

Energy UK response to Ofgem's consultation on the Guarantee of Origin recognition process

12 January 2016

About Energy UK

Energy UK is the trade association for the UK energy industry representing over 80 suppliers and generators of electricity and gas for domestic and business consumers. Our members represent the truly diverse nature of the UK's energy industry - from the UK's largest energy firms to new, growing suppliers and generators, now making up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 26 million homes and every business in Britain. Over 680,000 people in every corner of the country rely on the sector for their jobs with many of our members providing lifelong employment as well as quality apprenticeships and training for those starting their careers.

Energy UK Response

Energy UK welcomes the opportunity to respond to Ofgem's consultation on the Guarantee of Origin (GoO) recognition process. Given the financial implications involved to suppliers submitting GoOs to Ofgem, clear guidance is essential for the development of consistent and robust internal processes across the industry. Whilst we understand that this draft Ofgem guidance is not legally binding, and that no changes to legislation or policy changes are planned, given that the only changes are to the information required to be submitted to Ofgem, we nonetheless believe that the guidance can be strengthened in places.

This new guidance once finalised will be relied upon by market participants for activity that is ongoing and for which data submissions will be required by 1 July 2016, we are concerned that Ofgem still cannot provide 'a comprehensive list of all the specific types of documentary evidence that are or will be acceptable as evidence of the GB consumption of overseas renewable electricity.' The lack of clarity on such a key point will lead to uncertainty among suppliers and potential for inconsistent approaches in the industry.

Also, without sufficient guidance the process risks being inefficient as auditors could potentially adopt a more risk-adverse stance or suppliers will be forced to test the level of acceptability risking non-compliance.

Although the change to the GoO recognition process is relatively small given that it largely aligns with the process for Fuel Mix Disclosure (FMD) the cumulative impact of policy changes resulting in alterations to existing processes (or the implementation of new processes) is resource intensive.

Guidance

We consider that there are areas of the guidance that would benefit from refinement and/or additional information. These are listed below:

Contractual chain – the draft guidance calls for evidence of a clear contractual chain linking the overseas generator with a GB supplier. It then goes on to state that ‘contracts and invoices that evidence specific transactions after the fact are examples of acceptable evidence’. Clearer explanation of what would be deemed acceptable evidence would be welcomed.

Volume of electricity traded - it would be useful to understand what Ofgem believes constitutes ‘clear evidence of sufficient quantities of electricity traded from the point of generation to GB’. For example, invoices may not necessarily provide clear evidence due to the issue of netting, as can final notification in some instances. We believe that an extract from a company’s Energy trading and risk management (ETRM) system would better satisfy this requirement. There is a GB wide notification system but that does not contain Continental purchases of power, and thus would be unsuitable. The evidence around entry into the GB settlement system would also benefit from further clarity.

Interconnector capacity – the draft guidance states that evidence could include having enough capacity booked and nominated in the forms of invoices, transport volume notices and any other documents’. It further states that Ofgem is ‘specifically interested in the last two parties in the chain, but does not explain why this is a requirement. Whilst booking and nomination of explicit capacity is understood to be acceptable, the wording in the guidance implies that other methods or other evidence could also potentially be acceptable to Ofgem. Contracts and invoices, which are mentioned in the consultation as suggested types of evidence, will not demonstrate that capacity has been used to flow electricity into GB. Nomination data could be provided by market participants based on market participants’ own internal systems or, if arrangements are developed, in a more standardised and verifiable format. We consider that the use of capacity declarations supplied by Agents, similar to generator declarations, would enable suppliers to verify the volume of renewable energy supplied against a particular interconnector.

Linked to this latter point is the industry’s need to know whether Ofgem will allow implicit capacity volumes to be used for the importation of GoOs, and if so, what evidence will be required by the regulator as proof of supply. We note that BritNed currently assigns flows retroactively by appointing flows to specific parties. There is some concern that if the GB supplier submitting the GoO for recognition involved a third party between itself and the overseas generator, that legitimate concerns on commercial confidentiality could hinder the provision of the necessary evidence of supply, for example, invoices.

