

## Statutory consultation on proposals to modify electricity supply licence condition 47: "Smart Metering – Matters Relating to Obtaining and Using Consumption Data"

Subject	Details
<b>Publication date:</b>	6 May 2022
<b>Response deadline:</b>	6 June 2022
<b>Contact</b>	Rachel Clark, Deputy Director Retail
<b>Team:</b>	Settlement Reform
<b>Telephone</b>	020 7901 7371
<b>Email:</b>	<a href="mailto:halfhourlysettlement@ofgem.gov.uk">halfhourlysettlement@ofgem.gov.uk</a>

We are consulting on changes to the electricity supply licence to introduce the necessary data access requirements for the functioning of the new market-wide half-hourly settlement arrangements. We would like views from holders of an electricity supply licence. We would also welcome responses from any other interested stakeholders and the public, although areas of this consultation are technical in nature and might require a degree of specialist knowledge around the detail in order to fully engage. The deadline for these responses is 5pm on 6 June 2022.

This document outlines the scope, purpose and questions of the consultation and how you can get involved. Once the consultation is closed, we will consider all responses. We will publish the non-confidential responses we receive alongside a decision on next steps on our website at [Ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations). If you want your response – in whole or in part – to be considered confidential, please tell us in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential, and if possible, put the confidential material in separate appendices to your response.

© Crown copyright 2022

The text of this document may be reproduced (excluding logos) under and in accordance with the terms of the [Open Government Licence](#).

Without prejudice to the generality of the terms of the Open Government Licence the material that is reproduced must be acknowledged as Crown copyright and the document title of this document must be specified in that acknowledgement.

Any enquiries related to the text of this publication should be sent to Ofgem at:  
10 South Colonnade, Canary Wharf, London, E14 4PU.

This publication is available at [www.ofgem.gov.uk](http://www.ofgem.gov.uk). Any enquiries regarding the use and re-use of this information resource should be sent to: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk)

## Contents

<b>1. Introduction</b> .....	<b>4</b>
<b>2. Statutory Consultation</b> .....	<b>6</b>
<b>3. Explanation of Proposal</b> .....	<b>9</b>
<b>Appendices</b> .....	<b>13</b>
<b>Appendix 1 – Privacy notice on consultations</b> .....	<b>14</b>

## 1. Introduction

### Background

- 1.1. This licence modification forms part of the Market-Wide Half-Hourly Settlement (MHHS) programme, which will reform the electricity settlement process. We set out our decision to proceed with MHHS in our MHHS decision document published in April 2021.<sup>1</sup> Alongside that decision letter we also published our MHHS Full Business Case<sup>2</sup> and MHHS Final Impact Assessment.<sup>3</sup>
- 1.2. Critical to these reforms will be the introduction of a new framework for accessing the electricity consumption and export data of domestic and microbusiness customers for use in the new settlement system.
- 1.3. We first consulted on the access to data framework in our “*consultation on access to half-hourly electricity data for settlement purposes*” in July 2018.<sup>4</sup> We published our decision letter<sup>5</sup> in response to that consultation in June 2019, alongside the non-confidential responses that we received.<sup>6</sup> We then published an open letter to stakeholders and other interested parties in April 2020, designed to clarify some points related to the decisions set out in that document.<sup>7</sup>
- 1.4. We then consulted on some further aspects of the access to data framework in our “*consultation on electricity retail market-wide half-hourly settlement*”, published alongside our draft Impact Assessment in June 2020.<sup>8</sup> We published our decision letter in response to that consultation in April 2021 alongside our Full Business Case and Final Impact Assessment.<sup>9</sup> We also published the non-confidential responses received in response to that consultation on our website.<sup>10</sup>

---

<sup>1</sup> See [MHHS Decision Document](#), April 2021.

<sup>2</sup> See [Full Business Case](#), April 2021.

<sup>3</sup> See the [Final Impact Assessment](#), April 2021.

<sup>4</sup> See [Consultation on access to data for half-hourly settlement](#), July 2018.

<sup>5</sup> See [Decision on access to half-hourly electricity data for settlement purposes](#), June 2019.

<sup>6</sup> See the [non-confidential responses](#) to the July 2018 consultation above.

<sup>7</sup> See [Open letter – clarification on issues around access to data for settlement purposes](#), April 2020.

