



# CLEVE HILL SOLAR PARK

**OTHER DEADLINE 3 SUBMISSIONS  
THE APPLICANT'S RESPONSE TO GREAT EXPERT REPORT ON THE  
STATEMENT OF NEED - REFERENCE 11**

August 2019  
Revision A

Document Reference: 11.4.10.11  
Submitted: Deadline 3  
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**CLEVE HILL**  
SOLAR PARK

**To: All holders of an electricity generation licence**

**Electricity Act 1989  
Section 11A(2)**

**Notice of statutory consultation on a proposal to modify the standard conditions  
of all electricity generation licences**

1. The Gas and Electricity Markets Authority ('the Authority')<sup>1</sup> proposes to modify the standard conditions of all electricity generation licences granted or treated as granted under section 6(1)(a) of the Electricity Act 1989 by amending Standard Licence Condition 1 – Definitions; and by adding a new standard licence condition (SLC E1 – *Requirement to provide storage information*).
2. We are proposing this modification because there is currently no definition of 'electricity storage' and 'electricity storage facility' in the licensing framework and this contributes to the uncertainty on which regulatory regime applies to electricity storage. We are also proposing to introduce a new licence condition requiring the licensee to ensure that they make available timely and accurate information to their electricity suppliers to facilitate the estimation of relevant charges.
3. The changes we are proposing can be found in Appendix A.
4. The effect of this proposed modification is to confirm that the generation licensing regime and underpinning regulatory framework applies to electricity storage as well; and to ensure that electricity used by a storage facility is identified for the purpose of calculating relevant levies and charges.
5. A copy of the proposed modifications and other documents referred to in this Notice have been published on our website ([www.ofgem.gov.uk](http://www.ofgem.gov.uk)). Alternatively, they are available from [foi@ofgem.gov.uk](mailto:foi@ofgem.gov.uk).
6. Any representations with respect to the proposed licence modification must be made on or before 25 July 2019 to: Andrew Burgess, Office of Gas and Electricity Markets, 10 South Colonnade, Canary Wharf, London, E14 4PU or by email to [flexibility@ofgem.gov.uk](mailto:flexibility@ofgem.gov.uk).
7. We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication. We prefer to receive responses in an electronic form so they can be placed easily on our website.
8. If we decide to make the proposed modification it will take effect not less than 56 days after the decision is published.



**Andrew Burgess, Duly authorised on behalf of the  
Gas and Electricity Markets Authority**

**26 June 2019**

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<sup>1</sup> The terms "the Authority", "we" and "us" are used interchangeably in this document.



## Appendix A

### **Condition 1. Definitions and Interpretation**

1. In the standard conditions unless the context otherwise requires:

the "Act"

means the Electricity Act 1989.

"affiliate"

in relation to any person means any holding company of such person, any subsidiary of such person or any subsidiary of a holding company of such person, in each case within the meaning of sections 1159 and 1160 of the Companies Act 2006

"alternative accounting rules"

for the purposes of standard condition 16 (Regulatory Accounts) only, has the meaning given in that condition.

"ancillary services"

means:

- (a) such services as the licensee may be required to have available in association with any generation set pursuant to the Grid Code; and
- (b) such services as the licensee may have agreed to have available in association with any generation set pursuant to any agreement made with the system operator, and which may be offered for sale to the system operator for the purpose of securing stability of operation on the national electricity transmission system



and/or a distribution system of any authorised electricity operator.

"auditors"

means the licensee's auditors for the time being holding office in accordance with the requirements of the Companies Act 1985.

"authorised"

in relation to any business or activity means authorised by licence granted or treated as granted under section 6 or exemption granted under section 5 of the Act.

"authorised activities"

for the purposes of standard condition 15 (Other Powers etc) only, has the meaning given in that condition.

