

Consultation

Offshore Transmission Owner (OFTO) End of Tender Revenue Stream – Consultation concerning policy development

Publication date:	11 March 2021	Contact:	Stephen Taylor
		Team:	Networks
Response deadline:	13 April 2021	Tel:	020 3263 9936
		Email:	offshorelicensing@ofgem.gov.uk

Following informal discussions with stakeholders, we are now consulting on several proposed positions in connection with the end of tender revenue stream policy for offshore transmission owners (**OFTOs**). This consultation is not exhaustive, and we are continuing to consider stakeholder feedback on additional items which will be subject to future discussion. The consultation sets out our initial thoughts and seeks views from across industry. This is an important first step in the process and we expect this will lead to a further, more detailed consultation in late 2021.

We are consulting on the possibility of extending the regulatory revenue period and how any such process should be operated. We are seeking views from people with an interest in offshore wind, network coordination, and offshore coordination. We welcome responses from consumer groups, charities, new entrants to the industry, other stakeholders and the public.

Once the consultation is closed, we will carefully consider all responses. We want to be transparent in our consultations, and will publish the non-confidential responses we receive alongside a decision on next steps on our

website at [Ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations). If you want your response – in whole or in part – to be considered confidential, please tell Ofgem in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential and if possible, put the confidential material in separate appendices to your response.

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Foreword

Great Britain currently has around 10GW of offshore wind generation connected to the electricity system. In March 2019, the government announced its ambition to put in place 30GW of offshore wind by 2030 as part of the Offshore Wind Sector Deal, and in October 2020 this ambition was raised to 40GW by 2030. The Committee on Climate Change (**CCC**) has also indicated that to become a net zero economy could require 75GW by 2050.¹ The efficient delivery and operation of transmission assets for offshore wind projects forms a core part of the strategy for reaching these objectives in the most cost effective manner.

The Department of Energy and Climate Change (**DECC**)² together with Ofgem³ developed a regulatory regime to facilitate the construction and operation of offshore transmission assets when it was an emerging sector. Under the regime, Ofgem runs a competitive tender process to select and licence Offshore Transmission Owners (**OFTOs**)⁴. Since establishing the legal framework in June 2009, we have awarded 21 OFTO licences, comprising an investment of circa £5.7 billion in offshore transmission. The regime has been highly effective in providing excellent value for money for consumers and driving competition. We expect that there will continue to be more offshore transmission assets coming forward for tender in the future.

For all projects to date, the offshore wind farm developer originally designed and built the offshore transmission assets. Following a rigorous tender process,

¹ See: <https://www.theccc.org.uk/wp-content/uploads/2019/05/Net-Zero-The-UKs-contribution-to-stopping-globalwarming.pdf>.

² Now the Department for Business, Energy, and Industrial Strategy (**BEIS**).

³ The Office of the Gas and Electricity Markets Authority (the **Authority**) is the regulator of gas and electricity markets in Great Britain. Ofgem is the Office of Gas and Electricity Markets, which supports the Authority in performing its statutory duties and functions. For ease of reference, Ofgem is used to refer to Ofgem and the Gas and Electricity Markets Authority in this document.

⁴ This process is run by Ofgem under the Electricity Act 1989 (the **Act**) and regulations made under the Act which underpin the regime.

they were transferred to the successful OFTO, which is responsible for the operation, maintenance and decommissioning of the assets in exchange for their tender revenue stream (**TRS**). The TRS is guaranteed for a fixed period, known as the regulatory revenue period; this is set when Ofgem grants the OFTO licence.

We are now considering the policy and process for the end of the regulatory revenue period, whether extensions to the regulatory revenue periods should be granted, whether assets could be re-tendered, and whether a new tender revenue stream should be established. This consultation looks at the main elements to be considered in developing these policies and processes.

The scope of this consultation complements our work on the Offshore Transmission Network Review (**OTNR**) that was launched by the Department of Business, Energy and Industrial Strategy (**BEIS**) in July 2020. As part of that review, Ofgem is looking at whether and how offshore wind connections could be better coordinated to deliver the government's ambition whilst minimising social and environmental impacts. We recently published an open letter⁵ with BEIS inviting stakeholders to make contact if they wished to develop coordinated offshore energy infrastructure in the near to medium term and felt unable to do so as a result of the existing legislative or regulatory frameworks. This is part of a programme of work in which we are considering what changes would be necessary and appropriate to make to the existing frameworks to facilitate greater coordination in the interests of consumers. We do not consider that any of the proposals set out in this consultation would negatively impact upon our parallel work to develop coordinated infrastructure. However, if respondents disagree, they should make this clear in their responses.

