

Consultation

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

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This is a Statutory Consultation on a proposed change to the Standard Licence Condition 31E of the Electricity Distribution Licence, which would partially 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 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.

Consultation Modification to Standard Licence Condition 31E

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Consultation Modification to Standard Licence Condition 31E

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 System Operators (DSOs) 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 (a single, expert entity with a mandate to align local and national flexibility market arrangements) for flexibility markets was [assigned to Elexon](#). As Market Facilitator, Elexon is responsible for aligning rules, processes, standards and services to reduce friction and increase liquidity in flexibility markets. It does so through open, transparent and participatory engagement with DSOs, NESO and market participants. As part of its proposed roadmap, the 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 parts of the existing SLC 31E reporting requirements including 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 being 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 Statutory Consultation builds upon the initial stakeholder feedback given during the [non-statutory consultation](#). This ran from 18 March 2026 to 20 April 2026, alongside a workshop which was hosted on 29 July 2026. We will use the feedback from this consultation to inform a decision which we will publish by December 2026.

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1. Introduction

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

Background and context

- 1.1 The Clean Energy for all Europeans Package sets out, within [Article 32\(1\) of the Electricity Directive \(EU 2019/944\)](#)¹, 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 electricity distribution licensees in procuring flexibility services, allowing Ofgem to monitor the growth of these flexibility services. Since 2020, local flexibility markets in the Great Britain have become some of the most developed in the world.

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- 1.7 To continue this trend of flexibility market evolution and growth, the Market Facilitator was established by Ofgem as a single expert entity to align local and national flexibility market arrangements. 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 [The Market Facilitator is responsible for aligning rules, processes, standards and services to reduce friction and increase liquidity in flexibility markets.](#)
- 1.9 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.
- 1.10 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.
- 1.11 We have concluded that the present means of reporting through SLC 31E, through Procurement Statements, Procurement Reports and the respective Supporting Data submissions will therefore become redundant.

What are we consulting on?

- 1.12 We are consulting on the removal of current licence condition reporting requirements to improve the efficiency of flexibility service reporting.
- 1.13 This builds upon the initial feedback which we received as part of the non-statutory consultation which ran from 18 March – 20 April.
- 1.14 The Market Data Portal is a key deliverable within [Elexon’s Market Facilitator Delivery Plan](#), which is aimed at establishing a single location for historical flexibility market (volume) procurement, tender and dispatch data.
- 1.15 [The first iteration of the Market Data Portal, at the time of writing, has now been published.](#) This iteration can report data on an annual cadence and is based on SLC 31E data reporting. We anticipate that later iterations of the Market Data Portal will be capable of reporting to a monthly cadence by Q1 2027 as per the Market Facilitators [FLX CP005 decision](#).
- 1.16 The outcome of the development of this portal is to enable flexibility data transparency, accessibility and comparability of licensee data across the energy market.
- 1.17 We therefore propose to remove the reporting requirements which are currently part of SLC 31E.

Consultation Modification to Standard Licence Condition 31E**Next Steps**

- 1.18 This consultation is open from 30 September 2026 to 28 October 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.
- 1.19 We intend to publish a decision, following this consultation, during the end of November to early December 2026, and the licence conditions will come into effect 56 days after the decision is published.

2. Feedback from Non-Statutory Consultation

This section provides the background and feedback from the Non-Statutory Consultation

- 2.1 During the Non-Statutory Consultation, we set out the proposed changes to SLC 31E and explained the reasoning behind the licence condition modification.
- 2.2 We asked the following questions to acquire input from stakeholders:
 - 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?
- 2.3 We received feedback from 13 stakeholders, the majority of these being network operators; both Distribution System Operations (DSOs) and Independent Distribution Network Operators (IDNOs), as well as a response from a flexibility service provider (FSP).
- 2.4 Responses to Question 1 indicated that a majority broadly agreed with the changes with several conditions – particularly in maintaining market transparency, forward-looking visibility, and support for the Market Facilitator’s responsibilities as part of a handover.
- 2.5 This support was conditional on the handover of future reporting requirements being achieved in a coordinated and transparent manner. DSOs raised concern that if the Procurement Statements were removed from the current reporting requirements, this would also affect the derogation submission process.
- 2.6 At present, licensees may submit a derogation request from the licensee’s obligation to procure distribution flexibility services using market-based procedures through the Distribution Flexibility Services Procurement Statement process. This derogation may be granted where Ofgem has determined that compliance with the market-based provision is economically inefficient or would result in constraints/market distortions.

