

## **Energy UK response to Ofgem's [Smart Secure Electricity Systems: Implementing the load control licensing regime](#)**

**18<sup>th</sup> February 2026**

### **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. Do you agree that the Licence Policy Principles, as well as Ofgem's Growth Duty, are the correct principles to guide the development of Ofgem's 61 implementation proposals? Please provide reasons for your answer.**

From a growth perspective, the licensing proposals should support scope for competition, diversity and tailoring of service, including support.

As outlined above, there is significant work being undertaken to ensure that supplier regulation is reflective of the investment opportunity in this sector to reach the UK's broader decarbonisation targets. Coordination across Ofgem teams is needed to ensure that the Licence is aligned to this approach.

- For existing suppliers, this means streamlining obligations to enable them to deliver greater flexibility offerings (including where these obligations are reviewed as part of broader government initiatives).
- For emerging market entrants, regulation needs to be proportionate and clearly defined. Organisations must also be well-supported to adhere to new regulation, given it's the first of its kind.

Energy UK has set out in detail the overarching concerns with the current regulation of the retail market – in response to the [DESNZ Review of Ofgem](#) and a paper on the [future of energy regulation](#), highlighting the potential for energy regulation to enable better outcomes for customers. There is further work needed to ensure Ofgem Customer Outcomes workstream leads to meaningful improvements, as set out in [Energy UK's response](#).

Ofgem should use these workstreams, including industry positions, when considering Principle 4 'Enabling Effective Regulation'. Ofgem's approach to this principle should ensure a consistent and coherent framework across the retail market. Regulation should protect consumers, while also maintaining a level playing field between market participants. At the same time, the regulatory approach must support investment, growth, and innovation for these market players, whilst ensuring customer protections are upheld.

As outlined in this response, Energy UK has concerns about Ofgem's approach to implementation and uncertainty surrounding the licence's scope. Poor design, which adds significant regulatory burden, will have significant impacts on the growth and viability of these nascent flexibility markets.

Clear and stable policies provide the market signals that companies and their supply chains need to expand, upgrade, and future-proof their operations. Uncertainty and a lack of clarity ahead of the licence implementation risks diluting the investment signals industry needs.

**2. Are there other measures Ofgem and DESNZ should consider in order to ensure the regime is proportionate and our approach minimises unnecessary burden? Please provide reasons for your answer.**

As above.

**3. Do you agree with the proposed application form evidence requirements for each area? Please provide reasons for your answer, including any concerns with providing the requisite information and why.**

The consumer obligations are similar to the supply and distribution licensing application forms. When it is a supplier providing FSP services, as certain aspects of the application form align with the supply licence – it is unclear why suppliers would need to provide these

details again, as Ofgem will already have this information. It is also unclear why suppliers will need to demonstrate compliance with industry codes, as the supply licence already has this obligation for them.

Where regulation is new, Ofgem should provide evidence and support around helping industry to understand what a 'good application' looks like in practice.

Members are concerned that it may be difficult to provide information on their future plans for complying with consumer protection, industry codes, and cyber requirements because the final requirements are only confirmed shortly before licence applications are due.

Further detail on CAF compliance is outlined in Q23.

**4. Do you agree with the proposal for a 12-month transition period? Please provide reasons for your answer.**

As outlined in Energy UK's response to the DESNZ 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 be encouraging a collaborative, early engagement approach between regulators and companies to improve outcomes. However, it doesn't seem like this would be possible given the licence application window will only be open for three months.

This is also a concern if Ofgem is not planning to allow tacit authorisation.

Ofgem does not appear to be doing 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 will be able to both confirm the scope of the proposals and also support companies in adhering to the upcoming regulations.

This creates deep concern as existing companies who 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 those customers would lose access to their energy offers. Whilst Energy UK supports the pre-emptive regulation ahead of mass uptake, this time frame presents a severe risk to customer experience, risking penalising early adopters of flexible tariffs, as well as businesses that have invested to provide these offerings.

