

Guidance

Applying for a gas or electricity licence

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Contact: Licensing Frameworks

Tel: 020 7901 7000

Email: licensing@ofgem.gov.uk

This guidance document is for people who want to know how to make a gas or electricity licence application, including applications for extensions, restrictions and modifications of areas of existing licences. It also applies to licensees who wish to seek consent to transfer their licence. It explains the relevant criteria and information requirements, what happens after a licence application is submitted, and what happens if we propose to refuse a licence application.

This guidance should be read in conjunction with the gas and electricity Applications Regulations¹ (together the 'Applications Regulations'). If we take steps which differ from this guidance, we will explain our reasoning.

This guidance is not applicable to offshore transmission licences or the smart meter communication licence.

¹ The Electricity (Applications for Licences, Modifications of an Area and Extensions and Restrictions of Licences) Regulations 2019, SI No xxx: [LINK](#)
The Gas (Applications for Licences and Extensions and Restrictions of Licences) Regulations 2019, SI No xxx: [LINK](#)

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How to use this guidance

Chapters 1-3

All applicants are advised to read the introduction, general information for applicants, and general assessment criteria.

Chapters 4-8

Applicants should then read the chapter(s) applicable to the type of licence(s) they are applying for.

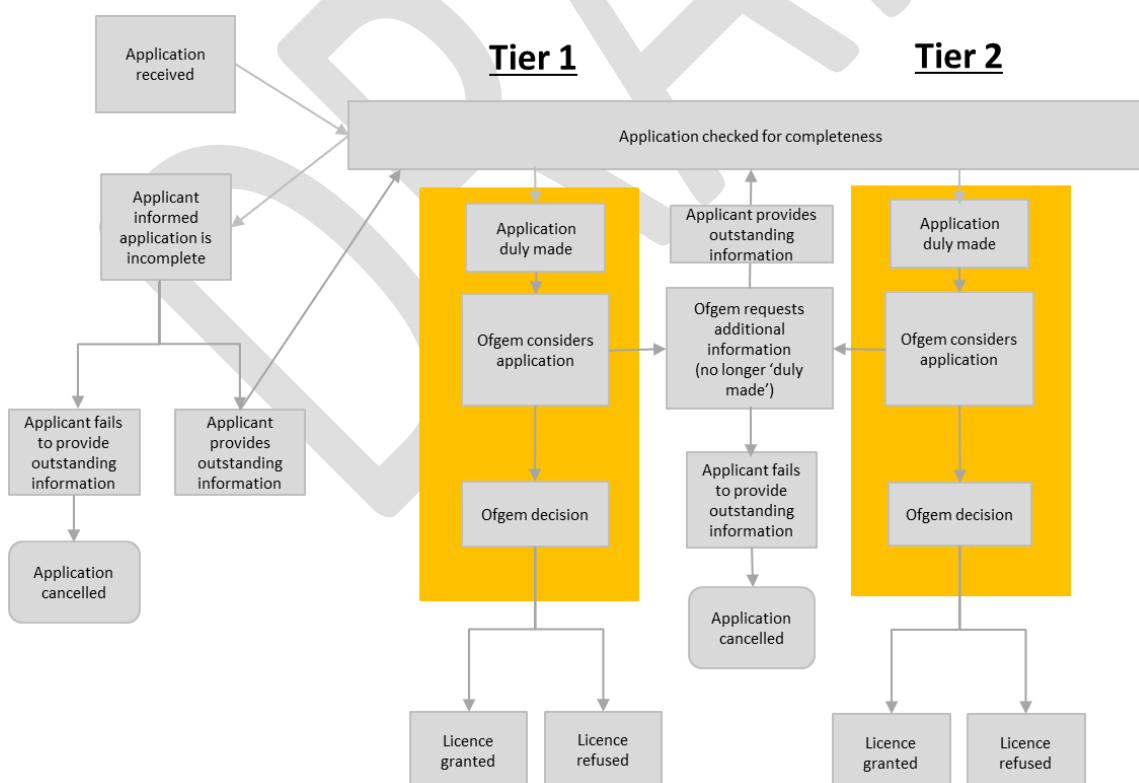
Chapter 9

If your application relates to a transfer, extension, restriction or modification of area of an existing licence please refer to Chapter 9.

Chapter 10

Finally, chapter 10 sets out what happens when we make our decision to either grant or refuse to grant a licence.

Figure 1: Overview of Ofgem's tiered risk-based licence application process



1. Introduction

Licensable activities

1.1. The Acts² make it an offence to carry out certain activities unless you hold a licence, or are exempt from this requirement. We grant licences to parties who are seeking to carry out these activities.

1.2. The Applications Regulations 2019 and this guidance relate to the following licensable activities.

For gas:

| Licence type | Licensable activity permitted under the Gas Act 1986 | Cannot be held in conjunction with |
|-------------------------------------|--|---------------------------------------|
| Gas transporter ³ ('GT') | Allows the licensee to convey gas through pipes to premises, or to another system of pipelines operated by another GT. The licence allows the GT to: <ul style="list-style-type: none"> convey gas through pipes to any premises within an area authorised by the licence; or convey gas through pipes to any pipe-line system operated by another GT, or other pipe-line system specified in the licence. | Any other type of gas licence |
| Interconnector ⁴ | Allows the licensee to participate in the operation of a gas interconnector which is defined as: <ul style="list-style-type: none"> co-ordinating and directing the conveyance of gas into or through a gas interconnector; or making such an interconnector available for use for the conveyance of gas⁵. | Any other type of gas licence |
| Shipper ⁶ | Allows the licensee to arrange with a GT for gas to be introduced into, conveyed through, or taken out of a pipeline system operated by that GT. In all instances, the purpose of the gas movement should be general or for purposes connected with the supply of gas to premises. Persons not involved in the physical conveyance of gas on the GB network system, but who trade gas as a commodity at the National | Gas Transporter Gas Interconnector |

² Gas Act 1986 (as amended) or the Electricity Act 1989 (as amended) (together "the Acts")

³ S.7(2) of the Gas Act and SLC 43 (Restriction on activity and financial ring fencing) of the Gas Transporter licence and standard special condition A36 of the of the gas transporter licences' held by gas distribution networks

⁴ S.7ZA of the Gas Act

⁵ S.5(6) of the Gas Act

⁶ S.7A(2) of the Gas Act.

| | | |
|-----------------------|---|---------------------------------------|
| | Balancing Point (NBP), are not included in the definition of Gas Shipper and are therefore not required to obtain a Gas Shipper Licence | |
| Supplier ⁷ | Allows the licensee to supply to any premises gas, which has been conveyed to those premises through pipes. A gas suppliers licence can allow for supply to either: <ul style="list-style-type: none"> domestic and non-domestic premises, or non-domestic premises only. | Gas Transporter Gas Interconnector |

For electricity:

| Licence type | Licensable activity permitted under the Electricity Act 1989 | Cannot be held in conjunction with |
|------------------------------|--|--|
| Generation ⁸ | Allows the licensee to generate electricity for the purpose of giving a supply to any premises or enabling a supply to be given. | Electricity Interconnector Electricity Distribution Electricity Transmission |
| Transmission ⁹ | Allows the licensee to participate in the transmission of electricity for the purpose of enabling a supply to be given. | Any other type of electricity licence |
| Interconnector ¹⁰ | Allows the licensee to participate in the operation of an electricity interconnector. Participating in the operation of an electricity interconnector is defined as: <ul style="list-style-type: none"> co-ordinating and directing the flow of electricity into or through an electricity interconnector, or making such an interconnector available for use for the conveyance of electricity. | Any other type of electricity licence |
| Distribution ¹¹ | Allows the licensee to distribute electricity for the purpose of enabling a supply to be given. Electricity is distributed from the National Grid Network through a low voltage network of wires to customers. | Any other type of electricity licence |
| Supply ¹² | Allows the licensee to supply electricity to premises. An electricity supply licence can | Electricity Distribution |

⁷ S.5(1) of the Gas Act.

⁸ S.6(1)(a) of the Electricity Act.

⁹ S.6(1)(b) of the Electricity Act and SLC B6 (Restriction on activity and financial ring fencing) of the Electricity Transmission licence.

¹⁰ 6(1)(e) of the Electricity Act.

¹¹ S.6(1)(e) of the Electricity Act S.6(1)(c) of the Electricity Act and SLC 29 (Restriction on activity and financial ring fencing of the Distribution Business) of the Electricity Distribution Licence for Distribution Network Operators (DNOs) and amended condition BA2 for Independent Distribution Network Operators (IDNOs)

¹² S.6(1)(d) of the Electricity Act.

| | | |
|--|---|--|
| | be for supply to either: <ul style="list-style-type: none"> • domestic¹³ and non-domestic premises, or • non-domestic premises only. | Electricity Interconnector Electricity Transmission |
|--|---|--|

1.3. In dealing with applications for licences, we comply with our principal objective. This is to protect the interests of existing and future consumers. These interests include the reduction of greenhouse gas emissions and security of supply.

1.4. We will carry out our functions in the manner considered best calculated to further the principal objective, where appropriate, by promoting effective competition. In complying with our principal objective, we will consider the need to:

- secure that licensees can finance their activities which are the subject of obligations under the Energy Act 2010, the Energy Act 2008, the Energy Act 2004, the Utilities Act 2000 or, as the case may be, the Gas Act 1986 (as amended) (the "Gas Act") or the Electricity Act 1989 (as amended) (the "Electricity Act") (referred to below as the "Acts"),
- secure that all reasonable demands for gas and electricity are met,
- contribute to the achievement of sustainable development, and
- have regard to the interests of particular customer groups, such as those with a disability, or those who are chronically sick.

1.5. Our application process takes into account the requirements of the Provision of Services Regulations 2009.¹⁴ We also have regard to:

- the fact that various industry codes and agreements set out in detail the industry processes to which a licensee must adhere, and
- our aim of minimising regulatory burden and maximising the opportunity for new applicants to enter the GB energy market, including those based outside of Great Britain.

1.6. In carrying out our functions we must have regard to the need to secure that licensees are able to finance their activities which are the subject of obligations imposed on them. However, there is no available check that we can conduct on a potential licensee at the time of its licence application that will provide continuing comfort about financial viability once the licensee commences operations.

¹³ Domestic premises are premises used wholly or mainly for domestic purposes.

¹⁴ Provision of Services Regulations 2009 <http://www.legislation.gov.uk/ukdsi/2009/9780111486276/contents>

Exemptions and exceptions

1.7. The Acts allow the Secretary of State to make orders giving exemptions from the need to hold licences. This means that some activities that fall within the definitions of a licensable activity are, in fact, exempt from the need to hold licences. Exemptions can apply to individual cases or can be on the basis of a class (type) of activity. Exemptions when granted can be unconditional or subject to certain conditions including length of time.

1.8. Schedule 2A of the Gas Act sets out exceptions to the need for licences.

1.9. It is for the person carrying on, or proposing to carry on, an activity to ascertain whether the proposed activity falls within the scope of an exemption or exception. Ofgem cannot comment on whether a person carrying on an activity or proposing to carry on an activity will be exempt or excepted from the requirement to hold a licence.

1.10. Generators under the threshold covered by the exemption orders do not need to obtain a licence. Applicants for generation licences should also be aware that it was held by the Court of Session (Inner House) in *Sustainable Shetland v Scottish Ministers* CSIH 60 that a generation licence is not required in order to apply for a s36 consent.¹⁵

1.11. Please contact the Department for Business, Energy and Industrial Strategy Climate Change (BEIS) if you wish to discuss the exemption orders. The relevant Gas and Electricity exemption orders may be found via our website: <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/licence-exemptions-and-exceptions>

Context and related publications

1.12. We have published objective and non-discriminatory criteria and procedures for assessing gas and electricity applications since 2002. This is the latest version of our guidance, which takes into account the outcome of our 2018/19 review of the supplier licensing arrangements.¹⁶ It replaces all earlier versions of Ofgem's application guidance.