⁵ https://www.ofgem.gov.uk/system/files/docs/2020/12/open_letter_response_final_0.pdf

Executive Summary

- 1.1. Ofgem proposes to focus first on the projects licensed under tender round one (**TR1**, from 2011 to 2014), but expects the main policy positions will be applied consistently to all licences granted under the offshore transmission regime. The first TR1 project is now around 10 years old and will reach the end of its regulatory revenue period in 2030. Although this is still nine years away, we consider that it is prudent, given the long project and investment lead times for offshore wind projects, to begin to make key policy decisions in the next twelve months, so that efficient economic and project planning can take place.
- 1.2. The overarching policy framework seeks to address three key elements, designed to ensure that any extensions to the regulatory revenue periods remain economic and efficient, and in the best interests of electricity customers.
- 1.3. The first element is to identify whether each generator wishes to continue to generate beyond the existing regulatory revenue period. This decision will indicate whether there is a continuing need for the OFTO assets and whether extensions should be pursued by Ofgem. The extent of confirmation/representation required from the developer to proceed with any extension of revenue term will be considered on a case by case basis. If no clear requisite indication is given by the relevant generator, we will have no choice but to compel decommissioning of the OFTO assets at the end of their regulatory revenue period.
- 1.4. The second element is an assessment of the condition of the OFTO assets to forecast their reliability beyond the original revenue period. To keep the assets safe and reliable may require further investment in the form of additional maintenance or replacement parts. These costs will be an

important factor in calculating the overall cost to electricity consumers of an extension.

- 1.5. The final element is an assessment of whether there is a viable investment market for OFTO ownership in the extension period to drive an economic and efficient process, or whether alternative mechanisms need to be explored by Ofgem. Ofgem's preference is to maintain a competitive process for the allocation of future regulatory revenue periods wherever appropriate.
- 1.6. Ofgem has had informal discussions in recent months with stakeholder groups involved in the TR1 projects, and with wider industry, to gather early views on these three key elements. Stakeholders have reacted positively to each of the three key elements and consistently with the stakeholder views reported to The Crown Estate in its recent research on a similar subject matter.
- 1.7. Our aim now is to gain a broader and deeper understanding of the main issues that could arise, so that we can address these and reduce the overall risk to electricity consumers. In this document we present questions on, and some proposed solutions to, a number of the issues we have identified thus far. These include:
 - whether extending offshore transmission system regulatory revenue periods is in the best interests of electricity consumers;
 - the different extension options; and
 - how to establish an economic and efficient revenue stream in any potential extension period.
- 1.8. Please note that the future extension policy remains in a draft stage of development. Views expressed and evidence submitted in response to this consultation will influence the development of policy in this area. We

urge anyone with an interest in the issues to take this opportunity to share your thoughts with us and contribute to the final policy.

2. Introduction

- 2.1. In tender round one (**TR1**), Ofgem issued nine OFTO licences between March 2011 and November 2014. Eight of these established regulatory revenue periods for 20 years, with the ninth revenue period set for 18.5 years. Many of these projects are now approaching the halfway point and we consider this is an appropriate moment to begin considering whether extensions to the revenue periods might be appropriate. We are looking to make significant progress on this issue over the next 12 months.
- 2.2. Over the last six months, Ofgem has held initial conversations on this issue with more than twenty different organisations including developers, OFTOs, BEIS, Operations and Maintenance (**O&M**) companies and insurers, to understand their concerns and aspirations. We have also met with The Crown Estate, who have recently issued a questionnaire of their own in relation to end of licence and decommissioning issues⁶.
- 2.3. Where appropriate we will utilise market and wider insights to ensure that our policy is based on the views of interested parties in the offshore wind industry.
- 2.4. The following sections explore the three main policy elements that we have considered to date, namely:
- if extending OFTO revenue periods is in the best interests of electricity consumers;
 - the different extension options; and

⁶ For efficiency we have sought to gain additional insight from liaising with The Crown Estate about responses to their recent consultation, to eliminate repetition and ensure that new insights are gained from our current consultation.