<sup>8</sup> See [Consultation on electricity retail market-wide half-hourly settlement](#), June 2020.

<sup>9</sup> See [MHHS Decision Document](#), April 2021.

<sup>10</sup> See the [non-confidential responses](#) to the June 2020 consultation above.

- 1.5. Alongside these documents we also published a number of iterations of our Data Protection Impact Assessment (DPIA). A DPIA is a tool designed to help organisations find the most effective ways of complying with data protection obligations and meet individuals’ expectations of privacy. Versions 1 and 2 of the DPIA considered compliance with the GDPR.<sup>11,12,13</sup> The most recent iteration, written as an addendum to v2, considered compliance with the UK General Data Protection Regulation (UK GDPR).<sup>14</sup>
- 1.6. Underpinning the access to data framework design process was a desire to maintain a fair and proportionate balance between the rights of individual consumers to control over their personal data, with the need to ensure we have granular data available to the settlement system to maximise the benefits of the reforms, and of smart meters more widely. We consulted with stakeholders extensively on all aspects of the framework and adapted our approach in response to feedback received, particularly with regards to consumer privacy. We think the policy decisions we have set out, and which we are transposing into the legal framework here, appropriately strike that balance.
- 1.7. We also note that all proposed changes to the legal framework are being made on a forward-looking basis. In other words, there is no change for those customers who had their smart/advanced meters installed before the new MHHS data sharing framework to be set out in the updated licence conditions entered into force and have not decided to change supplier or contract since.

---

<sup>11</sup> We published [version 1 of our DPIA](#) alongside our consultation on access to data for half-hourly settlement in July 2018.

<sup>12</sup> We published [version 2 of our DPIA](#) alongside our subsequent decision letter in response to our consultation on access to data for half-hourly settlement in June 2019.

<sup>13</sup> [Regulation \(EU\) 2016/679 \(General Data Protection Regulation\)](#).

<sup>14</sup> We published [an addendum to version 2 of our DPIA](#) alongside our MHHS decision document in April 2021.

## 2. Statutory Consultation

### Section summary

This section consults on our proposals to modify the Electricity Supply Standard Licence Conditions (SLCs) in order to introduce the data access requirements for Market-Wide Half-Hourly Settlement (MHHS). This follows on from our initial consultation in July 2018<sup>4</sup> and subsequent decision in June 2019.<sup>5</sup>

### Question:

**Question 1: Do you agree that the proposed changes are best calculated to deliver the intent of the data access policy decisions taken by Ofgem as part of its Electricity Settlement Reform SCR, enabling effective implementation of MHHS?**

- 2.1. The purpose of this statutory consultation is to consult on whether the proposed text for the amended electricity supply SLC 47 adequately reflects the policy decisions already set out in those decision letters.<sup>5, 7, 9</sup> The text of the modifications that we are proposing is contained in a schedule to the statutory consultation notice to modify SLC 47, which we are publishing alongside this document.
- 2.2. Ofgem is aware that in July 2021 the Government published a consultation on “Maximising non-domestic smart meter consumer benefits: consultation on improving the data offer and enabling innovation”, which includes draft amendments to Standard Licence Condition (SLC) 47.17 – “Exception to prohibition on obtaining consumption data” relating to micro business premises. The Government is currently analysing responses to that consultation. We will therefore consider any implications accordingly in any relevant decision documents. To note though, we are not proposing amendments to SLC 47.17 as part of this consultation, other than a minor modification to the title of the condition and some necessary numbering changes to reflect proposed changes being made elsewhere, so we do not expect there to be any compatibility issues as a result of the two consultations running concurrently.

