

# Consultation

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## **Consultation on our assessment of interim period and enduring development cost recovery submissions under the Capacity Allocation and Congestion Management (CACM) Regulation**

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Publication date:	29 August 2023
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Response deadline:	26 September 2023
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We are consulting on the amounts for recovery through Transmission Network Use of System ("TNUoS") charges and GB interconnector Transmission System Operators ("TSOs"). This is based on our assessment of IFA, BritNed, Nemo Link, EWIC and Moyle's submissions of historical costs incurred by GB interconnector TSOs and Nominated Electricity Market Operators ("NEMOs") under the CACM Regulation.

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 want to be transparent in our consultations. 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.

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## Executive Summary

### Overview of our assessment

On 30 August 2019, we decided on the approach to cost sharing and cost recovery under the Commission Regulation (EU) 2015/1222 on Capacity Allocation and Congestion Management (the “CACM Regulation”)<sup>1</sup>. Hereafter referred to as the “August Decision”<sup>2</sup>.

The August Decision allowed for the recovery of development and operational historical costs incurred by GB interconnector TSOs and NEMOs as part of CACM Regulation for the interim period and enduring arrangements. These costs relate to establishing, amending and operating Single Day Ahead Coupling (“SDAC”) and Single Intraday Coupling (“SIDC”) as part of the capacity allocation and congestion management system. The decision also allowed the recovery of efficiently incurred, reasonable and proportionate development and operational costs through Transmission Network Use of System (“TNUoS”) payments, for the interim period<sup>3</sup>. Moreover, it allowed for recovery of development costs<sup>4</sup> that were assessed as efficient, reasonable and proportionate through GB interconnector TSOs, for the enduring arrangements as set out under CACM Regulation.

Based on our assessment to ensure the costs are efficient, reasonable and proportionate, we are minded to allow the costs to be recovered as set out in Table 1 below:

**Table 1 - Overview of our minded to position on amounts to be recovered**

Interconnector	Provisional cost allowance (£) through TNUoS	Provisional cost allowance (£) from GB interconnector TSOs
IFA	895,204	141,548
BritNed	547,328	83,986
Nemo Link	40,029	83,986
EWIC	193,681	55,205

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<sup>1</sup> [Link](#) to Commission Regulation (EU) 2015/1222 on capacity allocation and congestion management.

<sup>2</sup> [Link](#) to Ofgem’s decision on the approach to cost sharing and cost recovery under the Capacity Allocation and Congestion Management (CACM) Regulation.

<sup>3</sup> Interim period refers to the recovery of costs between 14 February 2017 and 30 August 2019.

<sup>4</sup> Enduring arrangements refers to the recovery of development costs from 30 August 2019 to 21 December 2020.

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Moyle	107,955	31,641
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We have proposed cost adjustments to the original submissions provided by IFA, BritNed, Nemo Link, EWIC and Moyle GB interconnector TSOs, which are illustrated in Table 1. As part of our cost assessment process, adjustments were made in relation to the most efficient, reasonable and proportionate representation of currency exchange rates. The currency exchange rate applied was based on the date of the costs incurred or as close to it as reasonably practicable.

**Next steps**

After considering the responses to this consultation, we expect to make a final decision on the assessment of the costs later in the year. This will allow the recovery of the interim period costs through the 2024 cycle of TNUoS charges and the recovery of enduring development costs from the GB interconnector TSOs.

