

Andrew Milligan
Deputy Director, Retail Intelligence & Market Stability
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

10 January 2024

Dear Andrew

REVIEWING THE CONSOLIDATED SEGMENTAL STATEMENTS – OUR FINAL PROPOSALS

We are pleased to respond to your statutory consultation on your final proposed changes to the supply and generation licence conditions in respect of Consolidated Segmental Statements (CSS).

We agree with the main changes proposed by Ofgem, namely:

- extending the obligation to publish CSS (to the 14 largest domestic suppliers and 61 largest non-domestic suppliers);
- extending deadline for publication to 10 months after year end (to align with statutory accounts which must be filed within 9 months);
- not proceeding with Ofgem's previous proposal to require publication of 'other' data;
- removing the obligation on vertically integrated companies to publish generation statements;
- removing the obligations in respect of transfer pricing (publish explanation of methodology, keep policies under review, notify Ofgem of changes);
- removing the requirement for audit, unless requested by Ofgem.

We have provided a number of detailed comments on the statcon and proposed changes to the licence conditions and guidance in Annex 1 attached.

Yours sincerely



Richard Sweet
Director of Regulatory Policy

REVIEWING THE CONSOLIDATED SEGMENTAL STATEMENTS – OUR FINAL PROPOSALS – SCOTTISHPOWER COMMENTS

Statcon

1. The statcon says (paragraph 1.4) that ‘only four suppliers currently fall under the obligation to submit a CSS’ and there are numerous references elsewhere in the statcon to ‘*submitting*’ CSS.¹ This is a misrepresentation of the current obligation which is to *publish* a CSS. This risks confusing the purpose of the CSS obligation, which is not to inform Ofgem (as is the case for normal submissions in response to RFIs) but to provide transparency to wider stakeholders, and we recommend that this is corrected in the final decision document. In this context we would note that it has been ScottishPower’s practice to email Ofgem a link to our published CSS and a spreadsheet version of the CSS table, but we have done this on a voluntary basis, as a courtesy to Ofgem, and not because we are obliged by our licence to do so.
2. Ofgem says (paragraph 3.9) that it may consider later, a separate licence condition for generators which will cover more of that market. As we have explained in previous responses, we do not believe there is currently any reasonable appetite from external stakeholders for greater transparency over generator financial results. We would be happy to engage with Ofgem further on this matter if Ofgem wishes to take it further.

Proposed modifications to licence conditions

3. The proposed modification to SLC19A.5 provides that “*the Relevant Licensee or any Affiliate must ensure that the information prepared and made public pursuant to paragraph 19A.3 ...*”, where an “*Affiliate*” is defined as “*any holding company or subsidiary of a holding company of the Relevant Licensee*”. It is not appropriate for Ofgem to extend the application of SLC19A.5 beyond the licence holder. Affiliates that are supply licence holders themselves are already subject to the requirements of SLC19A.5 via their own licence. Affiliates that are not licence holders (as is often the case), cannot be placed under an obligation in this way. Instead, Ofgem should place the obligation on the licensee to procure that its Affiliates do what is required where appropriate in terms of SLC19A.5.
4. Ofgem is proposing to modify SLC19A.9 to remove the explicit requirement for Ofgem to consult on changes to its Guidelines, stating instead (for the electricity supply licence) that “*The Authority shall prepare Guidelines in relation to the requirements of this condition and may modify, in whole or in part, the Guidelines in accordance with section 11A of the Act.*” Section 11A of the Electricity Act sets out various steps that Ofgem must take before it can modify the conditions of a licence, including requirements for consultation. We are concerned that there is a potential ambiguity in Ofgem’s use of the phrase ‘in accordance with’. We assume the policy intent is that Ofgem must follow the same process in modifying the Guidelines as it must follow in modifying licence conditions, which we agree with. However, we are concerned that section 11A refers only to licence conditions. To avoid any ambiguity, we request that Ofgem reinstates the previous wording (‘following consultation with the Relevant Licensees’)

¹ Paragraphs 2.4, 2.15, 2.32, 3.3, 3.4, 3.5, 3.6.

5. In the case of the gas supply licence, Ofgem's draft modification of SLC19A.9 incorrectly deletes the words 'the Guidelines' and incorrectly replaces the reference to section 23 of the Gas Act with a reference to section 11A.
6. SLC19A.10 gives Ofgem the power to request an audit where it considers a supplier has not properly prepared the CSS. In our experience, it is not straightforward to prepare CSS which are clear, accurate and complete, and we have benefited over the years from feedback from Ofgem and auditors. We believe auditors potentially have a useful role to play in raising the standards of CSS preparation in the early years and we think Ofgem should avoid setting the bar unnecessarily high for requesting an audit. We would suggest the test should instead be that Ofgem is not satisfied that the supplier has properly prepared the CSS. This would avoid the implication that Ofgem has to positively identify a defect in the CSS (which may be difficult without the benefit of an audit) before requesting an audit.

Draft Guidelines

7. The Guidelines are entitled 'Draft revised Guidelines for submitting the CSS'. As noted above (point 1), this should be amended to 'Draft revised Guidelines for publishing the CSS'.
8. Paragraph A2.4 refers to 'the requirement to submit a CSS'. As above, 'submit' should be amended to 'publish'. If Ofgem wishes suppliers to submit their CSS (as we have done on a voluntary basis) it should either amend the licence conditions to make this a formal obligation, or make it clear in the Guidelines that it would welcome such submissions on a voluntary basis.
9. Paragraph A2.9: same comments as above.
10. Paragraph A2.27: As noted above (point 6) we suggest that Ofgem should be able to request an audit where it is not satisfied that the CSS has been properly prepared, rather than where it considers it has not been properly prepared.
11. Paragraph A2.28 states that:

"Where an audit is required, the Relevant Licensee should engage an Appropriate Auditor, as stated in the CSS licence requirement, to review whether the figures in the CSS can be reconciled with the figures in the statutory accounts and that costs are fairly allocated on a basis that, the Auditor is satisfied, is fair to customers in the various business segments."

We think that the text above is unnecessarily restrictive and potentially limits the scope of the issues that an auditor can be asked to investigate. We would suggest a more general and comprehensive wording; for example:

"Where an audit is required, the Relevant Licensee should engage an Appropriate Auditor, as stated in the CSS licence requirement, to provide an opinion the accounts have been prepared in accordance with Ofgem's Standard Licence Condition 19A for Gas and 16B for Electricity, and specifically that the basis preparation for the accounts is consistent with the prevailing Guidelines."

12. Paragraph A2.29 is headed 'Template for submitting the CSS'. As noted above, the licence obligation is to publish not submit the CSS.

13. Paragraph A2.38 refers to 'Carbon Emissions Reduction Targets (CERTs) and the Community Energy Savings Programme (CESP)' The CERT and CESP programmes ended more than a decade ago.

ScottishPower
January 2024