## New Framework Implementation

- 2.3. We would like to proceed with the proposed licence amendment in good time to bring customers onto the new data sharing framework. The sooner the proposed amendment is in place, the greater we expect the benefits of the reforms to be as more meters will be sharing granular data for settlement on day one. However, we also recognise that suppliers will need to amend their systems and messaging approaches ahead of the new framework entering into force, to ensure they are compliant when it does. With that in mind, Ofgem has undertaken consumer research to identify what information consumers need to understand the changes, their options around data sharing, and the potential benefits of MHHS. The findings of these results are intended to be published shortly.
- 2.4. We expect to publish a decision on these proposals in Summer 2022, with the finalised licence modifications taking effect, if made, from 56 days after publication of the decision notice. This means changes would come into effect in Autumn 2022.
- 2.5. After the point at which the new condition enters into force, customers having smart meters fitted or switching supplier / changing contract must be informed how their data will be processed once MHHS goes live. We expect suppliers to decide when to collect data sharing choices for these purposes from their customers, at a time that takes into consideration their obligations relating to MHHS Implementation and the requirements relating to processing of personal data under the UK GDPR.
- 2.6. Once the new settlement arrangements have come into force, we envisage routine monitoring of load shifting trends and opt-out rates. We will as necessary review the data access arrangements to ensure that they subsequently remain appropriate.
- 2.7. In December 2021, Ofgem published its decision that the MHHS reference architecture should be based on 'business events' such as new meter readings or changes in registration (hence 'event driven architecture' or EDA). In April 2022, after consultation, Ofgem published its decision that the Balancing and Settlement Code Company (BSCCo) would be responsible for the ongoing governance of the MHHS EDA. In due course, there will be a consultation on the detailed governance arrangements for the MHHS EDA. Our position is that providing access to half hourly (HH) consumption data, with appropriate privacy and security safeguards, will greatly strengthen retailers' incentives to offer new products and services for individual consumers and local communities. Making this data available (subject to safeguards) will, therefore, bring substantial benefits for consumers.

## Responses

- 2.8. The consultation period closes at 5pm on 6 June 2022. Please email your response to [halfhourlysettlement@ofgem.gov.uk](mailto:halfhourlysettlement@ofgem.gov.uk).
- 2.9. Subject to responses received, we propose to implement the changes to the Electricity Supply Licence 56 days after our decision on the Electricity Supply Licence modification associated with SLC 47 is published.



## 3. Explanation of Proposal

### Section summary

In this section we explain the changes that we are proposing to make to SLC 47.

The actual text of the modifications that we are proposing is contained in a schedule to the statutory consultation notice to modify SLC 47, published alongside this document.

Deletions are shown in ~~strike through~~ and new text is double underlined.

### **Old system and new system customers will be on different data sharing frameworks for settlement purposes**

Definitions set out in condition 47.45

- 3.1. Old system customers are those customers who had their smart / advanced meters installed before the new MHHS data sharing framework to be set out in the updated licence conditions entered into force and have not decided to change supplier or contract since. This date on which the new data sharing framework enters into force is defined in the licence as the New Framework Commencement Date (NFCD)
- 3.2. New system customers are those customers who had their smart / advanced meters installed or decided to change supplier or contract (excluding deemed contracts), after the NFCD as defined above. For clarity, with regards to a change of supplier or contract there are certain circumstances which we consider would be excluded by this definition:
  - Where the customer undergoes an automatic rollover onto a default tariff, they remain under the same contract as they were before
  - Where the customer experiences a change to the terms and conditions of a contract that does not relate to charges and they are not required to have given positive consent for, they remain under the same contract as they were before
  - Where the customer technically undergoes a change of supplier resulting from a change of ownership of their incumbent supplier, they are not considered to have changed supplier

- Where the customer is defaulted to a new electricity supplier via the Supplier of Last Resort (SoLR) process, they are placed under a deemed contract, which is explicitly excluded within the definition of New System Customer

3.3. These exclusions are not exhaustive but we hope they cover the circumstances where suppliers and consumers are most likely to require clarity.

### **Data sharing framework for settlement and associated purposes**

Domestic customers – conditions 47.6 to 47.29

Microbusiness customers – conditions 47.30 to 47.40

3.4. Old system domestic customers will, by default, have their daily granularity consumption data processed for settlement and associated purposes, in line with the existing rules. These customers will have their HH consumption data processed for these purposes only on an opt-in basis and will retain the right to opt-out to monthly data processing if they choose.

3.5. Old system microbusiness customers will, by default, have their HH consumption data processed for settlement and associated purposes, in line with the existing rules. These customers will retain the right to opt-out to monthly data processing for these purposes if they choose.

3.6. New system domestic customers will, by default, have their HH consumption data processed for settlement and associated purposes. These customers will have the right to opt-out to daily data processing for these purposes if they choose.

3.7. New system microbusiness customers will have their HH consumption data processed by default for settlement and associated purposes, with no opt-out possible.