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. The consumer harm this would create would outweigh the harms the measure is seeking to prevent. There must be a level-playing field for all market participants on future compliance, avoiding a situation where certain licence holders are held to different standards to others.

The proposed timeframe 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 of these assets due to poor regulatory design would

have a significant impact on the stability of these markets, with negative implications for the broader energy system from Q1 2028.

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 the required threshold of regulations.
- Extend the application window until the proposals are 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 progresses.
- 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, and any issues that emerge will mean that they start engaging with the regulator before proceeding to enforcement and eventually the supplier being removed.

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

**5. Do you agree with our proposed application process for certain licensed suppliers? Please provide reasons for your answer. Note, please refer to the DESNZ Licensing Consultation for a specific question on licence condition derogations.**

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

Energy UK would request specific simplification on the approach for how the licence works when the load control is part of a tariff.

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. This includes creating the risk of “double jeopardy”, which is a significant concern for suppliers under the proposals.

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

Ofgem should start with a place of simplicity, and it should form a key consideration for the Government’s broader goals of cutting red tape for businesses. This would help to simplify and reduce regulatory burden and complexity of suppliers holding two licences.

Further detail on the ongoing work to streamline supplier regulation is outlined in Energy UK’s response to Ofgem’s response Q1.

**6. Do you agree that the proposed application process for certain licensed suppliers should apply to licensed domestic suppliers, and not licensed suppliers who supply non-domestic customers only?**

Non-domestic suppliers should not be subject to a more burdensome application process than domestic suppliers.

Energy UK notes that SLC0A is not referenced following the non-domestic review. Whilst SLC0 applies to domestic and microbusinesses, SLC0A is a regulatory requirement mandating that energy suppliers treat their non-domestic customers fairly. Similarly, they are also subject to Complaint Handling Standards, which apply to consumers in scope of the FSP proposals for small non-domestic customers. They are also required to comply with SLCs 4A (Operational capability), 4B (Financial responsibility), 4C (Ongoing Fit and proper requirement), and 5A (Principle to be open and cooperative).

The suggested approach would create a disproportionate regulatory burden for a part of the market that is already subject to extensive regulation, and would discourage the innovation of non-domestic flexibility services that are essential for broader smart system management.

Additionally, most non-domestic suppliers will be exempt from the Tariff Interoperability Solution. If the new licencing requirements are coming in off SSES, of which TI is a key component, it’s not appropriate to apply a blanket licence requirement given the varying levels of participation in SSES that will be seen across non-domestic.

**7. Do you agree with our proposed application process for non- licensed suppliers? Please provide reasons for your answer.**

Organisations who have not previously applied for a licence should be required to apply for the licence in full. However, please see Q4 for the challenges of requiring this process under the current proposals.

- 8. Do you agree that the proposed application process for different types of applicants is proportionate and reflects the SSES purpose and Licence Policy Principles? Please provide reasons for your answer.**

Broadly agree.

- 9. Do you agree that our proposed timelines for licence application processing are reasonable? Please provide reasons for your answer.**

No – as outlined in question 4.

- 10. Do you agree with our proposal that tacit authorisation should not apply to the load control licence? Please provide reasons for your answer.**

As outlined in Q4, a form of regulatory forbearance is likely the best way forward to ensure that customers receive interim protections and the implementation doesn't disrupt supply.

Tacit authorisation should similarly be considered given the concerns outlined in our response. This would also align with the proposals in heat network regulations, where existing entities in the market could be tacit authorised, which would help to reduce some of the regulatory burden for Ofgem. Ultimately, the speed with which Ofgem processes these applications needs to be shortened to ensure companies can enter the market with the appropriate level of consumer protections.

If a company submits a strong application within the application window and works closely with Ofgem to adhere to the introduction of the requirements, showing clear signs of working to adhere to the regulation, this should be viewed favourably by Ofgem when considering whether to approve their application.