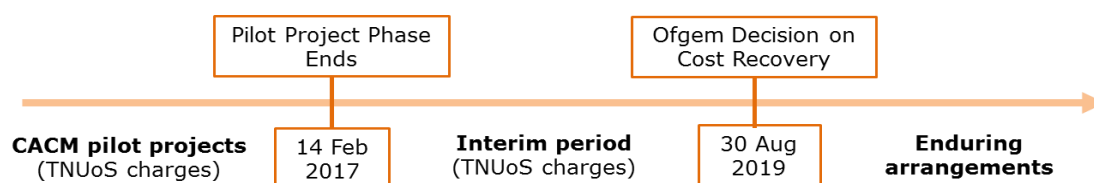
## 1. Introduction

### Context

#### The CACM Regulation and Ofgem's previous decisions

- 1.1 The CACM Regulation came into force on 14 August 2015, and is a central component of the Internal Energy Market, as set out in the EU Third Energy Package and later in the Clean Energy Package<sup>5</sup>. It aims to maximise the efficient use of interconnection and facilitate greater cross-border electricity trade. It seeks to do this by introducing rules for market coupling and providing the legal framework for a single and more efficient capacity allocation and congestion management system in both the Single Day Ahead Coupling ("SDAC") and Single Intraday Coupling ("SIDC") timeframes. Market coupling should ensure that power is produced where it is most efficient and transported to areas of consumption where it is most valued.
- 1.2 In summary, the August Decision sets out how costs in relation to the CACM Regulation should be shared between Transmission System Operators (TSOs) and Nominated Electricity Market Operators (NEMOs), and the appropriate mechanism for their recovery in GB. Our decision separated the costs into three different time periods, as presented in Figure 1 below.

**Figure 1 - Timeline of the three different time periods for cost recovery**



- 1.3 Articles 80 of the CACM Regulation Costs split into three categories as follows:
- Common costs: Pan-European costs resulting from the coordinated activities of all NEMOs or TSOs participating in SDAC and SIDC;

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<sup>5</sup> The most relevant EU legal instruments in this regard are Directive 2009/72/EC (in the context of the Third Energy Package) as well as Regulation (EU) 2019/943 and Directive (EU) 2019/944 (in the context of the Clean Energy Package).

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- Regional: Regional costs resulting from activities of NEMOs or TSOs cooperating in a certain region, for GB this would be costs associated with the Channel and Ireland-UK (IU) Regions; and,
- National: National costs in GB resulting from the activities of NEMOs or TSOs in GB.

1.4 On 22 January 2021, we set out our decision on the assessment of IFA, BritNed and Nemo Link's pilot project<sup>6</sup> and interim period cost recovery submissions based on the historical costs. This decision allowed for the recovery of efficiently incurred, reasonable and proportionate historical development and operational costs through the 2021 TNUoS cycle for payments of both the pilot project period and the interim period.

CACM pilot projects

1.5 Our August Decision decided to allow the recovery of efficiently incurred, reasonable and proportionate development and operational costs that were incurred before 14 February 2017 or that were contractually committed to before this date, for both pilot projects (the North West Europe ("NWE") price coupling and Cross Border Intraday ("XBID")).

Interim period

1.6 We decided to permit cost recovery for the short period between the end of the pilot project phase, i.e. 14 February 2017, and the date of the August Decision (the interim period). This means that efficiently incurred, reasonable and proportionate development and operational costs incurred during this period may also be recovered through TNUoS charges. EPEX Spot, who were a NEMO in GB under CACM regulation, can recover their specific share of interim period costs from GB interconnector TSOs once the costs have been paid to GB interconnector TSOs through TNUoS.

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<sup>6</sup> CACM pilot project period refers to development and operational costs that were incurred before 14 February 2017 or that were contractually committed to before this date, for both pilot projects (the North West Europe

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Enduring arrangements

- 1.7 Our decision with respect to enduring arrangements for cost sharing and cost recovery under the CACM regulation is presented below in Table 2.

**Table 2 - Enduring arrangements overview**

Party	Development costs	Operational costs
TSOs	<ul style="list-style-type: none"><li>• To be borne by GB interconnector TSOs from their congestion income.</li></ul>	<ul style="list-style-type: none"><li>• To be borne by GB interconnector TSOs from their congestion income.</li></ul>
NEMOs	<ul style="list-style-type: none"><li>• Allowed to recover their share of efficiently incurred, reasonable and proportionate common, regional and national enduring development costs from the GB interconnector TSOs.</li></ul>	<ul style="list-style-type: none"><li>• Costs (including clearing and settlement costs) are allowed to be recovered through fees charged by NEMOs to users of that service (e.g. traders); and</li><li>• Efficiently incurred, reasonable and proportionate costs, associated with the circumstances where a NEMO is providing a service to the TSO, are to be recovered by the relevant NEMO from the relevant TSO.</li></ul>

**What are we consulting on?**

- 1.8 Following our assessment, this consultation sets out our minded to position on the amounts for recovery of remaining CACM Regulation historical costs through TNUoS charges and GB interconnector TSOs. This is based on the submission of interim period and enduring development costs from IFA, BritNed, Nemo Link, EWIC and Moyle as required under the CACM Regulation.
- 1.9 We are seeking views on our minded to position ahead of reaching a final decision by January 2024.
- 1.10 We expect IFA, BritNed, Nemo Link, EWIC and Moyle to recover the interim period costs through the 2024 cycle of TNUoS charges. Once the costs have recovered from TNUoS, NEMOs including EPEX Spot, can recover their share of costs from GB interconnector TSOs. We also expect EPEX Spot to recover the enduring development costs from IFA, BritNed, Nemo Link, EWIC and Moyle once we have made our final decision by January 2024.