### **Export. Conditions 47.41 to 47.43.**

3.8. There will be a legal obligation on the supplier, who is also the party responsible for settlement, to process HH export data from their domestic and microbusiness customers with export meters registered for settlement. There is no distinction between Old System Customers and New System Customers in relation to export data, as there is not currently a data sharing framework for export data that customers will have signed up to when accepting a smart meter, as there is with consumption data.

**Data access framework timing. Condition 47.4**

- 3.9. The licensee must process data from a meter for settlement purposes from the date on which that meter is migrated into the new MHHS system.
- 3.10. The licensee may process data for forecasting and business readiness from one year before the planned start of the transition period. The start of the transition period is currently expected to be 1 October 2024, so the date from which the licensee may process data for forecasting and business readiness will be 1 October 2023, unless the authority subsequently specifies a different date in writing. This date will be defined as the MHHS Data Access Commencement Date.

**Provision of information. Condition 47.5.**

- 3.11. The licensee must provide clear, accurate and non-misleading information to the customer regarding their data sharing options for settlement and associated purposes, and the benefits of sharing granular data for these purposes.

**Forecasting and Business Readiness. Conditions 47.25, 47.39, 47.43.**

- 3.12. Where suppliers are required to collect and process data for settlement purposes, we will also enable them to use this data for forecasting and business readiness purposes, provided that all personal data must be anonymised and aggregated as early in the relevant process as is reasonably practicable. Forecasting is the process by which the licensee predicts their potential future position with regards to liabilities and charges under settlement. Business Readiness means undertaking preparations for the purposes of implementing and delivering market-wide half-hourly settlement, for example improving forecasting and trading functions. It could also include the use of aggregated or anonymised data for developing new products and services aimed at broad market segments.
- 3.13. Certain meters may be migrated to MHHS prior to this change. For example, as part of industry preparing to deal with more complex meter arrangements such as Current Transformer (CT) meters. Industry parties may seek to raise code modifications, such as the P432 code modification request under the Balancing and Settlement Code (BSC), in order to help resolve any additional issues that may arise. If these meters are migrated before the overall MHHS transition period, suppliers will need to ensure they are able to process the Half-Hourly data of those customers. Ofgem will consider whether it is appropriate to set the MHHS Data Access Commencement Date (see

section on Data Access Framework Timing above) to an earlier date for domestic and microbusiness customers with CT meters.

**Relationship between data sharing options for billing and Settlement.**

**Conditions 47.26 and 47.40**

- 3.14. Where a customer has chosen a Time of Use (ToU) tariff which requires sharing HH data with the supplier for the purposes of calculating a bill, the customer must also share HH data for settlement and associated purposes. The customer will not be given the choice to share less granular data for these purposes.

## Appendices

### Index

Appendix	Name of appendix	Page no.
1	Privacy Notice on Consultations	14

## Appendix 1 – Privacy notice on consultations

### Personal data

The following explains your rights and gives you the information you are entitled to under the UK General Data Protection Regulation (UK GDPR).

Note that this section only refers to your personal data (your name, address and anything that could be used to identify you personally). It does refer to the content of your response to the consultation.

#### **1. The identity of the controller and contact details of our Data Protection Officer.**

The Gas and Electricity Markets Authority is the controller (for ease of reference, “Ofgem”). The Data Protection Officer can be contacted at [dpo@ofgem.gov.uk](mailto:dpo@ofgem.gov.uk).

#### **2. Why we are collecting your personal data.**

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

#### **3. Our legal basis for processing your personal data.**

As a public authority, the UK GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest, such as a consultation.

#### **4. With whom we will be sharing your personal data.**

We will not share your personal data with any organisation outside Ofgem unless we are required to do so to fulfil a legal obligation.

#### **5. For how long we will keep your personal data, or criteria used to determine the retention period.**

Your personal data will only be held for as long as is necessary for the purposes of the market-wide settlement reform project.

#### **6. Your rights**

The data we are collecting is your personal data and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data
- get your data from us and re-use it across other services
- object to certain ways we use your data
- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with third parties
- tell us your preferred frequency, content and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

**6. Your personal data will not be sent overseas.**

**7. Your personal data will not be used for any automated decision making.**

**8. Your personal data will be stored in a secure government IT system.**

**9. More information**

For more information on how Ofgem processes your data, see [Ofgem's privacy policy](#).