



Department
of Energy &
Climate Change

OLR Advisory Group Meeting – Power Purchase Agreement Scheme Regulations



Introduction to the OLR Regs

- Following the February consultation, we have been working with external lawyers to develop the OLR regulations, which set out the regulatory duties that would be placed on Ofgem to implement the OLR. These would include:
 - Allocation and eligibility,
 - Levelisation and mutualisation,
 - Informing scheme reviews and keeping records.
- This draft represents a near final iteration of the regulations. They give a direction of travel, but do not represent a final product. This draft is therefore subject to change before the consultation.
- However, considering the short consultation period that we propose in order to meet the CfD allocation rounds, we welcome your comments.
- References to Ofgem's role are subject to final agreement and we are continuing to work with Ofgem to finalise their role.



Contents

PART 1 GENERAL

1. Citation and commencement
2. Interpretation

PART 2 POWER PURCHASE AGREEMENT SCHEME

Initial stages for entering into a backstop power purchase agreement

3. Forwarding BPPA expressions of interest to all licensed suppliers
4. Notifying electricity generators of information remaining to be provided
5. Steps to be taken before the end of the notification period
6. The “notification period”
7. Multiple BPPAs subject to an auction in respect of an eligible generator

The auction process

8. Requirement to participate in auctions taking place in any particular OLR year
9. Auction process for allocating a licensed supplier in respect of each BPPA
10. The auction
11. Steps following the close of an auction: successful bid
12. Steps following the close of an auction: reserve bids
13. Publishing the outcome of an auction

Terms of a BPPA

14. Standard terms of BPPAs
15. Terms of particular BPPAs

Notifying licensed suppliers where no BPPA is to be entered into

16. Notifying licensed suppliers where no BPPA is to be entered into

Information required in connection with power purchase agreement scheme

17. CFD Counterparty to provide information requested by the Authority
18. Licensed suppliers to provide information to the Authority

19. Records to be maintained by the Authority
20. Annual reports

Miscellaneous

21. Enforcement
22. Review by Secretary of State of power purchase agreement scheme

PART 3 OLR levelisation and mutualisation

OLR levelisation

23. OLR levelisation
24. Determinations required for purposes of levelisation
25. Calculation of annual levelisation payments
26. Periodic levelisation
27. Notice of levelisation payments
28. Payments by the Authority
29. Levelisation correction

OLR mutualisation

30. OLR mutualisation
31. Mutualisation trigger range

Miscellaneous

32. Termination of supply licence
33. Late payments

The Secretary of State makes these Regulations in exercise of the powers conferred by section 51[(1) to (5)] of the Energy Act 2013(a).

In accordance with section 51(6) [and (7)] of that Act, the Secretary of State has consulted licensed suppliers, the Authority and such other persons as the Secretary of State considers appropriate.



Applying for a BPPA (Regs 3-7)

Regs 3-7 set out the steps for processing a generator's application for a BPPA.

We propose that Ofgem:

- Circulates generator's EOI to all licenced suppliers
- Informs the electricity generator of outstanding information to be sent to Ofgem, if necessary.
- Completes the following processes prior to the end of the notification period:
 1. Determining generator eligibility
 2. Notifying the generator if eligibility is not met
 3. Calculating the number of BPPAs per generator if capacity is split
 4. Circulating information from eligible generators to suppliers.
- This section of the Regs also sets out:
 - Timings for the notification period; and
 - Instructions for splitting generators across multiple BPPAs including the formula to calculate the split.



Auction Process (Regs 8-13)

- Regs 8-13 cover the requirements on suppliers participating in OLR auctions and provide detail on:
 - When the 'OLR year' will apply
 - The steps for allocating generators a BPPA contract with offtakers
 - Allows Ofgem discretion for how the auction will be run
 - Auction closure and Ofgem communicating successful bids
 - The process for allocating generators a BPPA contract with a reserve bidder
 - Publishing the statement covering the outcome of the auction



ALLOCATION TIMELINE

i. Expression of Interest (Eol) - Day 0

Generators submit an Eol including basic project details and contact information. Generators must submit full Project Information (PI) within 10 working days or else they must submit a further Eol. Submission of full project information represents a commitment to proceed with the OLR; withdrawal beyond this point would see the generator no longer eligible for BPPAs.

ii. Eligibility verification starts - Day 5

Once a generator submits their PI or no more than five working days after receiving the Eol (whichever is later), Ofgem must begin to verify eligibility.

iii. OLR Notice circulated to all licensed suppliers - Day 9

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.

iv. Deadline for bids to be returned - Day 19

Suppliers must return their bids no more than ten working days after the date that Ofgem circulates the OLR notice. The bid includes a signed copy of the BPPA(s).

