



Department
of Energy &
Climate Change

Implementing the Offtaker of Last Resort

Consultation

June 2014

Department of Energy and Climate Change
3 Whitehall Place
London
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URN 14D/184

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The consultation [and Impact Assessment] can be found on DECC's website:
<https://www.gov.uk/government/consultations/implementing-the-offtaker-of-last-resort>

Published by the Department of Energy and Climate Change

General information

Purpose of this consultation

This consultation seeks views on how the Government intends to implement the Offtaker of Last Resort (OLR) mechanism. This consultation is relevant to electricity generators, suppliers, consumers and their representatives, network operators, Ofgem, environmental organisations, financial institutions and other stakeholders with an interest in the energy sector. DECC invites interested parties to submit comments, responses to questions and evidence.

Issued: 27/06/14

Respond by: 24/07/14

Enquiries to:

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Consultation reference: 14/D184 – Implementing the Offtaker of Last Resort

Territorial extent:

This consultation applies to England, Scotland and Wales.

How to respond:

Your response will most useful it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

Additional copies:

You may make copies of this document without seeking permission. An electronic version can be found at <https://www.gov.uk/government/consultations/supporting-independent-renewable-investment-offtaker-of-last-resort>

Other versions of the document in Braille, large print or audio-cassette are available on request. This includes a Welsh version. Please contact us under the above details to request alternative versions.

Confidentiality and data protection:

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information legislation (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain

to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

We will summarise all responses and place this summary on our website at www.decc.gov.uk/en/content/cms/consultations/. This summary will include a list of names or organisations that responded but not people's personal names, addresses or other contact details.

Quality assurance:

This consultation has been carried out in accordance with the Government's Code of Practice on consultation, which can be found here:

<http://www.bis.gov.uk/files/file47158.pdf>

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

DECC Consultation Co-ordinator
3 Whitehall Place
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Email: consultation.coordinator@decc.gsi.gov.uk

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Glossary

A.BMU	Additional Balancing Mechanism Unit
Agreement Date	The date on which the generator signs their Backstop PPA.
Allocation Date	The date on which Ofgem sends the generator a Backstop PPA to sign.
Backstop PPA	PPA contract offered under the OLR (BPPA)
CfD	Contract for Difference
CfD Agreement	The initial section of a CfD which details the project-specific information relating to that particular contract, such as the eligible generator's name and the location of the facility
Contract for Difference	The combination of the Standard Terms and a CfD Agreement, which when signed by the CfD counterparty and an eligible generator comprise a legally binding contract
CfD counterparty	The counterparty for CfDs, which will be the Low Carbon Contracts Company Limited.
Commencement Date	means the later of the Generator's Preferred Commencement Date (as specified in Schedule One of their project information) and the date falling five (5) days after the Agreement Date.
Eligible Generator	Any electricity generator eligible for the OLR
EMR	Electricity Market Reform
Generator	Any legal entity which might apply for a CfD
GSP	Grid Supply Point
IRGs	Independent Renewable Generators
LCCC	Low Carbon Contract Company Limited
LoC	Letter of Credit
Modification	A change to the Standard Terms agreed by the CfD counterparty and a generator before that generator applies for a CfD
MPAN	Meter Point Administration Number
MW	Megawatt
Ofgem	Office of Gas and Electricity markets, the Authority
Offtaker	Licensed supplier party to a PPA or Backstop PPA (BPPA) with a generator
OLR	Offtaker of Last Resort
OLR Notice	The notice sent to all licensed suppliers, informing that one or more BPPAs are to be subject to an OLR auction
OLR Year	A period of 12 months commencing on 1 April and ending on the next 31 March
PPA	Power Purchase Agreement
Reserve bid	A bid that can be accepted in the unlikely event that the offtaker who submitted the winning bid is unable to enter into the Backstop PPA agreement
ssFiT	Small Scale Feed in Tariff
T&Cs	Terms and Conditions
Variation	An automatic change to the Standard Terms that result from the completion of the CfD Agreement
£/MWh	Pound per Megawatt hour

Chapter 1: Introduction

Policy overview

- 1.1 The Offtaker of Last Resort (OLR) is designed to reduce the risk of market failure at the outset of the CfD, and therefore reduce the cost of investment in renewable electricity generation, boost competition, and lower costs to consumers. At its simplest, the OLR achieves this by providing renewable CfD generators with a guaranteed, 'backstop' route-to-market for their power: a Backstop PPA (BPPA).
- 1.2 Eligible generators are guaranteed a BPPA with an offtaker. Generators will be able to access a BPPA throughout their CfD, with the terms grandfathered from the point of CfD signature. Offtakers will be allocated to generators through a competitive process, with their management fees levelised across the retail market.
- 1.3 In order for these BPPAs to be a genuine 'backstop' for generators, power will be purchased at a significant discount to the market reference price in their CfD, avoiding the risk that the commercial PPA market is undermined. When combined with the CfD top-up payments, generators have a guaranteed minimum price for their power. BPPAs will each be one year in length (with the possibility of reallocation on expiry) and designed to reflect T&Cs in open-market PPAs as far as possible. To ensure that the OLR provides suitable support for new CfD signatories, the scheme parameters will be reviewed annually, with the continuation of scheme considered at the end of the current Delivery Plan period.
- 1.4 In this way, the OLR is designed to give comfort to lenders and finance providers over the minimum revenues that a project will receive, enabling generators to reduce the costs of raising finance and, in particular, to secure lower-cost debt finance without needing a long-term PPA with a creditworthy entity. This opens up a wider range of contracting strategies for generators and reduces pressure on the long-term PPA market, supports competition and new entry in the PPA market, increases competition between generators, and reduces costs for consumers, particularly under competitive CfD allocation.
- 1.5 To help design the OLR, DECC established an advisory group with members from a cross-section of industry. The advisory group played a key role in bringing this consultation document to publication and we thank them for their input.

February Consultation

- 1.6 The Government launched a consultation on the OLR in February 2014 which considered the high level policy design. A wide range of stakeholders submitted responses which we have considered and presented in the Government Response alongside this consultation.
- 1.7 Responses largely supported our proposals for the OLR policy design, and the Government Response confirms that we will introduce the OLR.

This consultation

- 1.8 This consultation focusses on the detail as to how the OLR will be implemented and should be read in conjunction with the Government Response to provide a full sense of the policy intent behind the proposals.
- 1.9 Over recent months, DECC has been working with legal advisers and the OLR Advisory Group to draft three key documents which underpin the OLR policy: the Backstop Power

Purchase Agreement contract (BPPA); Power Purchase Agreement Scheme Regulations (Regs); and the Electricity Supply Licence Condition Modifications (LCs). This consultation points to the corresponding sections of these legal drafts that are published alongside. We welcome comments and feedback on the draft secondary legislation and BPPA in addition to responses to the consultation questions.

