

## Consultation

# Modification to Standard Licence Condition 31E of the Electricity Distribution Licence (Removal of reporting requirements)

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We are consulting on a proposed change to the Standard Licence Condition 31E of the Electricity Distribution Licence, which would remove the reporting requirements mandated by this condition. This is in anticipation of new flexibility service reporting being introduced by Elexon in their role as Market Facilitator. We propose that reporting to Ofgem continue until the Market Facilitator reporting process is established, which we anticipate will be from April 2027. We would like views from licensees and any interested stakeholders, including flexibility service providers.

This document outlines the scope, purpose and questions of the non-statutory 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 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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## **Consultation** Modification to Standard Licence Condition 31E of the Electricity Distribution Licence

### Executive summary

We are consulting on proposed changes to the Electricity Distribution Standard Licence Condition (SLC) 31E: Procurement and Use of Distribution Flexibility Services. Since its introduction in 2020, SLC 31E has supported Distribution Network Operators (DNOs) in procuring flexibility services and enabled Ofgem to monitor the growth of the local flexibility market through annual reporting requirements.

Over the past several years, flexibility markets in Great Britain have matured significantly and are now the most advanced in the world. To support continued development and to help deliver the UK's net zero and Clean Power objectives, the role of Market Facilitator for flexibility markets was assigned to Elexon. As part of its proposed roadmap, Market Facilitator will introduce new, more granular and more automated reporting arrangements, including a Flexibility Market Data Portal, which will consolidate procurement, tender and dispatch information across licensees.

Given these developments, Ofgem proposes to remove the existing SLC 31E reporting requirements, including the Distribution Flexibility Services Procurement Statements, Procurement Reports and Supporting Data templates. We believe these obligations will become duplicative once the Market Facilitator's reporting framework is in place, which we anticipate to be in April 2027. However, we propose to retain sections of the licence condition necessary to ensure continued compliance with Article 32(1) of the Electricity Directive and to maintain some oversight of flexibility procurement activity.

Stakeholders' views are sought on the proposed licence modifications, the future role of procurement statements and reports, and the alignment of data reporting responsibilities with the Market Facilitator. This non-statutory consultation will inform a statutory consultation planned for June 2026, with a final decision expected in August 2026.

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# 1. Introduction

This section provides the background and context to the reporting modifications to Standard Licence Condition C31E (SLC 31E)

## Background and context

- 1.1 The Clean Energy for all Europeans Package sets out, within [Article 32\(1\) of the Electricity Directive \(EU 2019/944\)](#)<sup>1</sup>, that Distribution System Operators (DSOs) must procure flexibility services through transparent, non-discriminatory, and market-based procedures.
- 1.2 [The Electricity Distribution Standard Licence Condition 31E: Procurement and use of Distribution Flexibility Services \(SLC 31E\)](#) was introduced in December 2020 and transposes Article 32 of the Clean Energy for all Europeans Package (Incentives for the use of flexibility in distribution networks) in GB regulation.
- 1.3 SLC 31E is intended to achieve greater transparency around the procurement and utilisation of distribution flexibility services, as well as encouraging greater coordination across industry participants, as flexibility markets evolved.
- 1.4 The licence condition sets out the circumstances in which distribution licensees can procure distribution flexibility services, what principles they should apply during the procurement process, and specifies that licensees need to take a coordinated approach with other parties when procuring and using flexibility services.
- 1.5 [SLC 31E places reporting requirements on licensees](#), there are three reporting tools through which information is currently provided to Ofgem:
  - Distribution Flexibility Services Procurement Statement – an annual statement that licensees need to submit to Ofgem for approval, setting out what flexibility they intend to procure in the next regulatory year (April-March), as well as describing how the licensee intends to comply with the on-going obligations of the licence condition.
  - Distributed Flexibility Services Procurement Report – an annual report detailing the flexibility the licensee has tendered for, contracted and dispatched in the past 12 months, to be submitted to Ofgem within a month after regulatory year end, this includes a Supporting Data submission.
  - Ongoing reporting – publication of the outcomes of flexibility tender processes within one month of contractual agreement.
- 1.6 The licence condition was implemented to support DNOs and Independent DNOs (IDNOs) in procuring flexibility services, allowing Ofgem to monitor the growth of these flexibility services. Since 2020, local flexibility markets in the United Kingdom have become some of the most developed and fluid in the world.

