

Curate Consultation Response Template

Curate Consultation Response Template

We are welcoming views on the proposals set out in this consultation and will consider stakeholder feedback carefully before making any final decisions. We would therefore be grateful for responses that consider the consultation objectives, the questions posed, and any supporting information provided in the accompanying documents.

Please send this completed form to connections@ofgem.gov.uk before the 16th September 2026.

Respondent details

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Role title:
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Not applicable. This is an individual response.

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Date of submission:
06-09-26

Do you want your response treated as confidential? Please choose the option that is relevant to you.

No

Please tell us if parts of your responses or your whole response contains confidential information and explain why below.

No part of this response is confidential. It may be published in full.

Curate Consultation Response Template

Data Centre Commitment Fee Mechanism and Design

- Do you agree with our proposed Data Centre Commitment Fee, based on Option 1A?

Please provide the reasons for your answer.

Yes

Option 1A is supported. The assessment at 3.6 to 3.12 sets out the reasoning and the trade-off between deterrent strength and administrative simplicity is reasonable on the evidence presented. No alternative evidence is offered on this question.

- Do you agree with our qualitative assessment?

Please provide the reasons for your answer.

Yes

The qualitative assessment at Table 2 is a reasonable basis on which to compare the options. No alternative scoring is proposed.

Data Centre Commitment Fee Value and Calibration

- Is it reasonable to assess the impact of the fee on a hypothetical data centre IRR for a viable project? If not, what alternative basis for an assessment of the impact of the fee on a viable data centre would be more appropriate?

Yes

The hypothetical IRR assessment is a reasonable test of the burden a fee places on a viable project, and the approach is supported.

A second comparator in the consultation carries more weight and is used lightly. Paragraph 4.34 reports that reformed securities under CMP417 would fall between 0.06 and 0.41 per cent of capital expenditure at or shortly after offer acceptance, averaging 0.2 per cent, against a Final Sums range of 0.9 to 46 per cent with an average of 11.2 per cent and a median of 7.9 per cent. Set against a proposed fee of 2.5 to 7.5 per cent, that comparison establishes

Curate Consultation Response Template

the size of the deterrent gap the fee is intended to close. It does more to justify the range than the IRR case study does.

- Assuming your data centre project will progress to energisation, what would be the impact on your IRR if the Data Centre Commitment Fee value is set at 2.5% or 7.5% of the average capital costs per MW?

Please provide reasons and relevant evidence to support your answer.

Not applicable

This response is submitted by an independent advisor. No data centre project is held or advised, so no project specific IRR impact can be provided.

- Do you agree with the proposed estimate of approximately £9.5 million per MW as the average capital cost of building a data centre?

Please provide reasons for your answer.

Yes

The figure of approximately £9.5 million per MW is supported as an average for the population to which the fee applies.

One feature of the derivation is worth recording in the decision document. Table 4 reports a mean capital cost of £27,000,000 per MW for distribution projects in the 0 to 10 MW band, against the £9,500,000 used for calibration. Paragraph 4.28 explains that the band was excluded because the fee applies only above 40 MW. The exclusion is sound. The scale of the difference is not incidental, and it indicates that facilities below the threshold carry a materially different cost structure. Table 3 records no small project entries at all, so the NESO information request neither corroborates nor contradicts the distribution data at that size.

- Do you agree that capital expenditure is a more appropriate basis than development expenditure for calculating the commitment fee?

Please provide the reasons for your answer.

Yes

Curate Consultation Response Template

Capital expenditure is the more appropriate basis. The reasoning at 4.10, that capital expenditure scales with size whereas development expenditure varies with location and consenting route, is sound.

4. Do you agree that a fee range of 2.5% to 7.5% of average capital costs is proportionate to the policy objective? What value would best balance impact while avoiding undue burden? Please provide reasons for your answer.

Yes

The range of 2.5 to 7.5 per cent is proportionate. No single value is proposed in this response, because the evidence available to a respondent does not support selecting one.

The basis for selection can be stated. The fee performs its function only where it exceeds the reformed securities regime by a margin sufficient to change a decision to hold a queue position. Paragraph 4.34 puts reformed securities at an average of 0.2 per cent of capital expenditure, and paragraph 4.36 records Ofgem's view that those securities are unlikely to deter a project from remaining in the queue for several years. Any value selected should be tested against that question and the reasoning published with the decision.

