

'Licence Lite': responses to the SLC 11.3 operating guidance consultation

Summary of consultation responses

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Overview:

In 2009 we introduced an option within the electricity supply licence to allow for a conditional derogation from the requirements under Standard Licence Condition (SLC) 11.2 to be a party to the industry codes. This option – which has become known as 'Licence Lite' – was originally designed to overcome market entry barriers experienced by distributed energy (DE) generators, specifically those assessed as presenting the highest cost and highest competency hurdles to accessing the public network and selling electricity to consumers.

We recently consulted on an update to the 2009 Licence Lite guidance to reflect policy and regulatory changes and in response to increased levels of stakeholder interest. This consultation did not propose fundamental changes to the original intention of Licence Lite but did outline a number of proposed additions, updates and clarifications to the main areas of the 2009 guidance.

This document provides a summary of the responses to the consultation.

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Executive Summary

In October 2014 we consulted¹ on proposed revisions to the 2009 operating guidance² for implementing Standard Licence Condition (SLC) 11.3, which has become known as 'Licence Lite'.

The specific intention of this licencing option is to address the potential barriers faced by distributed energy providers and aspiring suppliers in complying with those elements of the supply licence which involve either high costs or high levels of technical proficiency.

It allows either prospective or licenced electricity suppliers to apply for a full electricity supply licence and a direction relieving them of their obligation to be a direct party to the SLC 11.2 codes, as long as arrangements are in place for a third party licenced supplier (TPLS) to discharge code compliance in these areas on their behalf.

A number of parties are now expressing renewed interest in Licence Lite and this interest – taken together with the need to update and clarify the 2009 guidance to reflect changes in the market – provided a clear rationale for the consultation.

Our consultation focused on three main components of the 2009 guidance:

1. Main industry functions, activities and expectations
2. Application procedures and assessment criteria
3. Compliance and enforcement issues

This document summarises all responses received. Broadly, respondents supported all of the proposed updates and clarifications. Where specific points were raised, these have either been drawn out in the document or – where they fell outside of the consultation scope – raised with Ofgem colleagues.

Any queries about Licence Lite should be directed to Sustainable.Energy@ofgem.gov.uk.

¹ Licence Lite: Proposed revisions to the SLC 11.3 operating guidance <https://www.ofgem.gov.uk/publications-and-updates/%E2%80%98licence-lite%E2%80%99-proposed-revisions-slc-11.3-operating-guidance>

² Licence Lite 2009 proposals <https://www.ofgem.gov.uk/ofgem-publications/58104/definalproposals.pdf>

1. Consultation responses: summary

- 1.1. The consultation ran for eight weeks and closed on 5 December 2014.
- 1.2. We received 17 responses to the consultation: 6 from suppliers, 4 from prospective applicants, 6 from industry bodies and 1 from a consumer body. Where permission was given, these responses have been uploaded to our website.³
- 1.3. During the consultation period we hosted a stakeholder workshop in London. The purpose of this workshop was to brief stakeholders on the specific areas we were consulting on, discuss the consultation questions, and gather feedback regarding where our proposed guidance could be improved. The materials presented at the workshop are available on our website.⁴
- 1.4. This document summarises responses to the consultation questions on the proposed changes to the SLC 11.3 operating guidance and views expressed in the workshop.
- 1.5. Based on those responses, the proposed guidance seems broadly appropriate. A number of minor clarifications were requested, which we will incorporate as appropriate. We will set out our views on the responses presented here in a decision document which will be released alongside the revised guidance. We intend to publish both documents as soon as possible in 2015.

Further clarifications

- 1.6. The majority of stakeholders felt that our explanation of the functioning of a Licence Lite arrangement was adequate and no further clarifications were needed.
- 1.7. A number of respondents requested more detailed guidance on appropriate commercial agreements between parties, ideally in the form of templates. One respondent suggested that we encourage industry participants to provide this and other commercial support.

³ Licence Lite: Proposed revisions to the SLC 11.3 operating guidance
<https://www.ofgem.gov.uk/publications-and-updates/%E2%80%98licence-lite%E2%80%99-proposed-revisions-slc-11.3-operating-guidance>

⁴ Licence Lite: Proposed revisions to the SLC 11.3 operating guidance
<https://www.ofgem.gov.uk/publications-and-updates/%E2%80%98licence-lite%E2%80%99-proposed-revisions-slc-11.3-operating-guidance>

- 1.8. One respondent requested further clarity on the obligations of other SLCs to be included in the guidance document.
- 1.9. Several respondents highlighted the need for a further review of the guidance once Licence Lite arrangements are developed within the industry and have been tested in practice.
- 1.10. Several respondents requested more detail on data and payment flows between parties required for Code compliance; similarly, two parties queried the options for Licence Lite suppliers' engagement with the Code change process.