## Related publications

- 1.11 [Decision on approach to cost sharing and cost recovery under the Capacity Allocation and Congestion Management \(CACM\) Regulation](#) Published: August 2019
- 1.12 [Decision on proposed modifications to the standard conditions of the electricity interconnector licence, the special conditions of the electricity interconnector licence held by NGIL and the electricity transmission licence held by NGESO](#) Published: October 2020<sup>7</sup>
- 1.13 [Decision on the cap and floor regime for the GB-Belgium interconnector project Nemo](#) Published: December 2014<sup>8</sup>
- 1.14 [Consultation on our assessment of IFA, BritNed and Nemo Link's pilot project and interim period cost recovery submissions under the Capacity Allocation and Congestion Management \(CACM\) Regulation](#) Published: December 2020
- 1.15 [Decision on assessment of IFA, BritNed and Nemo Link's pilot project and interim period cost recovery submissions under the Capacity Allocation and Congestion Management \(CACM\) Regulation](#) Published on 22 January 2021

## Consultation stages

- 1.16 This consultation will remain open for 28 days for written responses.

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<sup>7</sup> The proposed changes implement our decision on the approach to cost sharing and cost recovery under the CACM Regulation in the electricity interconnector licences including IFA, BritNed and Nemo Link.

<sup>8</sup> This decision is on the design of the cap and floor regulatory regime for NEMO Link. Cap and floor is a developer-led approach which balances incentivising investment through a market-based approach, with appropriate risks and rewards for the project developers.

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Stage 1	Stage 2	Stage 3	Stage 4
Consultation open	Consultation closes (awaiting decision). Deadline for responses	Responses reviewed and published	Consultation decision/policy statement
29 August 2023	26 September 2023	By January 2024	By January 2024

## How to respond

- 1.17 We want to hear from anyone interested in this consultation. Please send your response to the person or team named on this document's front page.
- 1.18 We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.
- 1.19 We will publish non-confidential responses on our website at [www.ofgem.gov.uk/consultations](http://www.ofgem.gov.uk/consultations).

## Your response, data and confidentiality

- 1.20 You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.
- 1.21 If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.
- 1.22 If the information you give in your response contains personal data under the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in domestic law following the UK's withdrawal from the European Union ("UK GDPR"), the Gas and Electricity Markets Authority will be the data controller for the purposes

of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 4.

- 1.23 If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

## General feedback

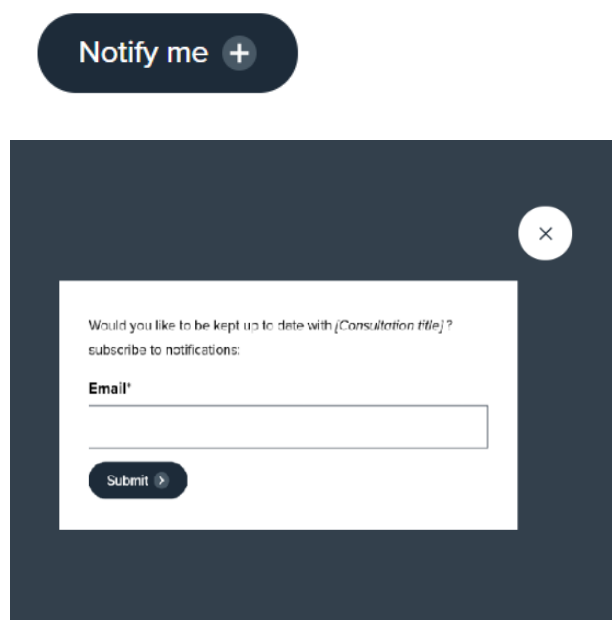
1.24 We believe that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall process of this consultation?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Any further comments?