- how to establish an economic and efficient revenue stream in the extension period, including some of the main elements to be included.

2.5. We note that other areas raised at our initial stakeholder meetings have not been included as part of this consultation. These areas are complex and have wider licence and regulatory ramifications. Ofgem is currently working on these areas with our technical, legal and financial advisers, and will then consider the next relevant steps. These areas include:

- the ability to quantify scrap, tax losses and/or land leases, and what role these items could have in determining an 'asset value' of the existing OFTO assets;
- whether to adjust the availability incentive target (98%); and
- specific project considerations surrounding the transfer of OFTO assets.

2.6. Ofgem will also need to ensure that any policy positions are consistent with the current and future legislative framework including, but not limited to, procurement legislation, where applicable.

3. Consultation policy questions

3.1. This section sets out the background to the policy areas, any relevant Ofgem views, and the questions on which we are consulting. Any views expressed by Ofgem are preliminary and subject to development, including in response to this consultation. We therefore ask that any views expressed are supported with examples and, where possible, relevant evidence.

Section 3.1: Establishing whether extending offshore transmission system regulatory revenue periods is in the best interest of electricity customers

3.2. Ofgem commissioned engineering consultancy Arup to complete a report in August 2012,⁷ including a chapter on the lifespan of wind farm assets and transmission assets. The overall conclusions were:

- transmission assets are very likely to last up to 25 years, with several components (such as cables) having lifespans of at least 40 years;
- wind farms are likely to need significant investment or replanting⁸ after 20 years;
- for both sets of assets there are several lifecycle items (for example battery systems, communications software, and protection and control systems) which have a lifespan of less than 10 years;

⁷<https://www.ofgem.gov.uk/sites/default/files/docs/2012/11/arup---technical-support-for-the-enduring-regime.pdf>

⁸ Replanting a windfarm requires the complete removal of the wind towers or in some cases only the top side generation units being replaced on the existing foundations.

- there is greater certainty in the estimates for transmission cables, as there is a precedent from onshore transmission systems and offshore platforms; and
 - at the time (in 2012), there was uncertainty around the likelihood of wind farm assets operating beyond 20 years.
- 3.3. Our understanding from discussions with interested parties and technical experts over the last six months is that extending wind farm lifetimes might well be viable; that the likeliest period for a wind farm extension ranges from five to eight years; and that the additional investment needed in offshore transmission systems to match those extensions is likely to be relatively modest (estimated to be up to £5m) for Tender Round 1 projects.
- 3.4. We propose that the first step for generators would be to commission and fund a health review of the wind farm assets, to see what condition the asset are in, what investment might be needed to extend their lifetime, and the optimum length of extension. After confirmation of the generation assets' viability, we propose that there would be an equivalent review of the offshore transmission assets (offshore platform(s), subsea cable(s), onshore substation(s) and onshore cable(s)). We consider that there could be a significant benefit to generators in having access to this information about the OFTO assets. Given this, and the generators' ability to control the timing of generation outages, we propose that the health reviews of the offshore transmission assets should be commissioned and funded by the generator connected to them.
- 3.5. Stakeholders have indicated that substantial lead times will need to be built into the generation and OFTO asset evaluation process, to allow generators to submit extension proposals based upon the level of additional investment and works needed to continue to operate, and allow Ofgem adequate time to evaluate those proposals. In addition, should an

extension be approved by Ofgem, then time will be needed to procure equipment, and schedule and perform the required works on both the generation and OFTO assets.

- 3.6. In order to schedule in the relevant lead times, we consider that it would be appropriate for the generation asset health reviews to be completed by the point where OFTO regulatory revenue periods have five years to run, and for the transmission asset health reviews to be completed by the point where the OFTO regulatory revenue periods have four years left to run.

Q1: should asset health reviews be carried out on generator assets no later than five years before the end of the revenue stream, with the health review for the offshore transmission assets following shortly after that? If no, please set out alternative timelines and reasoning.

Q2: should generation and transmission health reviews be carried out by the generators, but informed and agreed by OFTOs and Ofgem, given that generation is likely to be the main driver for any extension? If not, please provide reasons.

Q3: should generators pay for their own health reviews and those of the associated transmission assets? Please provide reasons for your response.

Q4: what sort of confirmation/guarantee/representation of the intention to extend would developers envisage giving? What would this be subject to?

