

Ofgem E-Serve response to consultation on our draft guidance “Renewables Obligation: Closure of the scheme in England, Scotland and Wales”

On 9 December 2016 Ofgem E-Serve published a draft of the ‘Renewables Obligation: Closure of the scheme in England, Scotland and Wales’ for consultation. The document was created to provide clear guidance on the closure of the Renewables Obligation (‘the RO’) to all technologies (except solar PV and onshore wind, which closed early) from 1 April 2017. We published the consultation to seek views from stakeholders on the clarity and detail of the draft guidance.

The consultation period closed on 10 February 2017. We have reviewed all responses and, where appropriate, updated the guidance document. The [final version of the document](#) was published on 13 March 2017.

The consultation period

We would like to thank all stakeholders who responded to the consultation. We have used your responses to make changes to the final guidance. Table 1 lists the changes we’ve made and explains why we made them. We received a number of queries which we felt did not require changes to the guidance but which we have responded to in Table 2.

Comments on the legislation

A number of responses related to the legislation, rather than Ofgem E-Serve’s administration of the scheme and grace periods. We cannot change the legislation, and we must adhere to the requirements of the current legislation in full. All concerns regarding the legislation should be directed to the Department for Business, Energy and Industrial Strategy or the Scottish Government. Any future changes to the administration of the RO and grace periods would require a change in legislation; our guidance relates to the current legislation.

Table 1 - Changes to the guidance

Section of the final guidance document	What has changed?
Throughout document	Updated text to reflect that the guidance is final, not draft.
Throughout document	Minor typing errors corrected. This does not affect the content or meaning of the document.
Throughout document	Added references to our response to call for evidence on industry standards and practices for commissioning fuel burning generating stations .
Executive summary, Figure 1	Inserted to show all grace periods open from 1 April 2017, for all technologies.
Paragraphs 3.9 – 3.14, and throughout document	Paragraphs about excluded capacity have been removed, and the content updated and inserted into the RO: Guidance for Generators , republished on 13 March. Throughout the document references to excluded capacity have been updated.

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Paragraph 4.6 and 4.7	Clarified that additional capacity is only eligible for the grid and/or radar works delay grace period. All other grace periods are only for new stations.
Table 1, Table 2	Removed "on or before 31 March 2017" from the grid/radar works agreement row, as this is not a requirement of the legislation. It should be noted, however, that it would be expected that the agreement was entered into before 31 March 2017 in order to comply with the condition for the estimated date of grid/radar works completion.
Paragraph 4.12	Changed wording to reflect that letters confirming delays in completing grid or radar delays may, or may not, admit liability to the developer, but no declaration of the liability of another party is required for the purpose of our grace period assessment.
Paragraph 4.15	Added detail about the types of variations we would not expect to accept.
Table 4	Updated to reflect the amendment made by article 3 of the Combined Heat and Power Quality Assurance Regulations 2016: added "CHPQA 6" in the operator declaration row.
Table 5	Updated to reflect the amendment made by article 10 of the Renewables Obligation (Scotland) Amendment Order 2015: inserted point (b) (ii) in the operator declaration row for floating turbines.
Footnote 11	Updated to reflect the amendment made by article 10 of the Renewables Obligation (Scotland) Amendment Order 2015.
Footnote 12	Updated to reflect the amendment made by article 10 of the Renewables Obligation (Scotland) Amendment Order 2015: added "and not by any other means".
Paragraph 4.23	Inserted to give background to the 'enabling financial decisions' grace period.
Paragraph 4.28	Added clarity that the EFD grace period letter does not need to have been issued to the same person as is applying for accreditation of the station.
Paragraph 5.3	Clarified this is after the end of the relevant grace period.
Paragraph 5.8, and 5.11	Added link to our new Register User Guides .
Paragraph 5.35	Clarified that if we are minded to reject your grace period application, you will be informed and given the opportunity to provide further information. There isn't an appeals process for our final decision.
Appendix 1	Added in links to the REGO section of our website.
Appendix 3, Template 4	Updated to reflect the amendment made by article 10 of the Renewables Obligation (Scotland) Amendment Order 2015: inserted "the lease in respect of which the generating station is entitled to operate at that particular area of seabed is a demonstration lease issued by the Crown Estate in relation to that site".

Table 2 - Our response to queries and suggestions from the consultation

<p>1. What happens if I need to replace generating equipment after the scheme closure and this will result in a small increase in total installed capacity?</p> <p>Any capacity added after the closure of the scheme (and that is not eligible for a grace period) will not receive Renewables Obligation Certificates (ROCs) on its output electricity. This capacity is called 'excluded capacity'. We would expect to see separate metering of any excluded capacity, however we appreciate that in some circumstances this is not possible. Where separate metering is not feasible we will pro-rate your output electricity across the RO capacity and excluded capacity. Full details can be found in the updated RO: Guidance for Generators, published on 13 March.</p>
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2. Can you provide clarity on the types of changes generators can make to a generating station after the closure of the scheme? For example, major repairs or refurbishment, or changes to metering arrangements.