Balance of responsibilities

- 1.11. In the proposed guidance we set out the licence and Code obligations for which the Licence Lite supplier and TPLS would be responsible.
- 1.12. The majority of the twelve responses to this question felt that the balance of responsibilities set out in the consultation was both clear and proportionate.
- 1.13. All but one respondent favoured a commercial expression of the TPLS' obligations over a regulatory measure, on the grounds that the guidance is sufficiently clear and that introducing new regulatory conditions for potential TPLSs would further complicate the negotiation process between parties.
- 1.14. Conversely, one respondent took the view that modifying the SLCs to clarify TPLS responsibility would avoid this becoming a significant point of negotiation between the parties.
- 1.15. Some respondents suggested that it may be difficult to secure a reasonable price for TPLS services without obligations being placed on suppliers. Several proposed a size threshold above which it would be mandatory for licensed suppliers to offer TPLS services and below which interested suppliers could voluntarily offer terms, to ensure competition and fair treatment. Two respondents went further and suggested that such an obligation should require the terms offered by TPLSs to be reasonable and include the option of regulatory referral in the case of disputes.

Smart Energy Code

- 1.16. The consultation document queried whether the explanation of how the Smart Energy Code (SEC) would interact with a Licence Lite supplier was sufficiently clear. The majority of respondents felt that suitable clarity had been provided on those arrangements relating to the SEC.
- 1.17. Several respondents expressed the view that further clarity should be provided on the criteria for providing a derogation from the SEC, and the

extent to which we would consider them responsible for complying with the Smart Metering Installation Code of Practice.

- 1.18. One respondent raised the point that if the TPLS were involved in SEC compliance the data security arrangements may prevent the TPLS from passing on data to the Licence Lite supplier. They also indicated that the Licence Lite supplier may be unable to access Data Communications Company (DCC) services directly.
- 1.19. Another respondent raised the issue that, as the TPLS will manage all metering agents under the Master Registration Agreement (MRA) on behalf of the Licence Lite supplier, we should consider the close links between SEC and MRA compliance and give further guidance on how this should be managed.

Electricity Market Reform

- 1.20. The consultation document queried whether the explanation of how the Electricity Market Reform (EMR) would interact with a Licence Lite supplier was sufficiently clear, particularly in respect of how obligations would fall between parties. Most respondents indicated that sufficient clarity on the arrangements relating to the EMR had been provided.
- 1.21. Two respondents indicated that bills for the EMR Supplier Obligations may be sent to the TPLS if the administrator is not aware of the contractual arrangement between the Licence Lite supplier and the TPLS. For the purposes of clarity, it was suggested that the Licence Lite supplier should register this contractual arrangement with Elexon.
- 1.22. While the guidance on EMR was widely supported, a number of respondents expressed the view that it would be necessary to review whether the proposed arrangements are appropriate when there are several Licence Lite suppliers in operation and EMR interactions have been tested.

Social and environmental programmes

- 1.23. The consultation document queried whether the explanation of how government's social and environmental obligations would interact with a Licence Lite supplier was sufficiently clear, particularly in respect of how obligations would fall between parties.
- 1.24. Of the twelve responses to this section, eleven respondents felt that our explanation was sufficiently clear to allow Licence Lite and TPLS parties to understand when and how obligations would fall, and the balance of responsibilities between parties.

- 1.25. One respondent indicated that further guidance should be provided for cases where a distributed generator was operating as an affiliate of a fully licenced supplier.