1.25 Please send any general feedback comments to [stakeholders@ofgem.gov.uk](mailto:stakeholders@ofgem.gov.uk)

## How to track the progress of the consultation

1.26 You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website. [Ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations)



The image shows a dark blue button with the text 'Notify me' and a white plus sign. Below it is a screenshot of a notification subscription form. The form has a dark blue background with a white border. It contains the text 'Would you like to be kept up to date with [Consultation title]?' and 'subscribe to notifications:'. There is an 'Email\*' label above a text input field. At the bottom of the form is a dark blue button with the text 'Submit' and a white right-pointing arrow. A white close button (an 'X' in a circle) is in the top right corner of the form's background.

1.27 Once subscribed to the notifications for a particular consultation, you will receive an email to notify you when it has changed status. Our consultation stages are:

**Upcoming** > **Open** > **Closed** (awaiting decision) > **Closed** (with decision)

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## 2. Our cost assessment of the CACM cost recovery claims

### Section summary

This section provides an overview of the cost assessment we have undertaken, including where we are minded to making adjustments.

### Questions

**Question 1:** Do you agree with how we have assessed costs as being efficient, proportionate and reasonably incurred?

**Question 2:** Do you agree with our proposed approach to use the value of GBP currency for the cost recovery claims, including our approach to request an adjustment to the interim and enduring costs based on the average annual currency exchange rates for each year of its claim?

### Description and scope of our cost assessment

- 2.1 Article 9(8) of the CACM Regulation provides that Ofgem, as the relevant Regulatory Authority (RA), is responsible for approving capacity allocation and congestion management costs in accordance with Articles 75 to 79 of the CACM Regulation. The costs have been assessed, in accordance with Article 75 of the CACM Regulation, as to whether they are efficient, reasonable and proportionate.
- 2.2 IFA, Nemo Link, Moyle, BritNed and EWIC made their cost submissions on 26 May 2023, 26 May 2023, 31 May 2023, 12 and 14 June 2023 respectively. Following our request, each interconnector also provided a report which gave an overview of the interim period costs and enduring development costs in the submissions, and further details of the activities, projects and parties related to these historical costs.
- 2.3 We undertook a supplementary questions (SQs) process with EPEX Spot in relation to the NEMO share of costs. The SQ process enabled us to ask questions for EPEX Spot's consideration and capture additional clarifications on the cost recovery claims submitted and ensure that we had a clear and complete basis for our assessment.

## Summary of our cost assessment

2.4 Table 3 and 4 summarises our proposed adjustments<sup>9</sup> to IFA, BritNed, Nemo Link's, EWIC and Moyle originally submitted interim period costs and enduring development costs respectively. We present further details on our cost assessment in the following sections.

**Table 3 - Summary of the proposed interim allowances**

Interconnector	Submitted Cost (£)	Provisional adjustment (£)	Provisional allowance (£)
IFA	897,180	-1,976	895,204
BritNed	548,602	-1,274	547,328
Nemo Link	39,943	86	40,029
EWIC	193,535	146	193,681
Moyle	107,874	82	107,955
<b>Total interim period</b>	<b>£1,784,197</b>		

**Table 4 – Summary of the proposed enduring development allowances**

Interconnector	Submitted Cost (£)	Provisional adjustment (£)	Provisional allowance (£)
IFA	141,829	-281	141,548
BritNed	84,153	-167	83,986
Nemo Link	84,153	-167	83,986
EWIC	55,315	-110	55,205

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<sup>9</sup> Proposed adjustments have been made whilst working with the interconnectors and EPEX Spot who had provided updated submissions on a continual basis throughout the SQs process.

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Moyle	31,698	-57	31,641
<b>Total enduring cost</b>	<b>£396,366</b>		

2.5 The total cost to be recovered for the interim period costs through the 2024 cycle of TNUoS charges is £1,784,197. The total cost to be recovered for the enduring development costs from the GB interconnector TSOs is £396,366.

**Assessment of costs as efficient, reasonable and proportionate**

2.6 Whilst reviewing the cost submissions and reports, our focus was to ensure that EPEX Spot had explained and justified the costs that it had submitted in relation to establishing, amending and operating SDAC and SDIC.

2.7 We ensured that costs submitted to and assessed by us from each of the interconnectors included a clear justification and description of what aspects of establishing, amending and operating SDAC and SDIC they were in relation to. We also requested clear explanations from EPEX Spot through the SQ process. Where resettlements were required between NEMOs, they were already performed and excluded from these totals and that the costs presented in this report have never been invoiced before, with no payment ever made against them.

2.8 If costs could not be clearly described or were clearly not efficient, reasonable and proportionate, the interconnectors working with EPEX Spot decided to remove it from their cost submission and instead provided us with an updated submission.