- 1.10 This document is split into five sections, reflecting the primary interactions stakeholders will have with the OLR: BPPA application; allocation; BPPA contract; offtaker payment; and review and management of the scheme.

Backstop PPA Contract

- 1.11 The BPPA contract is intended to be as close as possible to a typical commercial PPA and is a private law contract, with the potential for variations to be agreed bilaterally between the parties (generator and offtaker).
- 1.12 It is a standard set of terms and conditions, with differences between generation types or connection arrangements dealt with in the various schedules to the contract. It will contain the discount (in real 2012 prices) which Ofgem will adjust according to CPI and enter as the 'Effective Discount' into Schedule 2 to the contract.
- 1.13 The schedules will also contain project specific information which will be available to offtakers prior to bidding.

Power Purchase Agreement Scheme Regulations

- 1.14 The OLR Regulations set out the functions the Government intends to confer onto Ofgem through its powers in the Energy Act 2013. Ofgem's roles include administering the OLR policy on behalf of Government, in particular running the allocation process, administering the levelisation of OLR management fees, and reporting annually on the total number of BPPAs entered into, the total amount of electricity generated in each year under the scheme and the total number of participating electricity generators.
- 1.15 The Regulations therefore detail the timetable across which Backstop PPAs are allocated; levelisation procedures; and wider requirements on Ofgem such as providing information for OLR reviews.

Electricity Supply Licence Condition Modifications (LCs)

- 1.16 The Electricity Supply Licence Conditions outline the amendments to the role of licensed suppliers, detailing the obligations of both mandated and voluntary offtakers. In particular, they set out the generators with which licensed electricity suppliers must or may offer to enter into a BPPA contract and the requirements on licenced electricity suppliers in the event that Ofgem circulates an OLR Notice.

Next steps

- 1.17 Responses will be fed into the final policy detail before we begin the process of laying OLR secondary legislation before Parliament. We aim to have the OLR legislation in place by the first CfD allocation round in Autumn 2014.

Chapter 2: Application



- 2.1 As set out in our February consultation and Government response, our high-level approach to a generator’s application for a Backstop PPA is as follows:
- i. Renewable CfD and Investment Contract holders can apply to access the OLR irrespective of size or technology and at any point during the operational phase of their CfD. First access to BPPAs is subject to Ofgem implementing the necessary systems, which is expected to be no later than April 2016.
 - ii. Generators can apply for a Backstop PPA by submitting an expression of interest (Eol).
 - iii. Generators are not bound to enter into a BPPA until they submit full project information (PI) to Ofgem.
 - iv. Ofgem will make a mechanistic assessment of the generator’s eligibility for a BPPA. Providing the generator has provided all requested information less than five working days after submitting the Eol, there will be a maximum of nine working days between the initial Eol and verification of eligibility being completed.
- 2.2 This chapter sets out in detail the process for a generator applying for and securing a BPPA, linking to where the various provisions are given effect in regulations, licence conditions and the BPPA contract.

First access to BPPAs

- 2.3 Whilst the terms of the BPPA for an eligible generator will be grandfathered from the point at which they sign their CfD, Generators will be able to apply for a BPPA from the date specified in this Regulation. We will insert the date into regulations once agreed with Ofgem and intend for it to be no later than 1 April 2016.¹.

Expression of Interest

- 2.4 The first stage of a generator’s application for a BPPA is the submission of a valid Expression of Interest (Eol). A generator’s application for a BPPA will not be deemed valid unless it submits the Eol either on or after its CfD Start Date.
- 2.5 The date on which the Eol is submitted determines the OLR Year for the

Regs (R), Supply Licence Conditions (LC) or BPPA reference

R 1(3)

LC 8(c)(iii)

R 10(2)(a)

¹ We are exploring with Ofgem options for bringing this date forward.

BPPA for the purposes of determining the Mandatory Offtakers, and the indexed backstop discount within the BPPA.	LC 21 BPPA Schedule 2
2.6 By submitting an Eol, the generator is stating that it meets the eligibility criteria for the OLR:	LC 9
<ul style="list-style-type: none"> i. It is an eligible technology (defined, with reference to the CfD Regulations, as a renewable generator) ii. It is located in Great Britain iii. It has a CfD or an Investment Contract that was signed at a date when the OLR was open to that technology iv. The share of output in question will not be subject to an existing BPPA by the Commencement Date of the new BPPA. v. The generating facility is not on Ofgem’s record of ineligible facilities for having previously: vi. withdrawn their application for a BPPA after submitting full Project Information (PI) to Ofgem, or vii. failed to enter into an BPPA after being made an offer under the OLR scheme, or viii. had a BPPA terminated by a licensed supplier due to an event of default <p>Facilities will remain ineligible regardless of a subsequent change in ownership. Where a site contains different phases under the CfD, each phase will be considered separately for the purposes of OLR eligibility.</p>	LC 8(a-g)
2.7 The Eol will require the following information:	LC 12(a-c)
<ul style="list-style-type: none"> i. The full name of the electricity generator ii. The location, GSP Group (Grid Supply Point) and total generating capacity of, and the technology used by, the generating station; iii. The agreement number of the CfD or Investment Contract to which the generating station is party; 	
2.8 We intend for Ofgem to provide guidance on the way in which generators submit their Eol. We anticipate a proforma being available for generators to complete and submit to Ofgem.	R 30
2.9 Submission of the Eol does not bind the generator into signing a BPPA. Unless they submit the Statement of Confirmation in their PI within ten working days of the Eol, a generator will be treated as if they have withdrawn from the scheme and will be required to submit a further Eol if they wish to access a BPPA.	R 4 5(a)
2.10 Ofgem will be required to circulate the Eol to all licensed suppliers in accordance with their records within two working days of receiving it. This will include the generator’s contact information should a supplier wish to clarify some information or negotiate a commercial agreement.	R 3(2-3)

Submission of Project Information (PI)