1.13. This document should be read before the applicant starts to fill out their application for a new licence, or an application for the transfer, extension, restriction or modification of the area of an existing licence.¹⁷

¹⁵ At paragraph 19: <http://www.scotcourts.gov.uk/search-judgments/judgment?id=cdc395a6-8980-69d2-b500-ff0000d74aa7>. The case was appealed to the Supreme Court, but this point was not the subject of appeal (see *Sustainable Shetland v Scottish Ministers* [2015] UKSC 4 at paragraph 21) https://www.supremecourt.uk/decided-cases/docs/UKSC_2014_0216_Judgment.pdf

¹⁶ <https://www.ofgem.gov.uk/publications-and-updates/supplier-licensing-review-final-proposals-entry-requirements>

¹⁷ Extension and restriction applications only apply to supply, gas transportation and electricity distribution licence applications. Existing transmission licence holder may also make an application for the modification of an area of a transmission licence.

1.14. The applications regulations and forms can be found on our website:
<https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/application-process>

1.15. Our application form is the minimum that applicants will have to provide. Further questions may arise from the information provided, the results of our checks on your information, and/or any comments received from other teams within Ofgem or third parties. As far as possible this guidance covers the information that applicants are expected to provide. Where we require additional information from applicants we will explain our reasoning.

1.16. We recognise the need to encourage innovation and the fact that the structure of applicants' businesses will differ. The criteria therefore does not set out prescriptive standards which must be met, but indicate to applicants the nature of information that they are expected to provide and the manner in which this information will be assessed.

1.17. This guidance is not applicable to offshore transmission licence applications. Applications for an offshore transmission licence (as defined by s6C(5) of the Electricity Act 1989) are considered or granted by the Authority in accordance with The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2009, SI No. 1340.

1.18. This guidance is also not applicable to the smart meter communication licence. This licence is granted for a fixed term through a competitive tender application process, using a Statutory Instrument – the Electricity and Gas (Competitive Tenders for Smart Meter Communication Licences) Regulations 2012 (the Regulations) (<http://www.legislation.gov.uk/ukxi/2012/2414/made>).¹⁸

Important notes

1.19. The provision of incorrect information or false statements during the licence application process is an offence and may result in criminal proceedings being instituted under section 43 of the Gas Act 1986 (as amended) or section 59 of the Electricity Act 1989 (as amended). It may also result in your application being refused or, if discovered after a licence has been granted, in your licence being revoked.

1.20. Being granted a licence does not mean that we have given any endorsement to the applicant or any associated person, their financial status, viability or profitability, or their business plan or methods. By applying to us for a licence you agree that the applicant and any related persons will not make any representations to the contrary.

1.21. Under no circumstances does Ofgem provide any form of assurance which third parties may rely on for any purpose. While we make an assessment at point of licensing that applicants are 'suitable' to hold an energy licence, this does not infer any endorsement of the

¹⁸ A single organisation is granted a smart meter communication licence under each of the Electricity and Gas Acts, ie two licences are issued in a single document, referred to as the Data Communications Company (DCC) licence. The relevant Regulations set out the procedural steps of the competitive tender application process for the DCC Licence to be used on each occasion it is awarded.

individuals or assurance regarding their future conduct, and we do not give any guarantee or warranty in respect of the licensee or any related person.

1.22. This document is not a definitive interpretation of the law. It is not to be taken as a substitute for the Gas Act 1986 (as amended) or the Electricity Act 1989 (as amended) (together "the Acts"), Statutory Instruments and other legal material referred to. We cannot offer legal advice on interpretation, on the type of licence you might need, or on whether you benefit from an exemption or exception. We suggest you seek your own legal advice.

1.23. Once a licence is granted, the new licensee must comply with the standard licence conditions ("SLCs") applicable to the type of licence applied for. These can be viewed on our website: <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/licence-conditions>. Applicants must read the applicable licence conditions prior to submitting their application.

1.24. Under the SLCs, licensees are obliged to comply with various industry codes: <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/industry-codes>. Applicants should contact the relevant code bodies to discuss becoming a code party and compliance, prior to applying for a licence.

Questions and feedback

1.25. We hope this guidance is clear and easy to follow. Please send any general feedback comments to licensing@ofgem.gov.uk.

1.26. If applicants have any questions about their application that are not answered in the document, please contact us by email. We aim to respond to emails within 10 working days.

2. Information for all applicants

Section summary

This section provides information on when to apply for a licence, the timings involved in processing different licence applications, and a high level overview of the licence application process.

Making your application

2.1. All applications must be made to Ofgem in writing in the prescribed form, and must be accompanied by the applicable application fee.¹⁹

2.2. There is a standard application form for all licence types.²⁰ This form details the applicable fees. Fees can be paid by cheque made payable to OFGEM, or by bank transfer (using the applicants name as the reference) via BACS or CHAPS to:

Bank Name: National Westminster Bank
Account name: OFGEM
Sort code: 60-70-80
Account number: 10006001
BIC: NWBKGB2L
IBAN: GB16NWBK60708010006001

2.3. Applications can be sent by email to licensing@ofgem.gov.uk or by post to: **Licensing Frameworks, Ofgem, 10 South Colonnade, London E14 4PU.**

2.4. We will not begin consideration of an application until we have confirmation that the applicable fee is paid. If paying by BACS or CHAPS please notify us of the method and date of payment when making your application.

2.5. Please ensure that copies of the documents requested in the application form are included when you send it to us. Failure to provide this will delay your application. If the relevant documents are not in English, we request that certified translations are provided.

¹⁹ The prescribed form is set out in the application regulations. Word versions of the application forms are available on our website: <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/application-process>

²⁰ <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/application-process>

2.6. If any mandatory questions are left blank this will delay your application. If your answer would be none, or you feel that a question does not apply to you, please write 'none' or 'N/A' in response as appropriate.

When to apply

2.7. Applicants should apply for their licence when they are getting close to being ready to carry out the licensable activity.

2.8. Each licence contains revocation provisions, and we may – at our discretion – revoke a licence if the licensable activity does not commence within the stated timeframe. This is 12 months for supply and shipper licences, and three years for other licence types.

2.9. Notwithstanding the above, we advise applicants to take note of the relevant processing time periods for each application type (below), and ensure that you allow sufficient time for your application to be considered.

Tiered process

2.10. We adopt a risk-based approach to licence applications. All applicants must complete all of the information required under Tier 1 of the application form, including the relevant licence-specific information.

2.11. Tier 1 questions ask for core information about the applicant, including the persons involved, the applicant's plans to commence the licensable activity, and any relevant licence-specific information that is required.

2.12. We will conduct an initial risk assessment on receipt of the application and review/build on this throughout the application process. As a result of our risk assessment, we may – at any stage during the application process²¹ – write to tell the applicant that we will process the application under Tier 2. The information requirements under the Tier 2 section of the application form should therefore only be completed if requested by Ofgem.

2.13. For the avoidance of doubt it should be noted that an application does not necessarily need to have progressed through Tier 2 before a licence may be refused. A licence application may be refused at any time in the application process where we consider it does not meet the general criteria, or where appropriate, any specific criteria for licence grant.

What happens next

2.14. All application correspondence will be via email to the person named on the application form as the Application Contact.²²

²¹ Including, prior to any initial confirmation of the application being duly made.

²² If for any reason you wish for us to send correspondence via post, please let us know.

2.15. We will write to the applicant to confirm receipt of the application, usually with 2 working days.

2.16. We will then undertake an initial check of the application to ensure that all Tier 1 information (including the licence specific section, as appropriate) has been completed and that copies of the requested documents have been provided together with payment of the fee.

'Duly made'

2.17. Following our initial check of the application we will write to the applicant – usually within 10-15 working days from the acknowledgement of the application – to advise that either:

- we consider the application to be complete and is therefore 'duly made'. Only when we have confirmed an application is duly made will the applicable time period for processing the application commence – see below. When we advise you that the application is duly made, we will provide a template notice – see below; or
- the application is incomplete and therefore 'not duly made'. In which case we will tell the applicant what information/documentation we require in order for the application to be considered duly made. We will not process the application if it is not duly made.

2.18. At any time during the processing of the application, we may contact the applicant to advise that we no longer consider the application to be duly made, and outlining what steps are required to rectify this. This may typically happen if we find that information is inaccurate, incomplete, or insufficient, or if we decide to process the application as Tier 2, therefore giving rise to additional requirements. What happens if the application becomes 'not duly made' during the processing time period is outlined below.

The processing 'time period'

2.19. When an application is duly made the relevant time period for processing the application commences. For avoidance of doubt, the time period commences on the first working day after our 'duly made' notification is sent.

2.20. The relevant time periods are as follows:

| Licence type | Time period |
|-----------------------------------|-----------------|
| Gas or electricity supply | 55 working days |
| Gas shipper | 45 working days |
| Electricity generation | 45 working days |
| Gas or electricity interconnector | 45 working days |

| | |
|--------------------------|------------------------|
| Gas Transporter | 8 months ²³ |
| Electricity Distribution | 6 months |
| Electricity Transmission | 6 months |

2.21. If during the processing of the application we contact the applicant to advise that the application is no longer duly made, we will 'stop the clock' on the processing time period. If this happens, the time period will restart from zero days once we confirm that the application is duly made again. This does not necessarily mean that we will require the full time period to reach a decision, however applicants are strongly advised to ensure that as far as possible they 'get it right first time' by providing full and accurate information, to avoid any delays to their application being processed.

2.22. Should the applicant fail to provide the additional information/documentation requested by us, within the timeframe that we set,²⁴ the application may be cancelled.

2.23. The relevant time period may be extended by Ofgem once, for a period of time specified by us.²⁵ Circumstances where this may happen include:

- where the application raises significant policy or consumer protection issues that require careful consideration,²⁶ or
- we propose to make modifications to the licence conditions on grant. We are required to consult on proposed modifications.²⁷

2.24. In all such cases, we will contact the applicant as soon as reasonably practicable after it becomes apparent that the time period will be extended. We will confirm the reason for the extension and how long the extension will be in writing.

Tacit authorisation²⁸

2.25. A **supply, shipper, generator or interconnector** licence will be deemed to have been granted by tacit authorisation on the first working day after the time period has lapsed²⁹ if no decision has been made within the time period.³⁰

²³ We are required to give two months' notice of a proposal to grant a gas transporter licence.

²⁴ Which we may agree with you in advance.

²⁵ In accordance with Regulation 19(3) of the Provision of Services Regulations 2009.

²⁶ We may require more time to allow for additional considerations, and in certain cases we may decide to consult before making a decision on a licence application.

²⁷ s8A(3) of the Electricity Act and s8(4) of the Gas Act require us to consult before making modifications to a licence on grant

²⁸ Regulation 19 of the Provision of Services Regulations 2009 and Article 13(4) of the Directive allows for different arrangements to apply (instead of Tacit Authorisation) where it is justified in the public interest.

²⁹ Unless there has been an extension to the time period, or we have notified you that the application is no longer considered duly made and therefore the clock on the time period has been stopped.

³⁰ In accordance with Regulation 19(5) of the Provision of Services Regulations 2009.

2.26. Due to overriding reasons of public interest, tacit authorisation does not apply to applications for the above licence types in the following circumstances:

- where any modifications to the licence conditions have been requested,³¹ or
- where the applicant is requesting any variation from standard terms; including,
 - for electricity supply licences, where the applicant has applied for a 'Licence Lite' direction under SLC 11.3,³² or
 - for interconnector licences, where any exemption from certain conditions is requested.³³

2.27. Any licence deemed to have been granted by tacit authorisation is on the same terms and conditions as those expressly granted. In other words, the same terms, licence conditions and schedules (including but not limited to the relevant SLC and revocation schedules) apply to a deemed licence as they would in an expressly granted licence of that type as it would be usually granted by us.

2.28. Due to overriding reasons of public interest, tacit authorisation does not apply to **transmission, distribution or transporter** licence applications under any circumstances. This is because network licences operate as a monopoly and there are significant consumer implications if there was a network failure, ultimately threatening the security of supply of those connected to it.

