

Energy UK response to [DESNZ Smart Secure Electricity Systems \(SSES\) Programme: draft load control licence regulations and conditions](#)

25th February 2025

About Energy UK

Energy UK is the trade association for the energy industry, representing companies investing billions of pounds to secure our country's current and future energy needs.

From growing start-ups to major electricity generators, grid and infrastructure developers and energy suppliers, our members are driving change across power, heat, transport and flexibility.

We provide a collective voice for the sector working with governments, regulators, charities and other organisations to provide crucial insight that shapes policy, offers solutions and promotes best practice.

Our broad view across the whole system supports evidence-based positions which are not tied to particular technologies, and are focused on delivering strategic benefits for people, businesses and the economy.

We champion initiatives such as our Vulnerability Commitment, which pushes suppliers to go beyond regulation to support customers with additional needs, and TIDE, the industry's drive for greater inclusion and diversity. Through our Young Energy Professionals Forum, we support the development of future leaders.

We are equally committed to our team and are proud to be recognised as a 'Gold' Investors in People employer.

Summary as per cover letter.

If you have any questions about this response or wish to engage with Energy UK and its members, we would welcome further engagement.

Kind regards,
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Consultation Questions

- 1. With reference to regulation 4 and inserting new sub-sections (3J)(a) and (3K) into section 4 of the Electricity Act 1989, do you agree with the proposed load controller licensable activity, noting that it distinctly captures organisations creating a load control signal, changing a load control signal, and controlling the timing of sending a load control signal where controlling the timing of sending a load control signal is for the purpose of effecting load control? Please explain your answer and if you disagree provide alternative suggestions.**

Yes, in theory, the proposals in scope reflect the intent of the policy.

However, as outlined in Energy UK's response to the Ofgem consultation, there are several concerns around the scope of the licence, with many organisations inadvertently in scope of the licence. There is a lack of clarity in the proposals around where responsibility begins and ends for load control across retailers, aggregators and the supply chain. This makes it difficult to understand whether organisations are in scope of the requirements.

Whilst it may be appropriate for these organisations to be party to a licence, and some of these uncertainties can be answered on a case by case basis, as the sector grows this approach is unlikely to be scalable as the sector grows and new business models emerge.

For example, members have noted examples where there is a lack of clarity such as:

- Where subsidiary companies exist under a single company
- Companies that are Flexibility Service Providers (FSPs) and also have contracts with suppliers
- Particular uncertainties around operators of Building and Home Energy Management Systems (BEMS/HEMS) holding a licence, even if they are not engaged in energy flexibility markets, but use load control for wider building energy management
- Variations with electricity supplier models depending on third-parties to send load control signals

Given the iterative nature of licensing in this area, it is critical that the scope of the licensable activity is clearly defined from the outset. Without sufficient clarity, there is a risk that participants may face ambiguity as to whether they require a licence, in itself creating a barrier to entry. The number of expected licensees could grow significantly if the scope remains unclear.

For this reason, the timeframe of the licensing implementation should not be rigid, as the regulator will need to work with participants to help them to understand if they should be in scope of the licence and to minimise inadvertent non-compliance.

- 2. With reference to regulation 4 and inserting a new sub-section (3J)(b) into section 4 of the Electricity Act 1989, do you agree with the proposed FSP licensable activity? Please explain your answer and if you disagree provide alternative suggestions.**

Yes.

Energy UK supports this in theory, as the measures around customer protection are welcome. As outlined in Energy UK's cover letter, the overarching concerns around uncertain scope, timeframes, and overlap with existing regulation need to be addressed as they impact the viability of this proposal.

- 3. With reference to regulations 4 (amending section 4 of the Electricity Act 1989) and 6 (amending section 6 of the Electricity Act 1989), do you agree with the**

rest of the proposed drafting to make load control a licensable activity and authorising Ofgem to grant load control licences? Please explain your answer and if you disagree provide alternative suggestions for achieving the same outcome.

Yes in theory. Although, as outlined in Energy UK's cover letter, the overarching concerns around uncertain scope, timeframes, and overlap with existing regulation need to be addressed as they impact the viability of this proposal.