<p>2.11 A generator is able to submit its full PI at any point up to (and including) ten working days after the submission of their EoI. The PI must be for the same project and CfD.</p>	<p>R 4 5(a) LC 12</p>
<p>2.12 PI includes the same information as required within the EoI, as well as:</p> <ol style="list-style-type: none"> i. The generator's preferred BPPA Commencement Date², which the generator can specify within a twenty working day window: <ul style="list-style-type: none"> • If PI is submitted to Ofgem less than five days after the EoI, the Commencement Date is between 26 and 45 working days after the EoI, inclusive • If PI is submitted to Ofgem five or more days after the EoI, the Commencement Date is between 22 and 41 working days after the date on which the PI is submitted, inclusive. ii. Metering information iii. A signed 'Statement of Confirmation' from a director of the electricity generator confirming that the PI is complete, true and accurate, and a declaration that the provision of the statement commits the generator to entering into the OLR iv. Any other information that Ofgem consider appropriate 	<p>LC 12 BPPA Schedule 1</p>
<p>2.13 In practice we envisage that submission of the PI would include submitting to Ofgem a completed copy of the relevant Schedule 1 to the BPPA which would include the disclosure of the information in 2.12.</p>	<p>BPPA Schedule 1</p>
<p>2.14 Ofgem must determine whether the generator is eligible for a BPPA by assessing the completeness of the PI and with reference to their OLR database. This includes:</p> <ol style="list-style-type: none"> i. An assessment as to whether the information has been completed by the generator, and whether the generator is on Ofgem's record of ineligible generators ii. If required, verification from the LCCC that at the point at which the generator submitted their EoI, the unique CfD identifier corresponded to a live CfD, and whether the application is for the same technology and total installed capacity as in the CfD. The LCCC is required to respond within two working days.³ 	<p>R 5 R 4 (1-3) R 13</p>
<p>2.15 Ofgem have a period of five working days to assess this eligibility, with an OLR Notice circulated to all Licensed Suppliers by the end of the period if the generator is eligible. The period starts <u>the day after</u> the later of:</p> <ol style="list-style-type: none"> i. The day on which Ofgem receives PI (specifically the Statement of 	<p>R 5(1-2) LC 5</p>

² This will be the contract's Commencement Date unless the generator caused delays to the verification process, auction or BPPA agreement that meant there would be less than five working days between the Agreement Date and the proposed Commencement Date. If such a scenario did occur, the Commencement Date would be five working days after the Agreement Date.

³ Failure to do so would lead to additional time for Ofgem to verify eligibility.

Confirmation) from the generator, or

- ii. Four working days after Ofgem receives the Eol.

In practice, this will ensure that the OLR Notice is sent to suppliers no more than five working days after Ofgem receive the PI or nine working days after they receive the Eol from an eligible generator, whichever is the later.

2.16 Ofgem can request further information from generators where the Eol or PI are incomplete. If further information is required, Ofgem have additional time with which to circulate the OLR Notice to Licensed Suppliers. R 4(4)
R 5(4)

2.17 If Ofgem requests missing PI after the Statement of Confirmation is issued, generators have five working days to provide this information. Failure to do so would see the auction suspended and the generator's eligibility for the OLR revoked. R 4(5)(b)

Ineligible generators

2.18 Ofgem will not circulate an OLR Notice where it establishes that the generator is ineligible for any of the following reasons: LC 8

- i. At the date of Eol, the generator was not party to a 'live' CfD
- ii. The generator is not an eligible technology
- iii. The generator is not based in Great Britain
- iv. The generator will already have a BPPA in place by the Commencement Date
- v. The generator is on the OLR record of ineligible generators owing to previously:
 - a) Having a BPPA terminated for material breach (either uncontested or contested and upheld by a Court)
 - b) Exiting the application process after submitting a Statement of Confirmation
 - c) Failing to enter into a BPPA when allocated an Offtaker

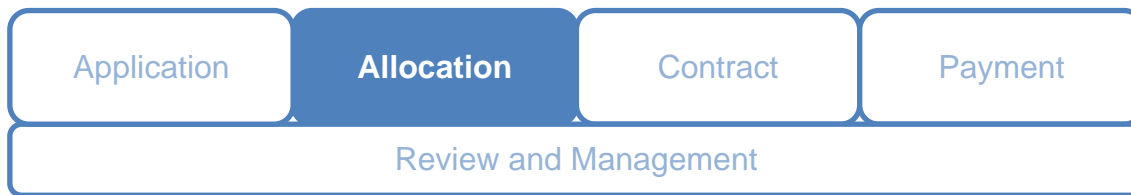
2.19 If Ofgem determines that a generator does not meet the eligibility requirement, Ofgem must inform the generator and set out the reasons as to why they are not eligible. R 8

2.20 Should an Eol be circulated and either the PI (specifically the Statement of Confirmation) is not submitted by the generator within ten working days, or the generator is found to be ineligible, Ofgem will notify all licenced suppliers that an OLR Notice will not be issued. R 9

Consultation Question

- | | |
|-----------|--|
| 1. | Do you agree with the way in which a generator will apply for a Backstop PPA? Please provide evidence if you believe the approach outlined will not work. |
|-----------|--|

Chapter 3: Allocation



- 3.1 As set out in our February consultation and Government response, our approach to the allocation of BPPA contracts is as follows:
- i. Once Ofgem have determined the eligibility of the generator, they will circulate an OLR Notice to all licensed suppliers. This will contain the BPPA (or multiple BPPAs if the generators capacity is 150MW or more) that offtakers can or must submit a bid (or bids) to enter into, together with the generator’s PI.
 - ii. Suppliers will have to return bids commensurate with the number of BPPAs they want or have to enter into by the date specified by Ofgem in the OLR Notice, with each auction closing 10 working days after the Notice is sent. Bids will be submitted as a management fee in £/MWh to manage a generator’s output. Ofgem will determine the OLR to be the licensed supplier that has submitted the lowest valid bid.
 - iii. To guarantee that there will always be an offtaker for all BPPAs, licensed suppliers with a share of GB electricity supply volume of more than 6% will be required to submit bids for each BPPA. All other licensed suppliers are able to submit bids voluntarily.
 - iv. All licensed suppliers will need to meet credit requirements by the time the BPPA commences.
- 3.2 A high level overview of the Allocation timeline is provided below, based the generator providing their full information in a timely manner:
- | | |
|--|---------------|
| <ol style="list-style-type: none"> i. Expression of Interest (Eoi) and Project Information (PI)
Generators submit an Eoi including basic project details and contact information.

Generators submit their full PI less than five working days after the Eoi in order to minimise the allocation period. | Day 0 |
| <ol style="list-style-type: none"> ii. Eligibility verification starts
Once a generator submits their PI or no more than five working days after receiving the Eoi (whichever is later), Ofgem must begin to verify eligibility. | Day 5 |
| <ol style="list-style-type: none"> iii. OLR Notice circulated to all licensed suppliers
By the end of the fifth working day after beginning their verification, Ofgem must have circulated an ‘OLR Notice’ containing all generator information and the relevant BPPA(s) to all licensed suppliers. | Day 9 |
| <ol style="list-style-type: none"> iv. Deadline for bids to be returned
Suppliers must return their bids no more than ten working days after the | Day 19 |

date that Ofgem circulates the OLR notice. The bid includes a signed copy of the BPPA(s).

- v. **Lowest bidder identified and informed (Allocation Date)** **Day 20**
Ofgem identifies the lowest bidder and sends them the BPPA
- vi. **BPPA agreed (Agreement Date)** **Day 21**
The generator agrees the BPPA by countersigning and dating the contract.
- vii. **BPPA commences (Commencement Date)** **Day 26**
The BPPA commences for the purpose of payment to the generator five working days after the Agreement date. The offtaker must have demonstrating that they meet the credit requirement by this date.

