

techUK Consultation Response

Climate Change Agreements: consultation on a new scheme

techUK on behalf of the techUK Data Centres Operator members

To: Climate Change Agreements Team
Department for Energy Security and Net Zero
55 Whitehall
London
SW1A 2HP

14 February 2024

techUK, with the help of SLR Consulting, welcomes the opportunity to respond to the Department for Energy Security and Net Zero's (DESNZ) [consultation on the a new Climate Change Agreements \(CCA\) scheme](#) - on behalf of our data centre sector members.

techUK is the UK trade body for the digital technology industry and we administer the Climate Change Agreement for the UK's data centre sector. Over 170 data centre sites currently participate in the scheme, which provides much-needed support, helping to level the playing field on energy costs between the UK and other markets, and boosting investor confidence.

We welcome the decision to reopen it to new participants. This is particularly welcome because our sector is growing, and the premature closure placed new entrants to the market at a disadvantage and generated uncertainty.

The purpose of the scheme was originally intended primarily to protect energy intensive sectors. However, recently the scope and intention of the CCA seems to have shifted towards an energy efficiency scheme. The primary objective of the CCA was to protect UK business competitiveness from unilaterally high energy costs and incentivise investment (see below). While improved energy efficiency was an important condition, it was not the primary aim.

Another important point to note, is that the data centres sector, and we would extend this to most sector currently under the CCA, would urge the UK government on noting the benefit from international coherence when developing frameworks. This is particularly on sustainability indicators and reporting timelines.

techUK response

1. Do you agree with the proposal to allow new entrants to the scheme at any time?

Yes, we agree that new entrants should be able to apply to enter the CCA scheme at any point.

However, more clarity is required regarding:

- reporting start date;
- base year period;
- target allocation for new entrants and;
- other relevant information (please see further in Q2).

2. Do you agree that new entrants should complete a Target Period before receiving certification for reduced rates of CCL?

Whilst we agree that new entrants should be able to apply to enter the CCA scheme at any point, we think the proposed approach to completing a Target Period before receiving certification would be unfair to new sectors joining and disincentivises new entrants and those companies who are undergoing a change of ownership.

Such a proposal would also actively disincentivise sites to relocate or create more efficient new sites as they would be financially penalised versus staying at their old site. The proposal to require a completion of a Target Period could result in businesses joining the scheme, undertaking several years of administration and payment of Environment Agency (EA) and sector fees (and paying any potential buyouts), without the benefit of receiving certification for reduced rates of CCL.

This would reduce the business case for Operators to join the scheme. All sectors, but especially those that are at a risk of international competition should be allowed to at least claim a reduced or proportionate amount of CCL discount upon assenting to the agreement.

From an administrator's perspective, the proposal could also create a bottleneck of applications towards the end of a target period, with Operators joining as late as possible to reduce the length of time before they are able to claim CCL discount. This would place significant pressure on the Environment Agency.

We request that the following questions and comments be addressed to provide clarity:

- Would new entrants still report data from date of assent?

- How does the scheme define the requirements of a 'complete' target period? - Is this for two full years of reporting or for the next full reporting period? (e.g., if joining mid-2025 would companies have to wait until 2027 before they can have a discount? On this basis, a full period would mean 2029?).

If the proposal went ahead in its current state, we suggest the following potential mitigations:

- Could a new entrant report for a target period (and pay any buy-out), but then be able to retrospectively claim back the 2 years' worth of CCL discount, or from the date of activation?
- Could new entrants be able to claim a reduced level of discount until a target period has been completed?

3. What are the potential impacts of the proposal that operators should make an annual confirmation to the scheme reporting that their facilities remain compliant with the threshold?

Before commenting on the potential impacts of the proposal of annual confirmation of conformance with the 70:30 rule, it is key to understand what confirmation would entail. For example, if a self-certifying statement of 'pass' or 'fail' is acceptable we would agree with the proposal.

However, if updated 70:30 calculation documentation is required there may be a risk of both regulator and sector administration burden if detailed evidence and calculations need to be submitted each year.

4. Do you agree with the proposal to gather data at a facility level to inform target setting?

Whilst we agree with the proposal to gather data at a facility level, as this would better measure the energy and environmental footprint of the ITC industry, DESNZ should address confidentiality issues that will arise as a result.