- 11. Should Ofgem reconsider the question of tacit authorisation in future? Please provide reasons for your answer.**

As Q10.

### **Monitoring and Data Requirements**

- 12. Do you agree with the proposed approach to compliance-related monitoring? Please provide reasons for your answer.**

Please see Q14.

- 13. Do you agree with the proposed approach to market insights-focused monitoring, and are there any additional market indicators we should consider tracking? Please provide reasons for your answer.**

As Q14.

- 14. Are the proposed RFIs proportionate and manageable? Please provide reasons for your answer.**

As outlined in Energy UK's response to the DESNZ 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 carried out by Ofgem. Energy UK has previously outlined these concerns in the DESNZ review of Ofgem, where requests are overly detailed, duplicative, and siloed.

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 industry burden 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.
- 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.

**15. Please estimate the costs for your organisation for responding to the proposed RFIs. In the impact assessment accompanying the DESNZ Licensing Consultation government estimated indicative costs of approximately £7,000 to £24,000 per annum. Is this estimate appropriate? Please provide reasons for your answer.**

Energy UK has concerns over the impact assessment. As the scope is uncertain, members have noted they are not confident in determining costs as they are unclear which areas of the business will need to be monitored (for example on data collection, subsidiary companies, and interaction with existing licensing responsibilities).

Members have noted that the initial costs from Ofgem's 2021 Final Impact Assessment for the Consolidated Segmental Statement have been inaccurately used to predict costs. Specifically: "Only three stakeholders provided estimates for the cost of compiling, processing and submitting the data for an RFI. These ranged from £6,000 to £20,000". This is also an estimate for a single RFI – any multiple RFI requests are likely to be higher.

As outlined in Question 14 – Energy UK has several concerns around the introduction of RFI requests given how they are currently used in industry. These costs should be revised, and should be aligned with an approach to data gathering that is well-planned, holistic and robust, which enables a risk-based approach on a level playing field across licensees to swiftly identify risks of detriment to avoid customer harm.

**16. Do you agree with our proposed risk-based and proportionate approach to compliance under the load control licensing regime? Please provide reasons for your answer.**

Broadly agree.

**17. Are there additional factors we should consider when determining the level of compliance engagement for different types of licensees (eg new entrants vs licensed suppliers)? Please provide reasons for your answer.**

Yes. As an overarching theme in our response, Ofgem should be mindful that:

- For existing suppliers, this means streamlining obligations to avoid double regulation and to enable them to deliver greater flexibility offerings (including where these obligations are reviewed as part of broader government workstreams).
- For emerging market entrants, conditions need to be proportionate and easily interpreted. Organisations must also be well-supported to adhere to new regulations, given that it's the first of its kind.

All market participants want conditions to be clearly defined and future-proofed to accommodate emerging business models and wider electricity system policy changes.

There are also concerns around how to avoid “double-counting” for companies who have multiple operating entities within the same legal entity. Similarly, given the variety of the market, if a company is an FSP and has a contract with a supplier, who collects and reports the data?

**18. Do you support the proposal to use informal account management relationships to support licensees into compliance in the early years? Please provide reasons for your answer.**

As outlined in Q4.

The approach is reasonable for existing supply licence entities. For organisations with multiple companies operating under different licences, a single account manager is a sensible proposition.

Energy UK would note that Ofgem needs to ensure that account managers have visible regulatory touch points (e.g. where the licence interacts with broader workstreams) to ensure that account managers can be aware of issues that licensees may need to adhere to.

**19. Do you agree with the proposed priority areas for compliance engagement? Please provide reasons for your answer.**

Energy UK is concerned that the priority areas of engagement are listed pre-emptively as risks, without clear reasoning, rather than a targeted, evidence-led process. Ofgem should seek to regulate where there is evidence of consumer and/or system harm.

