

To: National Energy System Operator Limited and any other interested parties

Energy Act 2023

Section 169(1) Notice of statutory consultation on proposals to modify the conditions of the Electricity System Operator Licence

1. Pursuant to section 169(1) of the Energy Act 2023, the Gas and Electricity Markets Authority ('the Authority')¹ proposes to modify the conditions of the Electricity System Operator (ESO) Licence held by the Licensee granted or treated as granted under Section 6(1)(da) of the Electricity Act 1989 by amending Condition E1 Balancing and Settlement Code (BSC) and making consequential amendments to the table of Definitions in Condition A1.
2. The proposed initial modifications are set out in Schedule 1 to this Notice. The policy decision to be transposed into the proposed amended ESO Condition E1 is summarised below. We remind stakeholders of the need to ensure compliance with the requirements of the UK General Data Protection Regulation (UK GDPR) when processing personal data.
3. Elexon is developing a Smart Data Repository (SDR) to enable third party access to smart meter data, including half-hourly electricity consumption data. Currently Elexon lacks the legal vires to establish and operate such an SDR. We are proposing to modify ESO Condition E1 to provide that Elexon may undertake these activities and that these activities may be governed via the Balancing and Settlement Code (BSC) pending implementation of enduring regulatory arrangements that the Authority intends to establish.
4. We propose to amend ESO Condition E1 to include a condition that any approved SDR shall initially be limited to electricity consumption data received by Elexon in connection with its role in electricity settlement in Great Britain, and that Elexon shall not establish or materially expand any SDR without the Authority's prior written approval.
5. We also propose to modify ESO Condition E1 to introduce conditions relating to the establishment and ongoing operation of the SDR. Once the SDR is established, the

¹ The terms "the Authority", "we" and "us" are used interchangeably in this document.

Authority proposes to licence the obligations and conditions on Elexon Limited² for the operation of the SDR within an appropriate licence framework.

6. The current proposed conditions are high-level³ obligations relating to, amongst others:
 - providing fair and non-discriminatory access to and charging for the SDR
 - maintaining appropriate levels of security and privacy
 - regular independent auditing and transparent reporting.
7. As a consequence of making these changes, we propose to insert some new definitions into the table within ESO Condition A1.
8. We have published a consultation document alongside this Notice on our website (www.ofgem.gov.uk).
9. Responses should be submitted in an electronic form so that they can be placed easily on our website. Please send your response to digitalisation@ofgem.gov.uk. All representations with respect to the proposed licence modifications must be made on or before **5pm on 19 October 2026**.
10. We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication.
11. If we decide to make the proposed modifications, they will take effect not less than 56 days after the decision is published.

**Duly authorised on behalf of the
Gas and Electricity Markets Authority**

14 September 2026

² Company House number 03782949.

³ Detailed operational arrangements are intended to be set out in the BSC and new documents ancillary to it.

Schedule 1 – Draft of proposed modifications to Condition E1 of the Electricity System Operator Licence held by National Energy System Operator Limited

These are the proposed changes against the up to date version of the consolidated licence conditions available on our website at the time of publishing, the definitive sources for which (not including the changes proposed in this consultation) are available on the Electronic Public Register.⁴

Condition A1: Definitions

We set out below, in double underlined text, the new definitions that we are proposing to add to the table of definitions in Condition A1.

A1.1 Definitions to be added to the ESO Licence

<u>Consumer Consent Solution</u>	<u>means the consent management platform developed by RECCo which third parties may use to demonstrate that they have consent from a consumer to access their smart meter consumption data</u>
<u>Smart Data Repository</u>	<u>means the data storage facility which retains half hourly electricity smart meter consumption data for access by accredited third parties.</u>

Condition E1: Balancing and Settlement Code (BSC)

We set out below the sections of Condition E1 that we are proposing to remove or amend. Deletions are shown in ~~strike through~~ and new text is double underlined. We have only shown those licence conditions where modifications are proposed.

E1.3. The licensee must have in force a BSC, being a document:

- (a) setting out the terms of the Balancing and Settlement Arrangements described in paragraph E1.12;
- (b) designed so that the Balancing and Settlement Arrangements facilitate achievement of the Applicable BSC Objectives set out in paragraph E1.13;
- (c) including the modification procedures required by paragraphs E1.18 to E1.32;
- (d) including the matters required by paragraph E1.14;

⁴ See the [Electronic Public Register](#).