5. Would a fee at the lower end of the proposed range be sufficient to deter speculative or non-viable projects?

Please provide the reasons for your answer.

No

Not reliably, for the reason given in answer to Question 10. The fee may be secured by a performance bond or letter of credit rather than in cash. At the lower end of the range the cost of carrying a bond, rather than the face value of the fee, is what a holder actually bears. For a project held within a well capitalised group that cost is unlikely to change a decision to retain a queue position.

The deterrent effect at the lower end will be strongest for holders without bonding capacity, which is a filter on covenant strength rather than on whether a project is speculative.

Curate Consultation Response Template

6. Would a fee at the upper end of the proposed range risk deterring viable, non-speculative projects?

Please provide the reasons for your answer.

No

The upper end does not appear to risk deterring viable projects on Ofgem's own evidence. The case study at 4.17 puts the impact at 170 basis points in the most onerous modelled scenario, being a 7.5 per cent fee with a 2035 connection date held in cash. Paragraph 4.18 notes that the cash assumption is the worst case. A viable project with a hurdle rate that a 170 basis point reduction defeats was marginal before the fee was introduced.

7. Do you agree with our assumptions that projects that are speculative/non-viable at point of application (or already in the queue) will not be able to secure such a fee based on any of the selected range?

Please provide the reasons for your answer.

No

The assumption is not accepted in the form stated. It treats the fee as a test of capital. As drafted it is a test of credit access.

Paragraph 6.1 of Part Three of the drafted Section 15 admits a Performance Bond or Letter of Credit from a Qualified Bank, a cash deposit in a Bank Account, or a Performance Bond from a Qualified Company. The case study at Chapter 4 models a cash deposit and describes it as the worst case for project returns. A project with access to bonding capacity is not required to find the cash at all.

The screening effect therefore operates through bonding capacity and counterparty covenant. That filter is narrower than the one described at 4.26 and it is differently distributed across the developer types set out at 2.15. A thinly capitalised special purpose vehicle has little covenant to offer a bond provider. A project of equivalent viability held inside a well capitalised group may secure the fee without difficulty. The fee will screen by balance sheet depth, and viability and balance sheet depth are not the same property.

The premise at 4.27, that some developers hold multiple queue positions they are unlikely or unable to develop, is sound and is not evidenced in the consultation. A self directed study of United

Curate Consultation Response Template

Kingdom data centre ownership carried out in June and July 2026, described further in answer to Question 18, offers one corroborating observation. Two schemes ranked first and fifth by capacity within that population, totalling 1,384 MW, share no common presentation in public material and resolve through a single promoter to the same ultimate holding company. Nothing in the public record connects them.

8. If you disagree with Question 10, what assumptions can be improved and how? Please suggest what additional data Ofgem would need to make an informed decision.

Yes

Two improvements are suggested.

First, the assumption should be restated so that it describes what the fee actually tests. As drafted the fee tests access to bonding capacity and the covenant of the party providing it. The consultation should say so, and should assess the deterrent effect on that basis.

Second, Ofgem would be assisted by data it does not appear to hold. The relevant questions are what proportion of data centre projects in the queue are held in special purpose vehicles without recourse to a rated or substantial parent, what bonding capacity is available to those holders, and what a bond of the proposed size costs to carry annually as against its face value. NESO and the distribution network operators are unlikely to hold that information. It could be sought from the security providers named at 5.27 or through a targeted information request to holders.

- Do you agree that the commitment fee should apply only to data centre projects equal to or above 40 MW that connect to the transmission system or have a transmission impact?

Please provide the reasons for your answer.

Yes

The proposal is supported. Applying the fee to projects at or above 40 MW connecting at transmission, or connecting at distribution and subject to a Transmission Entry Assessment, is a proportionate way of capturing projects with a transmission impact without building a parallel mechanism at distribution.

Curate Consultation Response Template

9. Is 40 MW the appropriate threshold for determining applicability?
If not, what threshold should be used and why?

Yes

The 40 MW level is supported. One alignment point arises between the consultation narrative and the drafted code.

Ancillary Document 1 defines DCCF MW Threshold as a Demand Capacity or Embedded Demand Capacity at or above the MW capacity set out in the DCCF Statement. The drafted code is clear that the fee threshold is measured against connection capacity.

Paragraph 7.4 of the consultation refers to projects stating that they are below 40 MW rated IT load. Rated IT Load is separately defined in Ancillary Document 1 as the maximum electrical power available for the operation of Relevant IT Equipment. For any given facility the two quantities differ once cooling overhead and redundancy provisioning are accounted for.