Instead of analysing market trends, identifying specific risks or harms, and forming a clear regulatory proposition, Ofgem may be requesting wide-ranging information without a clearly defined problem statement or risk assessment framework.

These should be assessed once targeted and evidence-led propositions have been defined.

**20. Do you agree with our proposal to align enforcement under the load control licensing regime with Ofgem’s existing enforcement approach, outlined in the Enforcement guidelines? Please provide reasons for your answer.**

Energy UK broadly agrees. As outlined in Question 1, further work is needed to determine Ofgem’s focus on [Customer Outcomes workstream](#). Ofgem should seek to include the licensing proposals in line with broader Ofgem initiatives to ensure that the proposals around monitoring, enforcement and compliance are used in a coherent and coordinated way to deliver consumer outcomes across the market.

**21. Do you agree with our proposed enforcement approach for multiple licence holders?**

Broadly yes – it makes sense to include an enforcement investigation for both a supply and load control licence as a single case.

However, members are still concerned by the risk of “double jeopardy” for customers who have a single contract covered under both licences.

**22. Are the regulatory requirements for different types of Load Controller sufficiently clear? Please provide reasons for your answer.**

It is difficult to say exactly on the cyber proposals as the Cyber Security Resilience Bill is going through Parliament. Government has not yet consulted on Tier 1 Cyber Assessment Framework (CAF) profile.

Load control licensing and changes to the Network and Information Systems (NIS) to make Large Load Controllers a new Operators of Essential Services (OES) should be planned together and in alignment. Misalignment will create further confusion amongst organisations would could be impacted by both Ofgem licensing and NIS regulation.

**23. Do you agree with the proposed approach to cyber security assessments for load control licence applications? Please provide reasons for your answer.**

Members have noted that the proposals on CAF compliance are at odds with the broader proposals from DESNZ, which set out that they are required 18 months after the licence goes live.

**24. Do you agree with the proposed approach to cyber security monitoring and compliance? Please provide reasons for your answer.**

N/A.

**25. What would you suggest is a reasonable equivalent of a CRA Audit? Please provide reasons for your answer.**

N/A.

**26. Do you agree with the inspection process outlined for the cyber security of below 300MW Load Controllers? Please provide reasons for your answer.**

N/A.

**27. Do you agree with our proposed approach to licence modifications? Please provide reasons for your answer.**

As outlined throughout our response.

The licence is likely to need to be iterative, as any risks which could materialise may need to be regulated. This should only be done when there is evidence of customer detriment. When proposing and making licence modifications, Ofgem should seek to retain appropriate alignment between the supply and load control licences.

As noted previously, an approach requiring FSPs to apply for a supply licence would mitigate the risk of regulatory divergence.

**28. Do you agree with our proposed process for the transfer of a load control licence? Please provide reasons for your answer.**

Ofgem should consider how this could be streamlined based on how this currently operates in the supply licence. Members have noted that it is challenging to migrate customers from one licence to another when one licence is closed.

**29. Do you agree with our proposed approach to extending/restricting a licence? Please provide reasons for your answer.**

N/A.

**30. Do you agree with our proposed approach to revocation of the load control licence, including our proposal to include a revocation item on the basis of failure to comply with the NIS regulations? Please provide reasons for your answer.**

This should only take place when a licensee has failed to remediate a breach, and has failed to comply with an Enforcement Notice of Penalty.

As a broader point, Energy UK does not believe that this is part of Ofgem's remit. The Government should work with NIS to ensure it has the correct penalties in place for instances of non-compliance, rather than Ofgem.

DESNZ should provide the overarching policy approach to ensure that there is no further regulatory uncertainty for industry.

**31. Do you agree with our proposed approach to cost recovery for the load control licensing regime? Please provide reasons for your answer.**

Broadly yes – although the goal should be to ensure streamlined, clear, and fair regulation as this will create the lowest cost and provide the best outcomes for customers.