3.3 This chapter sets out in detail the process for how BPPAs are allocated to offtakers, linking to where the various provisions are given effect in regulations, licence conditions and the BPPA contract.

OLR Notice

- | | |
|---|--|
| | Regs (R), Supply Licence Conditions (LC) or BPPA reference |
| 3.4 Ofgem have a period of five working days to assess eligibility, with an OLR Notice circulated to all Licensed Suppliers by the end of the period if the generator is eligible. | R 5(1)
LC 5 |
| 3.5 In practice, this will ensure that the OLR Notice is sent to suppliers no more than five working days after Ofgem receive the PI or nine working days after they receive the Eol from an eligible generator, whichever is the later. | |
| 3.6 The OLR Notice must be circulated to all known licensed suppliers. The notice will contain and specify information including: <ul style="list-style-type: none"> i. PI (excluding the Statement of Confirmation) submitted by the generators; ii. A copy (or copies) of the BPPA with the project-specific information completed, which each supplier that submits a bid will be offering to enter into; and iii. The manner, form, and date by which suppliers need to submit their bid(s). | R 6(2)
LC 6 |
| 3.7 The OLR notice will also be sent to the generator who will have two working days to correct any incorrect information within that notice. Any information corrected within two working days will be recirculated by Ofgem, retaining the original timetable. Any information corrected after two working days would give suppliers ten working days to return bids from the point at which the information was corrected. | R 6(c)
R Schedule 3(2) |

Multiple offtakers

- | | |
|--|-----|
| 3.8 Where a generator is 150MW or above in capacity, multiple BPPAs will | R 7 |
|--|-----|

be issued for the site within the single OLR Notice. Ofgem will determine the number of BPPAs applying to each site through the following formula:

$$= \text{Round to nearest integer (Total capacity MW / 100 MW)}$$

- 3.9 The capacity of each contract is the total capacity divided by the number of BPPAs. For example:

Total Capacity (MW)	Capacity /100MW	BPPAs	Each BPPA (MW)
130	1.3	1	130
150	1.5	2	75
240	2.4	2	120
300	3.0	3	100
450	4.5	5	90

- 3.10 In such instances, the OLR Notice will include multiple copies of the BPPA, each representing a single share.

LC 6(c)
R 6

Mandatory Offtakers

- 3.11 An OLR Year runs from April 1st – March 31st.

R 2

- 3.12 By September 1st, Ofgem will identify and notify the licensed suppliers that will act as Mandatory Offtakers for the forthcoming OLR Year. Mandatory Offtakers will be those that supplied 6% or more of GB electricity over the OLR Year preceding the notification.

R 10
LC 22

- 3.13 If required, Mandatory Offtakers will need to commence registration to operate in each GSP within twenty working days of being notified by Ofgem that they are a Mandatory Offtaker in respect of any OLR Year.

LC 23

- 3.14 Should the SoS consider that the threshold needs to change, for example following significant changes to the structure of the supply industry, he is able to do so.

R 31

Submitting bids

- 3.15 Should a licensed supplier wish to act as an Offtaker of Last Resort, they will be required to submit a bid to enter into a BPPA within ten working days of Ofgem distributing the OLR Notice.

R Schedule 2(1)

- 3.16 The information that a supplier must provide with its bid, will include:

LC 7

- i. a management fee in £/MWh for each signed BPPA the supplier is bidding for;
- ii. a signed but undated copy of one BPPA contract in its original form for every management fee submitted;
- iii. a confirmation that the supplier already operates within the GSP when the generator is connected to the distribution network such that a BPPA can commence promptly with a new offtaker; and

<p>iv. for voluntary offtakers, a declaration as to whether or not they wish their bid to be considered as a Reserve Bid in the unlikely event that the BPPA is terminated due to offtaker material breach no more than five working days after the Commencement Date.</p>	<p>R Schedule 8 (2)(b)(ii)</p>
<p>3.17 Ofgem have discretion as to the precise way in which the auction is run and the manner in which suppliers are asked to return their bids.</p>	<p>R 11</p>
<p>3.18 Mandatory Offtakers (MO) have to submit a bid for each BPPA, including for each individual BPPA when the output is split across multiple BPPAs. The failure of an MO to submit a bid for each BPPA within an OLR Notice constitutes a breach of their Licence Conditions, enforceable by Ofgem.</p>	<p>LC 2(a)</p>
<p>3.19 Once bids have been submitted to Ofgem they cannot be withdrawn, revoked or amended.</p>	<p>LC 4</p>
<p>3.20 If Ofgem becomes aware before the auction closes that the generator is not in fact eligible for a BPPA, they must notify the generator and all licensed suppliers that the auction is terminated.</p>	<p>R Schedule 4, 5</p>
<p>Winning bidder</p>	
<p>3.21 Ofgem will determine the offtaker that will become the Offtaker of Last Resort as the one that submitted the lowest valid bid in £/MWh. Bids will not be considered valid if the offtaker has not declared that they are registered within the generator's GSP, or if the offtaker is not a licenced supplier.</p>	<p>R Schedule 7(4)(b) R Schedule 7(2)</p>
<p>3.22 Where the output is split across multiple BPPAs, all bids for all shares are pooled, with the lowest bids allocated the BPPAs. Examples for each of these are presented in Box 1 below.</p>	<p>R Schedule 10, 11</p>
<p>3.23 If the winning amount is submitted by two or more suppliers, the winning bid will be that which was received by Ofgem first.</p>	<p>R Schedule 7(5)</p>
<p>3.24 After identifying the winning bidder, Ofgem informs the offtaker and provides the generator with the signed contract. The generator only needs to complete the Agreement Date, countersign and return a copy to the offtaker for the contract to take effect. The generator will need to do this no later than five working days after the Allocation Date, being the date that Ofgem identified the lowest bidder to the contract and provides the generator with the signed contract. In practice, if the Generator has requested the earliest possible Commencement Date then this will need to be done on the day after the Allocation Date.</p>	<p>R Schedule 7(6) BPPA 2.2, 2.3</p>

Calculating the winning bidder: examples

(1) Single BPPA for a 33MW project

In the first example, Ofgem receives bids from six mandatory offtakers and six more from voluntary offtakers. Ofgem would rank these and award the contract to the lowest bidder; in this case Offtaker 10 would win the contract with a bid of £3.75/MWh, representing the fee that the offtaker would receive through the levelisation process for each MWh generated under that contract.

