

Ofgem E-Serve Decision on proof of UK consumption of overseas electricity consultation

Introduction

On 12 January 2016 we published our consultation on proof of UK consumption of overseas electricity. We were looking for stakeholders' views on the specific evidence requirements for proving consumption in the UK for the purposes of Fuel Mix Disclosure (FMD) and other associated schemes such as Feed-in Tariffs (FIT) and Contracts for Difference (CfD). The consultation period ended on 11 March 2016.

Following consultation we have decided to **allow unconstrained implicit trading for GoOs for the 2016-17 scheme year onwards**. The responses to our consultation were broadly supportive of our proposal and no evidence was presented to suggest that we should not take it forward. We wanted to publish this decision now to give industry the clarity it asked for within the timescales it wanted.

During the consultation period, we hosted two stakeholder engagement events to discuss the proposals. On 7 March, we held a workshop with GB electricity suppliers and on the next day a webinar for anyone who couldn't attend the workshop. We would like to thank everyone who provided feedback through those stakeholder engagement events. We also received 21 written responses on the consultation. The non-confidential responses are published alongside this document. We have summarised the key points raised under each question, and provided our decision or a response where possible.

An extensive number of questions were raised for us to consider at the events we held and these have been published alongside the non-confidential consultation responses received. These will take time for us to consider due to their technical nature. So our decision to allow implicit trading for GoOs from 2016-17 enables us to address all the relevant technical questions raised and provide full and comprehensive guidance within the appropriate timescales. This decision will also avoid making a retrospective change to our guidance and unfairly disadvantaging some suppliers.

Question 1 - Part 1: Do you agree that the types of evidence we have identified are adequate? Do you foresee any problems with obtaining them, particularly if the power has been exchanged multiple times?

Summary of responses

The majority of respondents (64%) felt that the types of evidence identified were adequate. Some of these respondents also made the point that Ofgem shouldn't make significant changes to this list as industry may already be relying on this information.

A number of responses said that the evidence was not adequate. This was because they didn't believe that implicit flows can actually prove supply to GB and that although evidence exists for flows intended to be supplied to GB, they don't believe they are sufficient to actually prove the flow reached GB.

While 60% of respondents either didn't comment or stated that they didn't foresee any problems with obtaining evidence, 40% did feel that there could be problems getting the evidence required, details of which are discussed more below:

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- (a) **Unique transaction matching** – This issue came up in the workshops and there were a number of technical questions on it, particularly on the fact that many industry parties did not understand what it meant.
- (b) **Double counting** – There were questions on how we planned to ensure exchange trades weren't double counted.
- (c) **Same trading period** - There were also questions on what we mean by same trading period and many respondents stated that half-hourly (HH) matching is unrealistic as different exchanges operate at different times and such a low level of granularity would cause extra administrative burden and costs. Many of these responses also stated that monthly matching should be enough for us as contracts were already in place for the last quarter and they would not be able to provide evidence at a lower granularity than monthly. They felt we should be flexible about the length of trading period for matching for this reason. Finally, one respondent said that actually half-hourly or hourly trading matches were necessary if implicit trading was allowed to ensure accuracy.
- (d) **Matching of trades** – Respondents were concerned about whether industry could arrange matching of trades, because it doesn't do so currently. It would need investment and time to set up and operate. Some went onto say that actually this kind of arrangement would be prohibited under REMIT as it would be considered a pre-arranged trade. Finally, some were concerned about commercial confidentiality issues because the exchanges keep all trading parties anonymous, but pre-arranged trades would remove this anonymity.
- (e) **Pooling of trades on exchanges** - One respondent said that it is impossible to get evidence in the manner suggested in the [Europe Economics report](#) as traders must pool all production and consumption into one order on the overseas exchanges. Unlike the UK power exchange where you can make multiple orders, it would therefore not be possible to match exact same volumes hour by hour.
- (f) **Gross vs net volumes** - There were quite a few comments that the exchange volumes should be gross and not net and that grid notifications were therefore not appropriate as they are net and not gross, which does not provide the whole picture.
- (g) **ACER data** – One respondent stated that because collection of this data began on 7 October 2015 it would not be possible to use this as evidence before this date.
- (h) **Multiple parties in chain** – One respondent explained that if we needed contractual evidence from all parties in a chain, this would be a heavy burden on them because they have hundreds.
- (i) **Small suppliers access to exchanges** – One respondent said that smaller suppliers wouldn't be able to obtain the data from exchanges because they are not direct members of the exchanges.