We express our concern that disclosing predicted IT load levels, significant investments and energy saving potential could pose business risk and competitive disadvantage, (also legal implications for PLCs). For example, PLCs are at risk of market manipulation and insider trading if confidentiality is compromised for factors that could influence share price i.e. IT load/utilisation forecast. To address this, we suggest that sectors collect the data required for target setting, however only an anonymised submission summary format is collated to Government whereby information can be viewed but not stored.

The risk of confidential data leakage is significant, especially considering regulations that allow public access to certain types of information. As an example, detailed disclosure of data

such as bandwidth capacity or server traffic could inadvertently assist cyber attackers, especially for facilities handling sensitive or government data. Furthermore, we believe that whatever framework results from this exercise, the UK needs a clear legal framework to address confidentiality exemptions and protect sensitive information.

The difficulties of collecting enough and adequate facility level data should be noted. Attempts to utilise facility level data to inform targets have previously been made, however submissions were flawed as Operators had a lack of understanding, lack of visibility of corporate level investment plans, and/or lack of quality data. Data centres may be able to predict future utilisation levels, however ultimately it is the end client who determines whether prediction come to fruition or not.

The scheme makes comment that data required to inform target setting is in part collected through ESOS audits. It should be made clear that many facilities will not collect this data as not all organisations are captured by ESOS, even if captured, not all sites are audited during each ESOS cycle, and some facilities will not be audited at all.

Another concern for multi-facility organisations is that, although investment may be allocated, it is not always guaranteed and is subject to change depending on markets or customer requirements. As investment can shift between sites under shared parental ownership, if the proposal to remove bubbles is implemented then allowing carbon transfer of carbon between sites under shared organisational structures would help alleviate some of this issue.

If this went ahead, we suggest the following potential mitigations:

- An Anonymised submission summary format collated, where information could be viewed but not stored. This could potentially address confidentiality concerns.

5. Do you agree with the proposal that the proposed data gathering exercise be conducted prior to any target setting process?

Yes, assuming that data requirements are clearly stated in advance with enough time for Operators to collect and collate the data.

However, further clarifications are required whether this is a requirement for the new scheme as a whole or whether the process needs to be repeated for each Target Period.

In addition, it is also unclear as to how Target Period 6 (TP6) informs the new scheme (and subsequent revised target setting requirements). TP6 information is not confirmed until May 2025 and the new scheme targets need to be in place before this (1st of Jan 2025) and will be negotiated during 2024. We share a concern that although 2023 is a non-mandatory reporting year, it may be the only full year of data between the proposed 2022 Baseline Year and setting TP1 targets that could demonstrate the most recent performance.

Target negotiation templates have previously stipulated that performance must be explained by summing all efficiency/energy reduction measures, however, it should be acknowledged

that there are too many external and internal variables to accurately model performance and understand the contribution that every energy saving measure contributes when it can be obscured by other factors (IT load utilisation changes, weather, unexpected breakdowns, loss of business).

We have a few additional questions for further clarity:

- During a facility-driven target setting methodology, if a facility is unable to provide any, or adequate data during the designated timeframe in which to inform target setting, what would be the governments approach to that facility? Would they be removed from the scheme? Would they be able to be allocated a sector average, or sector derived target?
- Also, what would be considered an appropriate percentage response rate of the sector to contribute towards target setting?
- And what would the implications be if the sector was unable to gather enough responses from individual Operators?

6. Can you provide suggestions on how to reduce potential administrative costs of this approach?

We suggest that the Government create a simple macro-enabled template for data collection which can be easily uploaded to an online portal along with supporting documents. Previous templates that have been provided for target negotiations have not been user-friendly or fit for purpose.

We also suggest that SMEs and those sectors with multiple small sites are excluded from this requirement as both groups are likely to be unfairly burdened where resources may already be stretched.

7. Do you agree that 2022 should be used as the baseline year for the new scheme?

Whilst we cannot find reason to disagree that updating the base year to a more recent period makes reasonable sense, we suggest several points of consideration.

It should also be noted that as with the previous versions of the CCA scheme, there is already a precedent set for sectors to have a different base year to other sectors if deemed justified. Whatever year is decided, early clarification on NOVEM data requirements is essential to prepare sectors and Operators for this significant change in reporting requirements. This proposed approach is likely to have great administrative burden and although many operators will have the available sub-metering for IT load, other house loads may not have suitable metering to differentiate between fixed ineligible energy and variable directly associated energy. Therefore, they wouldn't have the evidence to apportion this energy if current NOVEM criteria is maintained.

