

CHPA RESPONSE

To BERR/OFGEM's follow up consultation
on Distributed Energy - Further Proposals
for More Flexible Market and Licensing
Arrangements

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Points to note

The Association welcomes the opportunity to respond to BERR/OFGEM's follow up consultation on Distributed Energy - Further Proposals for More Flexible Market and Licensing Arrangements-published on the 18th June.

This consultation provides a timely opportunity to focus on measure that will provide the commercial and regulatory framework that is needed to provide the basis for successful implementation of an ambitious but proportionate DE policy.

1. The industry recognises there are challenges presented by the Distributed Energy work stream and its harmonisation into a coherent policy on low carbon/renewable heat.
2. It is positive that BERR/OFGEM recognises complying with codes for smaller DE licensed suppliers is unduly heavy handed, complex, expensive and welcomes the Government's attempt to mitigate some of this complexity and cost.
3. The Association believes that 'Netting off' of decentralised energy consumption against generation through the supplier services provider using a trading unit in the balancing and settlement system is fundamental to the decentralised energy business model. This will achieve a similar result as was proposed by the use of a metering solution ('virtual private networks'). In addition, Elexon should be asked to consider this proposal further and provide clear substantiation of the alleged costs and benefits.
4. The introduction and implementation of cost reflective network use of system charging that facilitates local trades is a priority. Ofgem's proposals to impose a common distribution charging methodology—which the Association warmly welcomes—represents an important step forward and it is essential that the key parameters within the common methodology deliver the ability to roll-out cost-reflective local charges to DE operators.
5. Similarly as the document notes substantive reform of electricity cash-out is a pre-condition to an effective reform package. Current indications are that change proposals in process (P211 and P217) may fall short of creating the conditions for smaller DE operators to function effectively. A longer-term strategy that looks beyond immediate change proposals needs to be developed and should focus on:
 - removing system pollution from energy imbalance charges (energy plus actions including standing reserve effects, as well as transmission constraints);
 - addressing the arguments for bringing forward gate closure; and
6. The Association considers that the SSA provision is likely to be one of the few routes to market for a DE operator who sits over the existing licensing threshold but needs to reduce the costs and complexities of complying with the Codes etc.
7. It is expected that most suppliers will not want to offer reasonable terms to de facto competitors.
8. If "reasonable terms" are not offered by larger suppliers for the supplier services then OFGEM should intervene and provide a quick referral procedure for resolution.
9. Therefore it is imperative for OFGEM, as an absolute minimum, to monitor and where necessary obligate larger supply licence holders to provide an SSA and intervene (NOT REGULATE) to ensure "reasonable terms" are offered to DE suppliers seeking supplier services.
10. When considering a term and condition for an SSA, the CHPA does not at this point believe there is a case for publishing exact prices for supplier services. The imposition of rigid prices would undermine both parties' ability to enter into for commercial negotiations over these and other terms. There is a need for a visible indicative/reference price (enabling new entrants and parties not experienced in these negotiations to have a price guide/estimate).

11. The Association believe that the rationale that led to the proposal of amending the SLC, (i.e. SSA proposal), creates a need for the specially convened working group to investigate the merits of both a distinctive “junior licence” as well as simply modifying the SLC in 11.2.
12. The scope for any party to establish conditions for viable and cost-competitive trading and energy supply through the provisions of the Class Exemption order should not be compromised by present reforms or prematurely altered in light of ECJ Ruling on the Citiworks case. Current Class Exemptions should remain an important facet of decentralised energy, and in many respects reflect the fundamental need to frame energy supply arrangements to reflect local conditions. If Licensing was introduced which had the effect of removing the RO exemption for on-site supplies it would have a detrimental effect of the major incentives to develop and operate onsite supply.

If any reform was needed to the current Class Exemption order it should enable the DE supplier the ability retain the value of the proportion of a supplier’s power that would be exempt from CCL and RO costs and obligations, under a standard supply license exemption.