- 4. Do you agree with the ESA definitions outlined in this section and the intent to align the ESA definitions of the exemptions order with first phase ESA regulations (where applicable), noting that organisations will need to identify whether they are required to hold a licence based on the scope and definitions outlined (although, please also note it is only load controllers and FSPs that exclusively undertake out of scope activity that will not require a licence)? If not, please specify the definitions you disagree with, alternative suggestions or ways to mitigate your implementation concerns and your rationale.**

Yes.

This should be cross-referenced with proposed definitions in the ESA consultation, as this is inherently reliant on clear definitions and standards for the devices.

Energy UK would also highlight the interdependencies with the ESA regulations and the licensing scope. From device lock-in, to exit fees, to interoperability – these are closely linked and feed into overall customer outcomes.

The increasing complexity of this landscape should not be underestimated. DESNZ needs to provide strategic oversight and delegate official enforcement responsibilities. Ultimately, it is OPSS who is responsible for device standards enforcement, but the overlap between licenses, governance groups, and how they interact with the licence is increasingly complex.

The Government should ensure the route to compliance and enforcement is clear. Achieving compliance, enforcement, and monitoring involves a wide range of companies, which makes the process complex and sometimes fragmented. The responsibility for technical standards and compliance often gets passed around between regulators and operators. It's crucial to define clear responsibilities between the various entities involved to ensure that trust in the fast growing sector is not undermined.

- 5. Do you agree with using the small business consumer definition to determine the additional consumer-based exemption for FSPs? Please explain your answer and if you disagree provide alternative suggestions.**

The definition of small non-domestic seems appropriate and aligned with the aims of the consultation.

- 6. Do you think government should consider any further exemptions? If so, please specify which exemption(s), the approach you would take to the exemption(s) and your rationale.**

Please refer to Q35 for further detail.

As outlined in our response, suppliers are concerned around the “double jeopardy” they will face when operating under two licences. Where load control is offered as part of a tariff, the

customer protections within the supply licence should take precedence. This should be done via a targeted exemption for suppliers rather than reliance on derogations.

Alternatively, FSPs could be required to apply for a supply licence, potentially using the Licence Lite approach, as this approach would maintain regulatory parity, protect against regulatory divergence between two separate licences and address the concerns around double jeopardy.

Government should also examine how exemptions could work where load control is offered through a partnership.

7. Do you agree with a 12-month transitional period being written into legislation? Please explain your answer and if you disagree, provide alternative suggestions.

As outlined in Energy UK's response to the Ofgem Licensing consultation:

No.

Customers are more likely to receive better outcomes if companies are actively supported in complying with regulations, especially if they are struggling with the introduction of new regulations.

Ofgem should encourage a collaborative, early engagement approach between regulators and companies to improve outcomes. However, this is unlikely to be possible, given the licence application window will only be open for three months.

This is a concern given that Ofgem is not planning to allow tacit authorisation.

Ofgem does not appear to be offering one-to-one assistance with individual organisations to help them adhere to the new regulations, meaning when the application window opens, organisations will have only a few months to apply and ensure they have adequate protections in place. Similarly, given the current gaps in the licence proposals, Energy UK is uncertain that Ofgem and DESNZ will be able to both confirm the scope of the proposals and also support companies in adhering to the upcoming regulations.

This is deeply concerning as existing companies that miss this short, three-month window will not be able to operate in the UK market. Many of these companies will have agreements in place with a customer, meaning customers will lose access to their energy offers. Whilst Energy UK supports the pre-emptive regulation ahead of mass uptake, this time frame creates a severe risk to customer experience, risking penalising early adopters of flexible tariffs, as well as the industry that has invested to offer these services.

This also creates a risk of market distortion and uneven competition, with companies who have sufficient resource to prepare before the licensing is finalised holding an advantage over those who are more risk-averse or smaller, and legitimately decide to wait until policy is confirmed before dedicating resource.

It would also have significant impacts on the existing flexibility arrangements in the market. For example, where organisations have assets contracted into the Capacity Market, any withdrawal to the operations of these companies due to poor regulatory design would have a significant impact on the stability of these markets and implications to the broader energy system from Q1 2028.