The drafted code should govern. The decision document should not describe the fee threshold in rated IT load terms.

10. We have used judgement to set a fee based on the impact on a hypothetical data centres IRR. Are there examples of how this fee is calculated and set in other jurisdictions (for example, USA, Spain, Ireland), that we could base it on to meet our objectives? Can you provide evidence that the regimes are consistent with the UK, and if not, what impact should that have on the calculation of the fee?

Yes

Paragraph 4.15 cites Spain, Texas and Georgia. Ireland is named in the question and is not addressed in the analysis. It is the closest structural comparator to Great Britain: a small synchronous system, a data centre fleet concentrated in a single metropolitan region, and a regulator that has completed a full cycle of restriction and reopening.

The Irish position has changed and the 2021 direction no longer describes it. Commission for Regulation of Utilities decision paper CRU/2025236, published 12 December 2025, applies to connection applications submitted after that date and supersedes the earlier

Curate Consultation Response Template

direction. It ends the blanket regional restriction. The replacement policy sets locational constraint assessment, a System Stability Assessment addressing fault ride through, thresholds expressed in Maximum Import Capacity in MVA, and a binding obligation that 80 per cent of annual electricity demand be met by additional renewable generation within the Republic of Ireland within six years of energisation on a glide up basis. System operators were required to publish an engagement and connection process by 31 March 2026.

Ireland has addressed the same problem by attaching conditions to the connection itself. No commitment fee forms part of that package.

Two questions follow. Whether conditionality of that kind was considered as an alternative or a complement to the fee, and if it was set aside, on what basis. And whether the Irish use of Maximum Import Capacity in MVA as the measurement basis has anything to offer the definition of the DCCF MW Threshold, given the point made in answer to Question 13.

- Is there any key element that we did not consider that would improve the quality of our analysis to establish the appropriate Data Centre Commitment Fee?

Please provide the reasons for your answer.

Yes

Two elements are not analysed in Chapter 4.

The interaction between the fee and bonding capacity, addressed in answer to Questions 10 and 11. The fee is securable by instruments issued by third parties, and the deterrent analysis does not consider what those instruments cost to carry as against their face value.

The verification of counterparty identity, addressed in answer to Question 18. The fee relies on instruments issued by parties whose identity the drafted text does not require to be established beyond the immediate signatory.

Curate Consultation Response Template

Data Centre Commitment Fee: Scope and Detailed Implementation

- Do you agree with our proposed threshold of 40 MW for which projects should be in scope of the commitment fee?

Please provide the reasons for your answer.

Yes

Supported, subject to the measurement point made in answer to Question 13. The 40 MW level is appropriate. The quantity it is measured against should be stated consistently between the decision document and the drafted code.

- Do you agree with our proposal to apply the Data Centre Commitment Fee from offer acceptance to energisation?

Please explain your reasoning.

Yes

Applying the fee from offer acceptance to energisation is supported. The reasoning at 5.12, that securing the fee at application would be burdensome because the applicant does not yet know the outcome, is sound, and offer acceptance is a decision point within the applicant's control.

11. Do you agree with our proposed definition of data centre, including the proposed approach for self-declaration and verification?

Please provide the reasons for your answer.

No

The definition is supported and the self declaration mechanism is supported. The verification approach is incomplete, and for that reason the answer to this question as posed is no.

Each instrument in the package requires a network operator to assess a counterparty. The fee is secured by instruments issued by third parties. Milestone 6a (DC) admits Credit Support Evidence in the form of collateral or other equivalent enforceable financial security legally committed to support the relevant Data Centre Service. Milestone 0.5 (DC) admits evidence that the User or a Relevant Applicant Group Company holds a memorandum of

Curate Consultation Response Template

understanding with a customer. Paragraph 6.63 requires evidence to be attributable to the developer, project company or supporting entity.

Relevant Applicant Group Company is drafted as any company in the group of the applicant. No standard is set for establishing the group. No standard is set for establishing the ultimate controlling party of an entity providing credit support or a self declaration.

A self directed study of United Kingdom data centre ownership was carried out in June and July 2026. It operated to a method note that fixed the research question, the evidentiary standard and the treatment of negative findings before collection began. The population was closed at the fifteen largest schemes by IT load working through planning, with a freeze date of 30 June 2026. Origination chains were resolved to ultimate controlling parties using Companies House filings and persons with significant control data. Negative findings were recorded as search dated and were not treated as proof of absence.