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- 2.7 Stakeholders therefore concluded that the modified licence condition would require for an alternative derogation process if the Procurement Statements were removed.
- 2.8 Responses to Question 2 indicated there was also a broad agreement from most stakeholders over the principle of avoiding duplication regarding the Procurement Reports and Procurement Statements as part of the development of a centralised monitoring and reporting of flexibility data, provided that the transition arrangements are clear and proportionate.
- 2.9 There were also agreements over the proposed removal of the Procurement Report requirements, subject to the Market Facilitators implementation of [FLX CP005](#).
- 2.10 However, an FSP raised a concern that unless the Market Facilitator introduces a market ruling to encompass forward looking insights, there could be a loss of potentially useful flexibility market information during the handover process, which is of value when informing business planning activities for flexibility market participation.
- 2.11 Responses to Question 3 received mixed responses with regards to the elements of the Distribution Flexibility Service Procurement Statements and Procurement Reports.
- 2.12 An FSP suggested that there is still value to be retained by keeping the Procurement Statement reporting system in place but removing Ofgem's approval role to reduce administrative burden. This was on the basis that the Procurement Statements provide forward looking flexibility market information which can be useful to stakeholders providing flexibility services in the energy market.
- 2.13 Relating to this point, stakeholder feedback also suggested that by maintaining the publication of Procurement Statements, market transparency would also be maintained for the benefit of flexibility market participants.
- 2.14 There was also support for removing both Procurement Statements and Procurement Reports in their entirety, based on the principle that both methods of reporting licensee flexibility product activities are no longer required in the context of the Market Facilitators new role and with [change proposal FLX CP005](#) having been raised at the time the non-statutory consultation was published.
- 2.15 FLX CP005 proposes that DSOs will be required to submit procurement and dispatch data of flexibility services on a more frequent basis than the annual submissions as part of SLC 31E.
- 2.16 Based on the above, some stakeholders made the argument that if Procurement Statements and Procurement Reports are to be retained despite the change proposal, it would result in potentially having to retrieve information from multiple

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sources rather than a centrally available source of information (such as the Market Data Portal).

- 2.17 Stakeholder feedback also suggested that the retention of any current reporting information will be dependent on the scope and context of the Market Facilitators reporting framework, once this is established.
- 2.18 The process of reporting responsibility handover needs to ensure that information transparency is not lost. This includes the narrative context behind market needs. Examples of this value include the visibility of future flexibility needs required at a location level. This is important for transparent investment signals, supporting new market entrants.
- 2.19 DSOs and IDNOs agreed with the proposal to remove the Procurement Statements and Procurement Reports in their entirety, with one DSO referring to other system operator performance reporting mechanisms which already exist, as well as stakeholder engagement sessions which market participants can take part in to be informed of flexibility procurement activities.
- 2.20 Question 4 sought additional points to be considered to inform our decision to modify SLC 31E.
- 2.21 Clear coordination of the handover of reporting responsibilities was given as one of the most important elements of the consultation process. The timing of this coordination is key to ensure that the modification to SLC 31E is not made before equivalent methods of data reporting are implemented through FLX CP005.
- 2.22 IDNOs also made clear that consideration should be given to licensees who are not yet procuring flexibility services (reporting nil returns), suggesting that any new reporting requirements introduced by the Market Facilitator are proportionate and recognise that many IDNOs do not currently need to procure distributed flexibility on their networks.
- 2.23 The feedback also highlighted that the transition of reporting responsibilities to the Market Facilitator should preserve continuity of information transparency and oversight, with clear milestones, roles and accountabilities before the new framework is set up.
- 2.24 It was also suggested that as flexibility market data moves towards a more centralised means of reporting, care should be taken to ensure that the broader context is not lost (data is interpretable and useful, rather than purely descriptive). Without this, there is a risk that increased volumes of data will not result in better understanding of how flexibility services are being used.

Consultation Modification to Standard Licence Condition 31E**DSO Flex Reporting Requirements workshop feedback**

2.25 To better determine the value of forward-looking reporting requirements, we hosted a workshop on the future of DSO flex reporting requirements on the 29th of July 2026.