In order to mitigate this concern and ensure customers continue to receive services for their low-carbon technologies, and ensure flexibility services are not withdrawn from markets, Ofgem has a few options available:

- A form of regulatory forbearance, where organisations are temporarily allowed to operate without meeting the required compliance with regulations.
- Extend the application window until the proposals are fully formulated.
- Where FSPs are already providing services to their customers, they are allowed to continue to provide this service to ensure no disruption in supply.
- A flexible transitional period – Ofgem could determine when it's an appropriate time to go live based on how the application window goes.
- Where assets are already contracted in flexibility arrangements, using an approach similar to the heat networks authorisation scheme, where assets are automatically deemed authorised. Companies then provide data to Ofgem as part of the regulatory requirements. If any then issues companies start engaging with the regulator to address them before proceeding to enforcement and eventually the supplier being removed if they can't be resolved.

Companies should be encouraged to pre-emptively and proactively adhere to the standards of the licence whilst they await a decision by Ofgem. This should be taken into account when Ofgem considers its approval.

However, Energy UK would stress that implementing a new licence regime for a large number of companies, many of whom have not previously been subject to licensing requirements, is likely to create a significant administrative and operational burden for Ofgem. The process of onboarding, assessing, and supporting first-time applicants may prove more resource-intensive than processing standard supply licence applications, given the need for additional guidance and clarification.

Ofgem should therefore significantly review the timeframes for its application process. If a company is actively engaging with Ofgem on their licence proposal, but Ofgem does not have resource to support the organisation, the company should not be penalised.

Above all, Energy UK would stress that organisations should be provided with clear guidance in both applying and adhering to the regulations, given that these are the first of their kind in an early-stage market. All market participants want conditions to be clearly defined and future-proofed to accommodate emerging business models and wider electricity system policy changes.

8. With reference to regulations 8-15 and Schedule 1, do you agree with the proposed amendments to the Electricity Act 1989, the Utilities Act 2000 and the Electricity (Applications for Licences, Modifications of an Area and Extensions and Restrictions of Licences) Regulations 2019, noting that Ofgem are separately consulting on the detail of the load control licence application form? Please explain your answer and if you disagree provide alternative suggestions where relevant.

Partly, although this is subject to our broader points around simplification, and dependent on the outcomes of Ofgem's consultation on how the licensing application proposals.

9. With reference to regulation 16 and Schedule 2, do you agree with the approach to bring FSPs within scope of the existing statutory framework to regulate complaints handling standards and ADR, noting that this:

- a. **Will require FSPs to comply with regulations 1 -7, and 11 of The Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008;**
- b. **Will require FSPs to participate in the Energy Ombudsman ADR scheme.**

Please explain your answer and if you disagree provide alternative suggestions.

Energy UK supports the proposal to bring FSPs in scope of the existing complaints and ADR framework. This will ensure there is a clear and consistent approach to customer complaints.

When implementing any complaints handling standards and the ADR scheme, the Government should be aware of the ongoing workstream Fairer, Faster Redress in the Retail Energy Market, which explores the complaints process against domestic energy suppliers, complaints by small enterprises against non-domestic energy suppliers and complaints against heat networks.¹ The Government should consider carefully Energy UK's publicly stated positions on this workstream ahead of implementation.²

Key areas of risk in the Government's proposals for ombudsman reform, as identified by Energy UK, include:

- Enabling the Energy Ombudsman (EO) to pursue complaints without a customer's consent.
- Shortening the window available for a supplier to address a customer's complaint before it can be escalated to the EO.
- Proposals for additional powers without commensurate focus and detail on EO capabilities and performance monitoring.

These highlighted risks should be addressed before related policy is adopted into the broader energy regulatory landscape. Implementing policies in silos can foster unintended outcomes for consumers and regulated entities.

As in other well-functioning competitive markets, suppliers are commercially incentivised to optimise the customer experience by providing high standards of service. Energy UK encourages DESNZ to follow closely Ofgem's current work on proposals for Consumer Outcomes and its review of the Guaranteed Standards of Performance (GSoPs).^{3,4} Energy UK invites DESNZ to consider carefully our responses to these consultations, including our feedback on addressing complaints.

