the expense of the long-term investment efficiency needed for Clean Power 2030. Genuinely useful cost reflectivity

requires not just the consideration of static cost-reflectivity, but also dynamic investment incentives to deliver the planned capacity and network build. The applied interpretation precludes this and therefore rejection of the proposals introduces inefficiencies that hinder competition and investment.

(4) To what extent do you agree with our assessment of CMP444 options against ACO (f)? Please provide your detailed reasoning and any evidence in support.

ACO(f): *‘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’*

We disagree that the proposals are neutral against ACO(f), and are of the view that they better facilitate this objective by aligning charges with strategic transmission investments.

As outlined above, recognising that unprecedented transmission investment for the Government’s clean power ambitions requires different charging approaches than historical incremental development, particularly given the concentration of renewable resources in higher TNUoS zones.

(5) To what extent do you agree with our assessment of CMP444 options against ACO (g)? Please provide your detailed reasoning and any evidence in support.

ACO(g): *‘Compliance with the Electricity Regulation and any relevant legally binding decisions of the European Commission and/or the Agency’*

We agree the proposals are neutral against this objective but note this supports rather than undermines the case for approval.

The proposals maintain compliance with the Limiting Regulation while providing greater certainty for market participants. This demonstrates that consumer protection mechanisms can be maintained while improving investment conditions for renewable energy development.

(6) To what extent do you agree with our assessment of CMP444 options against ACO (h)? Please provide your detailed reasoning and any evidence in support.

ACO(h): *‘Promoting efficiency in the implementation and administration of the charging methodology’*

Whilst we agree that all options would introduce marginally more complexity and administrative effort initially, our view is that the administrative burden of CMP444 is negligible compared to the systemic costs of regulatory uncertainty, and on this basis it should be regarded as neutral.

Implementation costs must be weighted against the likely cost of an increase in urgent modifications driven by TNUoS uncertainty which currently does and will continue to draw on industry and regulatory resource. Additionally adoption of the proposals would result in more efficient CfD auction process and also ensure more timely delivery of CP30 infrastructure.

(7) To what extent do you agree with our assessment of CMP444 options against the ACOs, taken collectively? Please provide your detailed reasoning and any evidence in support.

It is our view that the CMP444 proposals would better facilitate the ACOs collectively.

Whilst we believe we have provided credible challenges where appropriate for the individual ACOs, we are of the view that we should not focus too narrowly on each individual ACO and that they should all be interpreted and considered in the context of the systemic benefits of reducing

investment uncertainty during a critical transition period, whilst also noting the original request for industry intervention which clearly articulated a balanced coherent holistic approach.

It is necessary that the strategic context is considered along with the long-term consumer benefits that will result from successful and effective renewable deployment, as well as the energy security that would be delivered also.

What is critical is that a stable investment environment is created through this intervention. Narrowly focussing on a redundant interpretation of cost reflectivity to the exclusion of wider strategic considerations will result in a continuation of the volatility and unpredictability that this very regulatory intervention is designed to address.

(8) Do you consider that implementation of any of the proposals (if we assessed them to better facilitate achievement of the ACOs) would have particular impacts relevant to our principal objective and/or wider statutory duties? Please provide your detailed reasoning and any evidence in support.

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.⁷

We consider the proposals would have an impact, and it is our view that the principal objective and/or wider statutory duties would be materially facilitated by approval of proposals in CMP444. We are also of the view that the principal objective and/or wider statutory duties have not been sufficiently addressed in the minded-to decision.

We note Ofgem's statement that they would have considered their principal objective and wider statutory duties if they would have been minded-to conclude that any of the proposals would have better facilitated the ACOs. However we are of the understanding that Ofgem are required to consider the principal objective in every decision, including whether that is to reject or approve proposals, and we do not believe that Ofgem has discharged this obligation in this instance. We request that Ofgem provides further detail on why it believes rejecting the proposals is supportive of its principal objective and wider statutory duties, in particular referencing the explicit inclusion of Net Zero as forming part of the principal objective.

It is our view that approval of CMP444 proposals would materially support Ofgem's principal objective and statutory duties. As explained above and as expressly articulated in Ofgem's September 2024 letter, approval of a cap & floor would 'result in higher expected consumer benefits compared to current arrangements', and that 'consumers are expected to overall benefit from reduced costs passed through to them from elsewhere e.g., from an expected reduction in costs of capital or risk premia flowing through to reduced CfD bids, wholesale prices, and balancing costs'. We are of the view that rejection of the proposals would act contrary to its principal objective as it would result in continued increased and excessive costs to the consumer.

Following the implementation of the Energy Act in 2023 and its restatement of Ofgem's principal objective, we note the introduction of a new duty which requires Ofgem to consider how its decisions may assist the Secretary of State in meeting the government's net zero target⁸. Ofgem's minded-to decision does not appear to address this requirement. It is our view for the reasons outlined above that the minded-to decision acts contrary to government net zero targets. We ask Ofgem to address this statutory duty and explain how it believes rejection of the proposals in this modification helps the government meet its targets for net zero emissions by 2050. We would otherwise be concerned that Ofgem might potentially expose itself to legal challenge of its decision by not sufficiently discharging its legal obligations.

⁷ <https://www.ofgem.gov.uk/guidance/our-powers-and-duties>

⁸ <https://www.ofgem.gov.uk/press-release/ofgem-welcomes-energy-act-getting-royal-assent>

Regarding specific proposals, our preferred options, WACM1, WACM2, WACM3, and WACM6 set the cap and floor at an investible level and meets all the requirements of Ofgem's and NESO's stated goals for the Cap & Floor. We note that a majority in the workgroup consultation were supportive of a cap & floor as an interim measure, and that in the code administrator consultation WACM1, WACM2, WACM3, and WACM6 broadly received the majority of the votes from industry (referencing mostly the key objective ACO(d)), and that the majority of the CUSC Panel voted that WACM1 and WACM2 better facilitated the ACOs than the baseline. Whilst we acknowledge and are supportive of Ofgem's right to not have its discretion fettered, we nonetheless urge Ofgem to consider the strength of industry opinion in support of this modification, the arguments raised in support alongside the misalignments of Ofgem's approach with government policy, and review the extent to which rejection of all proposals in the modification remains appropriate.

A temporary fix is required until ongoing Reform of Electricity Market Arrangements ("REMA") to ensure that projects in Scotland can secure investment and compete in future CfD Allocation Rounds. Reverting to anything approaching the 10-year projection levels of TNUoS is too great a burden for investors.

The ongoing uncertainty and lack of policy alignment at such a critical time is incredibly frustrating for us and wider industry, and we urge Ofgem to re-consider its decision.

Yours sincerely

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