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8 January 2016

Dear Sir, Dear Madam

**Ref. Open letter on proposed changes to the process for presenting GOOs to Ofgem after the removal of CCL exemption for renewables from 1 August 2015**

Centrica welcomes the opportunity to respond to Ofgem's consultation on proposed changes to the process for presenting Guarantees of Origin (GOOs) following the removal of the Levy Exempt Certificates (LECs) from 1 August 2015.

The Centrica group has experience of the GOO certificates from our British Gas licensed electricity supply activities and our electricity trading business.

We understand Ofgem's desire for a process that gives assurances as to the accuracy, reliability and veracity of the GOOs presented as well as to the evidence of supply in Great Britain. Process assurances are also essential to business. To this end, we strongly believe that the Ofgem Guidance itself must be clear and precise such that businesses active in the renewables and GOO market can confidently establish contractual arrangements and internal processes to manage regulatory risks.

Our response to the consultation focuses on the following issues: the need for clear and robust guidance; proof of supply; accuracy, reliability and veracity; independent audit report; the 5% audit sample; timing of audit; fraud and error prevention measures; the 'information declaration'; appeal in the event of a refusal to accept GOOs; GOO spreadsheet and consultation decision timescale.

If you have any queries relating to this consultation response, please do not hesitate to contact me.

Yours faithfully

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## **Centrica response to Ofgem's open letter on proposed changes to the process for presenting GOOs to Ofgem after the removal of CCL exemption for renewables from 1 August 2015**

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### **Clear and robust guidance is essential**

Given the financial implications involved to suppliers submitting GOOs to Ofgem, clear guidance is essential for the development of consistently robust internal processes across the industry.

Whilst we understand that this Guidance is not legally binding, and that no changes to legislation or policy changes are planned, given that the only changes are to the information required to be submitted to Ofgem, we nonetheless believe that the Guidance can be strengthened in places.

Even when LECs existed, there was ambiguity in the Guidance that led to some uncertainty within the market. Centrica itself sought meetings with Ofgem and HMRC to seek additional clarity on certain points, which were provided on a bilateral basis. We believe that others in the market sought similar clarity.

Given that this new guidance is to be relied upon by market participants for activity that is ongoing and for which data submissions will be required by 1 July 2016, we are concerned that Ofgem still can't provide 'a comprehensive list of all the specific types of documentary evidence that are or will be acceptable as evidence of the GB consumption of overseas renewable electricity.' Lack of clarity on such a key point will lead to uncertainty among suppliers and potential for inconsistent approaches in the industry.

### **Proof of supply**

We believe that this is the areas of the guidance that would most benefit from refinement, and have included key points below.

- Contractual chain – the Guidance calls for evidence of a clear contractual chain linking the overseas generator with a GB supplier. It then goes on to state that 'contracts and invoices that evidence specific transactions after the fact are examples of acceptable evidence'. We would welcome further information from Ofgem on what could be other examples of acceptable evidence and indeed of what would not be acceptable by the regulator.

- Volume of electricity traded - it would be useful to understand what Ofgem believes constitutes 'clear evidence of sufficient quantities of electricity traded from the point of generation to GB'. For example, invoices may not necessarily provide clear evidence due to the issue of netting, as can final notification in some instances. We believe that an extract from a company's ETRM system would better satisfy this requirement. There is a GB wide notification system but that does not contain Continental purchases of power, and thus would be unsuitable. Further clarity from Ofgem on this element in the Guidance would be welcomed.
- Entry into the GB settlement system – once again, clearer explanation of what would be deemed acceptable evidence would be welcomed.
- Interconnector capacity – the guidance states that evidence could include having enough capacity booked and nominated in the forms of invoices, transport volume notices and any other documents'. It further states that Ofgem is 'specifically interested in the last two parties in the chain, but does not explain this specificity. There was concern raised at the recent workshop held by Ofgem that this element of the Guidance was not sufficiently clear. Whilst booking and nomination of explicit capacity is understood to be acceptable, the wording in the guidance hints at other methods or other evidence that could be acceptable to Ofgem. Greater clarity on this point would be welcomed.
- Linked to this latter point is the industry's need to know whether Ofgem will allow implicit capacity volumes to be used for the importation of GOOs, and if so, what evidence will be required by the regulator as proof of supply.

In all of these elements of proving supply, there is some concern that if the GB supplier submitting the GOO for recognition involved a third party between itself and the overseas generator, that legitimate concerns on commercial confidentiality could hinder the provision of the necessary evidence of supply, e.g. invoices. During the recent workshop held by Ofgem, the regulator promised to consider this point and update the Guidance accordingly.

It must also be recognised by Ofgem that in some instances, contracts relating to GOOs could be part of a wider agreement between the counterparties and hence the contractual evidence for the electricity traded or the interconnector capacity utilised for the GOOs in question could be aggregated with other business requirements. As such, evidence may not be easily segregated.

Balancing period - We do not agree that elements of the GOO contract should be balanced monthly and instead believe that annual balancing should remain the regulatory requirement, as existed under the previous regime. Given that the FIT compliance period is annually, and given the potential uncertainty relating to intermittent renewable generation, it is unclear why Ofgem has changed from the previous requirement to balance on an annual basis.

## **Accuracy, Reliability and Veracity**

Ofgem's Guidance states that evidence of the contractual path must be checked by the auditor from the point of GOO cancellation through to purchase by the GB supplier. It further states that 'this may involve, but is not limited to, redacted invoice or email declarations for GOO volumes sold between parties'. We feel that the Guidance could be improved to explain what may be acceptable in terms of

evidence, and indeed what would not be acceptable. Without further clarification, suppliers and auditors may be unwilling to submit other, different evidence for fear of GOOs being rejected by Ofgem.