The EO also needs to ensure they have appropriate resource to provide the additional service.

¹ [DESNZ \(2025\) Fairer, faster redress in the energy market](#)

² [Energy UK \(2025\) Energy UK response to Fairer, Faster Redress in the Retail Energy Market consultation](#)

³ [Energy UK \(2026\) Energy UK response to Ofgem: Call for input – Consumer Outcomes](#)

⁴ [Energy UK \(2026\) Energy UK response to Ofgem: Call for input – Reviewing the supplier Guaranteed Standards of Performance](#)

10. With reference to paragraph 2(3) of Schedule 2 of the draft regulations, do you agree that regulation 9 of The Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 should not apply to FSPs until a future time when government and Ofgem deem it appropriate to extend consumer advocacy services to this market? Please explain your answer and if you disagree suggest when you think it would be appropriate for consumer advocacy services to extend to this market, whether that be for the launch of the licence or another specific time.

Energy UK agrees that at this stage of the market, Regulation 9 should not apply to FSPs, and that this should be kept under review as the market matures.

Energy UK believes there needs to be a consistent definition of a complaint and metrics of complaint handling across energy services. There should be a level playing field that presents a proportionate and efficient obligation.

Consumer advocacy should also be consistent across energy services – and this should be done in a staged approach to ensure that services are applied when there is an understanding of where the risks are.

This does not mean simply adopting overlapping energy supply obligations but thinking how this can be done in a streamlined, efficient manner.

Please see Q9 and Q16 on how these should be addressed.

11. With reference to licence condition 3 and the relevant definitions in licence conditions 1 and 2, do you agree with the drafting of this licence condition, noting that to meet the requirement the licensee would need to have direct ownership or legally enforceable rights over assets, mechanisms or arrangements such as but not limited to premises, facilities, staff, equipment, IT systems and brand name? Please explain your answer and if you disagree provide alternative suggestions.

Yes, in theory. However, it is unclear throughout where suppliers who meet these obligations under their supply licence would be required to duplicate efforts.

As set out in response to Q6, the government should also examine how this could work where load control is offered through a partnership.

12. In the impact assessment accompanying this consultation we assume that licence condition 3 creates no additional costs. Do you agree with this assumption? If not, please provide a rationale and details of the additional costs that condition 3 would entail for your organisation. When calculating these costs, please exclude existing costs which your organisation may already face in relation to these conditions. Please include as much supporting evidence as possible in your response.

As per Energy UK's concerns outlined in the cover letter, it is difficult to fully assess the costs accurately, and costs much higher than Government is initially anticipating for all market participants. Members have noted that compliance reshapes how a business operates, as well as having to allocate additional resource to adhere to the new regulation. The costs will differ for suppliers and new market entrants.

13. With reference to licence condition 4 and the relevant definitions in licence conditions 1 and 2, do you agree that the drafting of this licence condition is the

right approach to proportionately promote financial responsibility in the market? Please explain your answer and if you disagree provide alternative suggestions.

Yes. These proposals seem reasonable and they are an appropriate measure for new market entrants.

14. With reference to licence condition 5 and the relevant definitions in licence conditions 1 and 2, do you agree with the drafting of this licence condition? Please explain your answer and if you disagree provide alternative suggestions.

Yes. These seem broadly sensible.

15. Which additional costs would your organisation face for complying with licence conditions 4 and 5? Please comment on the management cost assumptions in the impact assessment. When calculating these costs, please exclude existing costs which your organisation may already face in relation to these conditions. Please include an explanation of the additional costs you may face, such as additional FTE, and why the additional costs are necessary to comply. Please include as much supporting evidence as possible in your response.

As per Q12.

16. With reference to licence condition 6 and the relevant definitions in licence conditions 1 and 2, do you agree with the proposed drafting of this condition, noting that we have not included obligations related to data retention? Please explain your answer and if you disagree provide alternative suggestions.

As outlined in Energy UK's response to the Ofgem Licensing consultation:

Energy UK strongly supports the principle of monitoring, particularly given the need to monitor any emerging risks to consumers.