Withdrawing an application

2.29. If you decide not to proceed with your application, you may withdraw it at any time. If you later change your mind and wish to proceed, you would need to submit a new application form and fee.

Notice of application

2.30. The Acts³⁴ require applicants for a gas or electricity licence to publish notice of their application. The Application Regulations stipulate that this must be done within 10 working days of an application being confirmed as duly made.

³¹ Under s8A(2) of the Electricity Act and s8(3) of the Gas Act.

³² See Chapter 4

³³ SLC 9, 10 and 11 of the Electricity Interconnector licence and SLC 10 and 11 of the Gas Interconnector licence.

³⁴ Section 7(2) of the Gas Act 1986 and section 11A(2) of the Electricity Act 1989.

2.31. We will facilitate this process by providing a template notice of application for the applicant to complete and publishing this notice on our website.³⁵ The applicant may also wish to publish the notice on their own website – please tell us if this is the intention.

2.32. If the application is for a restriction, the applicant must also publish notice in such newspapers as are best calculated to circulate it throughout the area affected by the proposed restriction.

2.33. If the applicant fails to send us the completed notice within 10 working days, we will stop the clock on the processing time period and the application may be cancelled. This would mean that if the applicant still wanted a licence, they would have to re-apply and start the process again, including payment of the relevant fee.

2.34. Where we receive representations about a licence application in response to a Notice, we will consider whether they are relevant to our application assessment criteria.

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³⁵ While the publication of the notice remains the applicant's responsibility, we require the notice to provide certain minimum information in order for this step to be considered complete.

3. General information requirements and assessment criteria

Section summary

This section provides information on our approach to assessing licence applications, the general information requirements, and how an application may move from Tier 1 to Tier 2 following our risk assessment.

Overview

3.1. We carry out checks and make enquiries that we consider relevant to our decision to grant a licence, taking account of our duties as set out in Chapter 1. Our assessment checks and criteria are non-discriminatory and follow a risk-based approach.

3.2. In broad terms the risk assessment of all application types will take into account, amongst other things:

- unexplained omissions or discrepancies between the information provided in the application and the relevant company registry or other official sources;
- difficulty verifying information provided;
- readiness/intent to use the licence for the purpose for which it would be granted; and,
- any information relevant to our decision to grant a licence which comes to, or is brought to, our attention during the course of the application process.

3.3. In addition, certain licence types have specific application requirements. Applicants may be considered higher risk if this information raises questions or concerns, or the applicant doesn't appear to meet the relevant licence-specific criteria.

3.4. Our template risk assessment form can be found in Appendix 1. In each area of our risk assessment we will consider whether the application is low, medium or high risk. If any areas of our risk assessment attract a high risk rating, or multiple medium risk ratings, we may contact the applicant to advise that we will process the application as Tier 2.³⁶

3.5. In some cases, we may first seek clarification or explanation from applicants in respect of discrepancies or questions raised without formally escalating the application to Tier 2. For

³⁶ For avoidance of doubt we may also decide to refuse a Tier 1 application.

example, if the applicant receives a higher risk score for a query or omission which we consider could readily be resolved.

3.6. However, where satisfactory answers are not provided, or where we consider it immediately necessary to escalate the application to Tier 2 following our risk assessment, we will ask applicants to complete the Tier 2 section of the application form, including signing the relevant declaration.

3.7. An application may be escalated to Tier 2 at any time during the application process. This includes:

- during our initial risk assessment, prior to the application being confirmed as complete or duly made;
- at any time during the processing of the application, after the application has been confirmed as duly made. When an application is escalated to Tier 2 it will not be considered duly made until the Tier 2 section of the application has been submitted and we confirm that this information is complete.

3.8. If in our view the applicant knowingly or recklessly provides incorrect information (whether or not by omission), the application may be refused (or revoked, if this only comes to light after the licence has been granted).³⁷ Refusal or revocation on these grounds will be taken into account in any future licence applications made by the applicant or a related party.

Tier 1

Applicant and parent/ultimate holding company

3.9. We seek to verify key information provided in the application. Amongst other things we check the applicants contact details and solvency history and, where available, the applicant's trading background and any recent substantive changes.

3.10. We will carry out checks with Companies House (or the overseas equivalent to the extent that it is easily available) and other sources to verify that the information received in support of an application is correct.

3.11. Where the applicant has a complex corporate structure they should provide a full organogram.

³⁷ The provision of incorrect information or false statements during the licence application process is an offence and may result in criminal proceedings being instituted under section 43 of the Gas Act 1986 (as amended) or section 59 of the Electricity Act 1989 (as amended).

VAT number

3.12. We recognise that not all applicants will be registered for VAT purposes, however typically we would consider this an indicator that the applicant is ready to commence trading. Where an applicant is registered for VAT, we will carry out checks to validate the VAT number provided.

Directors, major shareholders or persons in effective control

3.13. We carry out checks on all persons named in the application, including whether they are disqualified from acting in connection with the affairs of a company, are undischarged bankrupts, or have a history of insolvency (see below).

3.14. We check that the information provided in the form matches information held by official sources. Any discrepancies will be queried and may result in a higher risk rating. If there have been recent changes that may not yet be reflected in the public record, applicants are advised to explain this in a covering letter when submitting the application.

3.15. Applicants are asked to provide directors home addresses. If we have reason to believe that the details provided do not relate to a domestic address, this may result in a higher risk rating.

Licence/application history

3.16. We will consider whether the applicant or any related person has previously held or applied for a licence, and/or whether they have had a licence revoked. We will assess whether this licensing history is relevant to our decision to grant the licence applied for.

3.17. If a previous application has been refused, or a previous licence revoked, the reasons for this may affect our decision whether to grant or refuse the licence applied for. If a licence was revoked on the licensee's request, or with the licensee's consent because it was no longer needed or being used, then this will not usually be a reason to refuse a current application.

Suitability to hold a licence

3.18. We will consider whether the applicant is 'fit and proper' to be granted the licence applied for. Our assessment of suitability is based on our duty to protect the interests of existing and future consumers. We will take into account any disclosures or adverse information brought to light in respect of directors, major shareholders, persons in effective control of the applicant, any person with significant managerial responsibility or influence that is not a statutory director (eg a CEO), or directors of any parent undertaking or holding company.

3.19. We will not automatically refuse an application where information is provided in this section, but we will consider whether any information is relevant to our decision to grant the licence.

3.20. In the case of any criminal convictions, we will take account of the seriousness and relevance of the crime, and how recent the conviction is. Evidence of director disqualifications may also lead to refusal.

3.21. We will check directors' records and may investigate related companies to understand any relationship. Where there is evidence that a relevant person was previously a director of an insolvent company, we will consider whether the circumstances are relevant to our decision. We will consider any evidence of insolvency, bankruptcy, or debt judgements, to the extent these may be relevant to our decision.

3.22. Where any relevant person was connected or related to a supply company that triggered a Supplier of Last Resort (SoLR) event – including where that individual was connected to that company within the 12 months leading up to the SoLR event³⁸ – we will not automatically refuse an application but this will be highly relevant to our decision whether to grant a licence, in particular where the application is for supply. We will take account of all relevant factors before reaching a decision, including the recentness of the SoLR event, whether there was material consumer or market harm, and the relevant individual's engagement and co-operation with Ofgem preceding and during the SoLR event.

3.23. We will consider any relevant Ofgem compliance or enforcement action, for example it may be relevant to our decision to grant a new licence if:

- the applicant holds any other energy licence and is currently subject to ongoing compliance or enforcement action; or
- relevant persons were involved in serious and/or persistent compliance or enforcement action with another licensed company, where the failings had significant consumer detriment.

3.24. In respect of actions by other regulatory bodies, any action taken by the relevant regulatory body for energy in another jurisdiction is likely to be particularly relevant to our decision on granting a licence. More generally we will consider whether any regulatory action taken indicates potential dishonesty, lack of ability to comply with regulations, or financial mismanagement. We will also consider the details of any competition law infringements.

3.25. In general, we expect applicants to be open and honest in their engagement with us, and to be proactive in providing relevant information. Any failure to co-operate constructively with Ofgem as the regulator during the licence application process may contribute to an assessment that the applicant is not fit and proper to hold a licence, given the extent and nature of the regulatory obligations that would entail and the ongoing need for a licence holder to engage co-operatively and constructively with us.

³⁸ If a director, major shareholder or senior manager had ended their involvement in a failed supply business shortly prior to the SoLR event, we nonetheless consider their involvement prior to that point could be a relevant consideration.

3.26. Where there is evidence that incorrect information has been provided, this may lead to the refusal of the licence application.

3.27. Our assessment of the suitability of the applicant to hold a licence will take account of the particular circumstances and merits/facts of the case. In the event that we determine an applicant is not suitable to be granted a licence, we will explain clearly the reasons for our decision.

Proposed arrangements for commencing the licensable activity

3.28. We will consider the details provided to gauge the applicant's readiness and intent to commence the licensable activities, and their understanding of the necessary steps and requirements.

3.29. Applicants should set out clearly the progress they have made, and further steps to be completed, towards their commencement of the licensable activity with key dates/timeframes. Applicants should demonstrate the progress made in respect of industry code accessions, steps they have taken to make their IT systems operationally ready (eg system testing under industry codes), and/or information about necessary infrastructure where applicable. Applicants should be able to demonstrate clear intention to begin the licensable activity within a reasonable timeframe if the licence is granted.³⁹

Licence-specific information

3.30. For each type of licence (except electricity generation licences), there are specific information requirements which all applicants must provide under Tier 1. Guidance in respect of certain licence-specific requirements is provided in the following chapters.

3.31. There is no additional guidance for gas shipper applications.

Tier 2

Certified copies of official documents

3.32. We would expect applicants to hold official documentation that confirms key details provided in the application which we require to be certified. For example, we would expect applicants to be able to provide copy documentation that confirms the current directors or shareholders of the applicant.

³⁹ There is a separate and distinct requirement for supply licence applicants to outline their proposed plans once they have entered the market, as part of a licence-specific assessment that we undertake for potential suppliers. This is set out in Chapter 4.

Evidence of contact with industry code bodies

3.33. A licensee is required by licence conditions to become a signatory/party to certain industry codes and agreements.

3.34. An applicant that cannot provide evidence of substantive contact with relevant code bodies with a view to meeting this requirement as soon as possible after a licence is granted is more likely to receive a higher risk rating.

3.35. Applicants for electricity supply licences should be aware that the BSC and MRA entry testing requirements⁴⁰ take several months to complete. They should therefore have made progress with these requirements prior to making their licence application. Both gas and electricity suppliers are also required to become DCC users.⁴¹

Details of applicant's bank, solicitors and auditors

3.36. We accept that a newly formed company may not necessarily have appointed auditors and will take this into consideration. We would however expect an established company to be able to provide its banks' and solicitors' details.

Requirement to attend interview and produce additional documents

3.37. We may meet with Tier 2 applicants to make further enquiries and address any questions or concerns that have resulted in the application being scored as higher risk.

3.38. We may also request additional documentation, including ID documents, CVs of relevant people, meeting minutes, and annual accounts, as listed in the application form. We may not require all of these documents in all cases, but will request them where we consider relevant. The onus remains on applicants to provide us with all information relevant to their application.

3.39. Applicants may also be asked to evidence the accuracy of their disclosures. Applicants may be asked to provide a Disclosure and Barring Service or Disclosure Scotland certificate (or equivalent for overseas applicants) for relevant persons.

⁴⁰ BSC is the Balancing and Settlement Code, administered by Elexon. MRA is the Master Registration Agreement, administered by Gemserv.

⁴¹ DCC is the Data Communications Company. Participants must first acceded to the Smart Energy Code (SEC) <https://smartenergycodecompany.co.uk/becoming-a-sec-party/>

4. Gas and electricity supply applications

Section summary

This section provides more detail on our approach to the assessment of gas and electricity supply applications and the relevant information requirements.

