

# Consultation

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## Consultation on potential modifications to generation licence for suitability to assets dedicated to providing network services

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We are consulting on conditions within the Generation Licence which could impact on the suitability of the licence for assets dedicated to providing network services. We would like views from people with an interest in Generation Licences and / or how network services are provided to the system operator. We particularly welcome responses from providers or potential providers of network services without the need for consequent energy provision, as well as existing generation and network licence holders. We would also welcome responses from other stakeholders and the public.

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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## 1. Introduction

### Section summary

Procurement of network services is a key element of National Grid Electricity System Operator's strategy for maintaining operability in a zero-carbon electricity system. The procurement of services from commercial parties, such as has been conducted by National Grid Electricity System Operator through its pathfinder tenders, has raised questions on the appropriate regulatory treatment of the assets delivering network services uncoupled from energy generation.

This section sets out the key background of this consultation, which looks to gather views from across the industry and other interested parties on the appropriate short-term regulatory treatment of some assets dedicated to providing network services with the aim of ensuring a level playing field.

### What are we consulting on?

- 1.1 We<sup>1</sup> are consulting on the proper application of the current Electricity Generation Licence to synchronous condensers<sup>2</sup> and other network services assets with similar technical operation.
- 1.2 In our open letter to industry,<sup>3</sup> we committed to a review of the regulatory treatment of ancillary service assets, including synchronous condensers. We are continuing this review, and are currently assessing policy options following our call for evidence on the matter.<sup>4</sup>
- 1.3 In our open letter we set out a view that as synchronous condensers store energy to provide system stability services, and are not final demand, they were eligible to apply for, and to be granted, generation licences (subject to our usual assessment procedures).<sup>5</sup>

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<sup>1</sup> The terms "we", "us", "our", "Ofgem" and "the Authority" are used interchangeably in this document and refer to the Gas and Electricity Markets Authority. Ofgem is the office of the Authority.

<sup>2</sup> Also referred to as synchronous compensators.

<sup>3</sup> This publication is available at: <https://www.ofgem.gov.uk/publications/review-regulatory-framework-ancillary-service-assets-and-clarification-our-short-term-treatment-synchronous-condensers>

<sup>4</sup> Call for Evidence available at: [Call for Evidence on the correct regulatory treatment of assets dedicated to provision of ancillary services | Ofgem](https://www.ofgem.gov.uk/call-for-evidence-on-the-correct-regulatory-treatment-of-assets-dedicated-to-provision-of-ancillary-services)

<sup>5</sup> Please see: <https://www.ofgem.gov.uk/industry-licensing/how-become-licensed-gas-or-electricity-company>

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- 1.4 The National Grid Electricity System Operator (“ESO”) has conducted a number of pathfinder procurement activities through which they procure network services.<sup>6</sup> Some of the contract awardees from these tender activities have been for the construction and operation of synchronous condenser and some of these have been successful in obtaining generation licences.
- 1.5 Following the formulation of our interim position on the regulatory treatment of network services, and the subsequent granting of generation licences to some network service providers, practical issues have arisen in the implementation of some of the Standard Licence Conditions. It is clear that these conditions were not drafted with synchronous condensers or other zero-megawatt assets in mind. Our view, therefore, is that modifications to the Standard Licence conditions may be necessary to ensure that the Generation Licence is fit for the purpose of regulating network services in the short to medium term.
- 1.6 We acknowledge the possibility that measures can be taken to improve the status quo. However, this consultation document should not be viewed as a decision or view on the enduring treatment of such assets. This is still under review at a policy level, and we intend to publish separately in the coming months around what we see as the best options moving forward.

**Section 2: Definition**

- 1.7 Currently, the only technology types we are aware of which have been granted generation licences for this purpose are synchronous condensers.<sup>7</sup>
- 1.8 We are keen to recognise however, that innovation through commercial offerings means that new technologies might come forward to provide these services to the ESO.
- 1.9 We therefore would not want to restrict a definition to a known technology, but would rather use a definition recognising the role of the asset in relation to the operation of the national electricity transmission system (“NETS”).

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<sup>6</sup> As of their Business Plan 2 cycle, starting 1 April 2023, the ESO refers to pathfinder tenders as network service procurement tenders. In general in this document we only use “pathfinder” when talking about specific exercises which were conducted under that title historically, the activity in general, and any future activities are referred to by “network service procurement”.