Ofgem's decision

We consider that the evidence suggested in the EE report is adequate in principle for proving implicit trades, though we note the issues respondents have raised about acquiring it. A number of the points and questions raised were very technical. We will consider these fully in due course and address them in a comprehensive guidance update in 2016-17 as we will allow unconstrained implicit trading for GoOs for the 2016-17 scheme year onwards.

Question 2: Are you are aware of other specific types of evidence that they might present for these purposes? If so, what are they? Please be as specific as possible, and explain why you think this specific type of evidence would be adequate.

Summary of responses

The majority of respondents (73%) either did not answer or were not aware of any other types of evidence they might present to provide supply to GB under implicit trading.

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The respondents who did suggest other types of evidence did not provide a lot of detail or justify why they felt they were adequate. Below are the types of evidence suggested. We will consider these further and decide whether we consider them acceptable forms of evidence in principle. If we do, we will add them into an appendix to the [GoO recognition guidance](#).

- Data from exchanges on auction volume sales and purchases at a market participant level
- Ofgem could obtain data directly from exchanges via ACER under REMIT
- Just checking UK side purchase and make sure that suppliers don't present more GoOs than they've purchased electricity
- Additional evidence which may be appropriate for countries without exchanges
- Green for brown power swaps
- Documentation by grid owners of power delivery and supply (physical injection volumes)
- Implicit with nominations eg BIFA
- Confirmation report (such as the ECVAA-I014) sent by ECVAA to a GB supplier
- Warranties and clauses in GoO purchase contracts
- Just a GoO
- Contractual path from generator to supply

In addition, a couple of respondents stated we should also continue to allow explicit evidence to proof supply to GB for GoOs.

Ofgem's decision

It is important to note that this consultation was not on explicit trading and there are no queries over the evidence required here. We have already provided a list of indicative acceptable evidence to show proof of supply using explicit trading in appendix 2 of the GoO recognition guidance.

We will be looking into the other suggested forms of evidence for implicit trading to see if they are acceptable. We may have further queries on the other forms of evidence, in which case we'll be in contact with the supplier who proposed the evidential type. If we are happy they are acceptable, we will include them in an appendix in the GoO recognition guidance.

Question 3: Are you aware of any issues that may preclude applying the decisions of the consultation on LECs and market coupling to proof of GB supply of overseas electricity under FMD, FIT and CFD as well? If so, please provide details on the issues you foresee.

Summary of responses

Half of respondents said they were concerned about the potential effects of allowing implicit trading for proof of supply on associated schemes and wider market competition. They stated that there is potential for large financial distortions in the FIT levelisation process which could mean the burden of FIT costs are levied on suppliers who have not participated in implicit trading. It could also increase costs on some consumer bills as those suppliers will be forced to pass these increased costs on. One respondent mentioned that we should only allow implicit trading from 01/04/2016 to limit the effect on FIT levelisation for 2015/16. Some respondents also described any potential decision to allow implicit trading for FIT levelisation for 2015/16 as retrospective, and unfairly favouring participants whose business models have historically included trading on the exchanges.

In addition some respondents felt that consumers may fail to get the full benefits of renewable generation with implicit trading as it may allow more renewable generation to be claimed in the UK than can actually cross the interconnectors. Some also said it could lead to some suppliers appearing to have lower-carbon electricity than they actually do.

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However, 41% of respondents stated they were not aware of any issues and felt that given Ofgem's decision for LECs there was no reason not to apply it for GoOs. It's also important to note that many of the respondents who stated they foresaw issues also agreed with the sentiment that, as we'd allowed implicit trading for LECs, we should also do so for GoOs. Finally, some respondents stated that they'd assumed we would allow implicit trades for GoOs because of our previous decision under CCL. Based on this expectation, they have contracted for imported GoOs supported by implicit trading evidence.

One respondent mentioned we should look into improving transparency of GoOs flowing into GB to allow suppliers to more accurately predict their costs.

Finally, some respondents mentioned issues with unique transaction matching and matching of time periods in their answer to this question. However, we felt this was more relevant to Q1 and so it is addressed there.