In this way, Energy UK supports coordinated and proportionate data collection which enables Ofgem to take a risk-based approach across all licensees. Effective monitoring should allow risks of customer harm to be identified quickly, enable targeted policy interventions, and ensure that the impact of those interventions can be properly assessed.

However, Energy UK has significant concerns about how RFIs are currently undertaken by Ofgem. Energy UK has previously outlined these concerns in the DESNZ review of Ofgem, where requests are overly detailed, duplicative, and siloed.⁵

Monitoring industry performance should rely on consistent, enduring metrics that minimise ad-hoc and repetitive reporting requests, particularly as new obligations are introduced for FSPs and load controllers.

To ensure the best outcomes for customers, while also reducing the current burden on industry of RFIs, Energy UK recommends:

- A stronger focus on data minimisation and reporting that is clearly linked to customer outcomes.
- Reducing overlapping or duplicative reporting requirements, especially where FSP and supply licence obligations interact.
- Ensuring consistency with existing customer outcomes frameworks.

⁵ [Energy UK \(2025\) Response to DESNZ review of Ofgem](#)

- Aligning the definition of complaints for FSPs with the supplier definition.
- Addressing situations where different standards apply to FSPs and suppliers, particularly where both roles are performed by the same entity.
- Providing clarity on how entities operating under both licences are expected to disaggregate and report data.
- Establishing data-sharing agreements at the outset of the licence regime.
- Any regulatory interventions should be clearly targeted at specific customer outcomes and regularly evaluated to ensure they are effective.

Ofgem should draw lessons from challenges experienced in supplier regulation before applying similar approaches to new market participants, particularly given the significant compliance costs associated with extensive information requests.

Finally, industry should have greater transparency on how submitted data is used to inform regulatory decisions and policy development.

17. With reference to licence condition 7 and the relevant definitions and interpretation set out in licence conditions 1 and 2, do you agree with the proposed drafting of this condition? Please explain your answer and if you disagree provide alternative suggestions.

Yes – although throughout our response it is subject to broader streamlined regulation.

18. With reference to licence condition 8 and the relevant definitions in licence conditions 1 and 2, do you agree with the drafting of this condition? Please explain your answer and if you disagree provide alternative suggestions.

Energy UK broadly agrees. Grid codes are important in providing grid stability locally and nationally. However, there are two things to note on this.

Firstly, it may make more sense to keep the overarching legal obligation in the licence, but move the detailed technical and cyber security rules into the industry codes (primarily the Balancing and Settlement Code), where the governance body can manage and update them more effectively. Standards and technical checks evolve quickly, and industry codes can be updated more flexibly than licences, which require formal regulatory modification processes. Licences are better suited to high-level, enduring obligations, while detailed implementation rules sit in codes. The BSC framework already governs complex technical arrangements across the electricity market - placing load control security there keeps it aligned with existing operational governance.

Secondly, grid codes are incredibly complex and extensive. It can be difficult for businesses to know whether they should be adhering to certain codes. This may be difficult to monitor systematically and could expose licensees to compliance risk that is not proportionate to their level of control or influence over those codes. As per our overarching position – customers are more likely to receive better outcomes if companies are supported in adhering to the regulation.

The proactive role of code managers could help to make this easier, where code managers help industry to understand what they need to be adhering to.

Government should be aware that organisations do not need to adhere to the BSC to only participate in local DNO flexibility markets, so the licence condition does not cover all

conditions as intended. Government should review this to ensure comprehensive licence condition.

Where regulation is overly complex, it becomes more difficult for industry to comply and for Ofgem to oversee effectively. This can reduce policy certainty, which in turn may deter investment.

19. With reference to 8.4 – 8.10 and the relevant definitions in licence conditions 1 and 2, do you agree with the proposed provisions to support the functioning interaction between codes and the licence? If not, please specify which provisions you disagree with and your rationale.

Partly – Energy UK agrees with the policy intent. It is worth noting that manufacturers already need to comply with code compliance requirements.

As per Q18 – these are difficult to monitor, and could create a barrier to entry without clear instruction.

20. Do you agree with our intention to create a framework to empower industry to manage grid stability risks posed by load controllers, by having a licence condition that requires load controllers to accede to, and comply with the relevant sections of The Grid Code via Connection and Use of System Code (CUSC) and The Distribution Code via Distribution Connection and Use of System Agreement (DCUSA)? Please explain your answer and if you disagree provide alternative suggestions for achieving the same outcome.

