

To: All holders of an electricity generation licence

**Electricity Act 1989
Section 11A (2)**

**Notice of statutory consultation on a proposal to modify the standard condition
16B of the Electricity Generation Licence**

1. The Gas and Electricity Markets Authority ('the Authority')¹ proposes to modify the standard conditions of all electricity generation licences granted or treated as granted under section 6(1)(a) of the Electricity Act 1989 by amending standard licence condition 16B Financial information reporting (also known as the Consolidated Segmental Statements (CSS)) under section 11A (2).
2. This notice of statutory consultation is published alongside a consultation setting out our proposed modifications (Schedule 1 below) to the Electricity Generation Licence. A detailed description of the reasons for and the effects of these licence modifications has been published by the Authority in the accompanying document [Final proposals and statutory consultation - Reviewing the Consolidated Segmental Statement | Ofgem](#).
3. We are proposing these modifications because the structure of the market has changed considerably since the CSS was first introduced in 2009 through standard licence condition 16B. Our proposals are intended to ensure the CSS provides transparency and market intelligence, supports external reporting, ensures consumers are treated fairly and supports policy development.
4. The changes we are proposing fall into three areas: eligibility (vertical integration and customer number threshold), auditing and additional information. The effect of these proposed modifications is to:
 - increase the market coverage of the CSS so that we can capture a fuller picture of profitability in the retail energy sector.. In addition to vertically integrated suppliers, we have proposed expanding the CSS by including other suppliers (ie those that hold a supply licence only).
 - reduce the customer number threshold to 50,000 domestic customers based on meter points and capturing at least 90% of non-domestic customers.²
 - remove the current requirement for suppliers to audit the CSS before it is submitted to us. We will, however, retain the right to request one if we consider the CSS has not been prepared in accordance with the licence conditions, guidelines and/or template.
 - request additional reporting of categories and segments and introduce a segmental balance sheet and customer numbers table³.
5. A copy of the proposed modifications and other documents referred to in this Notice have been published on our website (www.ofgem.gov.uk). Alternatively, they are available from foi@ofgem.gov.uk.

¹ The terms "the Authority", "we" and "us" are used interchangeably in this document.

² The current requirement is at least 250,000 domestic or non-domestic customers.

³ Our proposal for additional information are outlined in the statutory consultation document.

6. Any representations with respect to the proposed licence modifications must be made on or before 11 August 2021 by email to css@ofgem.gov.uk.
7. We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication. We prefer to receive responses in an electronic form so they can be placed easily on our website.
8. If we decide to make the proposed modifications they will take effect not less than 56 days after the decision is published.

Maureen Paul

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**Interim Chief Economic Advisor,
Office for Research and Economics, Ofgem**

**Duly authorised on behalf of the
Gas and Electricity Markets Authority**

30 June 2021

Schedule 1: proposed changes to electricity generation licence

Note on licence drafting:

- Proposed text to be added is doubled underscored
- ~~Proposed text to be removed is strikethrough~~

Condition 16B. Financial information reporting

1. The Relevant Licensee must prepare and publish on its Website a the Consolidated Segmental Statement (which includes an income statement and a Segmental Balance Sheet) in respect of information relating to the revenues, costs and profits of its activities in the ~~generation and~~ supply of electricity and /or the supply of gas to any premises and of its generation activities (if applicable) taking account of the Guidelines.
2. Where applicable, the Relevant Licensee must prepare and publish the Consolidated Segmental Statement referred to in paragraph 1 in conjunction with any Affiliates.
3. The Relevant Licensee must, in conjunction with any Affiliates, prepare and publish a ~~Consolidated~~ Consolidated Segmental Statement:
 - (a) as soon as reasonably practicable and no later than four months after the end of the Relevant Licensee's financial year; or
 - (b) no later than a date specified by the Authority, which can be no earlier than four months after the end of the Relevant Licensee's financial year.
4. Subject to complying with this paragraph the Relevant Licensee may, for the purpose of preparing the statement pursuant to paragraph 19A.3, prepare and compile the information according to the licensee's annual accounting procedures. The Relevant Licensee must include in every such statement an explanation of:
 - (a) how it defines the terms revenues, costs and profits;
 - (b) how the revenues and profits can be reconciled with its UK statutory accounts;
 - (c) or, if UK statutory accounts are not prepared or published, how the revenues and profits can be reconciled with audited figures (prepared under ~~International Financial Reporting Standards~~ Generally Accepted Accounting Principles (GAAP)) published in Group accounts;
 - (d) its transfer pricing methodology and how this relates to the revenues, costs and profits information published; ~~and~~

(e) where individual business functions are captured in the Consolidated Segmental Statement, as ~~specified~~ specified by Appendix 2 of in the Guidelines; ~~and~~ and

(f) how it allocates the revenues, costs and profits to Different Categories as outlined in the Guidelines and the Template.