**Assessment of currency exchange rates**

2.9 Our view on the cost recovery claims for each of the GB interconnector TSOs is presented in this document in GBP, irrespective of the currency in which these costs were incurred. This is because our final assessment on the cost recovery claims, which we will present in our final decision ahead of January 2024, will be used by IFA, BritNed, Nemo Link, EWIC and Moyle to inform National Grid Electricity System Operator (NGESO) of the costs that they will recover through the 2024 TNUoS cycle.

2.10 The interim period payments will be made to each of the GB interconnector TSOs via the British Electricity System Operator, NGESO, in GBP. We therefore aim to ensure consistency between our reporting of efficiently incurred, reasonable and

proportionate costs and the payments that the parties will receive through the TNUoS 2024 cycle.

- 2.11 We acknowledge that when costs are mostly incurred in a currency that is different from the currency used for corporate reporting purposes, the interconnector would face exposure to foreign exchange (FX) risk linked to movements in the relevant exchange rate (in this case, GBP/EUR).
- 2.12 We also acknowledge that uncertainty in relation to the level and timing of cost recovery would prevent the interconnector to put in place an effective hedge against this FX risk exposure.
- 2.13 This exposure arises when GBP-denominated costs and subsequent cost recovery payments are converted into EUR for the purpose of corporate reporting rather than for any regulatory purposes involving Ofgem.
- 2.14 Taking the specific circumstances of this decision into account, we consider dealing with this exposure to be outside of the scope of this decision, which determines the GBP-denominated amount to be paid to the interconnectors by NGESO. Our position is neutral in relation to any gains or losses that an interconnector might incur when converting a GBP denominated amount into EUR for the purpose of its corporate reporting, as is the case in Ofgem's other regulatory regimes.
- 2.15 Moreover, taking the specific circumstances of this decision into account, we do not consider that uplifting the GBP-denominated cost recovery allowance would represent fair and reasonable cost recovery, as it would transfer FX risk fully to GB consumers, who are unable to hedge against it, especially considering that, in this case, FX risk is the result of a corporate decision to report in EUR rather than in GBP, a decision on which GB consumers had no say.
- 2.16 We therefore consider it is appropriate to convert any claims in Euros to GBP at the date of the cost incurred or as close to it as reasonably practicable.
- 2.17 Each of the GB interconnector TSOs had converted invoices in Euros to GBP using an FX rate dated in April 2023. Through the SQ process with EPEX Spot we asked that their claim is converted from Euros to GBP at the date of the invoice or as close to it as reasonably practicable. The interconnectors then used an average annual currency exchange rate which we consider is reasonably practicable.



## **Conclusion**

- 2.18 In summary, IFA, BritNed, Nemo Link, EWIC and Moyle have all made cost recovery claims in relation to the costs of establishing, amending and operating SDAC and SDIC.
- 2.19 Our minded to position is that the vast majority of these costs have been efficiently incurred and are reasonable and proportionate. However, during the SQ process we have requested adjustments to each of the submissions in relation to our assessment of appropriate currency exchange rates.<sup>10</sup>

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<sup>10</sup> The submitted costs referred to in this consultation are from the original submissions set out in paragraph 2.2. The provisional allowance takes into consideration our minded to position in which EPEX Spot has provided us with an updated cost submission.

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### **3. Next steps**

- 3.1 Following consideration of the responses to this consultation, we intend to publish our final decision ahead of January 2024. We then expect IFA, BritNed, Nemo Link, EWIC and Moyle to recover these costs through the 2024 TNUoS charges cycle.
- 3.2 IFA, BritNed, Nemo Link, EWIC and Moyle will need to inform NGESO of the final costs to be recovered through the 2024 TNUoS charges cycle by 25 January 2024. Similarly, these GB interconnector TSOs will also need to inform NEMOs of the enduring development costs NEMOs will be able to recover from themselves following our anticipated decision. Our final decision will set out further details on this process.

## **Appendix 1 – Privacy notice on consultations**

### **Personal data**

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

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not 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 GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

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

Your personal data will be held for 3-5 years after the consultation is closed.

#### **5. 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 3<sup>rd</sup> parties
- tell us your preferred frequency, content and format of our communications with you

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- 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.**

**10. More information** For more information on how Ofgem processes your data, click on the link to our "[ofgem privacy promise](#)".