

Ofgem E-Serve response to consultation on the draft ‘Offtaker of Last Resort: Essential Guide for renewables generators’

On 29 June 2015 Ofgem published a draft of the ‘Offtaker of Last Resort (OLR): Essential guide for renewable generators’ for consultation. We published the guidance in draft form to seek views from stakeholders on how we proposed to administer the OLR scheme as well as the clarity of the guidance and the associated templates.

The consultation period closed on 10 August 2015. We have reviewed all responses and, where appropriate, have updated the guidance document accordingly. The final version of the guidance document was published on 30 September 2015 and is available [here](#). As a result of this consultation we have also updated the [How to submit OLR Project Information helpsheet](#) and published a [complementary handbook](#) which provides generators with instructions on how to use the Ofgem Tendering Portal.

Consultation responses

We would like to thank the stakeholders who responded to the consultation. We have used your responses to make changes to the final guidance. We received a number of queries for which we felt it would be helpful to provide answers to all stakeholders, we have covered these in Table 1. Table 2 lists the changes that we have made as a result of feedback we received.

A few of the responses were in relation to the policy intent behind the OLR scheme. The Department of Energy and Climate Change (DECC) is responsible for setting the policy related to the OLR scheme. We, as the administrators of the scheme, cannot provide feedback on policy queries. We have forwarded these responses to DECC for their information.

Table 1 - Ofgem response to points raised during the consultation period

1. Please can you clarify when a day is a day and when it is a working day?

All timings during the OLR process are to be considered as being based on working days.

We recognise there is a minor inconsistency between the electricity supply licence: standard conditions and the Power Purchase Agreements Scheme Regulations 2014 (as amended). Licence condition 38A.8(g)(ii) refers to ‘5 days’ without specifying that these are working days, whilst Regulation 6(6)(a) which refers to the same period, also refers to 5 days, but ‘day’ in the context of the Regulations is defined as a day that is not a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday in Great Britain.

30 September 2015

In order for the eligibility criteria to be meaningful in the context of the Regulations (which set out the actions we are required to take), we will interpret the reference to 'day' in licence condition 38A.8(g) as meaning a working day.

2. Why is the auction restarted? In the case where there is an omission [of Project Information] the extension to the auction should be as long as it took to supply the new information.

If we do not receive your response within the first two days of the start of the auction, the auction closing date must be reset. The timings which must be followed during an auction, should an error or omission in a generator's Project Information be detected, were chosen by DECC and are set in the Power Purchase Agreement Scheme Regulations 2014 (as amended), specifically Part 1, paragraph 3 of the Schedule. This is not an area where Ofgem has discretion.

It is worth noting that, if we receive your response to our request for updated Project Information within two days of the start of the auction, the closing date will not be delayed.

3. When can we apply to the OLR for a backstop power purchase agreement (BPPA)?

You can apply for a BPPA once you have provided your Start Date Notice and Final Installed Capacity Notice to Low Carbon Contracts Company (LCCC).

Although the OLR scheme is open to generators from 1 October 2015, in order to be eligible to enter into a BPPA we must be able to determine that a generator meets all of the eligibility criteria.

Specifically, to assess whether you meet the eligibility requirements covered by standard condition 38A.8(c) and 38A.8(i) of the electricity supply licence we will use information provided to us by the Low Carbon Contract Company (LCCC). We will therefore be unable to determine that you are eligible to enter into a BPPA until the LCCC have received your Start Date Notice and Final Installed Capacity Notice.

We have attempted to make this very clear in the final draft of the Essential Guide

4. Will Ofgem make every effort to settle the auction as early as is reasonable?

Yes. The timings of the OLR process are set in the legislation and in some instances action cannot be taken sooner than a particular day. However, where an action in the process falls to us, and we can complete an action quicker than the maximum time available to us, we will always endeavour to do so. In the same way the generator is also able to act quickly to minimise the time the process takes from beginning to end, though care should be taken when submitting Project Information to avoid mistakes or omissions which may cause delays later in the process.

30 September 2015

Table 2 - Changes to the guidance following feedback

Section of the final guidance document	What has changed?
Page 3	Our contact details have been updated.
Page 4, column 1	More detail has been added to the OLR scheme overview to capture details about the BPPA a generator would enter into.
Page 4, process flow diagram	It is has been highlighted that the Statement of Confirmation is needed in step 2. The possibility of delays to the process timings has been highlighted more clearly.
Page 4, column 2	Additional text to highlight that once the Statement of Confirmation is submitted, to then withdraw from the OLR process will have consequences for the generating station.
Page 6, column 2	Additional text to highlight that we cannot determine that a generator is eligible until they have submitted their Start Date Notice and Final Installed Capacity Notice to the Low Carbon Contracts Company (LCCC).
Page 7	The repercussions for a generating station that is added to the Record of ineligible generating stations have been highlighted.
Page 8, process flow diagram	Minor rewording to clarify steps 3 and 4, an additional note has been added underneath to clarify that this section of the process could experience delays
Page 8, column 2	A footnote has been added to explain the capacity figure required in relation to c. (This is also explained in the final EOI template) We have explained that you should contact us if you are having difficulties filling in the form.
Page 9, column 1	Additional text to highlight that the Statement of Confirmation should be signed by a director, and that they should be certain they want to proceed before submitting this as withdrawing from the process at a later date will have repercussions.
Page 9, column 2	The importance of using the 'How to submit Project Information for the OLR' helpsheet has been emphasised, and a note has been added that the generator should not sign the BPPA at this stage.
Page 10, process flow diagram	Minor rewording to clarify steps 3 and 4, an additional note has been added underneath to clarify that this section of the process could experience delays.
Page 11, process flow diagram	'Day 1' has been changed to 'Auction Day 1' to demonstrate that this is Day 1 of the auction section of the overall OLR process. The first day of the auction is dependent on how quickly the previous section of the process is completed.
Page 11, column 2	Clarification as to why you may want to upload additional information to the portal and how to do this has been provided.
Page 12, column 2	Additional text explains that if we issue a revised OLR Notice because a generator provides updated Project Information, suppliers will need to resubmit their bids.

30 September 2015

Page 13, process flow diagram	<p>'Day 1' has been changed to 'Completion Day 1' to demonstrate that this is Day 1 of the final section of the overall OLR process. The first day of the final section is dependent on whether any delays to the auction occur.</p> <p>Text in the boxes have been updated to clarify who sends what to whom.</p>
Page 13, column 2	Text amendments to clarify what we will send to the generator.
Page 14, column 1	<p>Text amendments to clarify what the generator needs to send to the supplier.</p> <p>New paragraph added to clarify when the generator has completed everything that they are required to do as part of the OLR process.</p>
Page 15, column 2	Additional sentence added to clarify that a generator can terminate a BPPA early, in accordance with the relevant clauses of the contract. However, termination due to event of default perpetrated by the generator will result in us adding the generating station to the record of ineligible generating stations
Glossary	<p>Definition of relevant Contract has been updated for clarity.</p> <p>Definition of SLC has been updated to highlight the relevant standard condition in the Electricity Supply Licence.</p>
Annex (page 18)	A note has been added to make it clear that the need for updated Project Information may result in the auction closing date being delayed.
Throughout	<p>Further effort has been made to highlight the points in the process where there is risk of the generating station being added to the Record of ineligible generating stations as a result of action by the generator.</p> <p>Reference to the Regulations has been updated to refer to the Power Purchase Agreement Scheme Regulations 2014 (as amended).</p> <p>Hyperlinks have been added and updated to ensure all referenced documents or websites can be easily found.</p>