"authorised electricity operator"

means any person (other than the licensee) who is authorised to generate, participate in the transmission of, distribute or supply electricity or participate in the operation of an interconnector and, for the purposes of the standard conditions shall include any person who has made an application to be so authorised which application has not been refused and any person lawfully transferring electricity to or from or across Great Britain or any part thereof or to or from across an interconnector (or who has made application for use of an interconnector which has not been refused).

"the Authority"

means the Gas and Electricity Markets Authority established under section 1 of the Utilities Act 2000.

"BETTA"	means the British electricity trading and transmission arrangements which are provided for in Chapter 1 of Part 3 of the Energy Act
"BETTA go-live date"	means the date which the Secretary of State indicates in a direction shall be the BETTA go-live date
"British Grid Systems Agreement"	"British Grid Systems Agreement" for the purposes of standard condition 19B (BETTA run-off arrangements scheme) only, has the meaning given in that condition
"BSC"	for the purposes of Section B only, has the meaning given in standard condition 9 (Balancing and Settlement Code and NETA implementation)
"BSC Framework Agreement"	for the purposes of standard condition 9 (Balancing and Settlement Code and NETA implementation) only, has the meaning given in that condition.
"core industry documents"	for the purposes of standard conditions 9 (Balancing and Settlement Code and NETA Implementation) and 10 (Change Co-ordination for BSC) only, has the meaning given in standard condition 9; and for the purposes of standard condition 19 (Compliance with CUSC) only, has the meaning given in that condition.
"current costs assets"	for the purposes of standard condition 16 (Regulatory Accounts) only, has the meaning

	given in that condition.
"CUSC"	for the purposes of standard condition 19 (Compliance with CUSC) only, has the meaning given in that condition.
"CUSC Framework Agreement"	for the purposes of standard condition 19 (Compliance with CUSC) only, has the meaning given in that condition.
"customer"	means any person supplied or requiring to be supplied with electricity at any premises in the specified area set out in Schedule 1 or Schedule 1A and 1B, as applicable, but shall not include any authorised electricity operator in its capacity as such.
"Distribution Code"	means a Distribution Code required to be prepared by a licensed distributor pursuant to standard condition 9 (Distribution Code) of a distribution licence and approved by the Authority and revised from time to time with the approval of the Authority.
"distribution licence"	means a distribution licence granted or treated as granted under section 6 (1) (c) of the Act.
"distribution system"	means the system consisting (wholly or mainly) of electric lines owned or operated by an authorised distributor and used for the distribution of electricity from grid supply points or generation sets or other entry points to the point of delivery to customers or authorised electricity operators or any

transmission licensee in its capacity as operator of the licensee's transmission system or the national electricity transmission system and includes any remote transmission assets (owned by a transmission licensee within England and Wales) operated by such distributor and any electrical plant, meters and metering equipment owned or operated by such distributor in connection with the distribution of electricity, but shall not include any part of the national electricity transmission system.

"effective time"

for the purposes of standard condition 9 (Balancing and Settlement Code and NETA Implementation) only, has the meaning given in that condition

"electricity storage"

is the conversion of electrical energy into a form of energy, which can be stored, the storing of that energy, and the subsequent reconversion of that energy back into electrical energy.

"electricity storage facility"

means a facility where Electricity Storage occurs.

"electricity supplier"

means any person authorised to supply electricity.

"estimated costs"

for the purposes of standard condition 4 (Payments by the Licensee to the Authority) only, has the meaning given in that



	condition.
"extension"	shall be construed in accordance with standard condition 14 (Compulsory Acquisition of Land etc).
"financial year"	means subject to standard condition 16A (Change of Financial Year) (where applicable) a period of 12 months beginning on 1 <sup>st</sup> April of each year and ending on 31 <sup>st</sup> March of the following calendar year.
"Fuel Security Code"	for the purposes of Section B only, has the meaning given in standard condition 7 (Security Arrangements).
"generating station"	<p><del>shall be construed in accordance with standard condition 14 (Compulsory Acquisition of Land etc).</del></p> <p><u>means an electricity generating station or an electricity storage facility which:</u></p> <p>(i) <u>has, or will have when its construction or extension is completed, a capacity of not less than 50 megawatts or such other capacity as may be specified in relation thereto by order of the Secretary of State under section 36(3) of the Act;</u></p> <p>(ii) <u>is, or will be when its extension or construction is completed, operated by or for the licensee;</u></p>