Bids £/MWh											
Mandatory Offtakers						Voluntary Offtakers					
1	2	3	4	5	6	7	8	9	10	11	12
£5.50	£5.25	£100.00	£4.00	£7.00	£4.25	£4.10	£5.00	£6.00	£3.75	£4.25	£3.90

(2) Three BPPAs for a 333MW project

In the second example, a 333MW project applies for a BPPA. Ofgem circulates one OLR notice containing three BPPAs, each for 111MW. Again, Ofgem receives bids from six mandatory offtakers and six voluntary offtakers, though only one voluntary offtaker submits all three bids.

Bids £/MWh												
Mandatory Offtakers						Voluntary Offtakers						
Bids	1	2	3	4	5	6	7	8	9	10	11	12
1	£5.50	£5.25	£100.00	£4.00	£7.00	£4.25	£4.10	£5.00	£6.00	£3.75	£4.25	£3.90
2	£6.00	£5.25	£100.00	£6.00	£7.00	£4.75	£9.00	£5.00	£6.00	-	£5.00	£4.00
3	£6.50	£5.25	£100.00	£6.00	£7.00	£5.25	-	-	£6.00	-	-	-

Ofgem would collate each bid into one table and rank to find the three lowest bids. The table below shows the top ten bids: in this example offtakers 10, 12 and 4 are each awarded a BPPA for 111MW at management fees of £3.75/MWh, £3.90/MWh and £4.00/MWh respectively.

Rank	1	2	3	4	5	6	7	8	9	10
Offtaker	10	12	4	12	7	6	11	6	8	8
Bid £/MWh	£3.75	£3.90	£4.00	£4.00	£4.10	£4.25	£4.25	£4.75	£5.00	£5.00

Credit Requirements

3.25 By submitting a bid, an Offtaker is agreeing to meet the Credit Requirements under the BPPA. These are that the offtaker has a rating of BBB- with Standard and Poor's or the equivalent ratings with Moody's or Fitch Ratings, or a Qualifying Guarantor as an affiliate of the Offtaker has this Minimum Credit Rating.

BPPA 1.1, 12

3.26 If not, the Offtaker must either:

BPPA 12

- i. secure a Letter of Credit from a 'Qualifying Issuer' - a bank or financial institution having a minimum short term rating of A- with Standard and Poor's or the equivalent ratings with Moody's or Fitch Ratings. The LoC must cover an amount equal to the Collateral Amount, and be evidenced to both the generator and

Ofgem within 5 working days of the OLR Agreement Date.

ii. Deposit cash in the Generator's nominated bank account

3.27 Failure to meet the credit requirement and evidence this to Ofgem will constitute a breach of supply licence conditions. LC 13(b).

Reserve bids

3.28 In the highly unlikely event that an offtaker cannot evidence the Credit Requirement or cannot accept the generators output through not being registered in the relevant GSP (and thus breaches their licence condition) then the generator is entitled to terminate within five working days of the BPPA Commencement Date, and on doing so will be provided a BPPA with a Reserve Bidder. R Schedule 9

3.29 Bids submitted by offtakers will be capable of acceptance for one month after the BPPA Commencement date in the highly unlikely event that a generator requires a series of Reserve Bidders. LC 7(c-d)

3.30 Voluntary Offtakers will have the option to state in their bid that they do not wish to be considered as a Reserve Bidder, in which case, should they be the next lowest bidder they will not be offered the BPPA. Mandatory Offtakers will be required to act as a Reserve Bidder. LC 7(d-e)

3.31 The Reserve Bidder shall be the Offtaker with the valid bid containing the next lowest management fee that did not opt out. R Schedule 13

Information provision

3.32 For each BPPA which is entered into, Ofgem will publish the name of the generator, the bidder and the management fee bid. R Schedule 14

3.33 Where a generator no longer pursues a BPPA after submitting an EoI due to:
i. Withdrawing from the process after submitting PI including their Statement of Confirmation⁴
ii. Ofgem finding them to be ineligible; or
iii. Failure to submit the PI including their Statement of Confirmation before the requisite deadline. R 9
R Schedule 4, 5

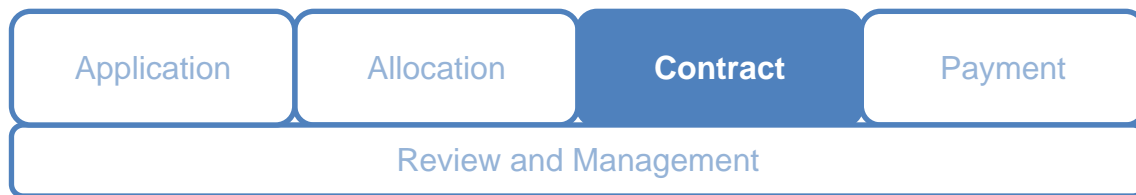
Ofgem will inform all Licensed Suppliers that no BPPA will be required and in the event that the OLR Notice has been sent, will specify that the auction is terminated.

Consultation Question

2. Do you agree with the way in which Backstop PPAs are allocated? Please provide evidence if you believe the approach outlined will not work.

⁴ In doing so, making the generator ineligible for future BPPAs.

Chapter 4: The Backstop PPA



- 4.1 As set out in our February consultation and the Government Response we have sought to follow typical commercial PPA structures and practices, in order to ensure that the approach is familiar to stakeholders. BPPAs will be one year in length with the option for a generator to terminate the contract after six months and with six weeks’ notice.
- 4.2 Although this chapter will provide an overview of the BPPA, it will provide more detail on the areas where the contract differs from a typical commercial PPA. The overall structure of the BPPA is a set of standard terms and conditions with some Schedules that account for the variation between projects.
- Schedule 1: Project specific information. We expect this to be filled in by the generator and submitted to Ofgem as part of their PI
 - Schedule 2: Information to be filled in by Ofgem including the effective discount and contracted electrical output.
 - Schedule 3: Direct Agreement
 - Schedules 4 & 5: Optional clauses for different technology types
 - Schedule 6: Optional clauses for transmission connected and/or Licensed Facilities
 - Schedule 7: Form of Parent Company Guarantee
 - Schedule 8: Form of Letter of Credit

Standard Terms and Conditions⁵

- 4.3 The specific terms and conditions for the BPPA must be set by the Secretary of State. The Secretary of State will be able to revise the terms and conditions from time to time and the new terms would apply to new projects following the effective date of the revisions.
- 4.4 The Secretary of State may also amend the terms and conditions for existing CfD holders but only in response to exceptional circumstances. Any amendments must be necessary to account for a new market structure, trading arrangements or industry code. In this case the Secretary of State must seek to maintain the same balance of risk and

Regs (R), Supply Licence Conditions (LC) or BPPA reference

R 17

R 17 (5)

⁵ In this chapter, terms that are defined in the contract are capitalised.

reward.