<sup>7</sup> We understand that some pathfinder contracts to provide stability network services were awarded to batteries with grid forming capabilities, but batteries were already eligible for generation licences as forms of storage.

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- 1.10 Section 2 asks questions on the correct definition of such assets for this purpose (should we decide to include it in the generation licence). Section 2 also asks about the best method to include this definition (eg globally within the licence or within a specific section).

**Section 3: Licence conditions in scope**

- 1.11 At this stage, we are not consulting on the creation of a separate licence category for network services. While a separate licence is a consideration of our broader review work, this consultation aims to ensure that the *current* licence is fit for purpose – applicants to the licence still need to qualify for one on current merit.
- 1.12 Our current assessment is that Standard Condition 14 of the Generation Licence is unsuitable. It does not recognise the potential for substantive capability added to the system (as recognised by the ESO’s procurement exercise) from the assets considered under scope.
- 1.13 We are open to ensuring that where other conditions may also not recognise the contribution of these assets, they are also captured.
- 1.14 Section 3 seeks views on our proposal to address the application of condition 14 and asks for views on any other licence conditions which we should include in scope.

**Section 4: General views**

- 1.15 While we are raising this consultation to identify licence conditions that might not properly reflect the intention behind our interim treatment of assets dedicated to network service provision, we are also interested in general views as to how the generation licence works in this respect.
- 1.16 We do ask specific questions on this area, but we are also interested in your views where relevant to this topic, even if they do not fit exactly into one of our questions.
- 1.17 Responses to Section 4 of the consultation will be used in support of policy decisions around our interim treatment of assets dedicated to providing network solutions. Where appropriate, we will also incorporate views into our longer term work reviewing the correct enduring treatment of the assets.

## Context and related publications

- 1.18 This consultation is a continuation of our current treatment of synchronous condensers, and by extension, assets that can provide the same system services in a similar manner.
- 1.19 The main driver for this is decarbonisation of the electricity system. An increase in asynchronous generation results in fewer options for the system operator to access network services such as reactive power, inertia and short circuit level.
- 1.20 Accessing such services from zero-carbon sources will enable the ESO to operate the system zero-carbon, in line with targets for a zero-carbon electricity system by 2035.
- 1.21 The ESO is procuring these services to ensure this can be done in a cost-effective manner.<sup>8</sup> Network services can be provided by Transmission Owners or by third-party commercial providers. One of the key drivers of our interim treatment of these assets from third-party providers was to ensure comparative parity in commercial offerings to allow the ESO to procure most effectively to this economic end.
- 1.22 More detail on ESO Network Services Procurement can be found at:
- <https://www.nationalgrideso.com/industry-information/balancing-services/pathfinders>
- 1.23 Relevant publications:
- Review of the regulatory framework for ancillary service assets and clarification on our short-term treatment of synchronous condensers: <https://www.ofgem.gov.uk/publications/review-regulatory-framework-ancillary-service-assets-and-clarification-our-short-term-treatment-synchronous-condensers>
  - Call for Evidence on the correct regulatory treatment of assets dedicated to provision of ancillary services: <https://www.ofgem.gov.uk/publications/call-evidence-correct-regulatory-treatment-assets-dedication-provision-ancillary-services>

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<sup>8</sup> Results from the ESO's most recent pathfinder tender indicated a potential saving of over £14 billion: <https://www.nationalgrideso.com/news/eso-announces-new-contracts-deliver-over-ps14-billion-savings>

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## Consultation stages

- 1.24 We are issuing this consultation to seek views on this area.
- 1.25 Shortly following this consultation, we will either discount a need for any amendments to the Generation Licence, or progress to a statutory consultation with a view to implementation of necessary amendments.
- 1.26 We also intend to issue a position statement on the wider review of the regulatory treatment of assets dedicated to providing network services. This publication is anticipated within the first half of this year, and any responses to this consultation may therefore influence the development of that policy thinking.

## How to respond

- 1.27 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.
- 1.28 We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.
- 1.29 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

- 1.30 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.
- 1.31 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.
- 1.32 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



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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 1.

- 1.33 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.