As question 18.

21. With reference to licence condition 9 and the relevant definitions in licence conditions 1 and 2, do you agree with the draft cyber security licence conditions, noting that many are modelled on the NIS Regulations but adapted for load controllers? Please explain your answer and if you disagree provide alternative suggestions for achieving the same outcome.

N/A.

22. Do you agree with proposed 18-month period for newly licensed organisations to demonstrate meeting CAF requirements? Please provide your views on whether this period is appropriate, whether Ofgem’s discretion to grant extensions is sufficient, and if there are any specific factors or challenges that should be considered when finalising the implementation timeline.

N/A.

23. With reference to licence condition 10 and the relevant definitions in licence conditions 1 and 2, do you agree with the drafting of this condition? Please explain your answer and if you disagree provide alternative suggestions for achieving the same outcome.

No.

Members have noted concerns of with the drafting of condition 10 – particularly the use of broad terms such as “unintended or adverse consequences” – making it difficult to comply with this requirement.

As currently drafted, this wording is ambiguous and could be interpreted as covering a wide range of scenarios, including:

- The technical operation of the asset itself
- Unintended impacts arising from wider grid system interactions
- Outcomes influenced by user behaviour or third-party actions

Any such requirements are best placed in industry codes if they are deemed necessary. This should be clarified once the problem is more specifically understood and a clear licence condition can be drafted.

This should also be aligned with the EU Data Act Articles 8 and 9 which make clear that data exchange should be under fair, reasonable, and under non-discriminatory terms and conditions with compensation dependent on the volume, format and nature of the data.

Please see 34 for further detail.

24. Which additional costs would your organisation face for complying with licence condition 9? Please comment on the cyber security cost assumptions in the impact assessment. When calculating additional costs, please exclude existing costs which your organisation may already face in relation to these conditions. Please include an explanation of the additional costs you may face, such as additional FTE, and why the additional costs are necessary to comply. Please include as much supporting evidence as possible in your response.

N/A.

25. Do you agree with the definition of small business consumer for the purposes of determining which non-domestic consumers are in scope of consumer protections? Please explain your answer and if you disagree provide alternative suggestions.

Yes. See question 5 for further detail.

26. With reference to licence condition 11 and the relevant definitions in licence conditions 1 and 2, do you agree with the drafting of this licence condition? Please explain your answer and if you disagree provide alternative suggestions for achieving the same outcome.

Energy UK broadly agrees – although members have noted that the Ofgem guidance for this condition is at risk of being indirectly overly prescriptive.

Across the consumer protections conditions, members have requested clarity on how they interact with existing price ceilings (meaning there are other types of price regulation that could apply). If an FSP contracts directly with a consumer (outside a bundled supply product), there is no clarity on whether any price ceilings apply, and how those interact with wider retail protections. This needs clarification from Government.

Government should also provide further clarity as to how the change of tenancy process interacts with these proposals. This should mirror existing protocols in the supply licence.

27. With reference to licence condition 12 and the relevant definitions in licence conditions 1 and 2, do you agree with the proposed drafting of this licence condition? Please explain your answer and if you disagree provide alternative suggestions for achieving the same outcome.

This is dependent on the accuracy of information provided to the FSP by the consumer, such as their energy usage, what ESA is installed on the premises, and the characteristics of the

device. The information will likely be subject to human error – so compliance to this condition will be difficult for the FSP to verify.

This differs from how this works for suppliers, where they can access central data services under the REC to help with verification.

For FSPs who aren't suppliers, it will therefore be difficult to demonstrate compliance.

There are several live, intersecting workstreams which could help with this, such as the asset visibility workstream (including whether this forms part of the Flexibility Market Asset Register), tariff interoperability (including the central register which has been proposed), and consumer consent. However these will need to be integrated and implemented before this condition can be feasibly implementable.

Additionally, to simplify the drafting itself, Energy UK recommends that proposed conditions 12.3 and 12.4 are combined, to say the following:

"The licensee must ensure that the Principle Terms of the contract are clear and easily comprehensible."