Starting the Contract

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|------|--|------------------|
| 4.5 | As all offtaker bids must be accompanied by a signed copy of the BPPA, the generator only needs to complete the Agreement Date, countersign and return a copy to the offtaker for the contract to take effect. The generator will need to do this no later than five working days after the Allocation Date. | LC 7
BPPA 2.3 |
| 4.6 | Although the contract has legal effect from the Agreement Date, certain clauses do not take effect until the Commencement Date – these primarily relate to the transfer of electricity and payments. | BPPA 2.4 |
| 4.7 | After the Agreement Date there is a period of no less than five working days before the offtaker takes delivery of the Electrical Output and takes responsibility for making payments. This allows for arrangements to be made in respect of the Metering System and provides time for the offtaker to procure a Credit Support document if required. | BPPA 14 |
| 4.8 | Metering. To ensure that the metering arrangements can be made in time for the Commencement Date, the Generator must provide all necessary information to enable the offtaker to register the metering equipment with the BSC by this date. If the Generator is connected to the distribution network then the offtaker will need to activate the appropriate Additional BMU through the BSC. This process makes use of changes to the BSC that are being made to facilitate the implementation of the CfD, whereby each facility has A.BMUs registered but not activated for all offtakers that are active in the relevant GSP. It is then a quick process to activate the appropriate A.BMU for the facility for the appropriate offtaker. | BPPA 14 |
| 4.9 | If the facility is connected directly to the transmission network then the offtaker shall ensure that the meter is correctly registered in the Central Meter Registration Service. | BPPA Schedule 6 |
| 4.10 | Credit Support. If the offtaker does not meet the Minimum Credit Rating (BBB-), they must provide either a Parent Company Guarantee from a company that does meet the Minimum Credit Rating; a Letter of Credit from a financial institution with a credit rating of A- or above; or cash. Standard forms for the Parent Company Guarantee and Letter of Credit are attached to the BPPA Contract at Schedules 7 & 8. The amount of credit that must be provided is intended to provide cover for any outstanding monies as yet unpaid, and any lost revenue until a new BPPA can be arranged. The Credit Support remains in place until the earlier of 30 days after the expiry of the contract, or all amounts owing under this agreement have been paid in full. | BPPA 12 |
| 4.11 | Direct Agreement. At any time during the term of the contract the generator may require the offtaker to enter into a Direct Agreement with a third party by way of security over the facility. A Standard form Direct Agreement can be found at Schedule 3 of the BPPA Contract. If | BPPA 22.3 |

requested by the Generator, the offtaker shall enter into this agreement within 5 working days.

The Operational Period

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| <p>4.12 Preferred Commencement Date. Within certain bounds the generator may specify their preferred Commencement date, which must be no less than 5 working days or no more than twenty working days after the Agreement Date⁶. This must have been specified in the PI submitted to Ofgem.</p> | LC 12(d) |
| <p>4.13 In the unlikely event that delays to the verification process or auction result in the preferred Commencement Date falling within five working days of the Allocation Date, the Commencement Date will be five working days after the Allocation Date.</p> | BPPA Definition |
| <p>4.14 Payment for Output. From the Commencement Date the offtaker shall purchase the Generator's Electrical Output as metered by the Metering System. The price which the offtaker pays shall be the Generator's CfD Market Reference Price less the Discount. For any output above the Contracted Capacity, the generator shall be paid the System Sell Price. Payment shall be monthly, in arrears.</p> | BPPA 3, 7, 8 |
| <p>4.15 Payment covers the Electrical Output as well as Renewable Benefits, with the generator transferring LECs and REGOs to the offtaker. No additional payment is prescribed for LECs and REGOs as set out in the Government Response. The BPPA does not create any obligation for either party to make payment for Embedded Benefits.</p> | BPPA 4, 6 |
| <p>4.16 Discount. The Discount that will be applied to the power price is fixed at £25 in 2012 prices. This is indexed in line with CPI for each OLR Year, with the appropriate indexation to calculate the Effective Discount for the specific BPPA determined by the OLR Year in which the Generator submitted their Expression of Interest.</p> | BPPA Schedule 2 |
| <p>4.17 Negative Revenue Protection. One area in which the BPPA differs significantly from typical current PPAs is the inclusion of a degree of protection for the Generator from extreme negative prices. This is not intended to provide the generator with protection from reduced revenue in the unlikely event that the Market Reference Price falls below zero, but is intended to protect the generator from negative revenue in the event that the Market Reference Price falls below minus their Strike Price. Mechanisms of this type are not common in commercial PPAs at present, but if the risk of extreme negative prices becomes more apparent we believe that they are likely to emerge.</p> | BPPA 10 |
| <p>4.18 We have therefore worked with stakeholders to develop a simple mechanism which the Generator has the ability to switch on if they</p> | |

⁶ The preferred commencement date depends on the time at which Ofgem begin to verify eligibility, which is also dependent on when the generator submits their full PI. For this reason, the licence conditions express the range of possible commencement dates in terms of either EoI submission or PI submission, whichever is the later.

include a 'Negative Price Trigger' in the PI sent to bidders:

- i. The generator has the choice whether to specify a price below which it does not want to sell their power – this 'Negative Price Trigger' will be specified in Schedule 1 to the BPPA. If the Generator does not want to activate this mechanism they would simply not fill in a Negative Price Trigger.
- ii. If the Generator chooses to activate this mechanism by specifying a price, the offtaker has an obligation not to sell their power for the relevant period(s) and to notify the Generator as such. As the offtaker has this information prior to bidding we expect they would factor any associated costs into their bid.
- iii. The Generator then has the choice of whether to curtail the facility or continue to generate and to take the System Sell Price for the relevant period(s). This then leaves the Generator with ultimate control over their asset, allowing them to make the best decision depending on the particular circumstances at the time.

4.19 **Forecasts.** Each month during the BPPA, the Generator shall provide the offtaker with a non-binding forecast of the Facility's availability. In addition to this forecast, the generator shall give the offtaker as much notice as reasonably practicable of any Planned Maintenance that may affect their level of electrical output. For this to constitute 'Planned Maintenance', the offtaker must be given at least ten days' notice. BPPA 15, 16

4.20 **Notification of maintenance.** If the Generator does not provide at least ten days' notice then the maintenance shall not constitute 'Planned Maintenance' but instead shall constitute a 'Forced Outage'. BPPA 16.2

4.21 **Forced Outages.** For a Forced Outage, the Generator must use reasonable endeavours to provide as much notice as possible or to notify the offtaker within a reasonable time of the outage occurring. Similarly the Generator must use reasonable endeavours to provide as much notice as possible regarding the end of the Forced Outage and the return to normal generation or capacity levels. BPPA 16.2

4.22 If the Generator fails to provide the required notice for the start or end of a Forced Outage, then they will be required to pay liquidated damages to the offtaker. The formula for calculating this amount is set out in the definitions section of the BPPA Contract and is intended to reflect the actual trading losses that an offtaker would be exposed to due to the forced outage. The Generator's liability for this will be capped at £6,000 multiplied by the Facility's capacity in MW multiplied by the Assumed Load Factor. This is intended to allow all Generators five failures before reaching the cap, which could be argued to be a material breach and result in termination of the contract. BPPA 16.4

4.23 **Data provision.** To assist the offtaker in managing the Generator's output, the offtaker will need to provide access to their data monitoring system including any available information on availability, output, or other parameters that may affect Electrical Output. The specific data and data format will need to be included in the initial PI and during the term of the contract the Generator has an obligation to make this available to the BPPA 15.2

offtaker. This does not preclude the offtaker requesting additional data, although the terms for providing this would be outside the scope of the BPPA and there would be no compulsion on the generator to provide additional data.