Section 3.1.1: Further Investment

- 3.7. Based on asset health reviews, there may be a need to further invest in the OFTO assets, to ensure that these can continue to operate beyond the existing regulatory revenue period. Stakeholders have identified different ways in which this additional investment could be paid for:
- 3.7.1. Investment that could wait until the extension period could be delayed and included in any future revenue stream of the OFTO licensee.
 - 3.7.2. Additional investment that is needed prior to the end of the existing regulatory revenue period, as a direct result of the decision to extend rather than decommission, could be paid for by the incumbent OFTO licensee. This additional investment could then be recovered by an adjustment to the existing tender revenue stream over the remaining regulatory revenue period.
 - 3.7.3. An alternative mechanism, could be to require generators to pay for the additional investment, given the upside financial gain received by generators from an extension. This would reduce the impact on electricity consumers.
 - 3.7.4. Where the costs of the investment could not be fully recovered (due to the scale of investment or timing of installation) before the end of the original regulatory revenue period, consideration would need to be given.

Q5 – should the incumbent OFTO or the generator be responsible for any further investment required to enable an extension of the regulatory revenue period?

Section 3.2: Extension options

- 3.8. We consider that competition can be one of the best ways to drive through efficiency improvements and cost reductions for the benefit of consumers. Early analysis carried out by independent economic consultants estimated that competitive tenders saved up to £1 billion in the first three tender rounds alone. We will, however, need to balance the largely fixed costs of running a tender against the potential savings from competition, particularly for smaller projects with relatively low tender revenue streams and profits. This will not necessarily be the outcome for later tender rounds where the projects become progressively larger.
- 3.9. In the event that retendering the assets is appropriate, we would need to ensure that any retendering process is fair and that mechanisms are put in place by Ofgem to ensure that incumbent OFTOs do not enjoy an unfair advantage.
- 3.10. In terms of timetabling, we propose that Ofgem would confirm a minded-to position after consultation with the generator and OFTO, four years before the end of the existing regulatory revenue period, outlining the length of any further revenue period and any further investment required.
- 3.11. We also propose that Ofgem would be in a position to issue final decisions on these issues two years before the end of the existing regulatory revenue period. This will ensure that any assets which are not to be extended can still meet the required decommissioning requirements.
- 3.12. If a further regulatory revenue period is granted, Ofgem will then initiate the required process, considering all relevant information available at the time.
- 3.13. If an extension to the regulatory revenue period is granted there will be a need to consider the length of this extension. The length will be based on

the evidence attained by the asset health reviews and balanced with the overall risk to electricity consumers. Stakeholder views on extensions range from one year to fifteen years and over multiple extension periods.

Q6 – should the tender revenue period be extended with the incumbent OFTO, or licences retendered through open competition?

Q7 – do you consider that there is a threshold to be met to determine which approach to be taken (if there is to be any further regulatory revenue period at all)? For example, the extension period is above a certain number of years, or the tender revenue stream is above a certain value?

Q8 – where retendering takes place, what safeguards or mitigations would need to be implemented to enable bidders to be comfortable about the level playing field between incumbent OFTOs and other bidders?

Q9 – are the timelines proposed practical? Do any of the timings need to be extended or reduced, and if so, why?

Q10 - should there be only one extension period granted, or do you think that if the process is established, that more than one extension could be possible for the same OFTO asset?

Section 3.3: The tender revenue stream for any further regulatory revenue period

3.14. The tender revenue stream (**TRS**) under existing licences largely reflects the cost of purchasing the offshore transmission assets and the need to repay the lenders that financed the asset purchase. Other factors contributing to the TRS include maintenance and repair of the assets, and

insurance. Given the predicted asset lifetime and correlation to the current regulatory revenue period, our expectation is that the transmission assets will have no residual value after this time but may include a scrap value. Our March 2009 consultation, for tender round one projects, stated that 'at the end of the 20-year revenue stream the OFTO assets would be fully depreciated and revenues to the OFTO would cease'.

3.15. We have currently identified two different cost mechanisms that could be used in any further regulatory revenue period to award an economic and efficient tender revenue stream for OFTO licensees.

3.16. The first mechanism is the "building blocks" method which would involve costs such as: the operation and maintenance of transmission assets; insurance; actions required to extend the lifetime of the assets (depending how the investment was raised); tax; leasehold costs; and any additional expenditure needed to maintain⁹ the same level of decommissioning reserves.