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- 1.7 To continue this trend of flexibility market evolution and growth, the Market Facilitator was established. The Market Facilitator will be introducing its own reporting requirements which are expected to introduce greater levels of granularity and automation to the reporting process.
- 1.8 One of the actions in the [Clean Flexibility Roadmap](#) was the publication of a Data Dashboard ( “Path building action 35. Ofgem to ensure information on DSO flexibility procurement remains clear and easily accessible”), from the SLC 31E Procurement Report and Supporting Data which has been tendered for, procured, and dispatched by each licensee.
- 1.9 This action is now expected to be fulfilled by the Market Facilitator, with the data dashboard deliverable to be achieved through the flexibility market data portal.
- 1.10 We have concluded that the present means of reporting through SLC 31E, through Procurement Reports and the respective Supporting Data templates will therefore become redundant.

### **What are we consulting on?**

- 1.11 We are consulting on the removal of current licence condition reporting requirements to improve the efficiency of flexibility service reporting.
- 1.12 The Flexibility Market Data Portal is a key deliverable within [Elexon’s Market Facilitator Draft Delivery Plan](#), which is aimed at establishing a single location for historical flexibility market (volume) procurement, tender and dispatch data.
- 1.13 The outcome of the development of this portal is to enable flexibility data transparency, accessibility and comparability of licensee data across the energy market.
- 1.14 We therefore propose to remove the reporting requirements which are currently part of SLC 31E.

### **Next Steps**

- 1.15 This consultation is open from 18 March 2026. After the four-week consultation period ends, we will review the responses and consider the feedback when making changes to the proposed licence conditions. This feedback will be evaluated and may lead to revisions in the licence condition change process.
- 1.16 We intend to publish a statutory consultation in June 2026, lasting no less than 28 days, to formally consult on the proposed licence conditions.
- 1.17 Following the statutory consultation close, we will carefully consider all responses before publishing our decision on the proposed licence modifications.
- 1.18 We intend to publish a decision in August 2026, and the licence conditions will come into effect 56 days after the decision is published.

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### 2. Proposed licence condition changes

In this section, we set out the proposed changes to SLC 31E and explain the reasoning behind the proposed licence condition modification. We ask stakeholders for their views.

#### Questions

- Q.1. Do you agree with the proposed licence condition changes to Standard Licence Condition 31E (Procurement and use of Distribution Flexibility Services)?
- Q.2. Do you agree that both Distribution Flexibility Services Procurement Statements and Procurement Reports are no longer required, and that monitoring and reporting of flexibility service data aligns well with the role of the Market Facilitator?
- Q.3. Are there any elements within the Distribution Flexibility Service Procurement Statements or Procurement Reports which it would be valuable to retain in some form (e.g. carbon reporting data)?
- Q.4. Are there any additional considerations which should be considered to inform our decision to modify SLC 31E?

#### Licence modifications

- 2.1 We are proposing to remove the reporting requirements currently mandated by SLC 31E.
- 2.2 This non-statutory consultation is to seek views on whether the proposed licence condition changes will deliver the policy intent.
- 2.3 The altered licence condition will predominantly aim to ensure that Ofgem retains SLC 31E sections which will allow continued regulatory compliance as per Article 32(1) of the Electricity Directive (EU 2019/944).
- 2.4 The draft licence condition alterations suggested in this non-statutory consultation have been developed internally, and with insight from the Market Facilitator, to avoid duplication of regulatory burden.
- 2.5 The following sections highlight sections of the licence condition which we are proposing to retain, and the sections which we are proposing to remove.
- 2.6 To ensure a stable transition in reporting responsibilities from Ofgem to the Market Facilitator, the proposed licence condition changes for SLC 31E will not come into effect until the next annual reporting cycle in Q2 of 2027.
- 2.7 For clarity, Ofgem expect licensees, at present, to continue reporting Distribution Flexibility Services Procurement Statements covering the reporting period from 1<sup>st</sup> April 2026 - 31<sup>st</sup> March 2027 Delivery Year.