v. Lowest bidder identified - Day 20

Ofgem identifies the lowest bidder

vi. BPPA agreed - Day 21

The generator agrees the BPPA by countersigning and dating the contract.

vii. BPPA commences - Day 26



The BPPA Terms (Regs 14-16)

- Provisions for the BPPA contract sit in the Regs.
- The SoS can amend the BPPA terms and publish the changes. However, it is our intention for the terms of the OLR to be grandfathered from the point of CfD signature with features such as the discount and BPPA duration only changing for new entrants.
- Any changes to the standard BPPA terms will have to go through a consultation process.
- Reg 16 covers scenarios where Ofgem need to notify suppliers if, after an auction, no BPPA is to be entered into.
- Ofgem will provide this notification to suppliers if:
 - A generator is deemed ineligible
 - A generator has withdrawn their EOI
 - A generator has not fully updated their project information.



Information Requirements (Regs 17-20)

- These Regs set out provisions for information sharing under the OLR. It is necessary for information to be shared between DECC, Ofgem and the CfD Counterparty (Low Carbon Contract Company Ltd).
- We propose the CFD Counterparty provides information verifying a generators CfD information. Ofgem will request information with the expectation of receiving a response within 2 working days.
- Ofgem will also maintain records on the OLR contracts including:
 - BPPAs entered into between generators and offtakers
 - Information on generators who have failed to enter a BPPA with an offtaker
 - A list of BPPAs terminated before the expiry of their full term
 - Reference numbers of the BPPA contracts to which electricity generators were subject at the time a new BPPA is entered into.
- Information maintained by Ofgem is to be made available for public inspection as determined appropriate by Ofgem.



Miscellaneous (Regs 21-22)

- These Regs cover enforcement and provisions for the SoS to review scheme.

Enforcement (Reg 21)

- Ofgem can conduct investigations into the conduct of companies that it believes may be breaching licence conditions.
- Breaches to requirements imposed on licensed suppliers under these Regs are enforceable by Ofgem.

Secretary of State Review (Reg 22)

- Provisions will be made in the Regs for the SoS to review the OLR scheme.
- This review will cover the circumstances for entering a BPPA and the operation of the scheme.
- Ofgem are required to provide information for this review.
- The outcomes from these reviews will be published.
- Ofgem are also required to produce annual reports by the end of each OLR year. The results of these reports will be published.



Levelisation (Regs 23-29)

- We propose that Ofgem runs the OLR levelisation process, which has been drafted to mirror the FIT levelisation processes as closely as possible.
- All licensed suppliers are to be included in the OLR levelisation.
- We propose that Ofgem maintain a levelisation account and will determine:
 - The period over which levelisation payments should be made,
 - How much should be paid into the levelisation account,
 - The amount of the annual payment.
- This section also sets out:
 - The formula for use in calculating levelisation payments,
 - When levelisation payments are to be made to Ofgem,
 - Notice of when payments are to be made by Ofgem,
 - Processes to correct levelisation payments.



Mutualisation (Regs 30-31)

- OLR mutualisation provisions will be triggered if one or more supplier's fail to make the whole or part of their levelisation payment.
- We propose that Ofgem will:
 - Calculate the amount to be mutualised across suppliers
 - Give notice to each licensed supplier of the amount payable and payment due dates
 - Distribute total amount to be received amongst eligible suppliers, (eg suppliers who have not defaulted)
 - Cancel and amend incorrect mutualisation notices, for example, if a mutualisation payment is not made but Ofgem then receives an outstanding payment.

Mutualisation trigger

- The SOS will determine the mutualisation trigger range for each OLR year with a lower limit for unpaid amounts
- This determination will be published before the beginning of the OLR year to which it relates.



Miscellaneous (Regs 32-33)

Regs 32-33 focus on circumstances where a suppliers licence has been terminated and if late payments into the levelisation and/or mutualisation accounts.

1. Termination of supply licence

- This applies where an electricity supply licence is terminated.
- This supplier is no longer to be regarded as a licensed supplier no longer being considered for levelisation or mutualisation.

2. Late Payments

- This applies in cases where Ofgem:
 - receives a late levelisation payment;
 - receives a late payment after Ofgem has made a correction to a levelisation payment notice;
 - where Ofgem receives a late mutualisation payment, either before or after the distribution of mutualisation funds.



Next Steps

- We value your comments on this and other OLR products. Please send these through by Thursday next week.
- We will be consulting on the Backstop PPA Contract, Power Purchase Agreement Scheme Regulations and the Electricity Supply Licence Condition Modifications in June.
- Alongside this consultation, we will be publishing the Government's response to our February consultation, and updated Impact Assessment.
- We aim to have the OLR legislation in place by the of the first CfD allocation round in Autumn 2014.