We will publish further guidance on this in the [RO: Guidance for Generators](#) in due course. We will inform stakeholders when this information is available. In the meantime we would recommend generators seek their own legal advice, as we will always act in a way that is consistent with the legislation that is in force.

3. Can Ofgem E-Serve formally 'pre-accredit' a proposed change to an accredited generating station, in order to avoid freezing the issuance of ROCs? Alternatively, can Ofgem E-Serve give an indication for the amount of time it will take to re-approve an amended application?

No. The legislation does not provide a process for us to make a decision on a change to an accredited generating station in advance of the change occurring. It is not for Ofgem E-Serve to close participants' investment decisions for them or provide advice on how a proposed change might be interpreted in respect of the scheme's legislative framework. We rely on accredited participants adhering to the information declaration they make each year in that we will be notified of any changes made at a generating station within two weeks of the change occurring. It is at this point that we will assess the amended accreditation. In saying this, we fully understand the risks for participants in seeing interruptions to their cash flow whilst we undertake this assessment, and will endeavor to undertake assessments as quickly as possible. We have provided further guidance about the application re-approval process in the updated [RO: Guidance for Generators](#), published on 13 March.

4. A generator may face other delays to commissioning outside of their control, that are not covered by the existing grace periods. Can Ofgem E-Serve exercise discretion in these cases?

No, we must act in accordance with the legislation that is in force. The Department of Business, Energy and Industrial Strategy (BEIS) and the Scottish Government have set the type of delays that enable a generator to accredit after the closure of the scheme. While we understand generators may face other delays that they feel are outside of their control, we do not have the authority to exercise discretion or offer further extensions.

5. Can I commission my station without a G59 certificate from the distribution network operator (DNO)? A rush to commission before 31 March 2017 may lead to a bottleneck and delays in the DNO being available to witness the G59.

The requirement for a G59 witness test certificate will be driven by the type of generating station that is being commissioned. If it can be demonstrated to us that such test is not a standard industry requirement for the type of station in question, then it will not be needed to be completed for the purposes of the definition of "commissioned" that appears in RO legislation. However, where the station in question is to be operated in long term parallel with the network or has an interface with the network, we will need to see evidence that the relevant DNO is content that the relevant requirements of the G59 have been satisfied.

For further guidance on commissioning please refer to the [RO: Essential guide to commissioning](#) and, for fuelled stations, the [Response to call for evidence on industry standards and practices for commissioning fuel burning generating stations](#).

If you are concerned about delays in the G59 witnessing process, we would draw your attention to the grid delay grace period. If you can satisfy the evidence requirements outlined in the legislation, scope may exist for you to commission and accredit your station after 31 March 2017.

6. Can I commission my fuelled station with fossil fuels?

The definition of commissioned is silent on the fuel type, and focuses on the generating station being capable of commercial operation. Therefore we consider that it could be possible that a station is commissioned on alternative fuels, including fossil fuel, so long as the commissioning activity for the station is not dependent on fuel type.

If commissioning activity for a station is dependent on fuel type, for example ACT (standard

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and advanced gasification or pyrolysis) stations, then such activity must be completed before the definition of commissioned can be regarded as having been met.

7. Can generators submit grace period evidence prior to the closure of the scheme, in order to gain certainty around eligibility and facilitate investment decision making?

No, the legislation is clear that, with the exception of the Enabling Financial Decisions grace period, assessment of grace period eligibility is to take place at the point of application for full accreditation. We have outlined in our guidance the type of evidence we would expect to see to satisfy the legislative requirements, but if you believe you have other evidence that meets the requirements of the legislation you may submit this with your accreditation application, and we will consider it on a case by case basis.

The [Enabling Financial Decisions](#) grace period enabled generators to submit evidence for a set period in order to gain certainty about eligibility for a grace period. All generators who are eligible for this grace period will be aware. It is no longer possible to apply for this grace period.

8. What if the distribution network operator (DNO) or radar works party won't provide the required evidence?

The legislation is clear about the information you need to gain from the DNO or radar works party and we encourage you to speak to them about the required evidence. We cannot grant a grace period using the grid or radar delay condition without this information. It may be helpful to show the DNO or radar works party the legislation and our guidance. We have made clear in guidance that providing a letter confirming delays were outside the control of the developer is not an admission of liability.

We are not able to accredit a station under a grace period if you are not able to provide the evidence stated in the legislation. We do not have discretion to take into account any ongoing disputes or extenuating circumstances.

9. I am the operator of an accredited station and have a question that is not covered in your guidance. Can I contact you to discuss this?

You are welcome to get in touch with us to discuss any unusual or bespoke issues you are experiencing. We cannot provide legal or technical advice. However, we are happy to discuss the scheme, our guidance, conditions of your accreditation and may consider adding further clarity in our guidance. Please email renewable@ofgem.gov.uk, clearly stating the country, generating station name and technology in your email, or call 020 7901 7310 (option 2).