Licence specific information and requirements

4.1. Our Supplier Licensing Review strengthened our licensing regime for suppliers, to raise standards around financial resilience and customer service.⁴²

4.2. Energy is an essential service and we expect suppliers to focus on delivering good outcomes for all customers, including the vulnerable. We apply increased scrutiny to supply licence applicants to ensure they are adequately prepared and resourced to operate in the energy supply markets.

4.3. Prior to submitting any application for a supply licence, applicants should ensure they have fully researched the processes involved in market operation, and have a sound understanding of the regulatory obligations that would apply to them.

4.4. We recently published a series of supply licence guides which are intended to help stakeholders navigate the licences and understand the licence and other obligations on energy suppliers. These guides are published on our website⁴³ along with a table listing other documents published by Ofgem⁴⁴ that may help potential applicants better understand supply licence obligations. Please note these resources are intended as helpful tools only, and do not modify or replace the electricity and gas supply licence conditions.

Supporting innovation

4.5. If an applicant proposes to enter the market with an innovative or significantly different offering or approach, we recommend first making contact with Ofgem's Innovation Link. The Innovation Link was created to provide support to innovators on navigating and understanding energy regulation. Please find further information on our website⁴⁵ and contact our Innovation Link team at InnovationLink@ofgem.gov.uk.

⁴² <https://www.ofgem.gov.uk/publications-and-updates/supplier-licensing-review-final-proposals-entry-requirements>

⁴³ <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/guides-supply-licences>

⁴⁴ <https://www.ofgem.gov.uk/publications-and-updates/consolidated-list-documents-help-you-understand-supply-licence-obligations>

⁴⁵ <https://www.ofgem.gov.uk/about-us/how-we-engage/innovation-link>

Our approach to assessment

4.6. We expect energy suppliers to take regulation, and their responsibilities, seriously. Any company entering the market therefore needs to be well-prepared and appropriately resourced.

4.7. Applicants must provide us with sufficient information to enable us to make a qualitative risk-based assessment against the following three criteria:

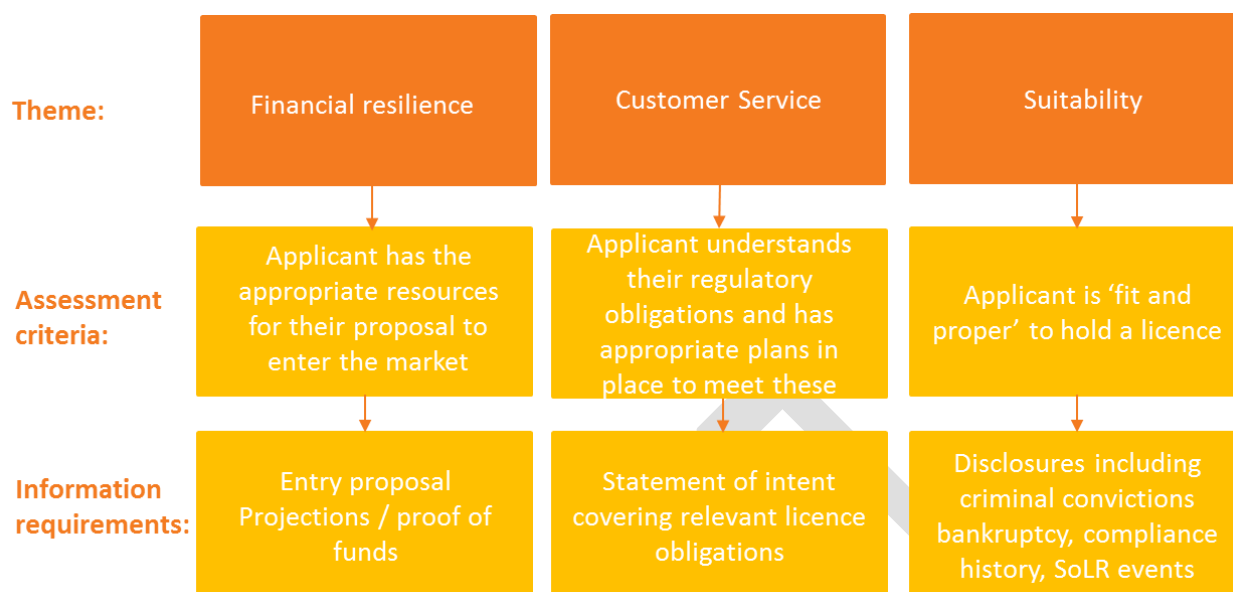
- **The applicant has the appropriate resources for their proposal to enter the market**
- **The applicant understands their regulatory obligations and has appropriate plans in place to meet these**
- **The applicant is fit and proper to hold a supply licence**

4.8. There is a positive obligation on applicants to show us that they satisfy the application criteria. We will review the information provided and consider the nature and likely impact of any perceived risks to inform our decision-making process. Our risk-based assessment may lead to the refusal of a licence application. Where a licence is granted, our risk assessment may inform the level and nature of our ongoing engagement and monitoring with the licensee.

4.9. We set out overarching principles to guide our Supplier Licensing Review reforms, and these remain key considerations for our assessment of supply licence applications, specifically:

- **Suppliers should adopt effective risk management, be adequately prepared and resourced for growth, and bear an appropriate share of their risk.**
Significant problems can occur when new entrants grow too quickly/beyond their capabilities. Overreliance on customer credit balances as a source of working capital can be unsustainable and shifts the costs of failure to the market and consumers. Suppliers should take a responsible approach to growth and bear an appropriate share of the risk in order to reduce consumers' exposure to failure.
- **Suppliers should maintain the capacity and capability to deliver a quality service to all of their customers, and foster an open and constructive dialogue with Ofgem.** Suppliers should understand, and be prepared to comply with, their obligations from the outset and as they grow. Suppliers should be prepared to maintain a constructive relationship with Ofgem as the regulator.
- **Our licensing regime facilitates effective competition and enables innovation.** Our regime should not deter innovative and un-tested business models, provided the new entrant is well prepared. We will adopt a proportionate, risk-based approach, that is also in line with our commitment to principles-based regulation.

Figure 2: Overview of supply licence application requirements



What our licensing process does not do

4.10. Ofgem's licensing process is a point in time assessment. We request information on applicants' plans to enter the market, including their financial projections and proposed funding for their first two years' operating in the market. The information that applicants must provide enables us to gain a broad understanding of their intentions, assess whether they have made the requisite preparations to become a supplier, and that they propose to manage key risks of operating in the energy market in a responsible way.

4.11. We do not assess business plans for viability or profitability, nor do we undertake a quantitative financial assessment or any financial modelling.

4.12. It is the responsibility of the applicant's directors to properly assess that they have adequate resources and have completed due diligence for their business. Any consideration of the applicant's resources that may be applied by Ofgem as part of the licence application process is no substitute whatsoever for the applicant's own due diligence, and does not provide any form of warranty. Under no circumstances should the granting of a licence be considered by third parties as a form of assurance in respect of the future prospects of the licensee.

General assessment approach

4.13. We risk assess the applicant's responses to the application questions based on objective considerations and exercise of reasonable judgement. We will, amongst other things, check that the information provided is consistent across the different questions and criteria.

4.14. We adopt a proportionate and flexible approach, recognising that all businesses are different. The application criteria do not prohibit innovative and new business propositions.

4.15. Where our risk assessment identifies potential concerns, applicants may need to provide us with additional information or evidence to satisfy us that they meet the application criteria. We will work with applicants to the extent possible to ensure that we provide clear guidance on the application requirements, however, it is not our role to provide consultative support to entrants. If further information we request is not provided or the information returned remains unsatisfactory, the application may be refused. It should also be noted that we are not obliged to contact applicants. Unclear or missing information may adversely impact the decision to grant a licence. Applicants are therefore advised to try to 'get it right first time'.

4.16. We understand that some information provided may only be indicative until the licence has been granted and the applicant commences trading. For example, certain funding arrangements, signing of contracts, or recruitment of certain staff may not be possible until after the licence is granted. Our application criteria is not intended to be prohibitive in this regard. We will examine the applicant's intentions and – for example – provisional or conditional arrangements where necessary.

4.17. Where applicants are using a third party to support their entry into the supply market, we acknowledge there is a risk that entrants may submit 'stock' replies in response to certain application questions, particularly in respect of regulatory obligations. We do not consider it problematic in itself that a third party may assist with an applicant's licence application and provide guidance in this area. However, if we identify 'template' responses have been provided, this will contribute toward a higher risk assessment score. In any such cases we will make enquiries with the applicant to ensure that they are embedding that narrative into their business.

4.18. We consider it essential for a potential new entrant to engage openly with us through the licence application process. If an applicant is not open and transparent with us during the application process, this will count against them in our assessment of suitability to hold a licence.

Timing of licensing

4.19. In Chapter 2 we explain that licences should be applied for when the applicant is getting close to being ready to commence the licensable activity. This is particularly important for supply applications, in order that applicants are able to provide information about their market entry plans in sufficient detail to demonstrate that they can satisfy the relevant criteria.

4.20. Applicants for an electricity supply licence are therefore expected to commence the entry testing processes required under the relevant industry codes prior to making their application for a licence, as these processes can typically take 6-12 months to complete. Both gas and electricity suppliers are also required under the licence conditions to be DCC users. Information about the industry codes and contact details for the relevant code bodies can be found here: <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/industry-codes>.

4.21. Applicants proposing to supply non-domestic premises only in the near term, but who may wish to supply domestic premises later, should consider whether they would be able to provide sufficient information in relation to domestic customers in order to meet the relevant licence application criteria. If you do not have immediate plans to supply domestic customers, you can apply for a non-domestic only licence and then apply for an extension at a later date.

Detailed information requirements

4.22. Applicants are required to provide information about their proposed supply business as context for their declared resourcing arrangements, as well as their proposed arrangements for compliance with their licence obligations.

4.23. The minimum information we require is detailed below, and should be provided for the first two years' trading operation. We expect to see detailed information for year one (including proof of funding), and anticipate that information and assumptions for year two will be higher level. We explain how this information will be assessed against the criteria.

Criteria 1: The applicant has the appropriate resources for their proposal to enter the market

4.24. We will consider whether an applicant has made appropriate preparations for operating in the supply market, and that their plans are based on relevant and reasonable assumptions. Our expectation of all entrants is that they can demonstrate they have given due regard to managing their risks. Applicants must provide details of their operational capabilities, and provide proof of their initial funding to at least the end of their first year operating as a supplier.

4.25. Ofgem does not prescribe the minimum or optimum level of resources required to operate in the supply market. We will consider the arrangements the applicant has made (or is making), in the context of the market entry plan described, and whether their assumptions appear reasonable. In particular, we will consider:

- whether applicants can demonstrate they have funding for their proposal to enter the market and manage the risks that they might prudently expect to face, without relying on customer credit balances; and
- whether they have a plan to maintain financial and operational capacity and manage their risks as they grow – including consideration of hedging and managing their cashflows.

4.26. Applicants must also provide a signed declaration of adequacy as part of their application, which has been approved by a resolution of the board of directors, affirming that they have a reasonable expectation that they have sufficient financial and operational

resources, and financial facilities available to it, to operate their proposed supply business for their first years' operation.⁴⁶

4.27. Below we provide further commentary on the information we expect applicants to provide.

Core operational functions and processes

4.28. Applicants should explain their business functions and how they will be resourced, including details of any outsourced functions. Applicants should make clear how they intend to scale their customer service function against their projected growth. We expect to see that the applicant has given due regard to maintaining customer service standards, particularly with reference to how they will identify and serve customers in vulnerable circumstances.

4.29. Applicants should include details of any outsourced functions and what oversight / controls are being put in place to ensure that those third parties deliver the required service to the required standard.⁴⁷

4.30. For all core functions, applicants should provide: high level details of the main responsibilities of each function, the names/capacity of key personnel already in place, and the number of staff forecast in each business function as at market entry, and during their initial two-year period of growth.