2.26 We invited stakeholders to input to the workshop, which comprised of a mix between DSOs and FSPs/Suppliers.

2.27 The workshop was split into two activities, designed to better understand the implications of discontinuing the Flexibility Service Procurement Statements. Points of interest and discussion included:

- The value derived by the flexibility services industry from the publication of annual Flexibility Service Procurement Statements by licensees
- Whether the value can be, or is already, delivered through alternative sources of information within the flexibility market
- If the Flexibility Service Procurement Statements should be retained as part of revised SLC 31E conditions, and if so how should Ofgem ensure that they deliver the most value to the flexibility service industry without imposing undue burden on the licensees currently responsible for producing them

2.28 The outcomes of the workshop are summarised as follows:

- Stakeholders broadly agreed that flexibility information needs to be accessible, standardised, more regularly updated and available in one place. At present, important flexibility market information is scattered.
- The central issue may not be whether the Procurement Statements remain in the current form, but rather whether there is a clear obligation on DSOs to publish forward looking information which is most valuable to the industry.
- DSO feedback suggested that the Procurement Statements are static and burdensome, in a market which has evolved to become more fluid and dynamic, arguing that Procurement Statement information is now a business-as-usual activity and communicated on several other reporting platforms.
- Feedback from FSPs suggested that reporting of flexibility services could be tailored to provide more practical and valuable market information which is easier to interpret, navigate, locate and use. At present, the data has discoverability and accessibility issues. Flexibility information, both data and the narrative, should be made available in a single, user-friendly online location.
- One potential solution which was proposed during the workshop was to retain a reporting obligation on licensees but change the format and conditions of the reporting requirements (such as the removal of Ofgem's current approval role for publications, which delay market decisions being made).

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3. 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 also 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 with our reasoning to remove Distribution Flexibility Services Procurement Statements and Procurement Reports on the basis that their value is now diminished in context of the evolution of flexibility markets?
- Q.3. Do you agree with our proposal to introduce an obligation on licensees to share relevant data on their flexibility procurement needs in a timely manner?
- Q.4 Are there any additional considerations which should be considered to inform our decision to modify SLC 31E?

Policy position after the non-statutory consultation

- 3.1 As part of our non-statutory consultation, which was open from the 18 March 2026 to 20 April 2026, we proposed several modifications aimed at removing reporting requirements mandated by SLC 31E.
- 3.2 One element of the non-statutory consultation which we sought feedback on was the removal of Distribution Flexibility Services Procurement Statement reporting requirements as well as the Procurement Reports.
- 3.3 The feedback received suggested that there was still value to be retained from Procurement Statements, while the transition of reporting requirements over to the Market Facilitator is ongoing.
- 3.4 This value could be in the form of future looking market information, which can provide benefit to the business cases of energy flexibility market participants – using information which is obligated to be published online by licensees through SLC 31E.
- 3.5 Another consideration is the present derogation rulings which exist as part of the Procurement Statement process through SLC 31E. At present, any derogation-based requests are submitted via Procurement Statements.
- 3.6 In the future, we expect licensees to inform the Authority of a case for a derogation beyond the Procurement Statement reporting process.

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- 3.7 Our minded-to position is to replace Procurement Statements and Procurement Reports with an obligation to share forward and backward-looking market insights.

Licence modifications

- 3.8 We are proposing to remove some of the reporting requirements currently mandated by SLC 31E.
- 3.9 This statutory consultation is to seek views on whether the proposed licence condition changes will deliver this policy intent.
- 3.10 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), including the process around requesting a derogation from market-based approaches.
- 3.11 The draft licence condition alterations suggested in this statutory consultation have been developed internally, and with insight from the Market Facilitator, to avoid duplication of regulatory burden.
- 3.12 The following highlights sections of the licence condition which we are proposing to retain and modify, and the sections which we are proposing to remove.
- 3.13 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. This will align with the Market Facilitators release of an interim version of the market data portal in January 2027, followed by a final version in April 2027.
- 3.14 For clarity, Ofgem expect licensees, at present, to continue reporting Distribution Flexibility Services Procurement Statements covering the reporting period from 1st April 2027 - 31st March 2028 delivery years.
- 3.15 We also expect Distribution Flexibility Services Procurement Reports and the accompanying Supporting Data to be received, covering the reporting period from 1st April 2026- 31st March 2027 delivery years.
- 3.16 This will ensure that there is a smooth transition of reporting responsibilities from Ofgem over to the Market Facilitator, while preventing a loss of information transparency.
- 3.17 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, as tracked changes (Appendix 2).