That population and the connections queue are not the same. The study covers fifteen planning stage schemes. The consultation addresses approximately 315 projects totalling around 73 GW. The overlap has not been tested and is not asserted. The study is offered here as evidence about how ownership resolves at the top of the planning pipeline, and not as evidence about the composition of the queue.

Within that population, several of the largest schemes resolve only through multi layer ownership chains. One runs four layers to a private holding structure. Another terminates in a holding company incorporated in 1947 whose ultimate beneficiaries sit behind a trust that the register does not reach. Two schemes ranked first and fifth by capacity present separately in all public material and resolve to the same terminus. Reaching those results required deliberate work through Companies House and persons with significant control filings.

A network operator receiving a signed letter, a memorandum of understanding from a group company, or a security instrument from a supporting entity has no stated basis on which to establish who stands behind it. Attributable is doing substantial work at 6.63 without a definition to support it.

The principle is already recognised in one place in the package. Ancillary Document 2 amends Standard Licence Condition 15.4(a)

Curate Consultation Response Template

so that a request for a non contestable connection service must supply the information specified in the Regulatory Instructions and Guidance, including a company number where relevant. That is the only identification requirement anywhere in the proposed instruments. It attaches to the party making the connection request. It does not attach to the entities whose covenant the fee and the financial capability milestone depend on.

The remedy proposed is a stated standard for establishing the ultimate controlling party of any entity providing a Self Declaration Letter, credit support, or compute offtaker evidence, applied to the ultimate controlling party and not to the immediate signatory. Companies House persons with significant control data provides a workable basis and is already public. Where a chain terminates in a structure the register does not resolve, that outcome is itself informative and should be recorded rather than treated as satisfied.

12. Which adjustment process do you prefer with regard to the fee value: review at NESO or Ofgem discretion, or periodic review? Do you agree with the frequency proposed for the periodic review?

Please provide the reasons for your answer.

Yes

Periodic review, being Option 2, is preferred, and the frequency proposed is supported.

Condition E18 as drafted in Ancillary Document 4 requires review at least once in every twelve month period, consultation of no fewer than 28 days, and approval by the Authority. That combination gives holders a predictable review cycle and a known consultation window. Review at discretion under Option 1 provides neither, and a fee of this size is a material input to an investment decision that benefits from a settled timetable.

- Do you agree with our proposal to adjust the applicability threshold for the Data Centre Commitment Fee?

Please provide the reasons for your answer.

Yes

Curate Consultation Response Template

A mechanism to adjust the applicability threshold is supported, for the reason given at 5.22, that typical project sizes are changing. The point made in answer to Question 43 applies here: an equivalent instrument does not appear to exist for the queue management milestone threshold.

13. Do you agree with our proposed sanction pre-energisation?

Please provide the reasons for your answer.

Yes

Termination of the connection agreement where a project is found to be a data centre and did not self declare is a proportionate sanction, and treating the omission as a misrepresentation of fact is consistent with the treatment of other application information.

- Do you agree with our proposal to treat the Data Centre Commitment Fee as a security and accept existing types of securities? Do you agree with our proposal to pass forfeited securities to consumers through TNUoS charges?

Please provide the reasons for your answer.

Yes

Treating the fee as a security within the existing CUSC framework is supported, and accepting the existing forms of security is sensible for implementation. The consequence for the deterrent effect is set out in answer to Question 10 and should be recognised in the decision document.

Passing forfeited securities to consumers through transmission network use of system charges, consistent with the treatment of sums collected under the generation project commitment fee, is supported.

- Do you agree with our proposal in relation to the treatment of hybrid projects with regard to the commitment fee?

Please provide the reasons for your answer.

Yes

Curate Consultation Response Template

Applying the fee only to the data centre component of a hybrid project is supported, and the drafted text addresses the avoidance risk that the proposal would otherwise carry. Paragraph 1.3 of Part Six of the drafted Section 15 provides that where the Demand Capacity or Embedded Demand Capacity of the data centre component has not been separately recorded, the fee applies to the capacity of the overall project. That backstop is the right approach and should be retained.

14. Do you agree with our proposal in relation to change of use and modification applications?

Please provide the reasons for your answer.

