

Ofgem E-Serve response to consultation on our draft 'Renewables Obligation (RO): Closure of the scheme to onshore wind (England, Wales and Scotland'

On 11 February 2016 Ofgem E-Serve published a draft of the 'RO: Closure of the scheme to onshore wind (England, Wales and Scotland)' for consultation. The document was created to provide clear guidance on the closure of the RO to onshore wind capacity in Great Britain which took place on 12 May 2016. We published the consultation to seek views from stakeholders on whether we had omitted anything or if we could have been clearer in the document.

The consultation period closed on 24 March 2016. We have reviewed all responses and, where appropriate, have updated the guidance document. The final version of the document was published on 16 May 2016 and is [here](#).

The consultation period

We would like to thank all stakeholders who responded to the consultation. We have used your responses to make changes to the final guidance. We received a number of queries which we felt did not require changes to the guidance but for which we have included answers to in Table 2. Table 1 lists the changes we made and explains why we made them.

Table 1 - Changes to the guidance

Section of the final guidance document	What has changed?
Throughout document	Updated onshore wind closure date from 1 April 2016 to 12 May 2016
Throughout document	Changed references to Ofgem to Ofgem E-Serve
Throughout document	Updated text to reflect that the Energy Act 2016 has now achieved Royal Assent and come into force. Removed caveats that this guidance is subject to change pending finalization and approval of the Energy Bill.
P.1	Removed first line from second paragraph to avoid repetition with previous paragraph.
P.2	Updated link to Energy Act 2016
P.4	Updated paragraph on the status of the NIRO closure to large-scale onshore wind, and added sentence to say that separate guidance on NI wind stations will be published.
P.4	Added a sentence to clarify that there are 5 available grace periods, made up of 3 'conditions'.
P.4	Updated dates in Figure 1 to reflect actual onshore wind closure date
P.4	Revised explanation of primary date beneath figure 1 for further clarity.
P.7	Added paragraph 1.9 to explain that 'operator', 'generator' and 'developer' are used interchangeably.

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P.10	Added link in footnote 3 to our guidance on the transition period and closure of the RO
P.13	Updated dates in Figure 4 to reflect actual onshore wind closure date
P.15	Table 1, Row 1: Added sentence referring readers to paragraphs 3.12 – 3.14 for further detail
P.15 -16	Table 1, Rows 1,2 & 3: Added sentence to clarify that evidence that time period conditions were not breached is not required if the station had already commissioned within the time period.
P.19	Added paragraph 3.11 to explain that planning permission evidence primarily relates to evidence in place on or before 18 June 2015.
P.19	Paragraphs 3.12 – 3.13: revised to add some further clarity on what constitutes an acceptable planning variation.
P.20	Added paragraph 3.16 to provide more detail on variations to grid connections.
P. 21	Table 2, Row 2: Further detail added to explain the evidence requirements relating to the estimated date of completion for grid works.
P.23/24	Table 3, Row 2: Further detail added to explain the evidence requirements relating to the estimated date of completion for radar works.
P.25	Added paragraph 3.20 to provide assurance that third party grid delay evidence does not constitute an admission of liability by the third party.
P.25	Paragraphs 3.22 – 25: Updated section on variations to required evidence for grid or radar delays to provide greater clarity on how we will assess variations.
P.26	Provided some further detail on the requirements for a lender to be 'recognised' in line with the legislation.
P.27	Added paragraphs 3.30 – 3.31 to provide assurance that a letter from a recognized lender in no way constitutes a commitment by the lender to invest in the project, and to provide guidance on the recommended form and content of the investment freeze letter.
P.28 - 32	Chapter revised to make clear that grace period evidence can be provided after the grace period deadline
P.28	Added paragraph 4.8 informing operators that it is possible to submit an application for accreditation up to two months before the anticipated commissioning date.
P.31	Added paragraph 4.30 to provide further detail on Ofgem E-Serve's decision-making process.
P.35	Removed first row of Table 5 as this referred to process rather than to evidence requirements.

Table 2 - Our response to queries and suggestions from the consultation

<p>1. For the purpose of clarity, can a more detailed definition of 'commissioned' be provided?</p> <p>The RO Order defines 'commissioned' as meaning all required tests having been completed and being capable of commercial operation. Our reason for not defining 'commissioned' any more closely than this is that we are aware that doing so could inadvertently exclude some commissioning scenarios that may in a specific case be valid.</p>
<p>2. Can Ofgem E-Serve provide any assessment of grace period evidence to generators during the preliminary accreditation assessment in order to provide better and earlier assurance of a project's eligibility?</p>

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The [legislation](#) does not require a grace period assessment in order for preliminary accreditation to be granted. The legislation is clear as to when we must assess the grace period evidence. This evidence is assessed at the time a full application for accreditation is submitted and in relation to the generating station and as such the generating station needs to have been commissioned in order for us to undertake the necessary assessment.