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### General feedback

1.16. 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:

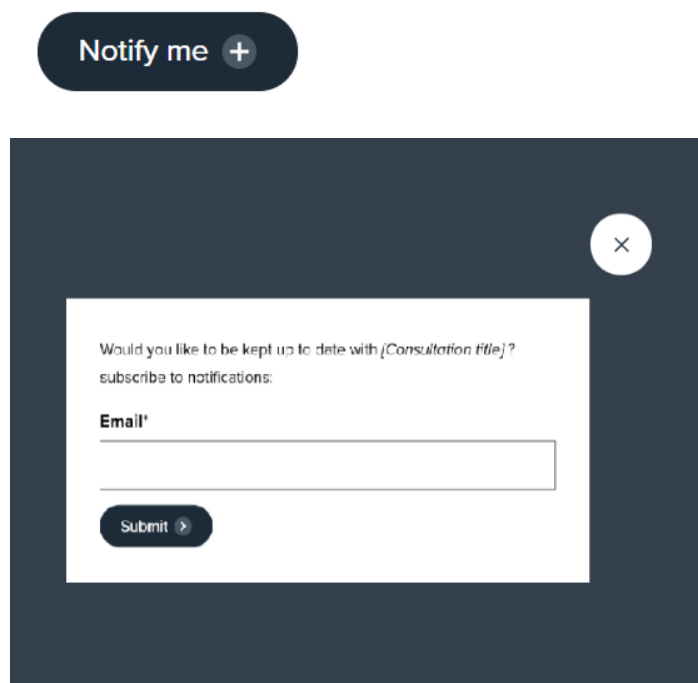
1. Do you have any comments about the overall process of this consultation?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6.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

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

### **How to track the progress of the consultation**

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)



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. Definitions

### Section summary

This section sets out the rationale for proposed terminology and definitions and seeks views on their suitability. It also considers the appropriate method of including the definition and any subsequent specific conditions.

### Questions

- Q1. Do you agree that the current Generation Licence should include a definition of assets dedicated to providing network services in order to activate conditions that were not drafted with these assets in mind?
- Q2. Do you agree with the proposed scope of assets we intend to capture in this definition?
- Q3. Do you agree with our proposed definition and terminology?
- Q4. Do you think there are any network services that should be considered in scope that are not currently included in our proposed definition?
- Q5. Do you agree with our preferred approach to address any necessary changes through addition of a new Section to the Generation Licence?
- Q6. Do you have any other comments relevant to the definition of assets to be covered by the purpose of this consultation?

- 2.1 We intend to reflect a broad description which captures asset contribution without:
- undermining the purpose of the generation licence,
  - becoming unclear or deviating from the purpose of our letter focussed on synchronous condensers, and / or
  - providing too wide a definition and applying licence conditions where it is not proportionate to do so.

### Choice of wording in definition

#### Historic terminology

- 2.2 In our public letter setting out the short-term treatment of synchronous condensers, we committed to a review of the regulatory framework for “ancillary service assets”.

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- Within that letter we further clarified that the scope of such a review was the treatment of “assets dedicated to providing ancillary services”. By “dedicated” we meant that while providing ancillary service(s) the asset should operate solely to provide ancillary service(s).

2.3 While in that letter we confirmed that we would consider generation licence requests from synchronous condensers, this was because there was an appropriate technical definition which enabled this. For clarity, we reiterate here that we have explicitly ruled out granting of generation licences where technical grounds to do so are not established.<sup>9</sup>

### **Proposed terminology**

#### Clarity on in-scope assets

- 2.4 We maintain our previous view that the granting of a generation licence still requires an asset to be classed as a type of generation.
- 2.5 Therefore, our proposed definition and approach to apply supplementary conditions is to be read in that light, that is, the requirement to obtain a generation licence comes first, and where this definition applies, certain licence conditions may apply.
- 2.6 Meeting the proposed definition is not the route to applying for a licence.
- 2.7 Equally, we do not intend through this proposal to make operation of assets dedicated to network services a globally licenced activity. We intend for it to remain a provider choice, recognising that there are likely to be pros and cons of holding a licence which are best balanced by the potential applicant.
- 2.8 In summary, the proposal herein should not change the application process in any manner other than to determine whether certain conditions apply where a licence would have been granted anyway.

#### Rationale for Network Services

- 2.9 We consider that “ancillary services” is too broad a term, and could be misconstrued as including balancing energy services that the ESO procure, such

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<sup>9</sup> For example, shunt reactors.

as reserve.<sup>10</sup> It is not our intention to include services such as reserve within this scope.

- 2.10 Further we consider that the use of the term “ancillary service” could blur with the same term within the Grid Code,<sup>11</sup> which includes services such as frequency response.
- 2.11 Therefore, we propose to refer to “network services” instead for this purpose moving forward.
- This aligns with the procurement activity in use by the ESO, where “Pathfinders” have been renamed “Network Services Procurement”.
  - We further think this recognises the provision of these services by both commercial parties (contracted by the ESO) and regulated Transmission Owners (“TOs”).