3.17. While we understand that insurance costs may be higher in this period, our expectation is that overall costs in the extension period should be considerably lower than those in the current regulatory revenue period, and that it should therefore be possible to obtain a significantly lower revenue stream in any further revenue period. This should help pass on the benefits of extensions to consumers.

3.18. The second cost mechanism could be a "cost plus" method, where costs previously forecasted by the OFTO and agreed by Ofgem in the previous

⁹ Any additional costs would be to maintain the existing levels or requirements during the extension period and not to reduce existing perceived shortfalls. There may be also a need to remove further assets that have been installed during the extension period which could increase overall decommissioning costs.

period are reimbursed plus a measure of return based on a detailed cost assessment and evaluation of economic and efficient expenditure. This method would involve a more frequent and in-depth engagement between the OFTO licensee and Ofgem. This would allow for greater flexibility and allow the overall cost profile to be more closely monitored, and the extension period to be reviewed at more periodic intervals, for example 24 or 36 months.

Q11 – we would welcome your views on which of the proposed cost mechanisms (“building blocks” or “cost plus”) you consider would be more appropriate for establishing a revenue stream for the extension period, or if an alternative should be considered?

Q12 – should there be a set cost mechanism for determining the TRS for any future regulatory revenue period across all projects? Or should the cost mechanism be determined on a project by project basis, depending on the required extension length and risk profile?

Q13 – are there any additional cost elements that you think should be considered when Ofgem is calculating the tender revenue stream for a further regulatory revenue period?

Q14 - what market value (if any) do you think the OFTO assets will represent at the end of the regulatory revenue period? What are the component parts of this value?

Section 3.3.1: Decommissioning fund

3.19. Each OFTO must establish a fund sufficient to decommission the transmission assets at the end of the regulatory revenue period. This requires the OFTO to carry out the decommissioning work as soon as reasonably practicable following the conclusion of the regulatory revenue

period. If the amount held in the decommissioning fund exceeds that required, the OFTO may recover the difference. However, if the decommissioning costs turn out to be greater than projected, the OFTO will continue to be liable for the shortfall, despite the end of the revenue stream.

3.20. OFTOs are required under the Energy Act 2004 to submit their initial decommissioning programmes to the Department for Business, Energy and Industrial Strategy (**BEIS**)¹⁰ or The Crown Estate¹¹, and to re-submit these after eight to nine years of operation. We understand that the first three TR1 OFTOs have already submitted their plans to The Crown Estate. It is a requirement for OFTOs to identify the costs of decommissioning in full and to ensure that sufficient monies are placed into the relevant reserve between year ten and the end of the regulatory revenue period.

3.21. If the decision is taken by Ofgem to extend the regulatory revenue period with the incumbent OFTO, then our expectation is that the OFTO would continue to hold the decommissioning fund along with the associated liability, and that any adjustments needed to the level of the fund (as a consequence of the delayed decommissioning date, or any new plant or equipment requiring to be decommissioned as a result of the extension) would be factored into the revenue stream for the extension period.

3.22. If, however a new revenue period is granted to a new OFTO licensee, then we consider that the decommissioning fund held by the incumbent OFTO

¹⁰ The BEIS March 2019 guidance can be reviewed at the following link:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916912/decommissioning-offshore-renewable-energy-installations-energy-act-2004-guidance-industry_1_.pdf

¹¹ Submission is required to The Crown Estate for earlier sites – those consented prior to June 2006 (referred to in section 4.23 of the link above) where security may be held directly by The Crown Estate and there may be a different frequency of review of decommissioning programme.

would be transferred across to the incoming OFTO, as they will inherit the responsibility and liability for decommissioning under the Energy Act 2004. We expect that in this event, bidders would want to confirm that all the decommissioning costs have been fully funded at the end of the regulated revenue period and will be transferred. Independent evidence of the adequacy of the funding arrangement and the expected costs would be likely required at this stage.

Q15 – do you agree that decommissioning funds and liability should be transferred across in full to any new OFTO?

Q16 – do you expect decommissioning costs to be higher after the period of an extension or similar to those expected after the initial regulatory revenue period?