Ofgem's decision

Having considered the above, **we have decided to allow evidence of implicit trades as proof of supply for GoOs for the 2016-17 scheme year onwards.**

This applies both to FMD and FIT and is based on recognising industry's concerns that the decision could be viewed as retrospective change to our guidance and unfairly disadvantage a number of suppliers. Allowing implicit trading for GoOs for the 2016-17 scheme year also allows us to provide full and comprehensive guidance in timescales that will allow us to address all the relevant technical questions raised as part of our stakeholder engagement.

We will publish amended guidance in due course. In this guidance we will aim to address all the technical points and queries raised during this consultation process, including in relation to the acceptability of specific evidence.

Question 4: Can you foresee any issues that may arise from maintaining the same process for LECs as per the 2008 CCL guidance? If so, please give details.

Summary of responses

Most respondents (82%) either could foresee no issues or had no comment on maintaining the same process for CCL.

Some respondents did state they needed us to update the guidance to clarify our position and evidential requirements.

18% of respondents had issues with the process as it currently is and these included:

- The potential need for HH matching (or any matching period smaller than a month) of trades on the exchange
- That a LEC should be independent of electricity flows

The same respondent who felt that implicit trading wasn't acceptable evidence of proof of supply/consumption stated that the process would be fine as long as Ofgem and HMRC understand that evidence of implicit trading only demonstrates notional and not actual UK consumption.

Ofgem's decision

We will be maintaining the current process for LECs as per the 2008 guidance because of industry's overwhelmingly positive response to this question.

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We will be updating the guidance to provide areas of clarification and potentially an evidence list as well. This will happen during the 2016/17 scheme year.

On the issues raised, please see the decision on Q1.

Question 5: Can you foresee any issues that may arise from maintaining the same process for GoOs as per the GoO recognition process currently being consulted on now implicit trades are permitted? If so, please provide details.

Summary of responses

Most respondents (73%) either could foresee no issues or had no comment on maintaining the current process for recognising GoOs.

Some had minor caveats including clarifying trading time periods and providing an evidence list.

27% of respondents had issues with the process as it currently is. These included:

- Suppliers and auditors ability to deal with potential volumes of GoOs for 2015-16
- The potential need for HH matching (or any matching period smaller than a month) of trades on the exchange
- Having to audit GoO request adds additional costs to suppliers
- That a GoO should be independent of electricity flows
- That double counting of trades should be checked as part of the audit process

One respondent suggested prohibiting the use of third party power flows.

Ofgem's decision

We will be maintaining the current process for recognising GoOs as per our recently published guidance due to the overwhelmingly positive response from industry on this question.

We will be updating the guidance to provide areas of clarification, and an indicative list of acceptable evidence for proving implicit flows.

Other points raised

Legality of proof of supply

Summary of responses

One respondent stated they felt UK legislation and guidance was not in line with EU law, which leads to unequal treatment of overseas GoOs compared to GB issued REGOs. They feel that GoOs do not need to be coupled with an electricity flow and that simply possessing the GoO demonstrates the supply.

Ofgem's decision

Ofgem administers the schemes on the basis of current UK legislation; the legislation for REGOs and FMD is managed by DECC. Any concerns should be referred to DECC. This response will be drawn to DECC's attention.

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Supply to end consumer

Summary of responses

A number of respondents wanted to clarify whether, once a GoO and its associated electricity has been traded to GB with proof of supply, the GoO can then be traded onwards without the electricity or any bilateral trade agreement.

Ofgem's decision

The legislation states there must be proof of supply to GB, as opposed to supply to a particular GB consumer or by a particular supplier. For this reason, the key trade that we are interested in is the trade from overseas to GB. Once the GoO is in GB and there is proof of an associated electricity trade into GB that could be presented to us if requested, then there is no need for evidence of further intra-GB electricity trades to be presented.

Joining AIB

Summary of responses

A number of respondents both in favour and against the current process suggested that we join AIB for ease of administration and to align our processes with those prevalent in the rest of Europe. One response suggested we would improve our processes and reliability of evidence by joining AIB and having a Register linked to the Hub.

Ofgem's decision

We welcome stakeholder views on this and we are currently investigating the potential costs and benefits of Ofgem E-Serve becoming a member of AIB.