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- 2.8 We also expect Distribution Flexibility Services Procurement Reports and the accompanying Supporting Data to be received, covering the reporting period from the 1<sup>st</sup> April 2025 - 31<sup>st</sup> March 2026 Delivery Year.
- 2.9 We have included in the appendices the licence condition text as it currently is (Appendix 1) and as it would be with these proposed changes made (Appendix 2).

### **Proposed Licence Condition sections to be retained or modified**

- 2.10 We are proposing that Sections 31E.1-3, covering the requirements to procure flexibility in an efficient, economic and coordinated manner though objective, transparent, and market-based procedures are retained.
- 2.11 Sections 31E.4-7, covering requests for derogations from these requirements, are modified to remove references to Distribution Flexibility Services Procurement Statements.
- 2.12 We believe that that retention of the above sections allows us to continue to support the operation of flexibility markets.
- 2.13 Ofgem will retain the ability to grant a derogation from the licensee's obligation to procure distribution flexibility services using market-based procedures where it has determined that compliance with the market-based provision is economically inefficient or would lead to severe market distortions or to higher levels of constraints. We anticipate that this will align with the [Market Facilitators role in managing derogations against Flexibility Market Rules \(FMRs\)](#).
- 2.14 Finally, we are proposing that Sections 31E.18-19, covering records which licensees must retain and the provision of information to the regulator on request, are retained to continue our ability to monitor flexibility markets.

### **Proposed Licence Condition sections to be removed**

- 2.15 We propose that sections 31E.7-13, covering the Distribution Flexibility Services Procurement Statements requirements be removed.
- 2.16 We believe that, due both the development of mature local flexibility markets and the establishing of the Market Facilitator, Ofgem's role in approving Distribution Flexibility Services Procurement Statements is no longer required.
- 2.17 We also believe that the value of the continued publishing Distribution Flexibility Services Procurement Statements is limited in context of the current state of development within the flexibility market. We seek views from our stakeholders on this position.
- 2.18 We also propose that Sections 31E.9 – 31E.16, covering the Distribution Flexibility Services Procurement Reports are removed.

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- 2.19 We believe that the reporting requirements which we expect to be introduced by the Market Facilitator will make these reports redundant.
- 2.20 We believe these licence condition modifications will enable the Market Facilitator to adopt and govern the data monitoring aspects of SLC 31E in the future, potentially through a series of new Flexibility Market Rules (FMR), without creating redundant reporting requirements.
- 2.21 We are proposing the removal of section 31E.17, covering the requirement to publish concluded Distribution Flexibility Services procurement processes, as we anticipate that these requirements will also be made redundant by the Market Facilitators new market rules for reporting flexibility services in the future.
- 2.22 We propose the partial removal of Section 31E.20, covering the definitions of terms relating to the timing of Distribution Flexibility Services Procurement Statements and Distribution Flexibility Services Procurement Reports.

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### **3. Conclusions and next steps**

- 3.1 We believe that the SLC 31E reporting requirements will become duplicative to the flexibility market monitoring planned by the Market Facilitator. We are therefore proposing that the licence condition be modified to remove these reporting requirements.

#### **Consultation stages**

- 3.2 The non-statutory consultation will be open from 18 March 2026 until 20 April 2026.
- 3.3 We will consider the consultation responses to inform the licence conditions to be consulted on in the statutory consultation, intended to be published in June 2026, with a final decision expected in August 2026.

#### **How to respond**

- 3.4 We want to hear from anyone interested in this consultation. Please send your response to [flexibility@ofgem.gov.uk](mailto:flexibility@ofgem.gov.uk).
- 3.5 We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.
- 3.6 We will publish non-confidential responses on our website at [www.ofgem.gov.uk/consultations](http://www.ofgem.gov.uk/consultations).

#### **Your response, your data and confidentiality**

- 3.7 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.
- 3.8 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.
- 3.9 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 policy on consultations, see Appendix 4.

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- 3.10 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.

## Send us your feedback

We believe that consultation is at the heart of good policy development. We are keen to receive your comments about this consultation. We would also like to get your answers to these questions:

- Do you have any comments about the quality of this document?
- Do you have any comments about its tone and content?
- Was it easy to read and understand? Or could it have been better written?
- Are its conclusions balanced?
- Did it make reasoned recommendations?
- Do you have any further comments?

