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SSE response to Consultation on Ofgem minded-to decision in respect of CMP444

Dear Mr Jones,

We welcome the opportunity to respond to Ofgem's minded to decision regarding CMP444 on behalf of SSE's Energy businesses. We have provided general comments, as well as answers to the specific questions detailed below.

The original purpose of the CMP444 cap and floor modification still stands, to improve the predictability of TNUoS charges for generators planning to bid in to CfD allocation rounds AR7 and beyond, that are being relied on to deliver the Government's CP30 targets.

If Ofgem does go on to reject CMP444, then it is essential that Ofgem, together with DESNZ, very quickly implement an alternative solution to deliver predictability and investor confidence for investment decisions that will be made before the new reformed TNUoS regime is implemented.

Ofgem's Open letter of July 2025 regarding aligning network charges with future market design¹ is helpful in this regard, including:

*"We propose to make network charges **more predictable**, so they **provide more effective signals** to investors at the point of making investment decisions."*

*"For existing assets, we could explore options to phase reformed charges over several years, to allow market participants to transition to a new charging regime. Other options include **fixing the charges so that existing assets face a certain level post the implementation of reformed charges**." (emphasis added)*

To deliver predictability effective at the point of investment decision for existing and new generators that are making investment decisions during any transition to a new regime, this should reflect charges they could have reasonably predicted at the point of making their investment decisions. This means fixed charges would have to be based on the TNUoS charging regime that applied at the time of their particular investment decision. Not having such a regime in place would run counter to parties having a clearer signal which would be accurately priced into those investment decisions. Many credible options are available for giving such a signal and should be given further consideration by industry.

¹ [Open Letter: Reforming network charging signals to align with the Government's decision on the future design of Great Britain's electricity system](#)

A benefit of this approach; of indicating that TNUoS charges would be based on some principle of predictability at the time of investment would be that Ofgem could reduce the range of charges that investors currently face. One solution that could be outlined is that charges are set at the TNUoS tariff applicable at the time of investment. In outlining this, investors would be given some greater predictability ahead of the implementation of reformed TNUoS.

It would also give DESNZ and Ofgem a free hand and longer timescale towards 2029 to more fully consider wide reaching reforms to TNUoS. The new reformed TNUoS charging arrangements would only apply to generators that are *new* after the new charges are finalised, because these are the only generators who are able to usefully respond to those new price signals.

A key remaining question would be how to best define what “*the point of making investment decisions*” means in practice.

We also note that industry has invested considerable resources, to date, in developing the cap and floor solution that Ofgem is now minded to reject, despite Ofgem previously outlining at the start of this process that “*Our view is that a temporary cap and floor on wider TNUoS charges for generation would offer the most efficient type of intervention*” (Ofgem open letter 30th September 2024). We hope that lessons can be learned from this process regarding code reform and how industry can most effectively progress from policy intent to specific code changes in the future.

We would be happy to discuss any of the issues raised in this response in further detail, if that would be helpful.

Yours sincerely,

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Response to specific questions

1. To what extent do you agree with our assessment of the impacts of CMP444 options on ACO (e)? Please provide your detailed rationale.

We do not agree with Ofgem's assessment that "*all options are likely negative against ACO (e) as they would all constrain otherwise cost-reflective Wider tariffs*" as a justification for rejecting this modification for the reasons described below.

Cap and floor would not necessarily be less cost reflective

We agree with Ofgem's earlier statement in their instruction to NESO to raise the cap and floor modification², which indicates the NESO 10 year projection is an unreliable and inappropriate benchmark for assessing the impact of the cap and floor on cost reflectivity. If the cap and floor approach resulted in moderated northern TNUoS charges, this would not necessarily be negative against ACO (e) for cost reflectivity, if those TNUoS charges were too high and not cost reflective in the first place:

*"We think this balance will be best achieved by reducing uncertainty around the future range of TNUoS charges, particularly in Northern GB where projected **charge increases published by NGESO last year [NESO 10 year projection] were particularly high and not necessarily aligned with our long-term TNUoS policy direction.**"* (Ofgem Open letter proposing cap and floor, 30th Sept 2024, emphasis added)

The most important test against ACO (e) is whether, or not, CMP444 would materially worsen relative cost reflectivity. Since appropriate WACMs within CMP444 would not materially worsen the relative cost reflectivity of price signals, they would not materially change the commercial merit order of generators with regards to the relative cost of TNUoS charges that they pay. This means ACO (e) does not provide an appropriate justification for rejecting this modification.