Section 3.3.2: Financial Security

3.23. Under amended standard condition E12-J4 of their licence, OFTOs are required to procure an amount equivalent to 50% of their annual regulatory revenue stream as financial security, four years prior to the end of the revenue stream, to cover any availability liabilities due following significant outages in the last five years of the regulatory revenue period.¹² At the conclusion of the revenue period the incumbent OFTO may withdraw the amount placed in the financial security, after deducting any availability liabilities due at that time.

3.24. If a further revenue period is awarded, similar arrangements would need to be put in place for the conclusion of the new revenue stream, as

availability liabilities could be due at the end of the extension period in the same way.

3.25. Ofgem's view would be that any outstanding availability liabilities would be required to be settled with the ESO (Electricity System Operator) at the end of the original regulatory revenue period.

3.26. The OFTO (whether incumbent or new) would then need to make the necessary adjustments to the financial security (required by amended standard condition E12-J4) so that it has sufficient funds to cover any availability liabilities outstanding at the end of the further regulatory revenue period. It is anticipated that the value of the security would be lower because of a likely lower TRS value; we consider it appropriate that the level of cover would remain at 50% of the indexed linked TRS value. This is a position consistent with that taken for the most recent OFTO tender rounds.

Q17 – do you agree that, in the event of an extension, the incumbent OFTO should pay any availability liabilities due at the end of the original regulatory revenue period?

Section 3.3.3: Insurance

3.27. Stakeholders have indicated that the insurance market has hardened in recent years, and that a number of the tender round one OFTOs have lost full (LEG3¹³ or equivalent operational all-risk) insurance cover.

¹³ London Engineering Group 3. A LEG3 exclusion, excludes the 'improvement consequences' of a defect. The London Engineering Group Model 'Improvement Consequences' Defects Wording for the LEG3/06 exclusion is as follows:

"The Insurer(s) shall not be liable for: All costs rendered necessary by defects of material workmanship design plan or specification and should damage (which for the purposes of this exclusion shall include any patent detrimental change in the physical condition of the Insured Property) occur to any portion of the Insured Property containing any of the said defects the cost of replacement or rectification which is

Furthermore industry feedback is that there has been further difficulties in obtaining LEG3 or equivalent insurance in the current insurance market.

3.28. We acknowledge that this could suggest implications for insurance during any extension period and hence impact the ability of OFTOs to meet repair costs in the event of major failures during any such extension period. Even in cases where operational all-risk insurance cover is obtained, it is possible that this cover may be considerably more expensive than it was during the original revenue period. Consequently, the cost of insurance may become an increasingly large component of the revenue stream during any extension period.¹⁴

3.29. One approach here might be to allow OFTOs to decide how best to insure their assets during the extension period, while meeting any minimum legal requirements (including under relevant leases and consents). If they do choose to take out operational all-risk insurance cover in this period, this would presumably be more expensive, but they would have greater protection in the event of a failure. If, however they chose to take out lower cover, this may be cheaper, but they would have limited protection for events on the assets and bear that risk.

3.30. An alternative option could be for OFTOs and the insurance industry to find a wider solution where (for example) cable insurance risk might be removed entirely through the creation of a mitigation portfolio product administrated by a third party. The insurance market could perhaps

hereby excluded is that cost incurred to improve the original material workmanship design plan or specification.[...]"

¹⁴ We note that the OFTO licence, when specific conditions are met, may offer a revenue adjustment for costs incurred due to latent defects that were, or became, effectively uninsurable for the OFTO. As already stated, however, an award under this condition is subject to specific conditions being met and cannot be guaranteed. OFTOs are also required to undertake all reasonable efforts to regain full insurance. Where such a claim is granted under the licence, due to the complex nature of faults, and the timescales surrounding OFTO charging adjustments with the system operator, there would necessarily be a delay between repair costs being incurred and any successful award being made.

provide capacity, including a coordinated spares and repair framework agreement with vessel operations on standby at pre-agreed rates. This option could promote fair competition where the operations and maintenance of the OFTO assets during the extension period are the only cost drivers of the tender revenue stream.

Q18 – are there any indications that insurers are willing to reinstate LEG3/06 exclusion clauses or equivalent (where this has been removed) after a period without further failure events? If so, how long might that period be?

Q19 – noting the difficulty of forecasting the insurance market, what are your views on the likely availability and cost of LEG3/06 exclusion clauses (or equivalent) for the period of any further revenue period?