"generation business"	means the authorised business of the licensee or any affiliate or related undertaking of the licensee in the generation of electricity and the provision of ancillary services.
"generation licence"	means a generation licence granted or treated as granted under section 6(1)(a) of the Act.
"generation set"	means any plant or apparatus for the production of electricity and shall where appropriate include a generating station comprising more than one generation set.
"generating unit"	for the purposes of standard condition 18 (Generating Unit Availability) only, has the meaning given in that condition, <u>which also applies to an electricity storage facility</u> .
"Grid Code"	means the grid code which the system operator is required to prepare and have approved by the Authority as from time to time revised with the approval of the Authority.
"grid supply point"	means any point at which electricity is delivered from the national electricity transmission system to any distribution system.
"the handbook"	for the purposes of standard condition 16 (Regulatory Accounts) only, has the meaning given in that condition.

"holding company"	means a holding company within the meaning of sections 736, 736A and 736B of the Companies Act 1985.
"information"	shall include any documents, accounts, estimates, returns or reports, records and any data in verbal, written or electronic form and information in any form or medium whatsoever.
"interconnector"	has the meaning given to 'electricity interconnector' in section 4(3E) of the Act.
"licensed distributor"	means any holder of a distribution licence.
"licensee's transmission system"	means those parts of the national electricity transmission system which are owned or operated by a transmission licensee within its transmission area.
"national electricity transmission system"	means the system consisting (wholly or mainly) of high voltage electric lines owned or operated by transmission licensees and used for the transmission of electricity from one generating station to a sub-station or to another generating station or between sub-stations or to or from any interconnector and includes any electrical plant or meters owned or operated by any transmission licensee in connection with the transmission of electricity.
"non-GB trading and transmission arrangements"	"non-GB trading and transmission arrangements" for the purposes of standard condition 19B (BETTA run-off

	arrangements scheme) only, has the meaning given in that condition
"participating interest"	has the meaning given by section 260 of the Companies Act 1985, as amended by section 22 of the Companies Act 1989.
<b>"planned availability period"</b>	for the purposes of standard condition 18 (Generating Unit Availability) only, has the meaning given in that condition.
<b>"Pooling and Settlement Agreement"</b>	means the agreement of that title approved by the Secretary of State as from time to time amended.
"related undertaking"	in relation to any person means any undertaking in which such person has a participating interest.
"relevant documents"	"relevant documents" for the purposes of standard condition 19B (BETTA run-off arrangements scheme) only, has the meaning given in that condition
"relevant proportion"	for the purposes of standard condition 4 (Payments by the Licensee to the Authority) only, has the meaning given in that condition.
"relevant year"	for the purposes of standard condition 4 (Payments by the Licensee to the Authority) only, has the meaning given in that condition.
"remote transmission assets"	means any electric lines, electrical plant or meters in England and Wales owned by a

transmission licensee (the "owner transmission licensee") which

(a) are embedded in a distribution system of any authorised distributor, and are not directly connected by lines or plant owned by the owner transmission licensee to a sub-station owned by the owner transmission licensee; and

(b) are by agreement between the owner transmission licensee and such authorised distributor operated under the direction and control of such authorised distributor.

“running off”

“running off” for the purposes of standard condition 19B (BETTA run-off arrangements scheme) only, has the meaning given in that condition

“Scottish grid code”

“Scottish grid code” means any grid code which any transmission licensee other than the system operator is obliged to maintain pursuant to its licence

"Section C (system operator standard conditions) Direction"

means a direction issued by the Authority or the Secretary of State, where appropriate, in accordance with standard condition A2 (Application of Section C) of the standard conditions for electricity transmission licences.