#### Rationale for restricting to long contract periods

- 2.12 In general, we support close to real time procurement of all ESO service requirements. However, in the case of incentivising asset build, such as through its Network Service Procurement, the ESO identifies significant consumer value in the certainty providers gain through longer term contracts.
- 2.13 We consider, as with other aspects of the Generation Licence, that a proportional approach is needed. Therefore, we intend to restrict the minimum contribution of assets to network operability.
- 2.14 Our current view is that setting a definition for minimum contribution of network services is challenging, given:
- An asset might provide more than one service at a time and could meet the definition on one but not another, and
  - It is not immediately clear what the cut-off should be.

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<sup>10</sup> For example, the ESO procures replacement reserves such as Short-term Operating Reserve and reserve for response such as Mandatory Frequency Response.

<sup>11</sup> Accessible at: <https://www.nationalgrideso.com/industry-information/codes/grid-code-gc/grid-code-documents>

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- 2.15 We recognise that the ESO is procuring network services to economically meet system requirements, with work in train to establish procurement across a number of timeframes.<sup>12</sup>
- 2.16 Our understanding of that framework (which is still under development) and of current procurement practices (Network Service Procurement) is that longer term procurement and contracting should provide a base level of contribution and that shorter term procurement and contracting is for management of peaks in requirements.
- 2.17 We therefore consider that limiting the scope to assets with longer term contracts should provide a reasonable cut-off whereby only assets contributing at a magnitude deemed appropriate by the ESO in order to economically meet its base requirements is appropriate.
- 2.18 Restricting the definition to assets which have been awarded a contract from the ESO means that only volumes brought forward to meet substantial base requirements are in scope.
- This does not prevent other assets from coming forward to provide these services.
  - This does not prevent asset owners without ESO contracts requesting a licence.
  - We believe this should appropriately narrow the scope of any such modification to achieve the purpose while avoiding proliferating powers unnecessarily.
- 2.19 We believe there is clarity in asserting that these contracts should be relevant to ESO network service procurement activities post our October 2021 letter, and therefore propose to limit to contracts signed post 1 March 2022.

Rationale for retaining “dedicated to”

- 2.20 We believe that this change is only necessitated by recent shifts to commercial procurement (by the ESO) of network services uncoupled from generation, rather

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<sup>12</sup> For example, ESO has been developing a stability market with indicative markets at year-4, year-1 and day-1 procurement timescales, per:  
<https://www.nationalgrideso.com/industry-information/balancing-services/stability-market>

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than the traditional approach of either generating assets providing the services or a TO providing the services uncoupled from generation.

2.21 We consider that the licence as-is already suitably provides for assets which can / do provide network services linked to megawatt output.

2.22 This proposal should not be seen as a reduction in the importance of existing generation assets which can provide network services, rather it is viewed as an approach to ensure an equal playing field between:

- Commercially provided assets dedicated to network service provision and large generators which can provide network services, and
- Commercially provided assets dedicated to network service provision and TO provided assets dedicated to network service provision.

Proposed definition text

2.23 Our proposed definition for units to meet our intent:

**“Assets dedicated to providing network service(s)”**

**Means assets that:**

- (a) have the capability to provide, in a dedicated manner, network service(s) to the system operator and,**
- (b) are or will be operated by an authorised business that has been awarded a contract on or after 1 March 2022 of length greater than 1 day by the system operator to deliver those services and,**
- (c) do not generate electricity for purposes other than to deliver the contracted service(s).**

Where

**“Network service(s)”**

**Means capability to provide one or more of:**

**(a) inertia.**

**(b) short circuit level.**

**(c) reactive power (production and/or adsorption)**

**as defined and contracted by the system operator.**

## **Proposed method of inclusion within the licence**

### **Introduction of Section F**

- 2.24 Our proposed approach to this modification is to introduce a Section F to the generation licence. In a similar manner to Sections C, D and E, Section F would hold relevant licence conditions above and beyond the conditions in Section B which would apply to licenced assets which meet a certain definition (ie the definition proposed above).
- 2.25 Section F would be known as “Section F: Supplementary Conditions for Assets Dedicated to Network Service Provision”.
- 2.26 This proposed section would include the relevant definitions from above, and only be turned on for licence holders whose assets meet the definition.
- 2.27 Also in Section F would be licence conditions which are supplementary to the standard conditions of Section B. The intention is not to rewrite the generation licence for in-scope assets.
- 2.28 We believe this is proportionate as per the treatment of other supplementary conditions, eg storage.
- 2.29 The alternative approach is to modify licence conditions within Section B directly, but this risks confusion or excessive use of sub-clauses to clarify licence conditions where the additional clarifications only apply to a subset of licence holders. This alternative approach seems less efficient and could lack clarity.