Q20 - is there a need to move away from LEG3/06 (or equivalent) insurance clauses in any further revenue period due to the age, suitability, and specific nature of this type of cover for ageing assets?

Q21 – do you consider that a more centralised solution for cable insurance risk might be required? Why? Would this bring confidence back to the insurance market and attract new investors to the OFTO extension asset class?

Q22 - would operating the OFTO assets with minimal insurance to first failure be a viable option for higher risk assets with uncertain futures?

Q23 - are you currently exploring or investigating any other potential models or approaches to insurance that maybe appropriate for an OFTO asset during any further revenue period?

4. Conclusion

- 4.1. The need for the end of regulatory revenue period policy to be delivered swiftly is not in question by the industry or Ofgem. However, sufficient time is needed to afford a proper discussion of the many complexities of each of the OFTO licences that have been granted since 2011.
- 4.2. This consultation delivers preliminary proposals and raises questions about several prominent areas in developing the policy. Following further work, both issues central to this consultation, and additional complex areas that are not included here, will, as necessary and appropriate, be the subject of future consultation.
- 4.3. To help you in your response, all of the questions asked within the consultation have been collated in Appendix 1.

5. The next stages

- 5.1. This consultation closes on **13 April 2021**. All responses should be sent by this date to offshorelicensing@ofgem.gov.uk. We will publish summaries of the non-confidential feedback we receive and any updates on the issues covered in a further publication in **July 2021**. We will continue to engage with the interested parties throughout this period and would welcome further bilateral meetings with interested parties.

- 5.2. Our expectation is therefore that in **November 2021** we will publish a further consultation on the final end of tender revenue stream policy framework that we expect to use going forward when OFTO licences reach the end of their tender revenue streams from 2030.

6. Your response, data, and confidentiality

You can ask Ofgem to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give Ofgem explicit permission to disclose. If you do want Ofgem to keep your response confidential, please clearly mark this on your response and explain why.

If you wish Ofgem to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.

If the information you give in your response contains personal data under the General Data Protection Regulation 2016/379 (**GDPR**) and domestic legislation on data protection, the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 4.

If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

6.1. General Feedback

We consider that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:

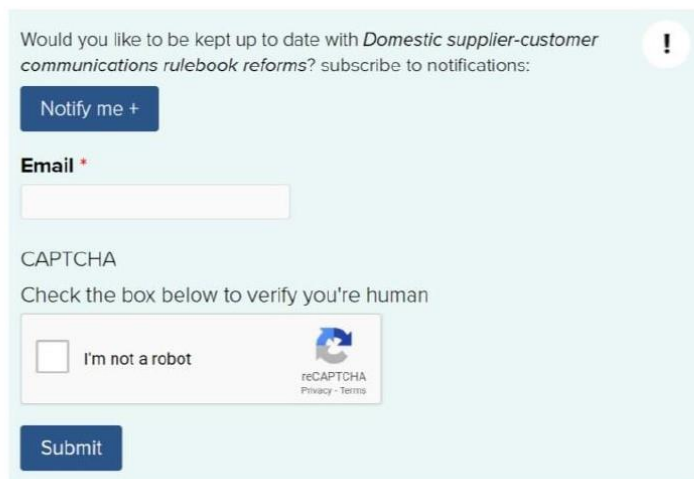
1. Do you have any comments about the overall process of this consultation?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Any further comments?


Please send any general feedback comments to stakeholders@ofgem.gov.uk

6.2. How to track the progress of the consultation

You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website. www.Ofgem.gov.uk/consultations

Notifications




Would you like to be kept up to date with *Domestic supplier-customer communications rulebook reforms*? subscribe to notifications: 

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Once subscribed to the notifications for a particular consultation, you will receive an email to notify you when it has changed status. Our consultation stages are:



Appendices

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2	Privacy notice on consultation	35

Appendix 1 – Consultation Questions

1.1. This Appendix collates all of the questions upon which we are seeking views as part of this consultation.

Section 3.1: Establishing whether extending offshore transmission system regulatory revenue periods is in the best interest of electricity customers.

Q1: should asset health reviews be carried out on generator assets no later than five years before the end of the revenue stream, with the health review for the offshore transmission assets following shortly after that? If no, please set out alternative timelines and reasoning.

Q2: should generation and transmission health reviews be carried out by the generators, but informed and agreed by OFTOs and Ofgem, given that generation is likely to be the main driver for any extension? If not, please provide reasons.