"separate business"

means each and any of

- (a) the generation business of the licensee;
- (b) the supply business of the licensee;
- (c) any distribution business of an affiliate or related undertaking of the licensee;
- (d) any transmission business of an affiliate or related undertaking of the licensee; and
- (e) any interconnector business of an affiliate or related undertaking of the licensee

taken separately from one another (but so that where all or any part of such business is carried on by an affiliate or related undertaking of the licensee, such part of the business as is carried on by that affiliate or related undertaking shall be consolidated with any such other business of the licensee and of any other affiliate or related undertaking of the licensee so as to form a single separate business).

"statutory accounts"

means the accounts that the licensee prepares under the Companies Act 1985 (as amended by the Companies Act 1989).

"subsidiary"

has the meaning given in sections 736, 736A



	and 736B of the Companies Act 1985.
"supply licence"	means a supply licence granted or treated as granted under section 6(1)(d) of the Act.
"System Operation Agreement"	"System Operation Agreement" for the purposes of standard condition 19B (BETTA run-off arrangements scheme) only, has the meaning given in that condition.
"system operator"	means the holder for the time being of a transmission licence in relation to which licence the Authority or the Secretary of State, where appropriate, has issued a Section C (system operator standard conditions) Direction and where Section C remains in effect (whether or not subject to any terms included in the Section C (system operator standard conditions) Direction or to any subsequent variation of its terms to which the licensee may be subject).
"terms"	means the terms contained in Part I of this licence and in any provisions in a Schedule referred to in such terms.
"transmission area"	"transmission area" means the area specified special condition AA of a transmission licensee's transmission licence.
"transmission licence"	means a transmission licence granted or treated as granted under section 6(1)(b) of the Act.
"transmission licensee"	means the holder for the time being of a

transmission licence.

"undertaking"

has the meaning given by section 259 of the Companies Act 1985 as amended by section 22 of the Companies Act 1989.

2. Any words or expressions used in the Utilities Act 2000, Part I of the Act or the Energy Act 2004 shall, unless the contrary intention appears, have the same meaning when used in the standard conditions.
3. Except where the context otherwise requires, any reference to a numbered standard condition (with or without a letter) or Schedule is a reference to the standard condition or Schedule (with or without a letter) bearing that number in this licence, and any reference to a numbered paragraph (with or without a letter) is a reference to the paragraph bearing that number in the standard condition or Schedule in which the reference occurs, and reference to a Section is a reference to that Section in these standard conditions.
4. These standard conditions shall have effect as if in relation to references to a licence holder who is a natural person, the words "it", "its" and "which" there are substituted the words "he", "him", "his" and "whom", and cognate expressions shall be construed accordingly.
5. Except where the context otherwise requires, a reference in a standard condition to a paragraph is a reference to a paragraph of that condition and a reference in a paragraph to a sub-paragraph is a reference to a sub-paragraph of that paragraph.
6. Any reference in these standard conditions to:
  - (a) a provision thereof;
  - (b) a provision of the standard conditions of electricity supply licences, or
  - (c) a provision of the standard conditions of electricity distribution licences,

- (d) a provision of the standard conditions of electricity transmission licences, or
- (e) a provision of the standard conditions of electricity interconnector licences,

shall, if these standard conditions or the standard conditions in question come to be modified, be construed, so far as the context permits, as a reference to the corresponding provision of these standard conditions or the other standard conditions in question as modified.

