

## **Ofgem E-Serve response to consultation on the draft 'Offtaker of Last Resort: Essential guide for suppliers'**

On 29 June 2015 Ofgem published a draft of the 'Offtaker of Last Resort (OLR): Essential guide for suppliers' 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 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](#). We have also now published a [complementary handbook](#) which provides suppliers with instructions on how to use the Ofgem Tendering Portal.

### **Consultation responses**

We would like to thank the suppliers who responded to the consultation. We have used your responses to make changes to the final guidance. We received a number of queries that did not necessarily require changes to the guidance but which we felt it would be helpful to provide answers to all suppliers. These are covered in Table 1. Table 2 lists the changes that we have made as a result of the 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. Can more detail be provided on how suppliers become listed on the Active Power Purchasing List (APPL) and how an Additional BM Unit (ABMU) is set up?

These processes are managed by Elexon, not Ofgem. As such, our Essential Guide provides details on the requirements of the OLR scheme in relation to ABMUs and the APPL, and links to the appropriate Elexon documents, which explain the relevant processes. Queries about how these processes work should be directed to Elexon.

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2. Can a supplier group change the supplier who is to act on behalf of the group part way through an OLR year?

No. Any individual supplier determined by us to be a mandatory licensed supplier for an OLR year is required under SLC 38A.27 and regulation 12(1)(a) to participate in all OLR auctions which take place in that year.

3. Will you be revisiting this document to provide further clarity where it may be required as the scheme develops?

Yes. We will undertake periodic reviews of all OLR guidance documents to ensure that they are up-to-date and provide any further clarity which is required.

4. We believe that the supplier should provide credit rating or credit support evidence to Ofgem within 5 working days, to align with clause 11.1.1 in the backstop power purchase agreement (BPPA) contract.

This is not an error in our guidance. Providing the credit rating or credit support evidence to us within three days is a requirement of the standard conditions of the electricity supply licence (Condition 38A.17). Clause 11.1.1 in the BPPA relates to providing the same evidence to the generator. Any discrepancy between these two documents which causes suppliers continued concern should be directed to DECC. We have notified DECC of the concern raised as part of this consultation.

5. When can we register on the Ofgem Tendering Portal?

Suppliers can register on the Ofgem Tendering Portal at any time ahead of an OLR auction from now. The portal is available for registration [here](#). You should follow the instructions provided in the [Ofgem Tendering Portal: OLR Supplier Handbook](#) when registering.

You will be reminded that you need to register on the portal when we send you a notice explaining that a generator has submitted an Expression of Interest to us and an OLR auction may soon take place.

If you do not register ahead of receiving an OLR Notice from us (opening an OLR Auction) then you will need to notify us as soon as you have done so, so that we can provide you with access to the auction to enable you to submit a bid.

6. Is a second set of Supplier BM Units sufficient for embedded generators, rather than Additional BM Units?

SLC 38A.5 requires that suppliers confirm in their OLR Auction Bid whether or not they have an Additional BM Unit registered in its name for the GSP Group to which the generating station is connected. Thus the type of connection required by the legislation is an Additional BM Unit connection.

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In addition, the Balancing and Settlement Code (BSC) requires that a supplier wanting to act as the Offtaker for an embedded CFD generator registers an Additional BM Unit. This is explained in more detail in section K of the BSC, available on Elexon's [website](#). Elexon have also produced a useful guidance note on [Registration of BM Units for EMR](#).

7. What would happen in the event that a D0055 to register change of supply for an SVA-registered generator is rejected or objected?

This question is not directly relevant to Ofgem's administration of the OLR scheme. Ofgem only acts as a facilitator of the OLR auction, the purpose of which is to select a supplier to enter into a BPPA with a generator who cannot obtain a PPA via the usual means. This is done via an OLR auction.

If a supplier has to, or wants to, submit an OLR auction bid in respect of a BPPA it is responsible for ensuring it does all that is necessary to allow it to act as the Offtaker to the generator. This includes successfully communicating a change of supply (the D0055) to Elexon. If there has been an attempt to change supply from one supplier to another, but that attempt fails, the onus will be on the supplier to resolve this. Questions about resolving issues relating to a D0055 should be directed to [Elexon](#).

As a general rule, should issues be experienced that mean the supplier we have selected to be the Offtaker fails to meet the terms of the BPPA, the generator has the ability to terminate the contract. If done soon enough (no more than five days after the commencement date of the BPPA), we will select a reserve bidder to act as the Offtaker for the BPPA. If not, this will be a matter for the parties to resolve between themselves or with the assistance of a court of law.

8. Can you confirm that voluntary licensed suppliers are those which choose to volunteer?

No. Voluntary licensed suppliers are all licensed suppliers who are not mandatory licensed suppliers. If you hold a supply licence and are not a mandatory licensed supplier you are automatically a voluntary licensed supplier for the purposes of the OLR scheme. Voluntary licensed suppliers may bid in individual OLR auctions but are not required to do so by the legislation.