Yes

The four scenarios at 5.32 to 5.37 are internally consistent and the treatment of capacity reductions follows the approach taken for the generation project commitment fee under CMP448.

15. Do you agree with our proposal in relation to treatment of self-terminating projects following an increase of the data centre commitment fee?

Please provide the reasons for your answer.

Yes

Permitting self termination without payment where the fee is introduced or increased is supported. A holder should not be exposed to a liability that did not exist when the offer was accepted without an opportunity to exit.

16. What option do you prefer regarding other cancellation charges following self-termination: Option 1: being required to pay them or Option 2: not being required to pay them?

Please provide the reasons for your answer.

Option 1

Option 1 is preferred, being that other cancellation charges and securities are not returned.

Securities exist to protect network operators, and ultimately

Curate Consultation Response Template

consumers, from costs already incurred or committed where a project does not proceed. Those costs do not cease to have been incurred because the holder's reason for terminating is the introduction of the fee. Ofgem identifies the difficulty with Option 2 at 5.43, that it would allow a less viable project to remain in the queue and exit on advantageous terms when the fee is next increased. That risk is real and Option 1 avoids it.

17. Do you agree with our proposal in relation to exemptions and grace periods?

Please provide the reasons for your answer.

Yes

Exempting projects within six months of energisation, and the graduated grace periods for holders of signed and unsigned offers, are proportionate. The point made in answer to Question 49 applies: several of the relevant periods remain in square brackets in the drafted text and cannot be assessed until they are settled.

18. Do you have specific concerns or comments related to the proposals discussed in chapter 5?

Please provide the reasons for your answer.

Yes

One concern, set out in full in answer to Question 18. Chapter 5 establishes a self declaration mechanism and a verification approach that does not require the identity of the declaring or supporting party to be established beyond the immediate signatory.

Data Centre Queue Management Milestones: Policy Design

19. Do you agree with our proposed data centre queue management milestone measures?

Yes

The milestone measures are supported. Testing compute offtake, long lead procurement, financial capability and technical capability at defined points is a reasonable way of establishing progression,

Curate Consultation Response Template

and the decision not to proceed with a developer track record test at this stage is sound for the reason given at 6.7.

20. Which of the three options for binding compute offtake evidence do you consider most appropriate, and why? Do you agree with our minded to position of a requirement for at least 20% of compute capacity for at least one year?

Option 2

Option 2 is supported, being a binding commitment for at least 20 per cent of compute capacity for at least one year.

Option 1 sets no meaningful floor and a short or small commitment would not evidence secured demand. Option 3 would be difficult for multi customer colocation projects to satisfy at the point M6.Dc falls due. Option 2 is the workable middle position. The observation made in answer to Question 31 applies to whichever option is selected.

21. For the compute offtake threshold, should the percentage threshold or minimum contract duration should be higher, lower, or designed differently for different data centre business models?

Yes

No preferred percentage or duration is proposed beyond the answer to Question 30. One consequence of the design is not discussed in Chapter 6 and is worth recording.

A binding offtake requirement attached to a milestone deadline places the developer in a weaker negotiating position at a date the counterparty is able to observe. Milestone 6c (DC) falls on or before the date derived for Milestone 6, which is fixed by the connection date and visible to both parties. The requirement therefore transfers commercial leverage toward compute offtakers at a known point in the development timetable. The effect is greater for the Lease or Sale Pathway, and greater again for developers without an existing customer relationship.

Admitting a wider range of instruments at Milestone 6c (DC), or expressing the requirement so that the date is less precisely observable, would reduce that effect without weakening the evidence of demand.

Curate Consultation Response Template

22. For the long-lead procurement requirement, should the requirement cover transformers and switchgear only, or should other long-lead electrical equipment be accepted?

No

The requirement should not be limited to transformers and switchgear. Other long lead electrical equipment should be accepted where it evidences a material procurement commitment.

Paragraph 6.50 records that transformer configurations vary significantly between projects of equivalent capacity and that switchgear requirements are driven by voltage and system design. A prescriptive list would be inconsistent with that finding. No specific alternative equipment list is proposed in this response.

23. For the long-lead procurement requirement, should equipment be assessed against indicative voltage-linked ranges, or should NESO and distribution network operators assess whether it is appropriate to the project's particular connection and design?

No

Assessment against indicative voltage linked ranges is not preferred. NESO and the distribution network operators should assess whether the procured equipment is appropriate to the particular connection and design, consistent with the approach set out at 6.52.