Energy UK recommends the above because:

- It is not clear why condition 12.4 focuses on Rewards, given these are covered in the proposed definition of Principle Terms of 12.3.
- While 12.3 aims to make sure customers understand what they are signing up for (in addition to the supplier ensuring the Principle Terms are clear), this is already addressed by proposed condition 11.3 (b) (v) which requires licensees to "provide information...to each Customer which...is sufficient to enable the Customer to make informed choices about their CLF provided by the licensee".
- It is important to keep the wording of the licence conditions as closely aligned to the comparable Electricity Supply Licence (ESL) conditions as possible, to ensure consistency and a level playing field across the market.

28. Do you agree with the terms that are included in the "Principal Terms" definition? If not, please specify which terms you disagree with.

Energy UK agrees with the proposed terms.

To ensure there is no confusion and "double jeopardy" for suppliers, where load control is offered via a tariff, the supply licence should take precedence, to ensure a single set of terms covers both services.

As noted previously, an approach requiring FSPs to apply for a supply licence would mitigate the risk of double jeopardy and confusion over which requirement takes precedence.

29. Do you think there should be any additional terms included in the "Principal Terms" definition? If so, please provide suggestions.

N/A.

30. Which additional costs would your organisation face for complying with licence conditions 11 and 12, as well as the requirement to offer complaints procedures and contribute to dispute resolutions? Please comment on the customer

protection cost assumptions in the impact assessment. When calculating additional costs, please exclude existing costs which your organisation may already face in relation to these conditions. Please include an explanation of the additional costs you may face, such as additional FTE, and why the additional costs are necessary to comply. Please include as much supporting evidence as possible in your response.

As per Q12.

31. With reference to licence condition 13 and the relevant definitions in licence conditions 1 and 2, do you agree with the proposed drafting of this licence condition? Please explain your answer and if you disagree provide alternative suggestions for achieving the same outcome.

Ensuring customers have the information they need to exit a service and are not unduly prevented from switching to a different CLF is important to maintain customer trust and encourage further uptake in the market.

At the same time, as DESNZ rightly acknowledges, there are legitimate technical and commercial barriers which may make it difficult at this early stage of maturity for customers to switch to another FSP. As such, Energy UK supports the proposed drafting, which focuses on addressing unfair contract terms or activity which blocks or delays a switch.

As there is a well-defined change of supplier process, which doesn't exist for FSPs, there is no standardised way to transfer control of an asset from one FSP to another. This may create future challenges and should be monitored.

Energy UK would welcome sharing insights on how the more mature retail market has improved the switching process over time.⁶

32. Do you think that load controllers should also be subject to a requirement similar to licence condition 13.2? If so, please provide your rationale.

No.

While DESNZ notes that there is a role for load controllers and ESA manufacturers to play in seamless switching services, it has been proposed that FSPs should remain the single point of responsibility should consumers face issues, as they are the consumer-facing organisation. We do not agree with this rationale, as while it is right that FSPs should be the point of contact with customers, if load controllers and ESA manufacturers do not have the same requirements on them to ensure a seamless switching process, FSPs may have limited leverage in addressing switching issues outside of their control. This would lead to a poor customer outcome.

The Government should monitor this concern as part of their improved, efficient data monitoring proposed in their response. This should also be considered as part of the commercial interoperability workstream.

Energy UK has developed the Energy Switch Guarantee: Good Practice Guide (2024-2025), which the Government should refer to when developing this proposal.⁷

⁶ [Energy UK \(2025\) Energy Switch Guarantee](#)

⁷ [Energy UK \(2025\) Energy Switch Guarantee: Good Practice Guide](#)

33. Government wants to build its evidence base for more detailed policy appraisal. Could you set out how additional costs could potentially arise for FSPs from complying with licence condition 13 and could you quantify these? When calculating additional costs, please exclude existing costs which your organisation may already face in relation to these conditions. Please include an explanation of the additional costs you may face, such as additional FTE, and why the additional costs are necessary to comply. Please include as much supporting evidence as possible in your response.

N/A.