Where counterparties may be unwilling to provide invoices due to commercial confidentiality considerations, it would be useful to understand what the 'email declarations' need to contain, and/or whether there is a level of seniority required for the author of such a declaration.

## **Independent Audit Report**

Among the duties of the auditor is to validate the GOO requests, provide an assurance rating and a written report. For this to be consistently applied across the industry, robust and clear guidance of the measures to be assessed and the acceptable evidence is essential. During a recent workshop on the Guidance held by Ofgem, there was concern among market participants that unclear definitions or ambiguous references to what could be acceptable evidence might cause auditors to be unnecessarily cautious about the grading they award company submissions, especially in the early years of this new regulatory process. Given that Ofgem has already stated that it will not accept 'weak' or 'unsatisfactory' ratings, then we feel that additional clarity in parts would be beneficial.

## **5% Audit Sample**

We feel that a 5% audit sample is high, and would like to propose an alternative. Auditors wouldn't normally audit 5% of say, revenue, as that would be far too onerous. Instead they look at '*tests of controls*' to confirm that if a transaction is processed as documented, it will end up in the revenue account code on the general ledger and so financial statements will be "true and fair". We believe that such an approach that allows for a test of controls over the GOOs would be preferable as this would allow the auditor greater visibility of the processes and controls in place. The main aim of the independent audit should be to confirm that GOOs are not over claimed, and a 'test of controls' approach would provide more leeway to the auditor in how they achieve this aim than a prescriptive sample audit alone.

If Ofgem still believes that a percentage sample audit is required, then we would propose that this should not be for 5% of the GOOs, but a lower percentage level.

Commenting on the percentage sample element of the current Guidance, we would seek clarity on what the percentage sample refers to. In 2.16 Ofgem states that a sample of 5% of the total number of lines or 5% of the total volume of GOOs should be audited. Then in 2.25 Ofgem states that 5% of total lines on the GOO spreadsheet and 5% of total volume of GOOs presented should be audited. Clarity on which one applies would be welcome, if the percentage sample requirement is retained in the final Guidance.

## **Timing of Audit**

We understand that the submission of GOOs to Ofgem must adhere to the timetable set out in legislation. On the question of timing of the audit however, we would like to draw Ofgem's attention

to the fact that the timing of other audit activity within companies will differ according to the financial calendar of the individual companies. The ability to incorporate the main GOO audit into the usual company audit activity which happens ahead of year-end could prove more efficient. As others have already stated during the recent workshop, this new requirement for an independent audit will increase the cost and complexity especially to small suppliers.

The draft Guidance required a percentage sample to be audited across all timeframes. Whilst GOOs are issued with only a month delay to the actual generation, the timetable for companies to receive, process and now audit the GOOs from March for a 1 July submission to Ofgem may cause some suppliers concern.

## **Fraud and Error Prevention Measures**

We support the reference to fraud and error prevention by Ofgem. Once again, it would be useful to understand what type of measures Ofgem wishes to see in this regard, as greater clarity is likely to be welcomed by the auditors who must check the robustness of the control measures and advise the suppliers that these would be acceptable.

## **‘Information declaration’**

As the supplier submitting the GOOs to Ofgem will most likely have acquired these from a third party – either the renewable generator itself or indeed an aggregator or broker – we believe that the wording of the information declaration should be amended.

Whilst suppliers do carry out due diligence on entering into contractual arrangements with counterparties, their ability to conduct detailed assessment of the renewable or generation data is limited, and the focus is on the counterparty itself, mainly for the purposes of financial crime risk. In addition to which a supplier can help manage risk by ensuring the GOOs received are through a recognised registry, e.g. Grexel, or through a valid national authority issued cancellation statement. Therefore, the supplier will still rely on the fact that the GOO issuer, e.g. national regulator, will have carried out some form of checks/ due diligence on the generator prior to issuing the GOO certificates.

In short as suppliers are not necessarily the producer of the renewable generation to which the GOOs refer, they will not have complete control over the supply chain and may find themselves the unwitting victim of producer or aggregator fraud. To recognise this risk, we would therefore propose amending the wording of the information declaration that a supplier is required to sign, as follows:

“Information declaration”

*Supplier X* confirms that:

*To the best of our knowledge and belief* any information and/or calculations submitted to the Authority, on behalf of the Supplier, is or will be complete and accurate, and

*Supplier X* has acceptable proof of supply, *or where not the producer has conducted risk based due diligence* for all GoOs presented for FMD, CFD and FIT, and

will not knowingly or recklessly submit information which is false and *Supplier X* is aware that doing so could result in a criminal prosecution.

Name

Title e.g. Director of....

Contact Details and Supplier Details (Supplier X, Address etc)

In addition, we do not believe that the information declaration should necessarily have to be signed by a director of the licensee, but that this should be done for the corporate entity and signed by an authorised signatory.

### **Appeal in the event of a refusal to accept GOOs**

If Ofgem refuses a submission and/or audit report merely on the basis of lack of evidence provision, we believe that an appeal process should be in place to allow suppliers to challenge and/or rectify the omission.

### **GOO Spreadsheet Template**

If further changes are to be made to the spreadsheet beyond the additional columns related to the evidence held and audit checks, we would be grateful if Ofgem could issue this in a timely manner to enable suppliers to complete the necessary documentation and submit to audit assessments prior to the 1 July 2016 deadline.

### **Consultation Decision**

Suppliers will soon need to enter into agreement with auditors and ensure any changes to processes or contracts are made in a timely manner. To assist the industry in planning ahead for the 1 July 2016 submission date, we would welcome information from Ofgem on when any changes to the Guidance and/or spreadsheet template will be made.