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

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## Appendix 1. Current Standard Licence Condition 31E

31E.1 The licensee must coordinate and direct the flow of electricity onto and over its Distribution System in an efficient, economic and coordinated manner. This includes the following:

- (a) procuring and using Distribution Flexibility Services where it is economic and efficient to do so;
- (b) procuring Distribution Flexibility Services in the most economic manner possible;
- (c) subject to 31E.3, procuring Distribution Flexibility Services in accordance with objective, transparent and market-based procedures.
- (d) promoting the uptake of measures to improve Energy Efficiency, where such services cost-effectively alleviate the need to upgrade or replace electricity capacity and support the efficient and secure operation of the Distribution System. This may include procuring Energy Efficiency Services, where it is economic and efficient to do so;
- (e) when procuring Distribution Flexibility Services, the licensee must have regard, insofar as is practicable, to the following considerations:
  - (i) the impact any actions taken will have on the ability of undertakings to effectively participate in retail, wholesale and balancing markets; and
  - (ii) the impact any actions taken will have on the Total System;
- (f) using all reasonable endeavours, in coordination with the GB System Operator, other Distribution Licensees, and undertakings participating or intending to participate in the provision of Distribution Flexibility Services or, where relevant, Energy Efficiency Services, to establish as soon as reasonably practicable and thereafter maintain relevant:
  - (i) objective, transparent, cost-reflective and non-discriminatory rules, including terms and conditions and rules and tariffs where applicable, governing the procurement and use of Distribution Flexibility Services and, where relevant, Energy Efficiency Services by Distribution Licensees, such rules to be published; and
  - (ii) technical requirements for participation in the Distribution Flexibility Services market on the basis of technical characteristics of the market and the capabilities of participants in the market, such technical requirements to be published;
- (g) taking all reasonable steps to ensure the effective participation of all undertakings participating or intending to participate in the provision of Distribution Flexibility Services or, where relevant, Energy Efficiency Services, including not unduly restricting

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new and existing providers of those services from competing in the provision of such services, and in doing so, the licensee must use all reasonable endeavours to:

(i) cooperate with the GB System Operator to ensure the effective participation in retail, wholesale and balancing markets of undertakings connected to the licensee's grid; and

(ii) as soon as is reasonably practicable, establish and thereafter maintain, in a transparent and participatory process that includes the GB System Operator, other Distribution Licensees, and undertakings participating or intending to participate in the provision of Distribution Flexibility Services, the relevant specifications for Distribution Flexibility Services and, where appropriate, standardised market products for such services at national level;

(h) taking all reasonable steps to establish and thereafter ensure the exchange of all necessary information and coordinate with the GB System Operator in order to

(i) ensure the optimal utilisation of resources, to ensure the secure and efficient operation of both the Distribution System and Transmission System, and to facilitate market development; and

(ii) anticipating the future electricity requirements of its Distribution System and developing competitive approaches to procuring Distribution Flexibility Services and, where applicable, Energy Efficiency Services, wherever this is in the best interests of current and future electricity consumers in Great Britain.

31E.2 Having taken into account relevant price and technical differences, the licensee must not discriminate as between any persons or classes of persons in its procurement or use of Distribution Flexibility Services.

31E.3 The Authority may, at its own discretion, or on an application by a licensee, grant a derogation from the licensee's obligation to procure Distribution Flexibility Services using market-based procedures (as required under 31E.1(c)) where the Authority has determined that compliance with the market-based provision is:

(i) economically not efficient; or

(ii) would lead to severe market distortions or to higher levels of constraints.

31E.4 The licensee may request that the Authority grants such a derogation, by providing appropriate reasoning and justification within its Distribution Flexibility Services Procurement Statement submitted to the Authority in accordance with 31E.8.

31E.5 Where, during the term of any Distribution Flexibility Services Procurement Statement submitted to the Authority pursuant to 31E.8, the licensee wishes to amend its statement to request such a derogation from the Authority, the licensee must prepare a revised statement and submit it to the Authority for determination.

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31E.6 If the Authority fails to determine any request for a derogation from the use of market-based procedures within one month of receipt, the request is to be treated as approved.

31E.7 If the request is refused, the Authority may require the licensee to prepare a revised Distribution Flexibility Services Procurement Statement in accordance with 31E.8.