Q3: should generators pay for their own health reviews and those of the associated transmission assets? Please provide reasons for your response.

Q4: what sort of confirmation/guarantee/representation of the intention to extend would developers envisage giving? What would this be subject to?

Additional Comments:

Section 3.1.1: Further Investment

Q5 – should the incumbent OFTO or the generator be responsible for any further investment required to enable an extension of the regulatory revenue period?

Additional Comments:

Section 3.2: Extension options

Q6 – should the tender revenue period be extended with the incumbent OFTO, or licences retendered through open competition?

Q7 – do you consider that there is a threshold to be met to determine which approach to be taken (if there is to be any further regulatory revenue period at all)? For example, the extension period is above a certain number of years, or the tender revenue stream is above a certain value?

Q8 – where retendering takes place, what safeguards or mitigations would need to be implemented to enable bidders to be comfortable about the level playing field between incumbent OFTOs and other bidders?

Q9 – are the timelines proposed practical? Do any of the timings need to be extended or reduced, and if so, why?

Q10 - should there be only one extension period granted, or do you think that if the process is established, that more than one extension could be possible for the same OFTO asset?

Additional Comments:

Section 3.3: The tender revenue stream for any further regulatory revenue period

Q11 – we would welcome your views on which of the proposed cost mechanisms (“building blocks” or “cost plus”) you consider would be more appropriate for establishing a revenue stream for the extension period, or if an alternative should be considered?

Q12 – should there be a set cost mechanism for determining the TRS for any future regulatory revenue period across all projects? Or should the cost mechanism be determined on a project by project basis, depending on the required extension length and risk profile?

Q13 – are there any additional cost elements that you think should be considered when Ofgem is calculating the tender revenue stream for a further regulatory revenue period?

Q14 - what market value (if any) do you think the OFTO assets will represent at the end of the regulatory revenue period? What are the component parts of this value?

Additional Comments:

Section 3.3.1: Decommissioning fund

Q15 – do you agree that decommissioning funds and liability should be transferred across in full to any new OFTO?

Q16 – do you expect decommissioning costs to be higher after the period of an extension or similar to those expected after the initial regulatory revenue period?

Additional Comments:

Section 3.3.2: Financial Security

Q17 – do you agree that, in the event of an extension, the incumbent OFTO should pay any availability liabilities due at the end of the original regulatory revenue period?

Additional Comments:

Section 3.3.3: Insurance

Q18 – are there any indications that insurers are willing to reinstate LEG3/06 exclusion clauses or equivalent (where this has been removed) after a period without further failure events? If so, how long might that period be?

Q19 – noting the difficulty of forecasting the insurance market, what are your views on the likely availability and cost of LEG3/06 exclusion clauses (or equivalent) for the period of any further revenue period?

Q20 - is there a need to move away from LEG3/06 (or equivalent) insurance clauses in any further revenue period due to the age, suitability, and specific nature of this type of cover for ageing assets?

Q21 – do you consider that a more centralised solution for cable insurance risk might be required? Why? Would this bring confidence back to the insurance market and attract new investors to the OFTO extension asset class?

Q22 - would operating the OFTO assets with minimal insurance to first failure be a viable option for higher risk assets with uncertain futures?

Q23 - are you currently exploring or investigating any other potential models or approaches to insurance that maybe appropriate for an OFTO asset during any further revenue period?

Additional Comments:

Appendix 2 – Privacy notice on consultations

Personal data

The following explains your rights and gives you the information you are entitled to under the UK General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the controller and contact details of our Data Protection Officer

The Gas and Electricity Markets Authority is the controller, (for ease of reference, Ofgem). The Data Protection Officer can be contacted at dpo@ofgem.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

3. With whom we will be sharing your personal data

None.

4. For how long we will keep your personal data, or criteria used to determine the retention period

Your personal data will only be held for as long as necessary for the purposes of this specific policy.

5. Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data
- get your data from us and re-use it across other services
- object to certain ways we use your data
- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3rd parties
- tell us your preferred frequency, content, and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

6. Your personal data will not be sent overseas.

7. Your personal data will not be used for any automated decision making.

8. Your personal data will be stored in a secure government IT system.

9. More information For more information on how Ofgem processes your data, click on the link to our "[Ofgem privacy promise](#)".