4.24 **Splitting the Output of Large Generators.** For large facilities where the output is split across multiple offtakers, the Generator shall remain the lead party with respect to the BSC and the Parties to the contracts shall ensure that a Metering Volume Reallocation Notification is in place to divide the electrical output between the offtakers in proportion to their respective Contracted Capacities.

BPPA Schedule 6
(b)

Ending the Contract

4.25 **Contract expiry.** Unless the Generator wishes to terminate the BPPA early, and in the absence of any termination due to default, the BPPA Contract will expire at 0:00 on the first anniversary of the Commencement Date.

BPPA 2.1

4.26 **Non-default Termination.** At any time during the term of the contract a Generator may issue a notice of termination to their offtaker. In this notice the generator should specify the date and time at which the Agreement will terminate, which must be no earlier than six weeks after the date that the notice is served, and no earlier than six months following the Commencement Date. The contract will then terminate on the date and time specified in the notice, with neither Party being entitled to any compensation for losses caused by this termination. It is also possible for the contract to terminate at any time with mutual agreement of both Parties – the terms of any such agreement would be subject to bilateral negotiation and outside the scope of the BPPA. The offtaker is not able to terminate the contract early unilaterally.

BPPA 18.1

4.27 **Termination following Default.** If either Party defaults on its contractual obligations then the Non-Defaulting Party may give notice to the Defaulting Party specifying an Early Termination Date. This date may be no earlier than ten business days after the date the notice is served, except in the case of insolvency when it may be whenever the Non-Defaulting Party specifies. The event of default may be failure to pay an amount that is due within the designated period of time, an insolvency event, material breach of any part of the contract, an offtaker's loss of their supply license and/or breach of their credit support obligations, or fraud.

BPPA 18.3

4.28 If either Party serves a Termination Notice on the other Party, even in the event of non-default termination, the offtaker must notify Ofgem as soon as possible. Similarly, if a Termination Notice is served and disputed by the receiving Party, then the offtaker must notify Ofgem and provide details of the dispute.

LC 14, 15

4.29 **Loss of Eligibility for OLR.** If the contract is terminated due to Generator default, the Generator will lose eligibility for the OLR in future.

LC 8(g)

4.30 **Compensation.** In circumstances where the contract has been terminated due to an event of default, the Non-Defaulting Party will be eligible for compensation to cover the loss it has suffered as a result of the termination. This loss should not include the Non-Defaulting Party's legal fees or out-of-pocket expenses. To claim their compensation, the Non-Defaulting Party should send the Defaulting Party an invoice within twenty Business Days of the termination of this Agreement. The Defaulting Party must then pay within ten working days. BPPA 19

4.31 **Reallocating the metering equipment.** Regardless of how the contract has been terminated, five Banking Days prior to termination, the Generator and offtaker must arrange for a person other than the offtaker to register the Metering Equipment, and cancel or nullify any Metered Volume Reallocation Notifications which reallocate Electrical Output from the Facility to the offtaker. BPPA 19.6

Consultation Questions	
3.	<p>Do you agree that the terms of the BPPA Contract are workable and that they provide adequately for differences between:</p> <ul style="list-style-type: none"> • intermittent and baseload technology types; • facilities of different sizes; and • facilities connected to the distribution or transmission network?
4.	<p>Do you agree that the balance of the risks and rewards within the BPPA are appropriate for the generators and the offtakers?</p>
5.	<p>Do you agree that the BPPA Contract provides generators with a route-to-market that their lenders should deem bankable for project finance?</p>

Chapter 5: Offtaker Payment



- 5.1 As set out in our February consultation and the Government Response, the management fee of the offtaker will be levelised across all licenced suppliers according to market share. This levelisation process will occur quarterly, aligned with the similar process under the small-scale FiT. The OLR includes mutualisation provisions protecting the offtaker against shortfalls in payments from the levelisation account in the event of supplier insolvency.
- 5.2 This chapter sets out precisely how the offtaker is paid (or in the case of negative bids, pays) its management fee.

Levelisation

- | | |
|---|--|
| | Regs (R), Supply Licence Conditions (LC) or BPPA reference |
| 5.3 Ofgem will be required to maintain and administer a ‘levelisation account’ into which licensed suppliers will be required to pay or receive their share of OLR costs, and from which the offtaker of Last Resort will be paid (or in the event of a negative bid, pay) the management fee owed. | R 18(1) |
| 5.4 These payments are to be calculated and made on a periodic and annual basis: as with the ssFiT, periodic levelisation will occur every quarter, with an annual levelisation to reconcile the amounts paid by suppliers based on audited supply volumes. Ofgem will publish the quarterly periodic levelisation periods by 1st March which are to apply to the forthcoming OLR year. | R 20, 21 |
| 5.5 Ofgem will determine the total cost that is to be levelised across all licensed suppliers and the contributions required of each licensed supplier, adjusted in proportion to their market share. This market share will be determined alongside the determination of mandatory offtakers for the following OLR year. | R 19 |
| 5.6 The total cost to be levelised will be determined by the following formula: | R 19 |
| $V \times MF$ | |
| 5.7 Where V is the volume output of the electricity generator during the relevant period, provided to Ofgem by the offtaker, and MF is the management fee bid. | |
| 5.8 Ofgem will be required to notify each licensed supplier of the levelisation amount required of that supplier, and the date by | R 22 |

which this should be paid.

5.9 The same process will be followed when a supplier's management fee is negative. In this case the supplier will make a payment into the levelisation account according to the formula above, with this sum subtracted from the payments owed by all licenced suppliers, or paid out to all licenced suppliers.

5.10 Levelisation payments on any BPPA cannot last for more than twelve months.

R 18(5)

Mutualisation

5.11 In the event that a licensed supplier fails to make a levelisation payment within a required period of five working days, or that its supply licence has been terminated, the shortfall owed to the levelisation account will be mutualised across all other licensed suppliers.