Target customer base and expected rate of growth

4.31. Applicants should provide details of their target customer base and expected rate of growth, and whether they have a unique selling point (USP) or are targeting a specific group of customers or niche segment. This information helps us understand the nature of the proposed supply business and which licence conditions will be of particular relevance (for example, if a non-domestic only applicant intends to supply microbusinesses).

4.32. Ambitious or aggressive growth projections may be considered higher risk. Applicants are advised to ensure clear evidence of financial and operational capacity is provided to support their growth aspirations.

IT systems

4.33. Applicants must provide information on their IT systems and integration testing, including switching, billing and Customer Relationship Management (CRM), and how IT is integrated into the business and the growth strategy. Applicants should be aware of the impact their growth plans could have on their systems and customer service capability, including how they will identify, record and manage customers who are in a vulnerable

⁴⁶ For avoidance of doubt, while applicants are requested to provide two years' worth of plans/projection, the requirement for proof of funding and a signed certificate of adequacy is for the first year. We consider this is proportionate however where applications are assessed as higher risk, we may seek further information/evidence regarding funding.

⁴⁷ Licensees remain responsible for any outsourced functions.

situation to ensure that they treat these customers fairly. This should also include how they will set up and maintain a Priority Services Register.

Pricing strategy, tariffs and products

4.34. We want to understand how the applicant will position themselves in the market, including how they intend to grow the business and manage the associated risks. Applicants should provide details of their pricing strategy and highlight if plans are considered reflective of costs. If not, applicants must make clear how the risks associated with a loss-leading tariff are to be mitigated, and demonstrate that they have sufficient funding to cover the expected costs of this strategy.

Projected volume of energy and purchasing strategy

4.35. Applicants should provide an indication of the amount of energy to be supplied and their strategy to buy this energy. This should include details of who will be trading on their behalf (if applicable), their understanding of the market and costs/risks of their strategy, and what plans will be in place to mitigate their wholesale and imbalance risk.

4.36. We expect to see specific detail on: if/how you plan to hedge, and any reliance on the balancing market for an extended period of time; any intention to put in place purchasing agreements (and plans to deal with potential collateral requirements); if/how your approach differs by tariff type; and, how often you plan to review your strategy.

4.37. Applicants should understand the demand profile of their future customers, and what wholesale market contracts they plan to use for their hedging as well as what percentage of their demand this covers. If there is no proposed hedging strategy, applicants must demonstrate an awareness of the associated risks and how the downside risks would be funded. This is particularly important if an applicant is proposing to offer fixed-term tariffs without hedging.

Financial projections and risk management strategy

4.38. Applicants' financial projections should demonstrate that all relevant industry costs as well as overheads have been considered, and that impacts of growth have been included. Applicants must provide financial projections for the first two years trading operations (including monthly cashflow), and highlight the projected profitability and percentage gross and net profit margins.

4.39. We understand that figures and detailed workings will change as entrants gain learning and respond to changing conditions. We will consider whether the applicant has demonstrated that they understand the costs they will face, including:

- costs that all businesses generally face (including HR & IT costs, professional services, sales & marketing),

- energy specific charges and collateral requirements (including wholesale costs, Capacity Market charging⁴⁸, imbalance charging, network charging, smart metering and DCC costs, ombudsman scheme), as well as costs resulting from the obligations under the government's renewable energy, energy efficiency and social schemes,⁴⁹ and
- changing costs associated with business scaling and how they plan to manage this (including additional costs from government schemes and other regulatory obligations that apply once they meet a certain number of customers).

4.40. We expect applicants to understand wholesale and other volatile costs that they will incur in the energy supply market, how these costs are affected by growth in customer numbers and trends in demands, and how they affect their cashflow and profit. Applicants should also understand how collecting payments from customers in debt and/or experiencing payment difficulty might affect their costs.

4.41. Applicants should show that they understand how their costs will differ across the calendar year and that they are aware of the cashflow issues this can cause and have a plan to cater for this. In particular, we are looking to see that applicants have taken into account seasonal variations in wholesale prices and energy demand. This should also include how these seasonal variations affect how and when payments are taken from customers, while complying with relevant supply licence conditions related to customer service and credit balances.

4.42. Applicants should plan to monitor the variables in their projections, and review their assumptions periodically, and foresee the impact of changing regulations once thresholds are reached.

4.43. Applicants are also required to provide details on their risk management strategy. We expect to see the main risk factors affecting your business clearly listed and details of what stress testing has been undertaken in line with these risks.

4.44. We do not specify the parameters for the applicant's stress test. It is the applicant's responsibility to stress test their business. We would typically expect an applicant to show that they have considered how they expect to cope with market volatility, extreme winters, collateral/trading risks, and the impact of both slower or faster than anticipated growth. We expect an applicant to show that they have made reasonable assumptions based on potential levels of customer churn, and how they will manage potential downside risk. We will consider whether the stress-testing applied by the applicant appears to be within reasonable parameters.

4.45. We will not analyse an applicant's projections in detail or assess their viability. The aim of our assessment of an applicant's projections is in the context of our specific application

⁴⁸ As at the date this guidance is published, government's latest policy decision on arrangements for suppliers to pay CM supplier charge is here:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/782657/capacity-market-technical-amendments-consultation-government-response.pdf

⁴⁹ <https://www.ofgem.gov.uk/publications-and-updates/environmental-schemes-information-independent-suppliers>

criteria, and fundamentally to ascertain whether the applicant is knowledgeable about key costs or risks, and that they can demonstrate reasonable assumptions in the context of their overall plans.

Source and proof of funding

4.46. Entrants should be able to clearly demonstrate how they propose to cover their early-year losses. We ask for information on the applicant's proposed funding arrangements for the first two years and proof of funding for at least the first one years' operation. We will consider whether this appears to match the applicant's financial projections (including potential downside risks).

4.47. Acceptable proof of funding includes, for example: cash or liquid assets, debt finance or letter of credit guarantee from finance backer (including parent or group company guarantee), share capital/shareholder agreement, provisional⁵⁰ funding agreement, and/or grants.

4.48. It is acceptable that some funding may be conditional on completing market entry steps (including licensing) but there should be no onerous conditions/limited timeframes attached to accessing the funding.

4.49. Applicants must also provide a signed declaration of financial and operational adequacy for the first year operating in the supply market. The applicant's directors are responsible for properly assessing that they have adequate resources. As stated above, we do not 'approve' or provide quality assurance in respect of an applicant's business proposals or projections and it is important that this is clearly understood.

Criteria 2: The applicant understands their regulatory obligations and has appropriate plans in place to meet these

4.50. We expect suppliers to put the needs of consumers at the heart of their business, including the needs of vulnerable consumers. Applicants should have given sufficient forethought to their licence obligations to be able to articulate how they expect to deliver good customer outcomes, and how they will manage issues responsibly. We will consider whether the applicant appears to have a good awareness of the relevant customer service obligations that will apply to them as a licensed supplier, and whether they can show what practical steps they are taking (or will take) to ensure they can comply with them.

4.51. We do not expect applicants to have everything in place before commencing supply, however we do expect an applicant to:

- have knowledge and understanding of their duties under the licence, including the Standards of Conduct for domestic consumers (including the vulnerability principle) and microbusiness customers; and

⁵⁰ Provisional subject to the granting of the licence(s) applied for.

- be planning, and taking steps, to put relevant systems, policies and procedures in place to comply with those duties and deliver good customer outcomes.

4.52. To fulfil this criteria, applicants are therefore required to provide a 'statement of intent' in respect of compliance with their customer service-related regulations. Below we describe areas we would typically expect applicants to provide a narrative on alongside any other material factors that may be particularly relevant to delivering good customer service under their specific proposal. For the avoidance of doubt, applicants must understand and be ready to comply with their licence obligations in full. We consider that a proportionate approach to assessing licence applications is required, and to deliver the main aims of our Supplier Licensing Review we currently believe that customer service provision should be given particular emphasis.

4.53. This section is relevant to non-domestic supply applicants to the extent that they will, or may in the future, be supplying micro-businesses.⁵¹ Below we provide further commentary on the information we expect applicants to provide.

Treating Customers Fairly

4.54. Applicants should describe how they will treat customers fairly in line with the Standards of Conduct (including vulnerable customers, for domestic suppliers).⁵² We expect the Standards of Conduct to be embedded throughout the organisation, be driven by the Board and senior management, and understood by all staff. 'Fairness' should also be embedded in the design, monitoring and revision of all relevant products and services and associated policies and processes. This is to help ensure suppliers are embodying the culture required to consistently deliver fair outcomes and better service for energy consumers. Applicants should set out how they will ensure that any third parties will meet these requirements, which the licensee is accountable for. Applicants should be able to outline how they will ensure that their products and services will meet the needs of their customer base.

Customer Service Operations

4.55. We expect applicants to have planned the ratio of customer service staff to customer, considered what training will be in place for staff, and how they will maintain good standards of service as their business grows. Applicants should tell us how they expect to capture customer feedback and take this into account, and how they will respond to changing customer needs (eg if customers become vulnerable).

4.56. Applicants should explain their approach to complaints handling, demonstrate their awareness and understanding of the relevant Statutory Instrument,⁵³ and have systems and

⁵¹ A non-domestic consumer is defined as a micro business if they meet one of the following criteria: employs fewer than 10 employees (or their full time equivalent) and has an annual turnover or balance sheet no greater than €2 million; or uses no more than 100,000 kWh of electricity per year; or uses no more than 293,000 kWh of gas per year. A business using 100,000 kWh of electricity or 293,000 kWh of gas should typically pay around £10,000 - £12,000 a year for each fuel (excluding VAT and Climate Change Levy)

⁵² SLC 0 and SLC 0A

⁵³ <http://www.legislation.gov.uk/uksi/2008/1898/contents/made>

resources allocated to complaint handling (including the ability for customer contact by a range of means).

4.57. Domestic suppliers must work with Citizens Advice, Citizens Advice Scotland and the Energy Ombudsman and are required to signpost these services to their customers. We expect applicants to indicate how they will meet this requirement, and also acknowledge the costs and implications of complaint handling.

Vulnerability

4.58. An applicant's approach on vulnerability should be acknowledged throughout their statement of intent, as it is relevant within all customer obligations. In addition to this, applicants should specifically comment on how they will operationalise the vulnerability principle namely the policies and procedures they have, or will establish, to identify vulnerable customers, and how they will respond to their needs.

4.59. Applicants should tell us their plans to establish, maintain and promote a Priority Services Register.

Acquiring and transferring customers

4.60. Applicants should outline their proposed approach to customer acquisition in line with their business plan, and how they will ensure they will be compliant with the relevant provisions of the licence. For domestic suppliers this should include:

- how customers will be able to easily compare and select appropriate tariffs;
- that tariffs are only recommended which take into account, and are appropriate to, customers characteristics and/or preferences (with particular regard to vulnerable customers); and
- steps to ensure that the applicant, or their representatives, do not mislead customers or use high pressure sales tactics.

4.61. We expect applicants to detail if they are undertaking any face-to-face selling, and what controls are in place where third party intermediaries (TPIs) are being utilized to acquire customers.

4.62. For micro-business customers, applicants should explain how they will ensure price transparency, and the need to provide price information on their website plus at one least third party web portal.

4.63. Applicants should describe the systems they will have in place to ensure that they will switch customers in line with relevant provisions of the licence including facilitating a switch within three weeks.

Customer Communications

4.64. Applicants should be able to provide a narrative on how they will ensure their customers are provided with sufficient information to enable them to make informed choices, including thinking about what is appropriate to customers' characteristics and preferences.

Payment, billing, and credit balances

4.65. Applicants should describe their proposed approach to offering a range of payment types, how they will provide accurate and timely billing (recognising consumer requirements, particularly for vulnerable customers), and their processes to review and refund credit balances.

4.66. If the applicant's projected growth does not exceed the pre-payment meter threshold within its initial two-year growth projections, they should nonetheless acknowledge the requirements and indicate how they will manage requirements relating to customers in payment difficulty.