5. The Relevant Licensee must ensure that the information prepared and made public pursuant to paragraph 3 includes the cost of fuel used to generate electricity and its share of ~~revenues~~ revenues, costs, profits and volumes of Joint Ventures and Associates.
6. Subject to complying with Paragraph 5 the Relevant Licensee must ensure that all the information prepared and made public pursuant to paragraph 3 is in all material respects consistent with the information prepared pursuant to paragraph 4 and the information is presented with a clear and full explanation.
7. The Relevant Licensee must, for the purposes of ensuring the transfer pricing methodology is appropriate and up to date:
 - (a) keep transfer pricing policies and procedures under review; and
 - (b) ensure that the supporting information that supports the transfer pricing policies remains appropriate and up to date.
8. The Relevant Licensee must notify the Authority as soon as reasonably practicable of any material changes to transfer pricing policies.
9.
 - (a) The Authority shall prepare Guidelines and Templates in relation to the requirements of this condition and may modify, in whole or in part, the Guidelines and Templates following consultation with the Relevant Licensees.
 - (b) The Authority shall modify the definition of Consolidated Segmental Statement as described in ~~Appendices 1 and 2~~ of the Guidelines in accordance with section 11A of the Act.
10. ~~Except and to the extent that the Authority otherwise consents, the Relevant Licensee must include in the Consolidated Segmental Statement a report from an Appropriate Auditor that gives an audited opinion as to the extent to which the Relevant Licensee has properly prepared the Consolidated Segmental Statement in accordance with this licence condition and the Guidelines. Where the Authority considers that the Relevant Licensee has not properly prepared the Consolidated~~

Segmental Statement in accordance with this licence condition and the Guidelines and Template, it may require the Relevant Licensee to commission and submit a report from an Appropriate Auditor or to submit a report from an Appropriate Auditor which it has already commissioned.

11. For the purposes of this condition:

"Affiliate" means any holding company or subsidiary of a holding company of the Relevant Licensee, in each case within the meaning of sections 1159 and 1160 of the Companies Act 2006.

"Appropriate Auditors" means

(a) in the case of a licensee which is a company within the meaning of section 1 of the Companies Act 2006, a person appointed as auditor under Chapter 2 of Part 16 of that Act;

(b) in the case of any other licensee which is required by the law of a country or territory within the European Economic Area to appoint an auditor under provisions analogous to Chapter 2 of Part 16 of the Companies Act 2006, a person so appointed;

(c) in any other case, a person who is eligible for appointment as a company auditor under sections 1212 and 1216 of the Companies Act 2006, or in relation to auditors appointed for financial years beginning before 6 April 2008, a person who is eligible for appointment as a company auditor under sections 25 and 26 of the Companies Act 1989.

"Associate" means an entity, including an unincorporated entity such as a partnership, over which the Relevant Licensee has significant influence and that is neither a subsidiary nor an interest in a joint venture.

"Consolidated Segmental Statement" means a statement as described in ~~Appendices 1 and 2~~ of the Guidelines and the Template which includes an income statement, the Segmental Balance Sheet and the customer number table.

"Different Categories" means the breakdown of revenues, costs and profits as set out in the Guidelines and the Template.

"Guidelines" means the guidance and procedures in place for preparing the Consolidated Segmental Statements.

“Joint Venture” means a contractual arrangement whereby the Relevant Licensees and one or more parties undertake an economic activity that is subject to joint control.

“Relevant Licensee” means the holder of an electricity generation licence granted or treated as granted under section 6(1)(a) of the Act if:

(a) it supplies or any of its Affiliates supply, either jointly or severally:

- i. electricity to ~~more than 250,000~~ 50,000 or more domestic customers based on meter points; or
- ii. gas to ~~more than 250,000~~ 50,000 or more domestic customers based on meter points; or
- iii. electricity to ~~more than 250,000~~ the Relevant Minimum Number of non-domestic customers; or
- iv. gas to ~~more than 250,000~~ the Relevant Minimum Number of non-domestic customers; and/ or

(b) once a Relevant Licensee becomes obligated under the CSS licence condition as described in (a) above, they should continue to submit a CSS unless otherwise agreed by the Authority.

“Relevant Minimum Number” means the number of non-domestic customers based on meter points, published by the Authority, representing at least a 90% share of the non-domestic market each year. The Guidelines set out the methodologies for calculating the Relevant Minimum Number each year, as well as publication process.

“Segmental Balance Sheet” means a balance sheet for generation and supply as described and presented in the Guidelines and the Template, respectively.

“Template” means the template accompanying the Guidelines. It refers to the template for the Consolidated Segmental which includes the income statement and the Segmental Balance Sheet template.

“Website” means a website controlled and used by the Relevant Licensee or an Affiliate for the purposes of providing information and communication.