R 25, 26

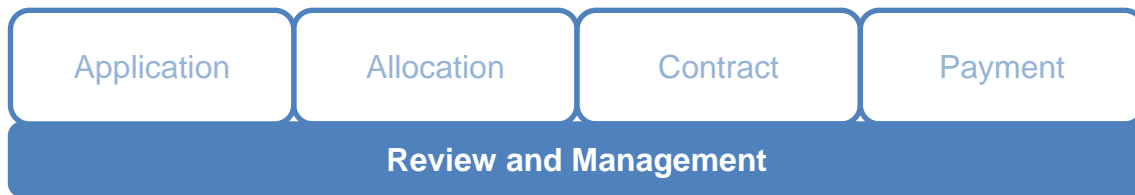
5.12 DECC/SoS will determine in respect of each OLR year a lower mutualisation limit for unpaid levelisation amounts. To protect offtakers, we intend for this amount to be zero until such time as a significant volume of BPPAs are signed.

R 26

Consultation Question

- | | |
|----|---|
| 6. | Do you agree with the way in which the levelisation and mutualisation processes are set out? Please provide evidence if you believe the approach outlined will not work. |
|----|---|

Chapter 6: OLR Review and Management



- 6.1 The Energy Act 2013 allows Government to confer functions on Ofgem and as a result, the Government intends for Ofgem to administer the OLR mechanism. Duties assigned to Ofgem include running the allocation process; assessing generator eligibility; managing levelisation and mutualisation payments; and informing scheme reviews and keeping OLR records.
- 6.2 The OLR scheme will be reviewed annually to evaluate the scheme against market parameters and to ascertain whether there have been fundamental changes to the market. The terms of the OLR will be grandfathered from the point of CfD signature and any changes will be subject to consultation.
- 6.3 This chapter sets out in detail how the OLR will be administered and reviewed.

Ofgem's role

- | | |
|--|--|
| <ul style="list-style-type: none"> 6.4 Alongside their role in administering the allocation of BPPAs, managing the levelisation process and determining mandatory offtakers, Ofgem's functions will also include: <ul style="list-style-type: none"> i. Establishing and maintaining records of each BPPA that has been entered into and is in operation, including the date of commencement and allocation. ii. Establishing and maintaining the 'blacklist' of generators which are ineligible for the OLR as a result of prohibited actions whilst participating in a previous OLR application process or BPPA. iii. Maintaining copies of each vintage BPPA, including where terms of the BPPAs are amended for new entrants, or minor, technical amendments are required to existing BPPA iv. Providing an annual report to DECC setting out the number of BPPAs entered into, the number of generators participating, and the amount of electricity generated under BPPAs. 6.5 Ofgem's roles in administering the application for and allocation of BPPAs are all subject to statutory deadlines. Should an exceptional event that is outside of Ofgem's control occur, which resulted in these deadlines no longer being reasonable, Ofgem would be able to extend | <p>Regs (R), Supply Licence Conditions (LC) or BPPA reference</p> <p>R 15(2)</p> <p>R 15(1)</p> <p>R 15(4)</p> <p>R 16</p> <p>R 12</p> |
|--|--|

the deadline. To note:

- i. Such exceptional circumstances would only cover events that Ofgem could not have reasonably envisaged, avoided or overcome. R 12(1)
- ii. In the event that an exceptional circumstance does occur, Ofgem must inform all licensed suppliers and the generator of the occurrence and specify a revised date by which it expects to complete the auction. Ofgem must use its best endeavors to minimize the impact of any delay. R 12(2)
- iii. The final regulations will specify a list of circumstances that could be considered 'exceptional', but under which Ofgem would not be able to miss their deadlines. This is to ensure that circumstances under which the OLR may be needed the most are not considered as exceptional. We envisage these would cover changes to the electricity market that led to any number of generators requesting BPPAs, including, but not limited to:
 - a. A major change in the electricity market structure
 - b. The introduction of a new market structure, trading arrangement or industry code.
 - c. A large number of generators applying for a BPPA for any reason, including supplier insolvency

We welcome stakeholder input if there are other circumstances where it will be crucial for Ofgem to administer the application and allocation of BPPAs within their deadlines despite an exceptional circumstance arising.

Consultation Question

7. In which 'exceptional circumstances' will it be crucial for Ofgem to administer the application and allocation of BPPAs within their deadlines?

Secretary of State role

- 6.6 Once BPPAs have become available to generators, Government will review the OLR to evaluate the performance of the scheme and assess wider PPA market conditions. Government will conduct this review on an annual basis and the outcomes will be published. R 16
- 6.7 These reviews may consider a wide spectrum of policy areas including, but not limited to: making adjustments to BPPAs available to new CfD signatories and considering whether the scheme should continue for generators who sign their CfDs beyond March 2019⁷. R 16, 17
- 6.8 The terms of the BPPA for an eligible generator will be grandfathered R 17 (5)

⁷ This is consistent with our February consultation position that the OLR should remain open to generators who sign their CfDs within the current Delivery Plan period to 2018/19.

from the point at which they sign their CfD. As such, changes to the terms of BPPAs resulting from these reviews will only apply to new CfD entrants. However, the SoS retains the power to adjust the terms of vintaged BPPAs in a very limited set of circumstances, where:

- i. the amendments are necessary in order to take account of a new market structure, trading arrangement or industry code; and
- ii. the effect of all amendments taken together is to maintain so far as possible the balance of risk and reward between the parties to the BPPA.

6.9 A public consultation will precede any changes to the OLR that may be suggested by the review.

Consultation Question

8. Do you agree with the way in which the OLR will be reviewed and managed? Please provide evidence if you believe the approach outlined will not work.

Annex 1: Consultation Questions

Consultation Questions	
1.	Do you agree with the way in which a generator will apply for a Backstop PPA? Please provide evidence if you believe the approach outlined will not work.
2.	Do you agree with the way in which Backstop PPAs are allocated? Please provide evidence if you believe the approach outlined will not work.
3.	Do you agree that the terms of the BPPA Contract are workable and that they provide adequately for differences between: <ul style="list-style-type: none"> • intermittent and baseload technology types; • facilities of different sizes; and • facilities connected to the distribution or transmission network?
4.	Do you agree that the balance of the risks and rewards within the BPPA are appropriate for the generators and the offtakers?
5.	Do you agree that the BPPA Contract provides generators with a route-to-market that their lenders should deem bankable for project finance?
6.	Do you agree with the way in which the levelisation and mutualisation processes are set out? Please provide evidence if you believe the approach outlined will not work.
7.	In which 'exceptional circumstances' will it be crucial for Ofgem to administer the application and allocation of BPPAs within their deadlines?
8.	Do you agree with the way in which the OLR will be reviewed and managed? Please provide evidence if you believe the approach outlined will not work.

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URN 14D/184