9. Is it necessary to publish the levelisation timetable if there are no BPPAs?

Yes. A BPPA can be needed at any time. We will make suppliers aware of the timings when levelisation may occur should a BPPA be entered into during the coming OLR year. Suppliers should ensure that they keep this timetable in mind in case an OLR auction is triggered.

10. Will there be interest payments to parties who have initially overpaid or from parties who underpaid levelisation payments?

No. The Power Purchase Agreement Scheme Regulations 2014 (as amended) do not provide for interest payments in relation to levelisation.

11. Why is the management fee not covered by the Project Information Schedule?

The management fee you specify in your bid is not paid by the generator but is recouped from all

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licensed suppliers, in proportion to their market share. The management fee is therefore not referred to in the BPPA contract itself. The management fee will be used in OLR levelisation calculations to determine each licensed supplier's OLR contribution, and therefore whether a supplier is entitled to receive or liable to pay levelisation payments. Further details on OLR levelisation are provided in the [Essential Guide](#).

**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 supplier and generator would enter into.
Page 4, process flow diagram	First step split into two – changed from ‘Generator applies to enter into a BPPA’ to ‘Generator submits Expression of Interest’ then ‘Generator submits all required Project Information’.
	The possibility of delays to the timings has been highlighted more clearly.
Page 5, column 1	More detail has been added on the contact details we require suppliers to provide.
	Detail of the generator’s role in the process has been provided.
Page 5, column 2	Link to the Ofgem Tendering Portal: OLR Supplier Handbook has been added.
Page 6, column 1	Clarification that we will publish a list of the mandatory licensed suppliers on our website.
Page 6, column 1 - 2	Revised the way suppliers within a supplier group are referred to.
	Added clarification to explain that the name and market participant ID (MPID) of a nominated supplier should be provided.
Page 6, column 2	Removed reference to the Renewables Obligation scheme. Supply data submitted (by 1 August) for the purposes of the Feed-in Tariff scheme will be used instead.
Page 7, column 2	Further detail added on how, and when, voluntary suppliers can register for an account on the Ofgem Tendering Portal.
	Additional text to highlight that, if a generator is connected to a GSP Group, suppliers should have an Additional BM Unit registered in the relevant GSP Group for their bid to be considered.
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	Further details about when and how to register for an account on the

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	Ofgem Tendering Portal, including who to contact if you are having difficulties.
Page 9, column 1	Clarified that it is the generator who must meet eligibility criteria.
Page 10, column 1	<p>Clarified that <i>all</i> licensed suppliers will receive the OLR Notice.</p> <p>Provided more detail on what project information suppliers will be able to view when the log on to the portal.</p> <p>Additional text added to highlight that if a supplier is not registered on the portal when we open the OLR Auction they will have to register and let us know they have done so before they will be able to view the generator's Project Information.</p>
Page 10, column 2	<p>Addition of instruction for suppliers to fill in the appropriate fields in the BPPA before signing and uploading it. In the Project Information Schedule these are:</p> <ul style="list-style-type: none"> <li>- contact details</li> <li>- the details of their Additional BM Unit (if this field has been left blank by the generator).</li> </ul> <p>Also on the front page and on page two of the BPPA the supplier's organisation name should be entered.</p> <p>Additional text to highlight that should a supplier's bid be selected they will need to provide the required credit rating or credit support evidence.</p> <p>Clarification that the management fee submitted by the winning bidder is used in OLR levelisation calculations. It is not paid by the generator.</p>
Page 11, column 2	<p>Clarification of how suppliers should notify us of potential errors or omissions in a generator's Project Information.</p> <p>Noted that we will let all suppliers know that a possible error or omission has been identified.</p>
Page 12, process flow diagram	Correction of error in bottom left box – response from 'generator' not 'you'.
Page 13, process flow diagram	Clarification in boxes 2, 3, and 4 of who sends what to whom.
Page 14, column 1	<p>Added detail of how suppliers should notify us that the BPPA has been entered into.</p> <p>Footnote added to explain what the required credit rating is.</p>
Page 14, column 2	Clarification that the generator should send the Offtaker (winning supplier) a signed copy of the BPPA within three days of us notifying the supplier of the outcome of the auction.
Page 15, column 1	Additional text explaining that the 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

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	generating stations.
Page 16, column 1	Clarification that the generator does not pay the management fee has been added.
Page 18, column 1	Confirmation that levelisation payments to suppliers will be made by electronic transfer.
Page 19, column 2	Removal of reference to Renewables Obligation scheme. Supply data provided for the purposes of the Feed-in Tariff scheme will be used for OLR levelisation.
Glossary	Added definition of 'authorised signatory'
Annex (page 26)	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>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>