31E.8 The licensee must before each Annual Submission Date prepare, and submit to the Authority for approval, in a form approved by the Authority, a Distribution Flexibility Services Procurement Statement setting out:

(a) the kinds of Distribution Flexibility Services and Energy Efficiency Services which it reasonably expects it may be interested in purchasing in the period from that Annual Submission Date to the next Annual Submission Date and the mechanisms by which it reasonably expects to purchase them; and

(b) a statement demonstrating its compliance with its obligations under 31E.1, including:

(i) a summary of the rules and technical requirements governing the procurement and use of Distribution Flexibility Services and, where relevant, Energy Efficiency Services, which have been established in accordance with 31E.1(f);

(ii) a description of the steps taken to ensure the effective participation of undertakings participating or intending to participate in the provision of Distribution Flexibility Services or Energy Efficiency Services, in accordance with 31E.1(g); and

(iii) a description of the engagement that has taken place in the preceding twelve months with the GB System Operator, other Distribution Licensees and undertakings participating or intending to participate in the provision of Distribution Flexibility Services in respect of establishing and maintaining the relevant specifications governing the procurement of Distribution Flexibility Services, in accordance with 31E.1(g)(ii).

31E.9 For the purposes of 31E.8, the licensee must outline any changes to its practises or intended changes to its practises resulting from engagement in accordance with 31E.8(b)(iii).

31E.10 Where the licensee reasonably expects that it will not procure Distribution Flexibility Services in the twelve-month period following an Annual Submission Date, the licensee must prior to that date write to the Authority informing it of this position.

31E.11 Paragraph 31E.10 is without prejudice to the obligation of the licensee to submit a Distribution Flexibility Services Procurement Statement on each Annual Submission Date, in accordance with the provisions of 31E.8.

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31E.12 Where during the term of any Distribution Flexibility Services Procurement Statement the licensee's intentions change regarding the information contained within the Distribution Flexibility Services Procurement Statement, the licensee must review the statement and consider whether any revision to the statement is necessary to ensure it remains an accurate reflection of the licensee's intentions and, if so, promptly seek to prepare a revised statement and submit it to the Authority for approval.

31E.13 Where the licensee has written to the Authority in accordance with 31E.10 and the licensee's intentions in respect of the procurement of Distribution Flexibility Services change, the licensee is to promptly prepare a Distribution Flexibility Services Statement in accordance with the provisions of 31E.8 and submit it to the Authority for approval.

31E.14 Within one month after each Annual Submission Date, the licensee must prepare a report (a "Distribution Flexibility Services Procurement Report") setting out the Distribution Flexibility Services and Energy Efficiency Services which the licensee has tendered for, contracted and dispatched in the period of 12 months preceding the Annual Submission Date, or such other period as the Authority may have directed, if any.

31E.15 The licensee must:

(a) publish, in such manner as the Authority may approve from time to time, the Distribution Flexibility Services Procurement Statement and Distribution Flexibility Services Procurement Report and each subsequent revision, and

(b) send a copy of each of the Distribution Flexibility Services Procurement Statement and Distribution Flexibility Services Procurement Report, or the latest revision thereto, to any person who requests the same, provided that the licensee excludes, so far as is reasonably practicable, any matter which relates to the affairs of any person where the publication of that matter would or might seriously and prejudicially affect that person's interests, and, for the purposes of 31E.15(b), the licensee is to refer to the Authority for determination any question as to whether any matter would or might seriously and prejudicially affect the interests of any person unless the Authority consents to the licensee not doing so.

31E.16 The licensee may make a charge for any copy of a Distribution Flexibility Services Procurement Statement, Distribution Flexibility Services Report or revision thereto provided pursuant to 31E.15 of an amount reflecting the licensee's reasonable costs of providing such a copy, which must not exceed the maximum amount specified in directions issued by the Authority for the purpose of this condition.

31E.17 The licensee must publish in a transparent manner the outcomes of any concluded Distribution Flexibility Services procurement processes within one month of contractual agreement. This must include, where relevant, and subject always to the

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licensee's compliance with laws relating to data protection and commercial confidentiality, confirmation of:

- (a) The counterparty to the contract;
- (b) The technology type of the counterparty;
- (c) The capacity and volume procured;
- (d) The length of the contractual agreement;
- (e) The payment structure of the contract; and
- (f) The price agreed for the provision of services.