7. In construing the standard conditions, the heading or title of any standard condition or paragraph shall be disregarded.
8. Any reference in a standard condition to the purposes of that condition generally is a reference to the purposes of that condition as incorporated in this licence and as incorporated in each other licence under section 6(1)(a) of the Act (whenever granted) which incorporates it.
9. Where any obligation under in or pursuant to the licence is required to be performed by a specified date or within a specified period, and where the licensee has failed so to perform by such date or within such period, such obligation shall continue to be binding and enforceable after the specified date or after the expiry of the specified period (but without prejudice to all rights and remedies available against the licensee by reason of the licensee's failure to perform by that date or within that period).
10. Anything required by or under these standard conditions to be done in writing may be done by facsimile transmission of the instrument in question or by other electronic means and, in such case:
  - (a) the original instrument or other confirmation in writing shall be delivered or sent by pre-paid first-class post as soon as is reasonably practicable, and
  - (b) where the means of transmission had been agreed in advance between the parties concerned, in the absence of and pending such confirmation, there shall be a rebuttable presumption that what was received duly represented the original instrument.



11. The definitions referred to in this condition may include some definitions which are not used or not used exclusively in Sections A and B (which Sections are incorporated in all generation licences). Where:

- (a) any definition is not used in Sections A and B, that definition shall, for the purposes of this licence, be treated:
  - (i) as part of the standard condition or conditions (and the Section) in which it is used;
  - (ii) as not having effect in the licence until such time as the standard condition in which the definition is used has effect within the licence in pursuance of standard condition 2 (Application of Section C (Supplementary Conditions for Scotland)) or standard condition 3 (Application of Section D (Supplementary Conditions for Nuclear Generators));
  - (iii) as not having effect in the licence until such time as the standard condition in which the definition is used has effect within the licence in pursuance of that standard condition;
- (b) any definition which is used in Sections A and B is also used in one or more other Sections:
  - (i) that definition shall only be modifiable in accordance with the modification process applicable to each of the standard conditions in which it is used; and
  - (ii) if any such standard condition is modified so as to omit that definition, then the reference to that definition in this condition shall automatically cease to have effect.

## “SECTION E: Supplementary Standard Conditions for electricity storage

### Condition E1. Requirement to provide storage information

1. The licensee must provide to the relevant supplier the information specified in accordance with paragraph 3 insofar as it relates to an electricity storage facility which is owned or operated by the licensee and which is situated at premises to which electricity is supplied by the relevant supplier.
2. The licensee must publish on its website the information specified in accordance with paragraph 3 in relation to every electricity storage facility it owns or operates.
3. The following information is specified information for the purposes of paragraphs 1 and 2 above:
  - a) In relation to paragraph 1 only, confirmation of the electricity supplier to each electricity storage facility;
  - b) For each electricity storage facility:
    - (i) The technology type, power and capacity of the electricity storage facility;
    - (ii) Where and to which transmission or distribution network the electricity storage facility is connected;
    - (iii) If an electricity storage facility is co-located at the same premises with a final consumer(s) (either as a single electricity storage facility or in aggregate with multiple electricity storage facilities), how it is or they are connected and the relationship between the final consumer(s) and licensee; and
    - (iv) The metering arrangements in place between the electricity storage facility and final consumer at the electricity storage facility.



4. The licensee must comply with paragraphs 1 and 2 within, either:
- a) This condition coming into force; or
- b) The electricity storage facility becoming operational (whichever is sooner),
- and update their relevant supplier and website as soon as reasonably practicable following any change in the information specified in accordance with paragraph 3 in relation to every electricity storage facility it owns or operates.
5. The Authority may give a direction in writing to the licensee to direct changes to the information specified in accordance with paragraph 3 as the Authority thinks reasonable in all the circumstances of the case.
6. The Authority may, after consulting with the licensee, give a direction in writing (“a derogation”) to the licensee that relieves it of its obligations under this condition to such extent, for such period of time, and subject to such conditions as the Authority thinks reasonable in all the circumstances of the case as may be specified in the direction.
7. In this Section:

“Final consumer” means a final consumer of electricity (not including supply to premises occupied by a licensee for the purpose of carrying on activities which he is authorised by his licence to carry on).

“Relevant supplier” means the holder of an electricity supply licence who supplies electricity to the specific premises that includes an electricity storage facility.

“Website” has the meaning given to it in standard condition 16B (Financial information reporting).