Identification of Licence Lite customers within TPLS systems

- 1.26. Of the fifteen respondents to this section, there was universal agreement on the need for Licence Lite customers to be uniquely identifiable within a TPLS' systems.
- 1.27. Of the proposals put forward to achieve this, the majority of respondents indicated a preference for using a Market Participant Identifier (MPID) to differentiate between Licence Lite and TPLS customers. Several respondents highlighted the restricted availability of MPIDs amongst licensed suppliers, a topic that was dealt with in the consultation which raised the possibility of a modification to the Balancing and Settlement Code (BSC) to allow additional MPIDs to be made available. Although views differed amongst respondents on the appropriate scope of any proposed BSC modification, all respondents supported the need for a modification to be well-justified and evidenced, and proposed by a signatory to the BSC.
- 1.28. Some respondents suggested other means of identifying customers, such as the use of Balancing Mechanisms Units (with suggestions that this approach is particularly valid when operations take place within a small geographical area), a specific Licence Lite identifier within the BSC, and separation within the TPLS' systems.
- 1.29. Overall, the majority of responses did not foresee any complications related to uniquely identifying Licence Lite customers on central systems. However, two responses addressed this area specifically, highlighting:
- that significant increases in the number of MPIDs may lead to central system upgrades which all BSC parties will be required to finance. This respondent felt that additional MPIDs should only be allowed for the sole purpose of operating a Licence Lite arrangement or similar arrangements, and that increasing volumes of Licence Lite operations should be monitored.
 - that it was unclear if the Licence Lite MPID would be required to be stored in the MPAS along with or instead of the TPLS MPID. If it were to store both, significant changes would be required to distributor and supplier systems.

Supplier of last resort

- 1.30. The consultation document outlined the implications for Licence Lite and TPLS operations under a Supplier of Last Resort (SoLR) scenario, and queried

whether the risks associated with SoLR (eg possible removal of customers) were significant enough to warrant mitigation measures.

- 1.31. The majority of the fourteen responses to this area confirmed that SoLR arrangements in the event of a TPLS failure should represent a commercial risk for Licence Lite suppliers to assess and manage, and that alternative mechanisms would not currently be proportionate. However, respondents were divided on whether removing the Licence Lite supplier's customers was justifiable.
- 1.32. Suggested mitigation measures raised by respondents included commercial mitigation (procurement of back office services from a third party to reduce overheads, and procurement of a back-up TPLS), temporary SoLR arrangements so customers could be returned to the Licence Lite suppliers, and taking steps to ensure a more liquid TPLS market to support the Licence Lite supplier in swiftly identifying an alternative TPLS.

Applicability of Licence Lite guidance

- 1.33. The consultation document invited views on the general applicability of the Licence Lite guidance to potential applicants.
- 1.34. The seven responses received in this area confirmed that the information provided was suitable for the large majority of Licence Lite applicants.
- 1.35. One respondent suggested that due to the cost (eg technical and legal advice on preparation of third-party agreements) of preparing an application, particularly for small scale generators, we should introduce an initial review stage. This would enable the applicant to gain feedback on their proposed contract, and thus reduce the risk of application failure.
- 1.36. A respondent also suggested that we should be willing to provide further guidance on unique applicant situations and business models.

Process and milestones

- 1.37. In response to the application process set out in the consultation document, the majority of respondents felt that all significant milestones were highlighted in the appropriate level of detail in the guidance document. Suggestions for further improvement included a proposal for time limits to be introduced to the processing of applications, and a call for an industry led working group to be convened in order to identify and respond to any issues emerging from the initial Licence Lite applications.

Annex 1 - Consultation Questions

Question 1: *Are further clarifications regarding the functioning of a Licence Lite arrangement required from the regulator, and if so, in what areas?*

Question 2: *Do you agree that our position over the balance of responsibilities and regulatory obligations is: a) sufficiently clear to allow parties confidence to enter into commercial agreements, and b) a proportionate approach?*

Question 3: *Do the Licence Lite arrangements relating to the Smart Energy Code – as set out in this consultation and in paragraphs 1.39-1.41 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?*

Question 4: *Do the Licence Lite arrangements relating to the Electricity Market Reform – as set out in this consultation and in paragraphs 1.42-1.46 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?*

Question 5: *Do the Licence Lite arrangements relating to the government’s social and environmental programmes – as set out in this consultation and in paragraphs 1.42-1.46 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?*

Question 6: *Does the potential impact of the MPID restriction warrant a modification to the Balancing and Settlement Code?*

Question 7: *Are there any complications (not identified in the consultation) to uniquely identifying a Licence Lite supplier’s customers on central systems?*

Question 8: *Are the risks to Licence Lite suppliers inherent in the current operation of supplier of last resort arrangements in the event of TPLS failure sufficient to justify backstop measures, and if so, what measures would be appropriate and why?*

Question 9: *Is the information required for a Licence Lite application appropriate for all potential applicants?*

Question 10: *Are there any relevant milestones which are omitted from the proposed guidance?*