OFGEM CONSULTATION · RESPONSE BY MARK D. MOORE

CMP470

Oversubscribed Technologies Commitment Fee

CUSC modification · Ofgem minded-to consultation

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RESPONSE SUBMITTED
25 September 2026, by email

SCOPE
All four questions answered

Individual response · Non-confidential
markdmoore.co.uk/white-papers

I support the fee. A likely response to it is a sale.
My proposal: report who ultimately holds the liable capacity.

CMP470: Oversubscribed Technologies Commitment Fee

Response to Ofgem's minded-to consultation of September 2026 · Mark D. Moore · Individual response · Not confidential · Submitted 25 September 2026

SUMMARY

I support the intervention and the Original Proposal. The response addresses all four questions, with evidence under Question 3(ii) that a likely behavioural response to the fee is a change of control of the project company, which the TEC Register does not record. Under Question 4 I propose ultimate-ownership reporting for OTCF-liable projects and a post-implementation review of the conclusion at paragraph 5.14, and I ask for clarification on projects converting from battery storage to demand and on demand-led sites that add export-capable storage.

Respondent and scope (paragraphs 1 to 3)

Question 1: Is intervention justified? (4 to 5)

Question 2: Is the Original Proposal the most appropriate option? (6 to 7)

Question 3: Rationale, benefits, risks and implementation (8 to 13)

Question 4: Further comments and implementation (14 to 18)

Closing (19)

References and notes on this copy

Respondent and scope

1 This is an individual response. I respond as an independent advisor on grid connections and energy infrastructure, and I do not act for any party holding or seeking a position in the connections queue. The response may be published in full.

2 Since July 2026 I have tracked the NESO Transmission Entry Capacity (TEC) Register week by week and traced the ownership of selected projects through Companies House filings to their ultimate controlling parties. The evidence cited below comes from that work. It covers a small number of named ownership chains and single register events. It is illustrative of a mechanism, not a measurement of the battery storage queue as a whole, and should be read on that basis.

3 I support the intervention and the Original Proposal. My substantive points concern the behavioural response the fee is likely to produce, which I expect to include changes of control that the TEC Register does not show, and three implementation points on which clarification would help.

Question 1: Is intervention justified?

Do you agree with our minded-to position that intervention is justified?

4 Yes. Around 90 GW of battery storage is operational or holds Gate 2 status against an estimated need of around 29 GW by 2035 (minded-to consultation, executive summary and paragraph 2.5). Some oversubscription is useful as a buffer against attrition, as paragraph 2.6 recognises. Holding roughly three times the requirement is well beyond that buffer, and network companies are being asked to plan for volume the system does not need.

5 The existing commitment regime does not correct this on its own. The Initial Impact Assessment (IIA) records at paragraph 2.17 that half of projects have posted less than £800/MW in securities and carry less than £1,500/MW in total liabilities. At those levels, holding a position costs very little, and the incentive to release capacity early is weak. A targeted floor on the Cancellation Charge is a reasonable response to that gap.

Question 2: Is the Original Proposal the most appropriate option?

Do you agree that the Original Proposal is the most appropriate option to address the oversubscription issue?

6 Yes. Three features of the Original Proposal are well judged. The fee starts low, at £3,000/MW (paragraph 3.18). It escalates only if oversubscription persists, in steps of £5,000/MW every six months to a ceiling of £25,000/MW. And it is not activated until the reformed queue is stable, after the first CMP434 Gated Application Window, with securities first payable from October 2027 (paragraph 3.23). That sequence gives developers a clear signal and time to act on it before the cost becomes material.

7 On proportionality, the IIA states that the maximum fee could reach around 25% of capital cost for a short-duration project and just over 7% for a medium-duration project (IIA paragraph 4.16; minded-to paragraph 5.14). The starting level is 12% of the maximum, which on the same basis is roughly 3% and under 1% respectively. The starting level is therefore modest against the investment it protects, and the escalation path is where the fee does its work. I would support Ofgem retaining the ceiling while keeping the six-monthly review transparent, so that developers can see the oversubscription measure moving before each step applies.

Question 3: Rationale, benefits, risks and implementation

Comments on the IIA, including (ii) the likely behavioural response of projects (including any potential for gaming).

8 The IIA models the response to the fee largely as a choice between staying in the queue and leaving it. There is a third response, which I expect to be common: the project is sold. A developer that cannot fund a rising security, or chooses not to, can transfer the project company to a better-capitalised owner. The capacity stays in the queue and the fee is posted by the new owner.

Paragraph 5.13 of the minded-to consultation anticipates the liquidity pressure that would drive this, and IIA paragraph 4.19 notes that a liquidity requirement may favour developers with larger balance sheets. Neither document follows the point through to a change of ownership.

9 That response matters for two reasons. First, the fee is activated, escalated and deactivated on the volume of oversubscribed capacity. A sale does not reduce that volume, so the escalation path will continue until projects actually leave. That is the fee working as intended. Second, a sale can change who holds the queue substantially without any change appearing on the TEC Register, because the Register records the project company and not its ultimate owner.

10 Two cases from my own tracing illustrate the second point. Harmony Energy Limited (company number 10141078), a battery storage developer, was acquired by Alpiq in July 2026, with the chief executive retaining a minority stake (Alpiq media release, 9 July 2026). The development business kept its name, management and operating model. On 14 August 2026 the Companies House register named an intermediate holding company as the person with significant control. By 19 August 2026 it showed no registrable person at all, which is the expected outcome where the new ultimate owner is an unlisted overseas company that cannot be registered as a relevant legal entity. Nothing in the TEC Register marks either event.