Consultation Modification to Standard Licence Condition 31E**Proposed Licence Condition sections to be retained or modified**

- 3.18 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.
- 3.19 Sections 31E.4-6, covering requests for derogations from these requirements, are modified to remove the time constraints associated with them, but with an altered process for licensees to request a derogation.
- 3.20 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.
- 3.21 We anticipate that this will align with the [Market Facilitators role in managing derogations against Flexibility Market Rules \(FMRs\), where system operators may be required to provide details summarising core characteristics of the sub-market or product and highlighting why it would not be possible to comply with the requirements set out in the Flexibility Market Rules.](#)
- 3.22 We believe that that retention of the above sections allows us to continue to support the operation of flexibility markets.
- 3.23 Section 31E.7 regarding Ofgem requiring the licensee to provide a Distribution Flexibility Services Procurement Statement, will be modified to instead stipulate the sharing of flexibility market data and narrative with market participants. We anticipate that this will be achieved in practice by the Market Facilitator introducing a series of new Flexibility Market Rules (FMRs) which will support the reporting of flexibility market information to the Market Data Portal.
- 3.24 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

- 3.25 We propose that sections 31E.7-9 are removed and altered, as this will align with the future role of the Market Facilitator. These sections correspond to Ofgem requiring licensees to prepare revised Flexibility Service Procurement Statements in correspondence with annual submission dates for approval. These sections will not be required as we anticipate that the future role of the Market Facilitator will duplicate this in time.
- 3.26 We also propose that Sections 31E.9 – 31E.16, referencing the Distribution Flexibility Services Procurement Reports, are removed. We anticipate that these

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sections will also not be required as the future role of the Market Facilitator will duplicate this in time.

- 3.27 These licence condition modifications will enable the Market Facilitator to adopt and govern the data monitoring aspects of SLC 31E in the future, through a series of new Flexibility Market Rules, without creating redundant or duplicative reporting requirements.
- 3.28 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.
- 3.29 We propose the partial removal of Section 31E.20, while aiming to retain the definitions of terms relating to the timing of Distribution Flexibility Services Procurement Statements and Distribution Flexibility Services Procurement Reports.

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4. Conclusions and next steps

- 4.1 We believe that certain aspects of 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, following on from stakeholder feedback during our non-statutory consultation, and the DSO Flex Reporting Requirements workshop, while aligning to Elexon's FLX CP005 decision.

Consultation stages

- 4.2 The statutory consultation will be open from 30 September 2026 – 28 October 2026. We will consider the consultation responses to inform a decision publication at the end of November/beginning of December 2026.

How to respond

- 4.3 We want to hear from anyone interested in this consultation. Please send your response to flexibility@ofgem.gov.uk.
- 4.4 We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.
- 4.5 We will publish non-confidential responses on our website at www.ofgem.gov.uk/consultations.

Your response, your data and confidentiality

- 4.6 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.
- 4.7 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.
- 4.8 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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- 4.9 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.

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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 ISOP, 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:

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(i) cooperate with the ISOP 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 ISOP, 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 ISOP in order to 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

(i) 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.

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.

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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 ISOP, 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.

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

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

- (a) The counterparty to the contract;

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- (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;

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

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“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.

Consultation Modification to Standard Licence Condition 31E**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 ISOP, 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:

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(i) cooperate with the ISOP 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 ISOP, 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 ISOP in order to 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

(i) 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 to the Authority prior to the 1st of April of the regulatory reporting year (1st April to 31st March) during which the derogation is requested. 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.5 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.6 Licensees must share relevant market data and information on their flexibility procurement requirements and needs, with existing and potential future market participants, in a timely manner.

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 ISOP, 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:

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~~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:~~

~~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 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:~~

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~~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 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.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.

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:

~~"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

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(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 with our reasoning to remove Distribution Flexibility Services Procurement Statements and Procurement Reports on the basis that their value is now diminished in context of the evolution of flexibility markets?
- Q.3. Do you do you agree with our proposal to introduce an obligation on licensees to share relevant data on their flexibility procurement needs in a timely manner?
- Q.4. Are there any additional considerations which should be considered to inform our decision to modify SLC 31E?

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

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 3rd 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](#)”.