31E.18 The licensee must, unless the Authority otherwise consents, maintain for a period of at least six years: (a) particulars of all Distribution Flexibility Services and Energy Efficiency Services offered to it; (b) particulars of all contracts for Distribution Flexibility Services and Energy Efficiency Services which it entered into; and (c) records of all Distribution Flexibility Services and Energy Efficiency Services called for and provided.

31E.19 The licensee must provide to the Authority such information as the Authority may request concerning the procurement and use of Distribution Flexibility Services or Energy Efficiency Services.

31E.20 For the purpose of this condition: "Annual Submission Date" means:

- (a) 1 April 2021;
- (b) 1 April in each subsequent calendar year; or
- (c) such other date in any calendar year that the Authority may direct.

"Distribution Constraint" means any limit on the ability of the licensee's Distribution System, or any part of it, to transmit the power supplied onto the licensee's Distribution System to the location where the demand for that power is situated, such limit arising as a result of any one or more of:

- (a) the need to not exceed the thermal rating of any asset forming part of the licensee's Distribution System;
- (b) the need to maintain voltages on the licensee's Distribution System; and
- (c) the need to maintain the transient and dynamic stability of electricity plant, equipment and systems directly or indirectly connected to the licensee's Distribution System and used by the licensee to operate the licensee's electricity distribution system in accordance with the Act, this licence, or any other requirement of law;

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“Distribution Flexibility Services” means Distribution Non-frequency Ancillary Services and Distribution Constraint management;

“Distribution Non-Frequency Ancillary Services” means a service used by the Distribution Licensee for steady state voltage control, fast reactive current injections, inertia for local grid stability, short-circuit current, Electricity System Restoration capability and island operation capability;

“Energy Efficiency” means the ratio of output of performance, service, goods or energy, to input of energy;

“Energy Efficiency Services” means a service contracted to improve the Energy Efficiency of a network user or users.

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## Appendix 2. Modified Standard Licence Condition 31E

31E.1 The licensee must coordinate and direct the flow of electricity onto and over its Distribution System in an efficient, economic and coordinated manner. This includes the following:

- (a) procuring and using Distribution Flexibility Services where it is economic and efficient to do so;
- (b) procuring Distribution Flexibility Services in the most economic manner possible;
- (c) subject to 31E.3, procuring Distribution Flexibility Services in accordance with objective, transparent and market-based procedures.
- (d) promoting the uptake of measures to improve Energy Efficiency, where such services cost-effectively alleviate the need to upgrade or replace electricity capacity and support the efficient and secure operation of the Distribution System. This may include procuring Energy Efficiency Services, where it is economic and efficient to do so;
- (e) when procuring Distribution Flexibility Services, the licensee must have regard, insofar as is practicable, to the following considerations:
  - (i) the impact any actions taken will have on the ability of undertakings to effectively participate in retail, wholesale and balancing markets; and
  - (ii) the impact any actions taken will have on the Total System;
- (f) using all reasonable endeavours, in coordination with the GB System Operator, other Distribution Licensees, and undertakings participating or intending to participate in the provision of Distribution Flexibility Services or, where relevant, Energy Efficiency Services, to establish as soon as reasonably practicable and thereafter maintain relevant:
  - (i) objective, transparent, cost-reflective and non-discriminatory rules, including terms and conditions and rules and tariffs where applicable, governing the procurement and use of Distribution Flexibility Services and, where relevant, Energy Efficiency Services by Distribution Licensees, such rules to be published; and
  - (ii) technical requirements for participation in the Distribution Flexibility Services market on the basis of technical characteristics of the market and the capabilities of participants in the market, such technical requirements to be published;
- (g) taking all reasonable steps to ensure the effective participation of all undertakings participating or intending to participate in the provision of Distribution Flexibility Services or, where relevant, Energy Efficiency Services, including not unduly restricting new and existing providers of those services from competing in the provision of such services, and in doing so, the licensee must use all reasonable endeavours to:
  - (i) cooperate with the GB System Operator to ensure the effective participation in retail, wholesale and balancing markets of undertakings connected to the licensee's grid; and

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(ii) as soon as is reasonably practicable, establish and thereafter maintain, in a transparent and participatory process that includes the GB System Operator, other Distribution Licensees, and undertakings participating or intending to participate in the provision of Distribution Flexibility Services, the relevant specifications for Distribution Flexibility Services and, where appropriate, standardised market products for such services at national level;

(h) taking all reasonable steps to establish and thereafter ensure the exchange of all necessary information and coordinate with the GB System Operator in order to

(i) ensure the optimal utilisation of resources, to ensure the secure and efficient operation of both the Distribution System and Transmission System, and to facilitate market development; and

(ii) anticipating the future electricity requirements of its Distribution System and developing competitive approaches to procuring Distribution Flexibility Services and, where applicable, Energy Efficiency Services, wherever this is in the best interests of current and future electricity consumers in Great Britain.