Indicative ranges would need to accommodate the configuration variance described at 6.50, and a range wide enough to do so would not discriminate usefully between credible and non credible procurement.

24. Do you agree with our proposal to require data centre projects to demonstrate financial capability through either an investment-grade credit rating or legally enforceable credit support committed to the project?

Yes

The two route structure is supported.

Curate Consultation Response Template

Milestone 6a (DC) sets out the methodology by which a rating is to be determined for a special purpose vehicle, including Moody's generic project finance methodology. That addresses the concern recorded at 6.59 that a rating requirement would favour larger or established developers, and the drafting is an improvement on the position described in the consultation narrative.

One observation. Both routes test covenant strength. Deliverability is a separate property and is tested elsewhere in the milestone set. Stating that distinction in the decision document would prevent the financial capability milestone being read as a proxy for whether a project will be built.

25. For financial capability, should a credit rating held by the developer, project company or a financially supporting parent company be accepted, and what evidence should demonstrate that parent-company support is committed to the relevant project?

Yes

A rating held by a financially supporting parent company should be accepted, and the requirement at 6.60 that the support be legally committed to the relevant project rather than resting on the wider group financial position is supported and should not be relaxed. It is the correct test.

Two drafting points follow. The Credit Support Evidence list at Milestone 6a (DC) admits a letter of credit issued by a bank, cash deposits held on terms satisfactory to The Company, or collateral or other equivalent enforceable financial security. A parent company guarantee is not expressly listed. If it is intended to fall within the final limb, saying so would remove doubt for respondents and for network operators applying the milestone.

On the evidence that should demonstrate commitment, the identification point made in answer to Question 18 applies with particular force here. A commitment is worth what the party giving it is worth, and the drafted text sets no standard for establishing who that party is. Evidence of commitment should be accompanied by evidence identifying the ultimate controlling party of the entity giving it.

Curate Consultation Response Template

26. Are investment grade credit ratings, BBB– from Standard & Poor's or Fitch and Baa3 from Moody's, appropriate minimum ratings?

Yes

BBB minus from Standard and Poor's or Fitch and Baa3 from Moody's are appropriate minimum ratings. They are the conventional investment grade floor and are consistent with thresholds used elsewhere in regulated infrastructure.

27. What alternative forms of credit support should be accepted, including letters of credit, cash deposits, collateral, committed financing facilities or other equivalent security?

Yes

Letters of credit, cash deposits, collateral and committed financing facilities should all be accepted, as should a parent company guarantee, which is not expressly listed in the drafted Credit Support Evidence at Milestone 6a (DC). See the answer to Question 35.

Whatever forms are accepted, the standard for identifying the party providing the support matters more than the form of the instrument. See the answer to Question 18.

28. Should the amount of credit support be linked to the project's capacity, expected capital cost, remaining development expenditure or another measure, and how should it be calibrated?

Yes

Special purpose vehicle structures are common in this sector, so the credit support route is likely to carry most traffic. An uncalibrated requirement is then the weak point in the milestone. Paragraph 6.61 records that proportionality has not been examined in depth.

Calibration against requested connection capacity is proposed. That is consistent with the basis of the fee and would mean a single

Curate Consultation Response Template

defined quantity governs both instruments in the package, which connects to the alignment point made in answer to Question 13.

29. Do you agree that evidence relating to EN 50600, TIA-942 or Tier Certification of Design Documents should satisfy the proposed technical capability requirement at M6.Dc? Are there other standards or certifications that should be accepted, and why?

Yes

EN 50600, TIA-942 Design Certification and Uptime Institute Tier Certification of Design Documents are appropriate and any one of them should satisfy the requirement. No additional standard is proposed in this response, and no evidence is offered on whether specialist facilities would require an alternative certification.

30. If you don't agree with our proposed technical and financial capability tests, how would you change them? What other financial and technical capability tests could we use?

Not applicable

The proposed technical and financial capability tests are supported, subject to the observations made in answer to Questions 34, 35 and 38. No alternative tests are proposed.

31. Do you agree with our proposal to structure the data centre queue management milestones framework around distinct Self-operation and Lease or Sale Pathways? Please explain whether the proposed pathways accurately reflect data centre business models and identify any models that would not be appropriately accommodated.

Yes

The Self operation and Lease or Sale Pathways reflect the principal commercial models and the provision at 6.16 for projects using both is sensible. No model is identified in this response that would fall outside the two pathways.

