



Making a positive difference
for energy consumers

Secure and Promote market making licensees, Generators, Suppliers, Traders, Brokers, Power Exchanges, Trading Facilities, and other interested parties

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Date: 28 July 2015

Dear Colleague

Statutory consultation: Modifying the electricity generation licence of Secure and Promote licensees – market making on the afternoons of the preceding business day to the 25 December and 1 January

Background

Special Condition AA (the licence condition)¹ to deliver Ofgem's² liquidity objectives for the wholesale electricity market came into effect within the licences of certain Electricity Generators on 31 March 2014.³

Under Schedule B of the licence condition, the six obligated licensees are required to post bids and offers for each of the mandated products during the two trading windows on every business day (market making obligations).⁴

Premise of the modification

A number of licensees have pointed out that they face particular difficulties in relation to their market making obligations on the afternoons of the preceding business day to 25 December and 1 January. This is because very little trading activity occurs and the markets for underlying fuels are effectively closed in those afternoons. Some licensees have argued that they are exposed to undue risk in posting prices because they have insufficient information available to them.

In response to these concerns, Ofgem issued a letter of policy intent in early December 2015.⁵ This letter explained our position that the intent of Schedule B of the licence condition is to:

¹ Known as 'Secure and Promote'

² Ofgem is used interchangeably to refer to the Gas and Electricity Markets Authority for the purposes of this consultation

³ <https://www.ofgem.gov.uk/publications-and-updates/wholesale-power-market-liquidity-decision-letter>

⁴ As defined by the balancing and settlement code available at <https://www.elexon.co.uk/bsc-related-documents/balancing-settlement-code/>

- make products available when they are likely to be demanded, and
- create robust prices for those products when the prices are required.

Trading data indicates that the market does not traditionally expect products to be available on those two afternoons. Given this, Ofgem's policy position is that an absence of market making products in the afternoon windows of the preceding business day to 25 December and 1 January would not be contrary to the intent of Secure and Promote licence condition.

Proposed licence modification

In order to provide further clarity for licensees we are now proposing to modify the licence condition to remove the requirement to post bids and offers in the afternoon windows of the preceding business day to 25 December and 1 January.

On balance, we consider that changing the licence condition in this instance is a proportionate response in providing clarity to market participants as to when market making will take place.

We have not identified any material adverse impacts of this change, however we welcome feedback and any concerns from consultees on this proposed modification. In particular, do you agree that the benefits from this modification, including clarity as to the scope of the obligation, are sufficient to warrant a licence modification?

Section 5A of the Utilities Act 2000 places a duty on Ofgem to carry out Impact Assessments where we are proposing to do anything for the purposes of, or in connection with, the carrying out of any function exercisable by it under or by virtue of Part 1 of the Electricity Act 1989, and it appears to the Authority that the proposal is "important" within the meaning of section 5A.2.

We do not believe that our proposals meet this latter criterion because of the precise nature of the proposed change, and because of the current expectation of the market about product availability in these afternoons. We therefore do not assess there to be a requirement to carry out an Impact Assessment.

Should we proceed with the modification, in future cases where obligated company groups are granted new generation licences, the usual process will be to insert the modified Special Condition AA into relevant licences at the point of licence grant.

Any representations on the proposed licence modification may be made on or before 26 August 2015 to Yasmin Valji, Office of Gas and Electricity Markets, 9 Millbank, London, SW1P 3GE or on Direct Dial: 020 3263 9774 or by email to wholesalemarketoperation@ofgem.gov.uk.

A notice under Section 11A(2) of the Electricity Act 1989 is appended to this letter.

Yours faithfully,

Philippa Pickford
Associate Partner, Markets

⁵ <https://www.ofgem.gov.uk/publications-and-updates/secure-and-promote-market-making-obligations-christmas-and-new-year%E2%80%99s-eve>