Fixed energy may be insignificant for most data centre facilities, and there is only a single 'product' (IT load), so in theory they could have a single product NOVEM equivalent to a relative energy target, however the variable energy associated with the IT load is significantly affected by customer utilisation levels on site (i.e. change in variable energy is often related primarily to utilisation as opposed to proactive measures taken to improve efficiency).

For those who do have significant fixed energy, a multi-product fixed/variable NOVEM would not add to evidencing efficiency due to the above but would increase administrative burden. Therefore, a NOVEM based on fixed/variable energy may be inappropriate for this sector.

The proposed NOVEM will not address the issue of the sector target distribution or the sector having extremely diverse site profiles (utilisation being outside of the operator control, retail vs hyperscale business models, legacy sites vs ramp-up of new purpose-built sites).

Therefore, we suggest that if a NOVEM target is required, the sector should be allowed to derive a NOVEM that is appropriate to the sector profile.

8. If you believe the baseline year should be revisited, which year should be used and why?

N/A

9. Do you agree that the primary electricity factor should be updated before each Target Period?

Yes, however guidance should include a clear and appropriate process for implementing an evolving electricity multiplication factor during target negotiations and subsequent reporting.

Primary electricity factor projections should be included in future target negotiations and a process for dealing with any significant fluctuations between base year and target period projections should be outlined and agreed in advance.

We require further guidance of how percentage targets would be adjusted if there was a significant fluctuation.

Process and methodology should be defined in the scheme rules ahead of agreements being assented to.

10. What would be the impact of updating the primary electricity factor before each Target Period?

To support consistency for sectors and Operators, there is a need for primary electricity factor projections to be included in future target negotiations and a process for dealing with any significant fluctuations between base year and target periods set out at the start of the scheme.

To reduce administrative burden, a process to account for change and assumptions should be agreed in advance of each Target Period. We suggest further clarity and consideration regarding:

- What are the impacts on the target?
- Would % target be adjusted for each Target Period?

11. Do you agree with the proposal to extend reporting to include providing further evidence of energy efficiency and decarbonisation potential?

We do not agree with this element of the proposal. We believe that any data collection of this nature should focus on target setting only.

As the proposal is suggesting facility level reporting on an annual basis, the Government/Scheme Administrators should be made aware that reporting at a company level and at a facility level are very different, that this methodology does not align with requirements of ESOS or SECR. Thus, this would apply additional administrative burden with no obvious advantages for companies, or benefit to government.

As mentioned earlier, we have confidentiality concerns around sharing energy efficiency and decarbonisation potential and therefore would require assurance that data would be anonymised, or able to be collated at an organisational level, so could not be attributed to an individual facility or location.

Echoing our response to Question 6, we suggest that SMEs and those sectors with multiple small sites are excluded from this requirement as both groups are likely to be unfairly burdened where resources may already be stretched.

12. If so, do you agree that the energy efficiency and decarbonisation reporting should capture potential within the next 6 years on an annual, rolling basis?

We do not agree with this element of the proposal. More clarity surrounding what would be reported is required.

Many companies could technically assess the feasibility or potential savings an energy efficiency measure or decarbonisation project would generate; however, it may not be commercially or contractually viable. For example, a company may technically be able to decarbonise electricity use at a facility by installing Solar PV, however the landlord may not give permission for the company to implement, or the company cannot prioritise the investment.

We believe that there needs to be clarity regarding what data is essential for target negotiations and annual reporting, and clear justification provided to Operators of providing this data.

13. Do you agree with the proposed methodology for calculating the buy-out price, including a weighted average between the respective electricity and gas CCL discount per tCO₂e?

Yes, we cannot find reason to disagree.

14. Do you agree that the buy-out price should be reviewed ahead of each new target period to account for the potential continued equalisation of the CCL?

No, we think the most favourable approach would be to set a 'buy-out' price at the start of the scheme alongside the already known or planned CCL rate fluctuation.

This would provide Operators with the knowledge and ability to prepare and budget for any forecasted buy-outs.

15. Do you agree with the proposal to allow surplus to be carried forward between Target Periods?

We welcome the surplus mechanism to allow transfer between target periods, however we think this should be extended to allow transfer between facilities and Target Units within the same Company ownership structure (e.g., within the ultimate parent company).

As in Question 4, investment is not always guaranteed and can change with markets and customer requirements, therefore, by allowing transfer of surplus, organisations could make more cost-effective and strategic investment decisions for energy efficiency and decarbonisation initiatives within their portfolio.

16. Do you agree with the proposal to keep the current financial penalties for a new CCA scheme?

Yes, we strongly agree with the proposed administrator right to waive, with a few considerations.