11 The second case runs the other way. Between the TEC Register snapshots of 14 and 25 August 2026, seven projects totalling 4.2 GW left the Register in a single week. All seven sat in project companies of one joint venture between Elmya Energy and Renewable Power Capital. Read line by line, the Register shows seven unrelated exits. It is recognisable as one owner's decision only because the company names share a stem, and I have not established whether the capacity was withdrawn or transferred elsewhere. The general point stands either way: movements that matter for queue management are owner-level decisions, and the Register reports them at project level.

12 There is also direct evidence that Gate 2 status is already being used as a transaction trigger. Gresham House has reported a conditional agreement to acquire a 480 MW battery project in Rayleigh, contingent on a favourable Gate 2 offer (Energy-Storage.news). A fee that raises the cost of holding a position is likely to add to this kind of activity.

13 I do not regard consolidation through sale as a defect of the fee. A project held by an owner able to post the security and build it is a better queue position than one that cannot. The concern is visibility. If Ofgem cannot see ultimate ownership, it cannot test its own conclusion at paragraph 5.14 that competition impacts are likely to be limited, and the concentration of the battery pipeline could change materially without anyone being able to measure it.

Question 4: Further comments and implementation

Further comments, evidence or concerns, including evidence on behavioural response, impacts and implementation considerations.

Ultimate-ownership reporting

14 I propose that NESO collect the ultimate controlling party of each OTCF-liable project when securities statements are issued, and that Ofgem receive an aggregated view of how the liable capacity is held. The first statement is expected in July 2027 (paragraph 3.23), which gives time to add the field. The data need not be published at project level. An aggregate measure, such as the share of liable capacity held by the largest owners, would be enough to test the competition conclusion.

Post-implementation review

15 I propose a review after the first two escalation points, testing whether the conclusion at paragraph 5.14 has held. The review would compare the ownership concentration of the liable capacity at activation with its concentration at review, and set exits against changes of control. Without the reporting proposed above, that comparison cannot be made.

Projects converting from battery storage to demand

16 IIA paragraph 2.15 records that some battery projects are seeking to modify their Gate 2 offers to connect as data centres, citing up to 9 GW (footnote 15, referring to the Curate consultation). Demand is outside the scope of the fee (paragraph 3.24), and neither the minded-to consultation nor the Final Modification Report addresses a change of technology. NESO's guidance on material technology changes (section 4.1) states that a full change from battery storage to a data centre will be treated with a later queue position. Conversion is therefore not a costless way out of the fee. It would still help to confirm three points:

17 (a) that a modification from battery storage to demand is treated as a reduction or exit of the battery capacity, so that a Cancellation Charge including any OTCF already secured applies; (b) how conversion applications lodged before activation are treated; and (c) how the treatment aligns with the data centre commitment fee proposed under Curate, so that a converting project is neither charged twice nor charged by neither regime.

Demand-led sites with export-capable storage

18 Import-only storage at a data centre, such as uninterruptible power supply or behind-the-meter storage, appears to fall outside the fee, since technology is set by the connection application and demand is excluded. The open case is a demand-led site that adds storage capable of exporting. I would welcome clarification of (a) whether the storage element is classed as battery storage for the purposes of the fee; (b) how the co-location exemption at paragraph 3.19 applies where the first-connecting element is demand and no TEC exists, since its tests of connection order and TEC increase were written for generation-plus-storage sites; and (c) how the fee interacts with the proposed data centre commitment fee for projects of 40 MW and above. The Final Modification Report's summary of Workgroup consultation responses also records a request to clarify how the fee applies to asymmetric bidirectional storage, which is closely related.

Closing

19 The fee addresses a real and well-evidenced problem, and the Original Proposal addresses it in proportion. My main request is that Ofgem gains sight of who ultimately holds the liable capacity, so that the fee's effect on the structure of the battery pipeline can be measured as well as its effect on volume. I would be happy to discuss any of the points above.

Mark D. Moore
25 September 2026

References

Added for this copy. The response cites these documents in its text; the list below gives them in full.

1. Ofgem, CMP470: Introducing an Oversubscribed Technologies Commitment Fee, minded-to consultation, September 2026
   https://www.ofgem.gov.uk/sites/default/files/2026-09/CMP470-Minded-to-Consultation.pdf
2. Ofgem, CMP470 Initial Impact Assessment, 17 September 2026
   https://www.ofgem.gov.uk/sites/default/files/2026-09/CMP470-Interim-Impact-Assessment.pdf
3. NESO, CMP470 Final Modification Report
4. NESO, Guidance on Material Technology Changes (section 4.1)
   https://www.neso.energy/document/360446/download
5. NESO, Transmission Entry Capacity (TEC) Register, snapshots of 14 and 25 August 2026
   https://www.neso.energy/data-portal/transmission-entry-capacity-tec-register
6. Companies House, Harmony Energy Limited (10141078), persons with significant control
   https://find-and-update.company-information.service.gov.uk/company/10141078/persons-with-significant-control
7. Alpiq, media release, 9 July 2026
8. Energy-Storage.news, UK BESS M&A rebounds, 9 June 2026 (Gresham House, Rayleigh)
   https://www.energy-storage.news/uk-bess-ma-rebounds-with-cip-fidra-elements-green-gresham-house-eelpower-transacting-on-4-2gwh/

About this copy

This is the response I emailed to Ofgem on 25 September 2026, set in the format used for papers on markdmoore.co.uk. Paragraphs 1 to 19 are as submitted, with three exceptions: an unfinished internal drafting note at the end of paragraph 13 has been removed, the date placeholder has been completed as 25 September 2026, and my email address has been removed. The summary is taken from the covering email sent with the response. The cover page and the reference list are added for this copy.

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