Retail price protections

4.67. Applicants should outline their awareness of the relevant price caps⁵⁴ namely the prepayment price cap and the default price cap, and how they will ensure that their tariffs and pricing will remain compliant.

Smart metering

4.68. Suppliers are required to install and serve customers with smart meters in line with government plans. Applicants should have a plan for completing the DCC user entry process and be aware of their obligations regarding the installation of Smart Metering Systems and In-Home Displays, and outline where they intend to use third parties to help them deliver on these obligations (metering equipment, installers etc).

4.69. They should demonstrate an awareness of the various safety obligations on them, how they intend to ensure compliance with SMICoP,⁵⁵ and where relevant, the requirements relating to non-domestic smart metering.

Compliance reporting

4.70. Suppliers are required to submit data to Ofgem on their operations. Applicants should provide information on how they expect to comply with this reporting requirement, and

⁵⁴ <https://www.ofgem.gov.uk/energy-price-caps/levels-energy-price-caps>

⁵⁵ The Smart Meter Installation Code of Practice (SMICoP) specifies the minimum standards suppliers must adhere to in relation to the customer facing aspects of the installation of Smart Metering Systems.

indicate that they understand how the business will meet their relevant obligations as these change with growth (including government schemes).

4.71. For example, suppliers are required to submit monthly and quarterly complaints data to us and Citizens Advice on domestic and non-domestic customers, including the number of complaints received, those resolved, and timing of resolution. Suppliers also submit data quarterly on social obligations, and the Guaranteed Standards of Performance for domestic and microbusiness customers.⁵⁶

4.72. We engage with new entrants to provide more detailed compliance information once they commence supply, but at application stage we will look to see that applicants have given forethought to meeting their reporting requirements.

Criteria 3: The applicant is fit and proper to hold a supply licence

4.73. We will consider whether the applicant is 'fit and proper' to hold a supply licence as set out in Chapter 3.

4.74. When assessing suitability of the persons proposed to operate a licensed supply company we will give particular consideration to the nature of the direct customer/supplier relationship.

4.75. Involvement in a previously failed supply business will not automatically lead to rejection but, where – for example – the SoLR event was recent, material consumer or market detriment was caused, the failure was associated with serious compliance failings, and/or the individual(s) concerned were not co-operative with us during the SoLR process, this will be highly relevant to our decision on whether to grant a supply licence.

4.76. It is not a prerequisite that supply applicants must have previous energy market experience; however, we will make judgements based on the quality of information provided as to whether the applicant appears to have – or has access to – the necessary capabilities and expertise to operate in the supply market. If a supply licence application is assessed as higher risk and processed as a Tier 2 application, we may ask for CVs of relevant people and take their professional experience into account when making our decision.

Other information relating to supply licence applications

4.77. Below we provide additional guidance in relation to specified areas, gas supply through exempt pipelines,⁵⁷ and electricity 'licence lite'.⁵⁸

⁵⁶ <https://www.ofgem.gov.uk/licences-codes-and-standards/standards/quality-service-guaranteed-standards>

⁵⁷ Also referred to as 'other than by gas transporter' licences

⁵⁸ Licence lite refers to a direction under SLC11.3 of the electricity supply licence

Specified area

4.78. Except for exceptional circumstances we will grant supply licences on a GB-wide basis. Before we apply any restriction to the geographical area of the licence we will consider whether there is an over-riding reason of public interest to do so. If for any reason the applicant wishes to request that the specified area of the licence is not 'Great Britain', the applicant must provide a clear explanation of why they wish to have this restriction in place.

4.79. We will not grant a supply licence where, in our opinion, the description or area of the premises to be supplied would artificially include in the restriction or exclude from the extension, premises likely to be owned or occupied by persons who are chronically sick, have a disability, are of pensionable age, or are likely to default in the payment of charges.⁵⁹

Gas supply through exempt pipelines

4.80. We will notify the Health and Safety Executive ('HSE') of any application we receive for licences authorising the supply of gas through exempt pipelines.⁶⁰ We will seek confirmation from the applicant that it has secured approval of, or is in discussions with, the HSE regarding a gas safety case.

4.81. These licences do not contain standard licences and supply is restricted to properties named in the licence. The supply licence specific criteria are not applied to this type of licence.

Directions under electricity supply SLC 11 (Compliance with Industry Codes)

4.82. In March 2009, as part of our work on identifying and reducing the regulatory barriers to the development of Distributed Energy ('DE'), we modified Standard Licence Condition 11 (Compliance with Industry Codes) applicable to electricity supply licences.

4.83. The modification allows existing and prospective electricity supply licensees to apply to the Authority for a direction under SLC 11.3 of the electricity supply licence relieving it of certain obligations (in whole or in part) to comply with specified industry codes (known as 'licence lite').

4.84. We have published guidance⁶¹ outlining the procedures for requesting a direction under SLC 11.3 as well as the eligibility and assessment criteria we will use to assess applications for a direction. Applicants seeking a direction under SLC 11.3 should refer to this guidance.

⁵⁹ Gas Act s7A(8) - Although there is no corresponding provision in the Electricity Act. In order to protect customers and in line with our policy to align the gas and electricity markets wherever possible, we have extended this provision to apply to electricity supply licences.

⁶⁰ Where a gas network is exempt from the requirement to hold a gas transporter licence. For example, caravan parks or Local Authorities that supply gas to premises via their own private network.

⁶¹ More information on licence lite is available on our website (here: <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/licence-lite>), including our published guidance (here: https://www.ofgem.gov.uk/sites/default/files/docs/2015/04/licence_lite_slc_11.3_operating_guidance_0.pdf).

4.85. For the avoidance of doubt, it should be noted that the time period within which we aim to reach a decision on whether or not to grant an electricity supply licence does not include making any decision on whether or not to issue a direction under SLC 11.3. If the applicant wishes for the licence application to be considered in parallel with a request for a direction under SLC 11.3, tacit authorisation will not apply to the application.

4.86. A direction may also be made under SLC 11.1 in respect of compliance with the Grid Code and Distribution Code.

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5. Gas and electricity interconnector applications

Section summary

This section provides the applicant with information on the additional requirements for gas and electricity interconnector licence applications. This includes information on third party access and exemption from certain requirements and proposed points of connection.

Licence specific information and requirements

5.1. A gas interconnector licence allows the licensee to participate in the operation of a gas interconnector which is defined as:

- coordinating and directing the conveyance of gas into or through a gas interconnector; or
- making such an interconnector available for use for the conveyance of gas.

5.2. An electricity interconnector licence allows the licensee to participate in the operation of an electricity interconnector. This is defined as:

- coordinating and directing the flow of electricity into or through an electricity interconnector; or
- making such an interconnector available for use for the conveyance of electricity.

Third party access and exemption from certain requirements

5.3. We previously published a guidance document⁶² outlining the procedures that we intend to follow in respect of considering whether to switch on, or switch off, some or all relevant standard licence conditions of interconnector licences. This guidance was developed to provide information on our decisions which would give effect to an exemption from the EU legislation requiring third party access, but similar procedures would be followed to reflect our decisions to grant an exemption from other aspects of European legislation, or to grant a cap and floor regulatory regime to a specific project.

5.4. Interconnector licence applicants should refer to this guidance. The guidance:

⁶² https://www.ofgem.gov.uk/sites/default/files/docs/2005/04/electricity_and_gas_interconnector_licence_-_guidance_document_april_2005.pdf

- further describes the meaning of key concepts as detailed within the licence (such as participation in the operation of an interconnector),
- outlines the procedure that we intend to follow when assessing methodology statements,
- outlines the procedure that we will follow when considering whether to give an interconnector operator an exemption from certain requirements of the Gas Directive and Electricity Directive and Regulation, which are reflected in the gas and electricity interconnector licences, and
- should be read in conjunction with the standard licence conditions of the gas or electricity interconnector licence.

5.5. For the avoidance of doubt, it should be noted that the time period within which we aim to reach a decision on whether or not to grant an interconnector licence does not include making a decision on whether or not to grant an exemption from some or all of the relevant conditions mentioned above. It does also not include making a decision on whether to grant a cap and floor regulatory regime to a given project.

Proposed points of connection

5.6. In November 2007, we published an open letter clarifying our position regarding the requirement in the Electricity Application Regulations for licence applicants to specify the actual or proposed points of connection for a proposed interconnector.⁶³

5.7. Applicants must, wherever possible, specify the locations of the actual substations at which the interconnector will be connected to an electricity transmission or distribution network.

⁶³ <https://www.ofgem.gov.uk/publications-and-updates/27407-open-letter-interconnector-licence-application>

6. Gas transporter applications

Section summary

This section provides applicants with information on the additional requirements for gas transporter licence applications. This includes information relating to charges and financial ring-fencing provisions, and the safe operation of transportation systems.

Licence specific information and requirements

6.1. All gas transporters, other than the National Transmission System (NTS) and Gas Distribution Networks, are known as Independent Gas Transporters (IGTs).

6.2. For gas transportation licence applications, there is the extra step of us publishing a notice of intention to grant a licence setting out our reasons. The notice period for this is two months.⁶⁴

6.3. Where we receive representations about a proposal to grant a transporter licence we will consider whether they are relevant to our application assessment criteria and if necessary the application may be re-assessed.

6.4. Applicants for transporter licences should be aware that amongst other things, they must comply with the requirements to publish in plain and intelligible language statements setting out their obligations under their licence conditions relating to vulnerable customers.⁶⁵

Charges and financial ring-fencing provisions

6.5. Before granting an IGT licence, we propose to make modifications to standard licence condition 4A⁶⁶ prior to granting such licences. We will also look to insert a special condition⁶⁷ into the licence at grant. These two actions will mean the Relative Price Control (RPC) conditions are in effect from licence grant, in line with other existing Gas Transporter licensees.

⁶⁴ Gas Act s7(5)

⁶⁵ Conditions 17 and 18 of the Gas Transporter Licence.

⁶⁶ Obligations as regards Charging Methodology

⁶⁷ Charging of Gas Shippers – Relative Price Control.

6.6. Under the terms of the RPC mechanism, IGTs' charges are capped at a level that is broadly consistent with the charges that the Distribution Network would levy for providing similar gas transportation services.

6.7. Following grant of an IGT licence, we will also seek the licensee's consent to issue a Transportation Services Direction⁶⁸ to give effect to the financial ring-fencing conditions. As of March 2006, all IGTs have the financial ring-fencing conditions in effect in their licence following issue of Transportation Services Directions to those licensees. The financial ring-fencing conditions cover: restrictions on activity; the availability of adequate resources; an undertaking from their ultimate controller; the obtaining of a suitable investment grade credit rating; and indebtedness of the licensee.

Safe operation of transportation systems

6.8. We will, where appropriate, consult the Health and Safety Executive (HSE) about safety issues contained in information submitted by applicants for gas transportation licences. We will also consult the HSE about any other safety matters.⁶⁹ An applicant for a gas transporter licence is not required to submit information about the safe operation of its proposed system. However, we will take into account any comments made by the HSE about whether it considers the system can be operated safely.

SLC 8 (Provision and Return of Meters)

6.9. Applicants should note that once licensed, in order to comply with the requirements of this condition they will need to become an accredited Meter Asset Manager (MAM) or appoint a service provider who is accredited.⁷⁰

⁶⁸ As issued by the Authority with the consent of the licensee under standard condition 2 of the gas transporter licence. A Transportation Services Direction brings into effect, in whole or in part, the standard conditions in Section C of the gas transporter licence.

https://epr.ofgem.gov.uk/Content/Documents/Gas_transporter_SLCs_consolidated%20-%20Current%20Version.pdf

⁶⁹ Gas Act s4A(1)

⁷⁰ SPAA: <https://www.spaa.co.uk/Lists/SPAA%20Products%20Current/Schedule%2032%20-%20%20Meter%20Asset%20Manager%20Arrangements.pdf>

7. Electricity distribution applications

Section summary

This section provides applicants with information on the additional requirements for electricity distribution licence applications. This includes information relating to safety and security of supplies enquiry service, financial ring-fencing and alternative arrangements, and safe operation of distribution systems.