Curate Consultation Response Template

32. Do you agree with our proposed timing for each evidence requirement, including pathway selection and MoU at M0.5.Dc, long-lead procurement at M2.Dc and firm compute offtaker evidence at M6.Dc? Please provide evidence on when viable, non-speculative projects can ordinarily supply each form of evidence.

Yes

The proposed timings are supported. No evidence is offered on when viable projects can ordinarily supply each form of evidence, which is a matter on which developer respondents will be better placed.

Data Centre Queue Management Milestones: Implementation

33. Do you agree with our options for the thresholds at which the data centre queue management milestones are implemented, and do you agree with our proposed threshold of 10 MW rated IT load?

Please provide your reasoning and supporting evidence.

No

The threshold proposed in Chapter 7 is a rated IT load of 10 MW. The drafted definition does not implement that threshold for most of the sector.

Ancillary Document 1 defines Data Centre Service by reference to two limbs. A facility not provided on an Enterprise Basis falls within the definition where the Rated IT Load is equal to or greater than 1 MW. A facility provided on an Enterprise Basis falls within it where the Rated IT Load is equal to or greater than 10 MW. Enterprise Basis is defined as requiring that the data centre is owned or managed by a person in connection with an undertaking carried on by that person, and that the sole purpose of the data centre is to provide information technology services for that undertaking.

The DC Specific User Progression Milestones at Table 2 of the drafted Section 16 apply to a Data Centre Service. A colocation facility, or any facility serving third party customers, is not provided

Curate Consultation Response Template

on an Enterprise Basis. For that part of the sector the drafted threshold is 1 MW.

Both limbs follow the Cyber Security and Resilience (Network and Information Systems) Bill, which Chapter 7 cites. The Bill applies the 10 MW figure to enterprise facilities and 1 MW otherwise. The drafted CUSC text imports both limbs faithfully. Chapter 7 describes one of them.

Ancillary Document 3 carries the milestones into distribution. The draft direction requires licensees to amend bilateral agreements with customers meeting the definition of Data Centre Service set out in Section 11 of the CUSC but which do not go through the TEA Equivalent Process. That is the population sitting below the transmission assessment. The direction sets no MW threshold. The single exclusion is a bilateral agreement with a connection date falling within six months of the direction taking effect.

No drafted instrument implements a milestone threshold. Ancillary Document 4 introduces Condition E18 of the ISOP licence, requiring a DCCF Statement that sets out the DCCF MW Threshold and the DCCF Value, subject to review at least once in every twelve month period, consultation of no fewer than 28 days, and approval by the Authority. Nothing equivalent is proposed for the queue management milestones. Their scope rests entirely on the definition.

Four questions follow. Whether the difference in scope between the narrative and the drafted instruments is intended. Whether the administrative burden assessment at 7.28, framed against the proportionality of a 10 MW threshold, reflects the number of distribution connected projects a 1 MW definition would capture. Whether the exemption structure and grace periods at 7.17 to 7.21 were assessed against that population. And whether the absence of a threshold instrument for the milestones, set against the mechanism provided for the fee at Condition E18, is deliberate.

If a 10 MW threshold for all data centres is intended, the definition requires amendment and a threshold instrument is needed. If alignment with the Bill is intended, Chapter 7 should say so and the burden analysis should be revisited before a decision is taken.

One further matter is time sensitive. The Bill completed its Commons stages on 16 June 2026 and entered Lords Committee on 1 September 2026. The definition Ofgem proposes to import is capable of amendment before Royal Assent, which paragraph 5.13

Curate Consultation Response Template

acknowledges. A mechanism for keeping the CUSC definition aligned with the Bill as enacted would be preferable to transcribing the current drafting.

34. Do you agree that the data centre queue management milestones should apply to relevant projects connecting at both transmission and distribution? Please explain whether any differences between the transmission and distribution connection processes require a different approach.

Yes

Applying the milestones at both transmission and distribution is supported, and the reasoning at 7.27, that a single connection route should not allow the requirements to be avoided, is sound.

One difference between the two routes bears on scope rather than on process. Ancillary Document 3 applies the requirements to distribution customers meeting the Data Centre Service definition that do not go through the TEA Equivalent Process, and sets no MW threshold. The consequence for the population captured is set out in answer to Question 43.