Assessment against ACO (e) cost reflectivity should have low weighting in Ofgem's decision

Even if CMP444 were rated as negative for ACO (e) on cost reflectivity, the assessment against ACO (e) should, nevertheless, be given a relative low weighting in Ofgem's decision to approve, or reject the modification. This is because ACO (d) "effective competition" should be the most important ACO for Ofgem to assess whether, or not, to approve CMP444. The original purpose of the cap and floor modification was to better facilitate effective competition by improving predictability and a solution to predictability is still needed, as explained in Ofgem's latest (July 2025) Open Letter. ACO(e) supports competition and should be subservient to that rather than being seen as an objective in its own right.

2. Do you agree with our assessment of the impacts of CMP444 options against ACO (d)? Please provide your rationale. If you have data to support your assessment of the interactions between CMP444 options and competition in generation we would encourage

² [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](#)

you to share it with us alongside this consultation response, clearly marking any confidential data.

We disagree with Ofgem's assessment against ACO (d) *"In the round, and taking into account both positive and negative factors, we are minded to conclude that the impacts on ACO (d) would be neutral."*

The original purpose of the cap and floor modification still stands, to improve the predictability of TNUoS charges for generators planning to bid in to CfD allocation rounds AR7 and beyond, that are being relied on to deliver the Government's CP30 targets. Therefore, CMP444's contribution to predictability and effective competition should be the most important ACO for Ofgem to consider its decision against.

We disagree with Ofgem's assessment that the temporary nature of the cap and floor would necessarily fail to provide enduring certainty for investors in AR7 or other auctions. The most important feature of an effective cap and floor Ofgem decision should be that the effect of cap and floor levels should be enduring for those generators who make investment decisions (and existing generators) during the period while the 'temporary' C&F policy exists (noting that, in this context, 'temporary' may last for some time rather than being short lived).

Ofgem could choose to deliver this regulatory certainty in the wording of a decision to approve CMP444 to create a "legitimate expectation". This would be consistent with Ofgem's principle that to be useful, investors must be able to accurately predict the TNUoS charge(s) and reasonably respond to them at the point of their commercial decisions.

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.

We agree that there can be a trade-off between cost reflectivity and effective competition. Cost reflectivity should be seen as a means to an end, not an end in itself and is only useful in as far as it supports better effective competition.

Attempts at cost reflectivity can be counter-productive and detrimental for effective competition if it provides a price signal at the wrong point in time when users cannot usefully respond to it or cannot accurately predict it. This uncertainty, without a useful response, can create more expensive costs for generators and for consumers without a corresponding efficiency benefit, through competition, for consumers.

4. To what extent do you agree with our assessment of CMP444 options against ACOs (f)? Please provide your detailed reasoning.

We agree that this modification is neutral against ACO (f) regarding developments in transmission licensees' transmission businesses and the ISOP business'.

5. To what extent do you agree with our assessment of CMP444 options against ACOs (g)? Please provide your detailed reasoning.

We agree that this modification is neutral against ACO (g) relating to Compliance with the Electricity Regulation and any relevant legally binding decisions of the European Commission and/or the Agency

6. To what extent do you agree with our assessment of CMP444 options against ACOs (h)? Please provide your detailed reasoning.

We disagree with Ofgem's assessment against ACO (h) regarding efficiency in implementation and administration that *"...that all options (and especially WACM4 and WACM5) would therefore be worse than the baseline in respect of ACO (h), albeit only by a small margin."*

It is our view that CMP444 should be considered neutral with regards to ACO (h) for efficiency of implementation and administration.

Any impact on efficiency of implementation and administration would not, in our view, be material, especially since the levels of the cap and floor only need to be calculated once.

The benefits to consumers that arise from improved predictability, and the CfD scheme cost savings would substantially outweigh any increase in cost the NESO may face in terms of additional complications of calculating tariffs.

It is our view that it is not appropriate for Ofgem to use this ACO to justify rejecting the modification on this.

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.

As explained in our answers to questions 1,2 and 3, we are concerned that Ofgem's minded to decision places too much weight on reflecting future costs that existing and transitional investors cannot usefully respond to, while under-valuing the benefit to consumers of providing investors with better certainty at the point they make their commercial decisions.

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.

Yes, approval of CMP444 would deliver better value for consumers through better predictability and cheaper CfD strike prices. The benefit to consumers would be felt for a long period during the lifetime of CfD contracts that were awarded during the period when the cap and floor regime applied.