Licence specific information and requirements

7.1. All electricity distribution network operators other than the incumbent Distribution Network Operators (DNOs) are known as Independent Distribution Network Operators (IDNOs).

7.2. Applicants for distribution licences should be aware that amongst other things, they must comply with the requirements to publish in plain and intelligible language statements setting out their obligations under their licence conditions relating to vulnerable customers.⁷¹

Safety and Security of Supplies Enquiry Service

7.3. Applicants must, as part of their licence application, provide details of their proposed arrangements for compliance with SLC 8 (Safety and Security of Supplies Enquiry Service). These must be approved by us before a licence is granted.

7.4. During the assessment of the applicant's proposed arrangements for compliance, we will consider whether they demonstrate that:

- the service adequately differentiates between enquiries relating to security, availability and quality of service of the licensee's distribution system, or concerning danger or requiring urgent attention, and other enquiries. It is important to ensure that the efficiency of the service will not suffer due to large numbers of other enquiries; if any part of the establishment, operation, and maintenance of the service is to be procured from another organisation, the applicant must demonstrate that the contractual arrangements are adequate and the organisation has the capability to provide a satisfactory service
- the service should be available through a wide range of communication media. These must include telephone, correspondence and personal visits. It would also be desirable for them to include internet and e-mail facilities. All relevant

⁷¹ Conditions 9 and 10 of the Electricity Distribution Licence.

addresses and telephone numbers must be included in the statement⁷² required by SLC 8

- the service must provide a telephone response service that is able to receive and process reports and enquiries at all times. Where companies operate an automated telephone answering service, simple and swift access to an operator must be available at all times. The service shall include facilities that can be used by all classes of consumer, including the disabled and the elderly, and shall be free at the point of use; and, the service should be equally effective in responding to reports and enquiries that are received direct from consumers and those received via supply businesses.

7.5. The arrangements should not discriminate between reports and enquiries received via different suppliers.

Financial ring-fencing and alternative arrangements

7.6. Applicants must provide details of their proposed arrangements for compliance with the applicable requirements of any modifications that the Authority has indicated it proposes to make to the standard licence conditions prior to the granting of a licence.

7.7. In order to protect electricity customers, we propose to make modifications to the standard conditions of distribution licences prior to granting such licences. The modifications reflect the expectation that the standard conditions in Section B of the distribution licence will not be in effect for new applicants and that certain amended standard conditions will be inserted in an additional Section BA. The amended standard conditions refer to:

- the regulation of charging arrangements
- credit rating of licensee
- restriction on indebtedness and transfers of funds.

7.8. Following consultation on this proposed modification, we may modify the standard licence conditions in the applicant's licence to such extent as we consider requisite to meet the circumstances of the particular case.⁷³

7.9. The applicant will need to provide details of their proposed arrangements for compliance with these amended standard conditions as part of their application.

⁷² If the licence is granted, SLC 8.4 requires that the licensee must at all times have in force a statement approved by the Authority that sets out, in plain and intelligible language, details of the Safety and Security of Supplies Enquiry Service.

⁷³ Electricity Act s8A(2).

7.10. The Authority will need to be satisfied with the applicant's proposed arrangements to comply with SLC31 (Undertaking from Ultimate Controller) and amended standard condition BA3 (Credit Rating of Licensee).

7.11. We have published guidance⁷⁴ on alternative arrangements that might better suit the circumstances of smaller companies in complying with the proposed modified licence condition relating to the Credit Rating of the Licensee. We have also published a decision document⁷⁵ that sets out the appropriate long term regulatory regime for IDNOs and incumbent DNOs operating outside their distribution services area.

Safe operation of distribution systems

7.12. We will, where appropriate, consult the Health and Safety Executive (HSE) about safety issues contained in information submitted by applicants for electricity distribution licences. We will also consult the HSE about any other safety matters. An applicant for an electricity distribution licence is not required to submit information about the safe operation of its proposed system. However, we will take into account any comments made by the HSE about whether it considers the system can be operated safely.

⁷⁴ Financial Ring Fencing Alternative Arrangements for New Independent Distribution Network Operators, Open Letter, 29 July 2004

http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/8017_Alternative_arrangements_update_final.pdf

⁷⁵ <https://www.ofgem.gov.uk/publications-and-updates/regulation-independent-electricity-distribution-network-operators?docid=2&refer=Networks/ElecDist/Policy/IDNOs>

8. Electricity transmission applications

Section summary

This section provides applicants with information on the additional requirements for electricity transmission licence applications. This includes information on the extent of participation in transmission, standard licence conditions in transmission licences, and modification of a transmission licence.

Licence specific information and requirements

- 8.1. This guidance is not applicable to applications for offshore transmission licences.
- 8.2. For electricity transmission licence applications, there is the extra step of us publishing a notice of intention to grant a licence setting out our reasons. The notice period for this is 28 days.⁷⁶
- 8.3. Where we receive representations about a proposal to grant a transmission licence we will consider whether they are relevant to our application assessment criteria and if necessary the application may be re-assessed.
- 8.4. Information on the delivery of large onshore electricity transmission projects is available on our website.⁷⁷

Extent of participation in transmission

- 8.5. There is a single, licensed transmission system operator for GB.⁷⁸ Separately, other transmission licensees undertake 'transmission ownership' activities.⁷⁹
- 8.6. For applicants seeking to undertake transmission ownership activities, we will, in assessing an application, consider whether the activities the applicant wishes to undertake are currently undertaken by another transmission licensee in that particular area.
- 8.7. Where we intend to grant a licence to an applicant allowing transmission ownership activities to be undertaken in an area currently covered by another transmission licensee's

⁷⁶ Electricity Act s6B(3)

⁷⁷ <https://www.ofgem.gov.uk/electricity/transmission-networks/competition-onshore-transmission>

⁷⁸ https://www.ofgem.gov.uk/system/files/docs/2019/04/ngeso_consents_and_direction_letter_-_01.04.19.pdf

⁷⁹ Under S4 of the Electricity Act, reference to a person who participates in the transmission of electricity is to a person who (a) co-ordinates, and directs, the flow of electricity onto and over a transmission system by means of which the transmission of electricity takes place, or (b) makes available for use for the purposes of such a transmission system anything which forms part of it.

licence, we may seek to modify the incumbent transmission licensee's licence to remove that area from the incumbent's licence.

Competition in onshore transmission

8.8. Under the Competitively Appointed Transmission Owner (CATO) proposals for competition in electricity transmission,⁸⁰ Ofgem would grant new electricity transmission licences for the delivery of specified new, large electricity transmission projects following a competition. As part of the competition, Ofgem would assess bidders' proposals in detail in order to determine whether they could undertake the necessary functions to be awarded an electricity transmission licence. At the conclusion of the competition, the successful bidder would be awarded an electricity transmission licence for the relevant project. Ofgem is currently working with government to develop and enact the legislation necessary to underpin the CATO regime. When that legislation is in place, Ofgem will publish the detailed requirements and processes for granting a new electricity transmission licence following a competition.

Standard licence conditions in transmission licences

8.9. An applicant for a transmission licence will have conditions in effect in its licence according to the activities it plans to undertake. An applicant who wishes to act as a transmission owner will have the following sections in effect in its licence:

- Section A. Interpretation, application and payments
- Section B. General
- Section D. Transmission owner standard conditions.

8.10. The system operator will have the following sections in effect in its licence:

- Section A. Interpretation, applications and payments
- Section B. General
- Section C. System operator standard conditions.

Modification of a transmission licence

8.11. We will apply the same criteria when assessing an application for modification of an electricity transmission licence as those used in the assessment of an application for a licence. In addition, because it is important that any modification of an area does not affect the operation of the National Electricity Transmission System we will take into consideration

⁸⁰ <https://www.ofgem.gov.uk/electricity/transmission-networks/competition-onshore-transmission>

whether the proposed modification would affect persons connecting to the National Electricity Transmission System.

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9. Transfers, extensions, restrictions, modifications of area

Section summary

This section provides existing licence holders with information on transfers, extensions, restrictions and modifications of area.

Licence transfers

9.1. The Acts allow a licence to be transferred to another legal entity only with the consent of the Authority.⁸¹ Note that if the registered number of the licensee remains the same, but the persons/entities which own it change, then no transfer of the licence is necessary (because the licensee itself has not changed). The transfer process only applies if a licensee wishes to transfer the licence to a different legal entity.

9.2. Applications for consent to a licence transfer are not captured by the Application Regulations. However we apply the same considerations as if a new licence is being applied for.⁸²

9.3. Applicants for a transfer should submit a covering letter and a fully completed application form on behalf of the proposed new licence holder. The covering letter should set out clearly the existing licensee's details (as the transferor), the reason(s) for the transfer request, and the date you propose it to take place (subject to our consent).

9.4. As part of the application, in respect of the transferee's proposed arrangements to commence the licensable activity, we expect you to explicitly set out the transferee's arrangements to accede to the relevant industry codes, and arrangements in respect of the transferor's existing customers (if applicable).⁸³

9.5. Before consenting to transfer a licence, we are required by the Acts to consult (give notice) for a period of not less than two months.⁸⁴ Where we receive representations about a proposal to transfer a licence we will consider whether they are relevant to our assessment criteria and if necessary the application may be re-assessed.

⁸¹ S.8(AA) of the Gas Act 1986 and s.7(A) of the Electricity Act 1989.

⁸² Gas Act s8AA(6) and Electricity Act s7A(6).

⁸³ The relevant licence conditions will apply to the transferee immediately on the date of transfer and therefore all appropriate arrangements must be in place.

⁸⁴ Gas Act s8AA(9) and Electricity Act s7A(9).

9.6. Following the close of the notice period, subject to any representations and final checks we may undertake, we may issue consent to the transfer which will include the date the transfer is expected to take place.

9.7. There is no processing time period for transfers, however we endeavour to complete the process within a similar timeframe to that if it were a new licence application, plus allowance for the additional period required for consultation set out above.

Supply licence transfers

9.8. We expect suppliers to take all reasonable steps to ensure continuity of supply for each applicable customer on terms that are the same as, or as similar as possible to, the terms in place between the original licence holder and that customer immediately before the transfer is to have effect. Applicants for a transfer should provide us with information on how this will be achieved.

9.9. Suppliers wishing to transfer their licence should be aware of the need to comply with relevant licence conditions and provisions of consumer protection law which concern the transparency of information and changes to contracts. For example, in respect of domestic customers, this would include (but not be limited to) the need to consider compliance with the Consumer Rights Act 2015, the Standards of Conduct in SLC 0 and the provisions of SLC 23 of the supply licence which (amongst other things) cover advance notification about the ending of contracts, price increases and other changes to contractual terms that are to the disadvantage of a domestic customer.

9.10. Following the conclusions of our Supplier Licensing Review in 2019, supply licence applicants must provide information in respect of their entry plans, initial funding, and plans to comply with key customer service regulations. These requirements apply in the case of transfers however we will treat this information requirement proportionately, for example if the transfer is for a corporate restructuring within the group of an established supply company.

Extensions, restrictions and modifications of area

9.11. Certain existing licences can be modified in terms of the specified area or premises covered by the licence.

9.12. This includes for gas and electricity supply licences whether domestic premises can be supplied. An extension of a non-domestic supply licence to cover domestic premises is given effect through a Domestic Supply Direction.⁸⁵ Similarly, the Authority can on request direct that an existing domestic licence is restricted to non-domestic premises only.⁸⁶

⁸⁵ A direction issued by the Authority under paragraph 3 of standard condition 3 (Application of Section B of - standard conditions).

⁸⁶ All supply licences contain the non-domestic supply conditions.

9.13. For supply restrictions,⁸⁷ because it is important that any restriction does not leave consumers without a supply, we will check that proposals for ensuring continuity of supply are sufficient to:

- notify existing and affected consumers of the effects of any restriction
- secure alternative supply for affected consumers on the same terms as nearly as is possible to the existing contract
- ensure that any prospective supplier is licensed.