35. Do you agree with the proposed approach to applying the data centre queue management milestones to existing and future projects? Please identify any circumstances in which different treatment would be appropriate.

Yes

Applying the requirements to both existing and future projects is supported. Applying them only to future projects would leave the existing queue, which is the source of the problem described in Chapter 2, untouched.

36. Do you agree with the proposed approach to the submission, assessment and ongoing validity of milestone evidence? In particular, what process should apply where evidence is incomplete, has expired, is no longer effective or needs to be replaced?

Yes

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The proposed approach is supported. On the process that should apply where evidence expires or ceases to be effective, the six month replacement period at 6.62 is a reasonable model and could be applied generally.

One addition is proposed. Where evidence ceases to be valid because the supporting entity has changed, been restructured or come under different control, the obligation to notify should be expressed to capture that circumstance and not only the expiry or cancellation of the instrument. That connects to the identification point made in answer to Question 18.

37. Do you agree that failure to provide satisfactory evidence by the applicable deadline should result in the project being treated as having failed the relevant queue management milestone? Please identify any circumstances in which a project should instead be allowed to remedy the failure, and how this could work.

Yes

Failure to provide satisfactory evidence by the deadline should result in the milestone being treated as failed. A remedy period may be appropriate where evidence has been submitted in time and is found to be incomplete rather than absent, since the distinction between an incomplete submission and no submission is meaningful and the consequence of ejection from the queue is severe.

38. Do you agree with our proposed exemptions and transitional arrangements for existing data centre projects? Please identify any circumstances in which a different exemption or transitional period would be appropriate.

Yes

The exemptions and transitional arrangements are proportionate, subject to one qualification. Several of the relevant periods remain in square brackets in the drafted text, as set out in answer to Question 49. Respondents cannot assess the transitional arrangements until those figures are settled, and this answer is given on the basis of the periods described in the consultation narrative.

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Statutory Duties and Associated Legal Responsibilities

39. Do you agree that the proposed legal text changes as set out in the ancillary documents give effect to the policy intent as set out in this consultation?

Please provide the reasons for your answer.

No

The legal text gives effect to the policy intent in most respects. It does not do so in one respect of substance, and there are several drafting matters.

The matter of substance is the milestone threshold, set out in full in answer to Question 43. Chapter 7 consults on a threshold of 10 MW rated IT load. No drafted instrument implements one. Scope is set by the Data Centre Service definition, which applies at 1 MW to any facility not provided on an Enterprise Basis, and Ancillary Document 3 applies that definition at distribution with no MW threshold at all.

The drafting matters are as follows. Part Six of the drafted Section 15 uses DCFF in place of DCCF at Paragraphs 1.1, 1.2 and 1.3, and DCC Data Centre at Paragraph 1.3.

Paragraph x.3.2.2 of the addition to Section 6 provides that The Company shall unless within six months of Charging Date give the project an opportunity to provide a Self Declaration Letter. The intended meaning is not clear from the drafting.

The DCCF Implementation Date and the DC MS Implementation Date are both marked for inclusion at decision stage. Several periods remain in square brackets, including the six month transitional exception at Part Six 2.1.1, the three month self termination windows at Part Six 2.1.2 and 2.1.3, and the ten and twenty eight day response periods at Paragraph x.2.1. The transitional arrangements cannot be assessed by respondents until those figures are settled, and it would assist if the decision document set them out with the reasoning.

40. Do you have any suggestions or comments regarding potential legal text changes to regulatory documents that we did not consider?

Please provide the reasons for your answer.

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Yes

Two changes are suggested that the ancillary documents do not currently provide for.

First, a threshold instrument for the queue management milestones. Condition E18 as drafted in Ancillary Document 4 provides a DCCF Statement carrying the DCCF MW Threshold, subject to periodic review, consultation and Authority approval. No equivalent exists for the milestones, whose scope rests entirely on a definition imported from a Bill that has not yet received Royal Assent. If the milestone threshold is intended to be a policy variable, it should sit in an instrument that can be reviewed and consulted on. If it is intended to follow the Bill, a mechanism for maintaining alignment with the Bill as enacted would be preferable to transcribing the current drafting.

Second, a standard for establishing the identity of a supporting party, as set out in answer to Question 18. This could be given effect through the definition of Relevant Applicant Group Company in Section 11, which is presently drafted as any company in the group of the applicant, and through the Credit Support Evidence requirements at Milestone 6a (DC).