BERR and the Regulator should note that the commercial terms for many supply contracts are bundled packages for Steam, power and wires. Any revision that affected one of these areas could compromise the commercial competitiveness of onsite suppliers and affect the take up of DE more generally.

As OFGEM and BERR are aware, the Association and our members are keen to play an active role in identifying the exact implication of the ECJ Citiworks ruling and/or any rationalisation of the current class exemptions regime. Members of the CHPA have identified several ways of allowing third party access without changing exemptions; we formally request participation in any industry/government working groups in this area.

13. The CHPA are still concerned over lack of firm targets for DE.

THESE POINTS ARE EXPANDED UPON IN THE RESPONCES TO THE CONSULTATION QUESTIONS.

Answers to Relevant Questions:

Question 1: We welcome views on whether the Authority should exercise its power as provided for under the BSC to designate a third party representative to raise BSC code modifications.

The Association generally supports this proposal and believes it is well-placed to act in this capacity on behalf of DE operators. However, there is considerable work required in order to determine a workable way forward. The Association is concerned that the proposal raises questions over responsibilities, liabilities, resourcing and governance that require further exploration. A number of specific questions remain

- What the responsibilities and liabilities of a party would be?
- Would the party act as a conduit for any party who wished to raise a modification?
- How would the responsibility be resourced and executed?
- In the case of a trade Association, how would conflicts of interest between Association members be resolved?

Until these questions are resolved, the CHPA don't see how the proposal can become fully operational.

Question 2: We welcome expressions of interest from stakeholders interested in having the power to raise code modification proposals on behalf of DE schemes. For those interested parties, please highlight specific reasons why this power should be conferred upon you.

See answer to question one above.

Question 3: In terms of the length of designation, we believe that a period in line with the Panels term (e.g. 2 years) may be a suitable period with which to trial this proposal. We would welcome stakeholders views on the period for which designation might last.

If the above concerns can be resolved, we believe the above could start immediately and suggest that the period of 2 years suggested in the consultation document should be measured from the start of the next full year of participation.

Question 4: We would welcome views on whether the designated party should be obliged to contribute fees to Elexon in order to participate in the BSC change process. If so, how should the level of contribution be determined?

No they should not.

The Association is concerned over the resourcing of this facility. The designated party may require funding rather than contributing fees to Elexon. While it is recognised that there will be resource implications, these extend far wider than any costs which it may be appropriate to recover via fees to Elexon. These include the direct costs incurred by any designated party in undertaking its responsibilities in respect of the BSC process. It is possible to construct a case that these costs be met by Elexon.

After the two year trial period has elapsed if suitable funding/grants have been made available from central Government and/or existing participants, then this topic should be revisited.

Question 5: Should any other codes be examined in relation to lack of DE representation?

The Association is not aware of other codes, other than then balancing and settlement codes that are a closed process. However, it would be suitable for other industry arrangements to be investigated: MRA and DCUSA are important. Also see answer to question 10.

Question 6: We invite stakeholders to identify any good quality information currently available that would be suitable for including in the development of a user friendly information hub on the process of setting up and operating a DE scheme.

The CHPA recommends the following material: Good Practice Management Guides on Carbon Trust website, CIBSE information, CHP Club publications and in the future DEFRA's "CHP Focus", IEA's DE work, BSRIA guides, CHPA website, Future Energy Yorkshire's DE/DH modelling tool and supporting material, IET's Distributed Generation Systems Guide, Greenpeace's DE website and EfficCity model town, CHPA member's websites, Siemens-Sustainable Urban Infrastructure reports,

THE REAL NEED IS FOR QUALITIFIED AND ROBUST MARKET DATA, SUCH AS INSTALLED CAPACITY DATA FOR ALL FORMS OF DE/CHP AT ALL SCALES.

The lack of the above data is a real barrier for greater take up of DE and causes significant frustrations regardless of the scale of operator, generator, supplier, manufactures and/or DNOs.