- (e) establishing the BSC Code Administrator and setting out the BSC Code Administrator's powers, duties and functions, which must;
 - (i) include a requirement that, in conjunction with other code administrators, the BSC Code Administrator will maintain, publish, review and (where appropriate) amend the Code of Practice approved by the Authority and any amendments to the Code of Practice are to be approved by the Authority;
 - (ii) include facilitating the matters required by paragraphs E1.18 and E1.14;
 - (iii) have regard to and, in particular to the extent that they are relevant, be consistent with the principles contained in, the Code of Practice;
 - (iv) include a requirement that the BSC Code Administrator deliver and administer a Smart Data Repository in compliance with the governance framework contained within the BSC and ancillary documents including a published Operations Manual, to enable third party access – subject to express and informed consent where applicable under UK Law – on an efficient and non-discriminatory basis.
 - (v) include a requirement that the Code Administrator, Elexon Limited, must comply with any licensing provisions established to govern the SDR's operation, as the Authority sees fit;
 - (vi) BSCCo shall not establish any Smart Data Repository or equivalent data sharing service without prior Authority approval. Any approved Smart Data Repository shall, for a period of at least one year, be limited to electricity consumption data received by BSCCo in connection with electricity settlement and associated data approved by the Authority.
 - (vii) No material expansion of the repository scope, services, or categories of data, contained in an approved Smart Data Repository shall occur unless approved by the Authority following such consultation as the Authority considers appropriate;
- (f) establishing the BSC Panel and whose composition must include:
 - (i) an independent chairperson approved by the Authority; and
 - (ii) a consumer representative (appointed by Citizens Advice, Citizens Advice Scotland, Consumer Scotland, or any successor body) who has a vote as specified in the BSC,

and the licensee shall be taken to comply with this paragraph by modifying the BSC in accordance with the provisions of paragraphs E1.18 and E1.33.

E1.4. The BSC must also include provisions about:

- (a) arrangements for the operation of any reconciliation mechanism established by the Secretary of State under section 11 of the Energy Act 2010 in connection with a scheme for reducing fuel poverty, where the operator of the reconciliation mechanism is the BSCCo or an Affiliate of the BSCCo; ~~and~~

- (b) arrangements that facilitate the operation of Contracts for Difference and arrangements that facilitate the operation of a Capacity Market pursuant to EMR Legislation-; and
- (c) arrangements and requirements that facilitate the establishment, governance and operation of an electricity Smart Data Repository which include
 - (i) consulting on and publishing an Operations Manual and other ancillary documents covering the operation and use of the Smart Data Repository;
 - (ii) accreditation requirements, access controls, user authentication controls on a transparent, objective, and non-discriminatory basis, and aligned with consent management through the Consumer Consent Solution where required;
 - (iii) charging for access to and use of the Smart Data Repository on a fair and non-discriminatory basis, the charging for which shall not commence until at least one calendar year after the formal establishment of the SDR as approved by the Authority;
 - (iv) governance through existing BSC arrangements, including the management of any proposed modifications to the BSC or changes to the Operations Manual or other ancillary documents covering the operation and use of the Smart Data Repository;
 - (v) governance through licence conditions on Elexon Limited (BSCCo Limited) to be determined by the Authority (Office of Gas and Electricity Markets) in due course;
 - (vi) security requirements relating to information security, including cyber security, operational resilience and independent assurance of those requirements and arrangements;
 - (vii) requirements to ensure that the BSCCo provides evidence to an independent auditor about the operation of the SDR, including:
 - (i) that personal data is shared with third parties on the basis of express and informed consent only;
 - (ii) monitoring of access to data held within the Smart Data Repository;
 - (iii) audit trails recording access to, disclosure of and use of data held within the Smart Data Repository;
 - (iv) incident management and reporting; and
 - (v) compliance with applicable data protection legislation;
 - (viii) periodic assurance reviews, reporting obligations and an assurance framework under which the BSCCo reports to an independent auditor; and
 - (ix) requirements and mechanisms by which consultation and Authority approval is required before any material expansion of the SDR.