### 3. Licence conditions within scope

#### Section summary

This section asks for views on the licence conditions that need to be made more bespoke to capture assets dedicated to providing network services. So far, we have identified one specific licence condition that might not reflect the importance of these assets to system operability and security (Licence Condition 14). We are interested in views on that stance as well as any other conditions that we should consider within scope.

#### Questions

- Q7. Do you agree with our current assessment that Licence Condition 14 does not apply suitably for the assets within scope of this consideration?
- Q8. Do you have views on other conditions in the Generation Licence that may not apply suitably to assets within the scope of this consideration?

- 3.1 We want to ensure that the licence is fit for purpose for this interim use.
- 3.2 We do not want to make piecemeal changes where possible, and so we welcome views on any relevant conditions that may not suitably apply for assets of this definition.
- 3.3 Our intention is not to rewrite the Generation Licence We only wish to ensure that conditions within the licence that should apply to assets dedicated to providing network services, do apply.

#### Licence conditions identified as within scope

##### Standard Condition 14

- 3.4 Based on an initial review of the Generation Licence, we note that the restriction of Standard Condition 14<sup>13</sup> to assets having capacity of 50MW or above would mean that assets such as synchronous condensers are excluded from having a route to apply for these powers.
- 3.5 We note that this condition does not confer automatic land acquisition powers to the licensee. Rather, it provides a route of request for those powers, ultimately granted or otherwise by the Secretary of State under the Electricity Act 1989.<sup>14</sup>

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<sup>13</sup> Compulsory Acquisition of Land etc.

<sup>14</sup> Accessible at: <https://www.legislation.gov.uk/ukpga/1989/29/contents>

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- 3.6 We consider that, concordant with our proposed definition for assets dedicated to providing network services, assets of this nature contribute significantly to system operability in a similar manner to large generation units.
- 3.7 While this should not be seen as a barrier to entry for units of smaller size / contract length, or which provide these services through a different route, it is equally the case that we do not intend to enable conditions where not appropriate or proportionate, as is the case in general for our approach to licensing.

**Other conditions**

- 3.8 So far, our review only identifies standard condition 14 as needing to be reflected under Section F.
- 3.9 However, we are keen to hear from industry participants about other licence conditions that we should consider within the scope of this review: ie where the licence condition might not suitably apply to assets of this description but it is proportionate and correct to apply it to them.

## 4. General Views

### Section summary

This section is included herein to reflect that this consultation fits within a wider scope of work being undertaken by Ofgem. We are currently working through responses to our Call for Input on the correct enduring regulatory treatment of all assets which can provide network services in a dedicated fashion.

As that work is ongoing, we will consider the specific responses to this consultation to inform our work, but consider it prudent to gather general views that may be emerging across the industry since our previous engagements.

### Questions

Q9. Do you have any other views on our interim treatment of assets dedicated to network service provision?

- 4.1 We want to ensure that the licence is fit for purpose for this interim use.
- 4.2 We are also continuing our review of the correct treatment for assets dedicated to providing network services.
- 4.3 We are open to receiving further industry views on this approach as an interim measure.
- 4.4 We are also open to views on whether this approach should be our longer-term approach and if there are any risks with delaying the outcome of our review.
- 4.5 We also appreciate any views on the other areas of our previous call for evidence if further information or experience has influenced views since May 2022. Our four key areas of interest<sup>15</sup> from that call for evidence were:
  - the objectives and scope of the review,
  - licensing arrangements,
  - level playing field issues, and
  - roles and responsibilities.

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<sup>15</sup> Please refer back to the call for evidence document for further information on these aspects: <https://www.ofgem.gov.uk/publications/call-evidence-correct-regulatory-treatment-assets-dedication-provision-ancillary-services>

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## Appendices

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

We do not expect to share personal data collected through this consultation with any other organisation.

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

Your personal data will be held for 1 year following closure of this consultation.

#### **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

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- 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
- 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.

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

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

**9. 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](#)".