At the CHP Statistics Steering Group, held on the 29th January 2008, Both BERR and DEFRA expressed concerned that a public register of CHP sites is not available. It was suggested that a database should be established on the Defra website, with a link to Ofgem. Due to funding issues DEFRA were reluctant to administer the database and believe Ofgem have that responsibility. OFGEM are seeking advise from their internal legal team as to whether Ofgem's role requires it to report on the whole of the CHP sector and not just the LEC element. The Association urged DEFRA to revise the wording of the CHPQA forms to encourage more people to tick the box indicating that this information can enter the public domain.

This action is required above and beyond a "user friendly information hub".

In addition, we agree with industry experts that smaller DE schemes would benefit from being provided with contact details for:

- providers of legal, regulatory, contractual and market advice;
- providers of "exempt supplier services";
- providers of consolidation, broker and agent services;
- details of auctions where DE electricity can be bought and sold;
- purchasers of DE electricity
- distribution network operators
- provides of DE finance

Question 7: Do you agree with the proposed license amendment to SLC 11.2 (see Appendix 2)?

The practical impact of switching off requirements under SLC 11.2 remains to be proven. While this approach has merit, there are major risks that it may ultimately prove ineffective. A number of parties maintain that a Junior Licence Condition remains a viable alternative, and under the conditions of a) major potential expansion of distributed generation and b) risk over the efficacy of the 'switching off' provisions, the Association would recommend that work continues to evaluate both the switch off provision and the potential structure and operation of a Junior Licence regime.

One of the principal reasons for this is that OFGEM would have to caveat changes to the standard supply licence with an exemption for 11.2 switched off suppliers. This would have further cost and resource implication for smaller suppliers (they would have to monitor every change to the standard supply licence). After all this proposal should reduce regulatory risk/cost not increases it.

The distinctive "junior licence" would have the following characteristics:

- Doesn't have to comply/can switch off Supplier Licence SLC set out in 11.
- Is not required to adhere to Government policies aimed at larger supply businesses CERT, etc if it had more than 50,000 customers.
- is offered reasonable terms for the following services: The ongoing transaction costs of interfacing/trading in the competitive market and
 - (a) Arrangements for netting off demand against generation
 - (b) To trade the net output from the DE system within the balancing settlement process
 - (c) Top and standby electricity to meet shortfalls in production, avoiding the cost of 24 hr desk for balancing and to cover outages and maintenance
 - (d) Metering requirements (registration, data collection etc)

In addition, the consultation period had raised the following issue: notification of a customer's intention to switch would go to the party listed against the meter and so the fully licensed supplier would have to then notify the DE party, who would have to produce the final bill.

This issue could be resolved in light of the possible provision of services.

In addition, we would seek clarification on whether the amendment to SLC 11.2 applies on a site by site basis or is based on the consolidated across a company basis.

Question 8: Should Ofgem issue guidance on eligibility criteria for switching off the code compliance licence condition? If so, what should the main criteria be?

YES: It is essential that Ofgem provide categorical guidance about the circumstances. See answer to the above.

Question 9: Should Ofgem establish an industry working group to develop a good practice guide on supplier services agreements?

YES: A working group is needed and the CHPA would request participation. It should focus on the suitability of the SSA agreement for small DE suppliers and include these practitioners at every stage of this process. A working group such as this would speed up the provision of a SSA provision and inform the industry directly. In addition, OFGEM should look to develop a workshop for the various parties illustrating this process.

Question 10: How should the risks of a breakdown in the DE-Agent relationship be mitigated?

The customer is a fundamental asset of any DE scheme and OFGEM will need to ensure that customers of DE supplier are not a defacto customer of the "larger supplier". This will need to be addressed through revisions to the MRA. We would support OFGEM's proposal for a new category of party to the MRA where the meter is registered to the DE supplier and the fully licensed supplier is listed as a "trustee" or "protectorate" of the customer. The Association is keen to work with BERR/OFGEM to establish exactly how this can be done.