9.14. We will not grant an extension or restriction where, in our opinion, the description or area of the premises to be supplied would artificially include in the restriction or exclude from the extension, premises likely to be owned or occupied by persons who are chronically sick, have a disability, are of pensionable age, or are likely to default in the payment of charges.⁸⁸

9.15. In respect of network licences, because it is important that any restriction does not leave consumers without a connection we will check that the applicant's proposals for ensuring consumers remain connected are sufficient. We will therefore, when assessing an applicant's proposals to ensure consumers have a connection, check that the proposed arrangements are sufficient to:

- notify affected consumers of the effects of any restriction
- notify existing suppliers of the effects of any restriction
- ensure that arrangements have or will be made to secure alternative connection for affected consumers
- ensure that any prospective transporter or distributor is licensed.

⁸⁷ Supply licence restriction applications are not assessed against the supply licence specific criteria for new supply licences, transfers or extensions. However, we may request certain additional information if we consider it relevant to our decision.

⁸⁸ Gas Act s7A(8) - Although there is no corresponding provision in the Electricity Act. In order to protect customers and in line with our policy to align the gas and electricity markets wherever possible, we have extended this provision to apply to electricity supply licences.

10. Licence grants and refusals

Section summary

This section provides applicants with information on the granting of a licence, the process and potential reasons for refusing a licence, and the available appeals process.

Licence grants

10.1. If the results of our checks and assessment against all relevant criteria are satisfactory, the application notice period has expired, and there are no outstanding issues or questions arising from our assessment of the application, we will proceed to grant the licence.

10.2. We will issue a signed, sealed licence to your registered address (or principal place of business if you are not incorporated). We will also confirm the licence grant by email, provide you with a pdf copy of the licence, and publish a notice of licence grant on our website: <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/notices/application-notices>

After a licence is granted

10.3. You are expected to comply with the conditions of your licence from the date it is granted. The SLCs applicable to any licence we may grant you may be modified.

10.4. You are responsible for ensuring that you keep up to date on any changes to the SLCs and that you are in compliance. Notices of modifications can be found on our website at: <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/notices/modification-notices>. Consolidated licence conditions can be found at: <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/licence-conditions>

10.5. If you wish to learn more about how licence changes may happen, please contact us at licensing@ofgem.gov.uk.

10.6. We have the power under sections 28-30F of the Gas Act and sections 25-27F of the Electricity Act to take enforcement action for breach of your licence. More information on enforcement can be found on our website at <https://www.ofgem.gov.uk/investigations/ofgems-powers>

Licence refusals

10.7. We may propose to refuse an application where, amongst other things:⁸⁹

- the grant of a licence may conflict with our principal or general statutory duties
- any person(s) named in the application (or person with significant managerial responsibility) are disqualified to any extent from acting in connection with the affairs of a company
- any person(s) or entity named in the application (or person with significant managerial responsibility) are undischarged bankrupts, have been declared insolvent, or has unsatisfied county court judgment(s)
- any person(s) named in the application (or person with significant managerial responsibility) has an unspent criminal conviction
- any person(s) named in the application (or person with significant managerial responsibility) was directly involved in recent Ofgem compliance or enforcement action and/or triggered a Supplier of Last Resort event where there was material consumer detriment
- the applicant or any related person has previously had a licence application refused or a licence revoked
- we consider information supplied to be false or misleading
- the applicant has failed to provide sufficient information to satisfy us that they meet the relevant licence-specific criteria.

10.8. This is not an exhaustive list and is intended as guidance only. All applications will be assessed based on the facts and merits of the case.

10.9. Where we propose to refuse a licence application, the reasons will be given to the applicant in a notice which explains what further information, if any, is needed. The notice will:

- state that we propose to refuse the application
- state the reasons why we propose to refuse the application

⁸⁹ For the avoidance of doubt this is not intended to be an exhaustive list.

- specify the time within which representations may be made.

10.10. We will usually allow the applicant 21 days from the date of the notice to make representations about why it disagrees with our proposal to refuse the application and to provide further information if required. We will consider any representations which are made.

10.11. Should no representations have been made within 21 days of the notice, or if after considering any representations made, we are still of the view that the application should be refused, the applicant will be notified in writing of the decision to refuse the licence. The notification will:

- where no representations have been made, restate the reasons for the refusal of the application
- where representations were made, state the reasons for the refusal of the application, referring to the representations made where appropriate.

10.12. We will forward to the European Commission all refusals to grant gas licences together with the reasons given and details of any unsuccessful appeals.

10.13. If you do not agree with our decision, you can raise this with us through our complaints process. Information on how to make a complaint is available on our website: <https://www.ofgem.gov.uk/about-us/transparency/complaints-about-ofgem>

Prohibited names⁹⁰

10.14. We consider it important that consumers and other market participants are protected from any confusion which may arise from the naming of "phoenix" companies⁹¹ in the minority of cases where there is abuse of the phoenix company arrangements.

10.15. Where we suspect that an applicant may be using a prohibited name in breach of the Insolvency Act 1986 (as amended) we will liaise with the relevant Insolvency Practitioner and, where appropriate, the Insolvency Service. We will not grant a licence where there is a court decision⁹² that an applicant is using a prohibited name in breach of the Insolvency Act 1986 (as amended). In addition, we will usually wait for the final outcome of any court proceedings

⁹⁰ For the purposes of this section, a name is a prohibited name in relation to such a person if- (a) it is a name by which the liquidating company was known at any time in that period of 12 months, or (b) it is a name which is so similar to a name falling within paragraph (a) as to suggest an association with that company.' S216(2), The Insolvency Act 1986.

⁹¹ A phoenix company is where the assets of one Limited Company are moved to another legal entity. Often some or all of the directors remain the same and in some cases, the new company has the same or a similar name. The Insolvency Act makes it an offence for a director of a company which has gone into insolvent liquidation to be a director of a company with the same or similar name, or be concerned in its management, without leave of the court within 5 years after winding up or the exceptions set out in section 216 of the Insolvency Act.

⁹² Under the Insolvency Act there are certain exceptions on prohibited names and a court can grant leave making the use of a prohibited name lawful.

to determine that question and/or where a claimant has sought the leave of the court to use a prohibited name, before granting a licence to the applicant company.

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Appendices

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Appendix 1

Risk assessment template

| TIER 1 | Risk score | | |
|--|------------|------------|-------------|
| | Low (0) | Med (1) | High (3) |
| 1. Applicant/Parent/Ultimate Holding Company details | | | |
| <p>Are company details verifiable, consistent with public records, with no adverse information found? Is the applicant VAT registered?</p> <ul style="list-style-type: none"> <i>Low = All details match company registry (including named directors/shareholders/controllers), company is active with up to date filing and no insolvency history, relevant contact details provided, VAT registration confirmed</i> <i>Med = Company is dormant or filing/accounts are overdue, frequent or recent changes in company history, minimal contact details/contact details not publically available</i> <i>High = Unable to verify multiple details, inconsistencies/omissions, evidence of insolvency history, VAT registration not verified</i> | | | |
| 2. Proposed arrangements to commence licensable activity | | | |
| <p>Has the applicant demonstrated a plan to commence the licensable activity, with a clear timeline and relevant arrangements described?</p> <ul style="list-style-type: none"> <i>Low = Clear outline of relevant activities/arrangements, with key milestones and reasonable/imminent timeframe</i> <i>Med = Some detail but with omissions and/or unclear timings</i> <i>High = Insufficient detail to understand how or when the applicant intends to commence the activity</i> | | | |
| 3. Licence/application history | | | |
| | | | |

| | | | |
|---|--|--|--|
| <p>Does the applicant or related person have any related revocations or refusals, or other potentially adverse licensing history?</p> <ul style="list-style-type: none"> • <i>Low = No</i> • <i>Med = Reasons for any past revocations/refusals not directly relevant or significant time elapsed; multiple licensees with unclear relationship</i> • <i>High = Previous/recent revocations/refusals relevant to decision, other adverse licensing history</i> | | | |
| 4. Suitability to hold a licence | | | |
| <p>Adverse information disclosed or discovered in respect of applicant, any person named in the application, or person with significant managerial responsibility or influence:</p> <ul style="list-style-type: none"> - Criminal convictions - Director disqualifications - Insolvency/bankruptcy/ debt judgements - Supplier of Last Resort events - Compliance/enforcement history - Refusal/revocation/restriction/termination/disciplinary by any other body - Competition infringements - Other adverse information brought to attention during application process <ul style="list-style-type: none"> • <i>Low = No adverse information</i> • <i>Med = Adverse information but not directly relevant / significant to application</i> • <i>High = Adverse information relevant to application</i> | | | |
| 5. Licence specific criteria/information | | | |
| <p>If applicable: Has the applicant met the licence specific criteria?</p> <p><u>If the application is for a supply licence</u>, has the applicant demonstrated:</p> <ul style="list-style-type: none"> - proof of financial resources to enter the market - understanding of energy market costs, including government schemes - awareness of risks and a plan to manage/mitigate these - operational capabilities with awareness of the impacts of growth - knowledge and understanding of customer service duties under the licence - intent/ability to put in place relevant systems, policies and procedures to comply with those duties | | | |

| | | | |
|---|--|--|--|
| <ul style="list-style-type: none"> • <i>Low = Information is adequate and no significant risks identified</i> • <i>Med = Information is borderline or clarifications needed; some areas of elevated risk recorded</i> • <i>High = Inconsistencies, omissions, and/or adverse information relevant to application; failure to demonstrate that criteria are satisfied, evidence of 'template' responses provided, and/or significant risks identified</i> | | | |
| Total | | | |

| TIER 2 <i>Risk score allocation applicable where information is requested</i> | Risk score | | |
|--|--------------------|--------------------|---------------------|
| | Low (0) | Med (1) | High (3) |
| Copies of official documents | | | |
| <ul style="list-style-type: none"> • <i>Low = Documents provided/verified</i> • <i>Med = Documentation incomplete but no significant risk identified</i> • <i>High = Documentation not provided or shows inconsistencies/omissions</i> | | | |
| Progress with relevant industry codes | | | |
| <ul style="list-style-type: none"> • <i>Low = Evidence of substantive contact/progress with code accessions</i> • <i>Med = Minimal evidence of contact</i> • <i>High = No progress made toward code accessions</i> | | | |
| Applicant's Bank/Solicitors/Auditors | | | |
| <ul style="list-style-type: none"> • <i>Low = Verifiable details provided</i> • <i>Med = Unable to verify details but no significant risk identified</i> • <i>High = Not provided or inconsistencies/omissions</i> | | | |
| Ofgem interview with provision of additional documentation/information | | | |
| <ul style="list-style-type: none"> • <i>Low = Applicant is open and proactive in respect of all issues, additional documentation reviewed is satisfactory</i> • <i>Med = Lower risk issues identified/ remain unresolved</i> • <i>High = Applicant fails to co-operate, significant issues/concerns remain unresolved</i> | | | |
| Total | | | |

NOTES:

1. An application may be escalated to Tier 2 where the Tier 1 risk assessment score is 3 or above.
2. For Tier 2, the specific information / documentation requested and the requirement to attend an interview, will be decided on a case by case basis, depending on specific areas

and degree of risk identified.

3. If the application is escalated to Tier 2 a further risk score will be applied against the Tier 2 criteria.
4. We will also re-evaluate the Tier 1 risk score as applicable based on any additional information provided.
5. If the risk score remains 3 or above following the Tier 2 assessment, the application may be refused.
6. Any costs associated with applying for a licence are at the applicant's expense and will not be reimbursed by Ofgem.
7. For the avoidance of doubt, applications may be refused at Tier 1.

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Appendix 2

Version history

| Version | Comments | Publication date | Effective date |
|---------|---|------------------|----------------|
| 1.0 | New guidance document published following Supplier Licensing Review (Entry) final proposals | Xx xxx 2019 | Xx xxx 2019 |
| | | | |
| | | | |

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