34. With reference to licence condition 14 and the relevant definitions in licence conditions 1 and 2, do you agree with the proposed drafting of this licence condition? Please explain your answer and if you disagree provide alternative suggestions for achieving the same outcome.

Yes, Energy UK agrees.

Energy UK also strongly welcomes the Government's recently outlined commercial interoperability engagement, which seeks to move beyond the technical interoperability requirements to explore how interoperability affects and interacts with existing market dynamics. This has been an ongoing issue during the development of interoperability outcomes for several years, so it is positive that Government is looking to address the challenges, and recognises the complexity of business models in the ESA market.

As outlined in our response to the ESA consultation, whilst basic interoperability is desired, full interoperability is dependent on Phase 2 regulations, which are subject to further review and are currently not yet published.

Manufacturers will need to comply to the Phase 1 control requirements without knowing the constraints the Phase 2 communication layer may bring. If a customer switches, this places the responsibility for a device to be compliant in Phase 1 without the communication landscape actually being defined.

Government should clarify how this risk is managed to reduce the impact on both the customer and the market.

Note that this may be subject to contractual constraints or considerations – e.g. where a charge-point has been bundled with a tariff or wider EV package, there may be break clauses if the customer wishes to break the contract early.

Any interoperability outcomes should be cross-referenced with the introduction of licensing to ensure an holistic approach across the SSES programme.

Financing assets

There are some key considerations around the financing arrangements. There are a growing number of models around financing, third-party ownership, heating/charging as a service – where the roles between asset, consumer, supplier, manufacturer vary – and currently offered through commercial agreements which have clear lines of accountability.

These drafted proposals seem reasonably appropriate – although there are also questions around what disproportionately high exit fees means in practice as this subjective, and will mean different things to different budgets.

Energy UK has previously outlined some of the financing options available for LCT installations in our report on [Clean Heat: Financing the Transition](#).

As outlined in this report, as well as supporting green additional borrowing and unsecured green home loans, the Government could also support nascent, innovative financing models including third-party ownership models, such as hire-purchase and conditional sale agreements, and ‘heat as a service’ – but subscription models such as this should be tested on a trial basis to understand customer impacts before they are brought in scope of Government-funded schemes.

This is an area where DESNZ needs to do some more detailed market analysis to understand how bundled services should be treated under the scheme, given they are a key part of decarbonising homes and transport. Energy UK would support the Government in this research through engagement with its members.

Across innovative finance options, it is essential that adequate consumer protections are available to all customers who make use of these non-traditional financing mechanisms.

35. Do you think licence condition provisions enabling derogations from certain licence obligations should be included in the load control standard licence conditions, either to mitigate risks of duplicative regulation or for other reasons? Please explain your answer and provide a rationale. If you think derogations from certain licence obligations should be included, please specify which licence obligations you think these should apply to.

Yes.

As outlined in Energy UK’s response to the Ofgem Licensing consultation:

Energy UK would request that the approach for how the licence works when the load control is part of a tariff is simplified.

Where load control is offered as a feature of a tariff by a licensed supplier, a specific exemption should apply in relation to customer protection requirements. **Where load control is through a supplier tariff, the supply licence should take precedence over the FSP licence.** This exemption should be expressly built into the licence framework, and will be a key part of streamlining regulation for suppliers. It needs to be applied automatically and market-wide.

It may also be appropriate to reflect specific FSP differences into the supply licence, to ensure that there are no gaps in either licensing regime. Government should also explore whether it is more appropriate to bring FSPs within the supply licence, with specific exemptions where appropriate, rather than creating an entirely new licence which has the same goals and proposed outcomes.

Suppliers are already subject to robust consumer protection, financial, and operational obligations under the supply licence, and duplicating these requirements under a second licence would create unnecessary regulatory complexity and burden, including the “double jeopardy”, which is a significant concern for suppliers under the proposals.

This is also complicated, as many organisations have multiple legal entities within their corporate structures to provide load control services.

Ofgem should start with a principle of simplicity, to align with the Government's broader goals of cutting red tape for businesses. This would help to simplify and reduce the regulatory burden and complexity of suppliers holding two or more licences.

Further details on the ongoing work to streamline supplier regulation are outlined in Energy UK's response to Ofgem's response Q1.