- We suggest that the new scheme allows for corrections at de minimis levels but should not include recalculations and penalisations under certain levels.
- We request the scheme includes the introduction of a de minimis threshold for retrospective corrections for target period performance with the purpose to reduce

administrative burden and to encourage pro-active corrections from Operators where required.

17. Beyond the proposals listed above, are there any other reforms / changes you would recommend for this new scheme?

Following the review of the new scheme of the Climate Change Agreement, we have collated a list of clarification requirements which can be broadly categorised as:

- Eligibility and exemptions
- Methodology
- General guidance

Eligibility and exemptions:

Clarification needs to clearly state that 'new entrants' does not include sites that undergo a change in ownership.

In addition, if participants are required to annually confirm that the facility remains compliant with the 70/30 threshold, the scheme needs to clearly outline the approach. Rather than a full suite of documents and 70/30 calculation we would suggest the regulator provides a list of specific eligibility criteria for each existing sector, whereby operators can 'tick' or select which processes they conduct, accompanied by an annotated site plan and a self-certified statement of compliance with the 70/30 threshold.

We envision that this approach would provide a reassessment, without having the administrative burden of providing (and subsequent regulator check) of a full suite of documents.

We also suggest that a list of all documents used by the Administrator to assess eligibility should be referred to in the scheme rules, published before the scheme starts (including the CCA Operations Manual and any other guidance documents), and are not changed during the lifetime of the scheme. As suggested throughout, we suggest the introduction of exemptions for SMEs, those with multiple small facilities or another defined threshold.

Methodology:

We note that the proposed scheme lacks methodology clarification on the proposal to mandate a NOVEM methodology for all sectors. Although we can see the benefits of this type of calculation and target for some sectors and Operators, it should be noted that the majority of sites would not be able to provide the depth of data required.

We require further guidance of acceptable ways to determine a fixed baseload by site or product group using the new proposed NOVEM methodology and consideration that SMEs and those with multiple small facilities be excluded.

We would appreciate understanding the criteria for confirming the robustness for NOVEM calculations, and a proposed strategy for those facilities unable to access adequate information, or those unable to identify product groups with statistically significant variability in energy intensity (grounds for which NOVEM applications have been rejected in the past).

Whilst generally we agree with a set, consistent sector base year period, we request that in special circumstances there is allowance for the adoption of an alternative base year where evidence is provided to prove the set year is not appropriate. For example, a more representative baseline year for greenfield sites, where commissioning and utilisation levels have significantly increased or for those companies that have undergone a significant period of disruption or maintenance and therefore the data does not reflect a 'typical' year.

General Guidance:

We do not agree with the inclusion of UK Emissions Trading Scheme (UK ETS) energy in the CCA scheme.

Guidance is required of how UK ETS energy will be removed/exempt from buy-out calculations and how to avoid double counting, or duplicated assessment of performance. The UK ETS scheme also uses a completely different set of calculations, units of measurement, conversion factors and emissions factors – resulting in an administrative burden for Operators, effectively reporting the same information but in two different formats for the two schemes. Also, clarification as to how the new CCA scheme will interact with UK ETS ultra small emitter 'opt out' sites (many of which fall under our sector).

Finally, guidance around renewables should be extended to include an updated list of renewable fuels, and the inclusion of direct transfers from 3rd party renewable sources to be included as 'on-site generation'.

18. Please provide any comments on the timeline set out above:

We do not have any comments on the proposed timeline.

Contacts



Luisa Cardani

Head of Data Centres Programme,
techUK

luisa.cardani@techUK.org



Lucas Banach

Programme Assistant,
techUK

lucas.banach@techuk.org

About techUK

techUK is the trade association which brings together people, companies and organisations to realise the positive outcomes of what digital technology can achieve. With around 1,000 members (the majority of which are SMEs) across the UK, techUK creates a network for innovation and collaboration across business, government and stakeholders to provide a better future for people, society, the economy and the planet. By providing expertise and insight, we support our members, partners and stakeholders as they prepare the UK for what comes next in a constantly changing world.

techUK's award-winning Data Centres programme provides a collective voice for UK operators. We work with government to improve the business environment for our members.

To date we've saved UK operators over £150M, alerted them to business risks, mitigated regulatory impacts and raised awareness, most recently negotiating key worker status for the sector.

techUK is a signatory of the [Carbon Neutral Data Centre Pact](#).

www.techuk.org