31E.2 Having taken into account relevant price and technical differences, the licensee must not discriminate as between any persons or classes of persons in its procurement or use of Distribution Flexibility Services.

31E.3 The Authority may, at its own discretion, or on an application by a licensee, grant a derogation from the licensee's obligation to procure Distribution Flexibility Services using market-based procedures (as required under 31E.1(c)) where the Authority has determined that compliance with the market-based provision is:

(i) economically not efficient; or

(ii) would lead to severe market distortions or to higher levels of constraints.

31E.4 The licensee may request that the Authority grants such a derogation, by providing appropriate reasoning and justification prior to 1<sup>st</sup> April of the year in which derogation is to occur.

31E.5 Where, during the year which the derogation is to occur, the licensee wishes to amend its statement to request such a derogation from the Authority, the licensee must prepare a revised statement and submit it to the Authority for determination.

31E.6 If the Authority fails to determine any request for a derogation from the use of market-based procedures within one month of receipt, the request is to be treated as approved.

31E.7 The licensee must, unless the Authority otherwise consents, maintain for a period of at least six years: (a) particulars of all Distribution Flexibility Services and Energy Efficiency Services offered to it; (b) particulars of all contracts for Distribution Flexibility Services and Energy Efficiency Services which it entered into; and (c) records of all Distribution Flexibility Services and Energy Efficiency Services called for and provided.

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31E.8 The licensee must provide to the Authority such information as the Authority may request concerning the procurement and use of Distribution Flexibility Services or Energy Efficiency Services.

31E.9 For the purpose of this condition: “Distribution Constraint” means any limit on the ability of the licensee’s Distribution System, or any part of it, to transmit the power supplied onto the licensee’s Distribution System to the location where the demand for that power is situated, such limit arising as a result of any one or more of:

(a) the need to not exceed the thermal rating of any asset forming part of the licensee’s Distribution System;

(b) the need to maintain voltages on the licensee’s Distribution System; and

(c) the need to maintain the transient and dynamic stability of electricity plant, equipment and systems directly or indirectly connected to the licensee’s Distribution System and used by the licensee to operate the licensee’s electricity distribution system in accordance with the Act, this licence, or any other requirement of law;

“Distribution Flexibility Services” means Distribution Non-frequency Ancillary Services and Distribution Constraint management;

“Distribution Non-Frequency Ancillary Services” means a service used by the Distribution Licensee for steady state voltage control, fast reactive current injections, inertia for local grid stability, short-circuit current, Electricity System Restoration capability and island operation capability;

“Energy Efficiency” means the ratio of output of performance, service, goods or energy, to input of energy;

“Energy Efficiency Services” means a service contracted to improve the Energy Efficiency of a network user or users.

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## Appendix 3. Consultation Questions

- Q.1. Do you agree with the proposed licence condition changes to Standard Licence Condition 31E (Procurement and use of Distribution Flexibility Services)?
- Q.2. Do you agree that both Distribution Flexibility Services Procurement Statements and Procurement Reports are no longer required, and that monitoring and reporting of flexibility service data aligns well with the role of the Market Facilitator?
- Q.3. Are there any elements within the Distribution Flexibility Service Procurement Statements or Procurement Reports which it would be valuable to retain in some form (e.g. carbon reporting data)?
- Q.4. Are there any additional considerations which should be considered to inform our decision to modify SLC 31E?

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### Appendix 4. Privacy policy

#### **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 will share the responses to this consultation with Elexon in their role as Market Facilitator, to help inform their development of related Flexibility Market Rules.

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

Your personal data will be held until 6 months after the licence condition modification has come into affect, or 6 months after the decision is taken not to modify the licence condition

#### **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

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- 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](#)”.