It should also be recognised by Ofgem that in some instances, contracts relating to GoOs could be part of a wider agreement between the counterparties and hence the contractual evidence for the electricity traded or the interconnector capacity utilised for the GoOs in question could be aggregated with other business requirements. As such, evidence may not be easily segregated.

Balancing period - We do not agree that elements of the GoO contract should be balanced monthly and instead believe that annual balancing should remain the regulatory requirement, as existed under the previous regime. Given that the FIT compliance period is annually, and given the potential uncertainty relating to intermittent renewable generation, it is unclear why Ofgem has changed from the previous requirement to balance on an annual basis.

Accuracy, Reliability and Veracity

Ofgem’s draft guidance states that evidence of the contractual path must be checked by the auditor from the point of GoO cancellation through to purchase by the GB supplier. It further states that ‘this may involve, but is not limited to, redacted invoice or email declarations for GoO volumes sold between parties’. We feel that the draft guidance could be improved to explain what may be acceptable in terms of evidence, and indeed what would not be acceptable. Without further clarification, suppliers and auditors may be unwilling to submit other, different evidence for fear of GoOs being rejected by Ofgem.

Where counterparties may be unwilling to provide invoices due to commercial confidentiality considerations, it would be useful to understand what the ‘email declarations’ need to contain, and/or whether there is a level of seniority required for the author of such a declaration. Further, where an

intermediary/Agent is involved, it is important that the audit process allows for intermediaries/Agents to provide relevant evidence (if required) directly to the auditor and/or Ofgem.

Independent Audit Report

Among the duties of the auditor is to validate the GoO requests, provide an assurance rating and a written report. For this to be consistently applied across the industry, robust and clear guidance of the measures to be assessed and the acceptable evidence is essential. During a recent workshop on the draft guidance held by Ofgem, there was concern among market participants that unclear definitions or ambiguous references to what could be acceptable evidence might cause auditors to be unnecessarily cautious about the grading they award company submissions, especially in the early years of this new regulatory process. Given that Ofgem has already stated that it will not accept 'weak' or 'unsatisfactory' ratings, then we feel that additional clarity in parts would be beneficial.

Timing of Audit

We understand that the submission of GoOs to Ofgem must adhere to the timetable set out in legislation. On the question of timing of the audit however, we would like to draw Ofgem's attention to the fact that the timing of other audit activity within companies will differ according to the financial calendar of the individual companies. The ability to incorporate the main GoO audit into the usual company audit activity which happens ahead of year-end could prove more efficient. As others have already stated during the recent workshop, this new requirement for an independent audit will increase the cost and complexity especially to small suppliers.

The draft Guidance required a percentage sample to be audited across all timeframes. Whilst GoOs are issued with only a month delay to the actual generation, the timetable for companies to receive, process and now audit the GoOs from March for a 1 July submission to Ofgem may cause some suppliers concern.

Fraud and Error Prevention Measures

We support the reference to fraud and error prevention by Ofgem. Once again, it would be useful to understand what type of measures Ofgem wishes to see in this regard, as greater clarity is likely to be welcomed by the auditors who must check the robustness of the control measures and advise the suppliers that these would be acceptable.

Appeal in the event of a refusal to accept GOOs

If Ofgem refuses a submission and/or audit report merely on the basis of lack of evidence provision, we believe that an appeal process should be in place to allow suppliers to challenge and/or rectify the omission.

GoO Spreadsheet Template

If further changes are to be made to the spreadsheet beyond the additional columns related to the evidence held and audit checks, we would be grateful if Ofgem could issue this in a timely manner to enable suppliers to complete the necessary documentation and submit to audit assessments prior to the 1 July 2016 deadline.

Energy UK welcomes the opportunity to further discuss the points raised within this consultation with Ofgem. Should you require further information or clarity on the issues outlined in this paper then please contact Kyle Martin on 020 7747 1834 or kyle.martin@energy-uk.org.uk.

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