3. Regarding the grid delay grace period, can Ofgem E-Serve clarify that delays caused by the Independent Connection Provider (ICP) are also allowed for regarding contestable works, in addition to delays by the DNO for non-contestable works?

The legislation does not provide for delays caused by any other party other than the "licensed network operator". As such we cannot allow for evidence supplied by other parties.

4. Can Ofgem E-Serve provide clarity on how my specific scenario/situation will be assessed?

We have received many queries regarding how specific scenarios will be assessed. The assessment of grace period evidence is in relation to a generating station and as such the generating station needs to have been commissioned in order for us to review this. We cannot state in our guidance how a specific scenario will be treated. However, we have updated the guidance to try to provide greater clarity on how the legislative requirements can be met.

5. We welcome the clarity in Table 2 Option A that the only requirement is the Point of Connection (POC) offer for the noncontestable works given the nature of contestable works and ICP tendering. It is important that this requirement remains and does not get any more stringent. The wording "...at a minimum" at the end of this sentence is unnecessary and implies that more information might be desirable. Can this be removed?

The wording 'at a minimum' was included to allow for scenarios where a Point of Connection offer may refer to both the noncontestable and contestable works. The inclusion of this phrase should not be interpreted as imposing any requirement that goes beyond the wording of the legislation.

6. Please broaden the definition of 'radar works', because it might be the case that the physical works have been done and the project simply needs to agree a legal and commercial arrangement to benefit from the physical works that have been carried out.

'Radar works' are expressly defined in the legislation, and this definition only covers physical works. Ofgem E-Serve has no discretion to expand this definition to cover legal and commercial arrangements. Expansion of the definition would be a policy issue that should be addressed to DECC. We have submitted this question to DECC for their consideration.

7. Regarding calculations of input electricity, can supervisory control and data acquisition (SCADA) data be used as a valid source of information.

The legislation requires that input and output data be metered. SCADA data provides an estimated input, and therefore does not provide the accuracy required under the RO.

8. As it may be difficult to secure a required letter from a third party (e.g. licensed network operator, recognised lender) can Ofgem E-Serve provide a template that includes some language confirming that no liability rests on the counterparty following their issuance of such a letter?

We have not included templates for third party confirmations, in order to avoid inadvertently restricting what these entities wish to say in their confirmation. A template may make a DNO/aviation/recognised lender counterparty feel that they cannot include any caveats or conditions that they may wish to include.

Instead of a template we have added some further detail in the guidance document that operators can show to these third parties, stating that confirmation of a delay is in no way an admission of liability.

9. Can Ofgem E-Serve process investment freeze grace period evidence early in order to increase certainty of accreditation (subject to meeting all the other requirements of accreditation)?

The legislation is clear as to when we must assess the grace period evidence. This

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evidence is assessed at the time a full application for accreditation is submitted and in relation to the generating station and as such the generating station needs to have been commissioned in order for us to undertake the necessary assessment. Ofgem E-Serve cannot assess any grace period evidence before a full application for accreditation is made and the station has commissioned.

10.If the planning authority judges that additional capacity does not require planning permission, can this evidence requirement be skipped?

As already stated in Row 1c of Table 1, if no planning permission is required then a declaration from the operator stating this to be the case is required. You may however want to provide us with the confirmation you received from the planning authority that you did not need to apply for planning permission for the additional capacity.

11.Is the distinction between eligibility for RO accreditation and for a grace period in paragraph 3.2 necessary? From 13 May 2016 these are essentially the same thing.

Although from 13 May 2016 eligibility for RO accreditation will also require eligibility for a grace period, we believe the distinction is helpful in order to emphasise that from that date applicants will need to meet TWO sets of criteria in order to prove their eligibility for accreditation. As such, we have chosen to leave this wording as it is.

12.The guidance downloaded in February 2016 contained a typo in Template letter 2 (whereby last date should have been 31 December 2017 and not 31 December 2018), however the guidance currently posted on Ofgem E-Serve's website has corrected this error. Has a new version of the guidance been issued and were there any other similar changes?

This typo was noticed very soon after publication and corrected. No other similar changes were made, except for the repair of a hyperlink on P.2 of the cover letter.

13.Page 13 of the guidance mentions "in most cases this means by 18 June 2015". When would this not be the case?

This would not be the case under Article 32LJ(4)(c)(iv) of the legislation, which allows evidence that a station was granted planning permission after 18 June 2015 upon appeal.

14.Isn't it the case that an application might need to be made after 31 December 2018 for a project that has commissioned before 31 December 2018 (or whichever the relevant date is)?

To be successful in applying for accreditation on or before the final date of the relevant grace period, the operator **must**: submit an RO accreditation application to us (or amend the existing application if adding additional capacity), meet the RO eligibility criteria and commission the generating station (or the additional capacity). To assess the application we will also need you to: submit grace period evidence to us by email, which meet the grace period eligibility conditions and provide commissioning evidence. The grace period and commissioning evidence can be provided after the final date of the relevant grace period.