**TechUK Consultation Response: *Climate Change Agreements: consultation on extension to 31 March 2027 & further proposals on any potential future scheme***

**techUK on behalf of the techUK Data Centres Sector members**

10 May 2023

techUK welcomes the opportunity to respond to the Department for Energy Security and Net Zero’s (DESNZ) [consultation on the Climate Change Agreements](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1142487/cca-consultation-on-extension-to-31-mar-2027-proposals-for-future-scheme.pdf) (CCA) - both extension and future 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 extend the scheme and 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 to primarily to protect energy intensive sectors. However, recently the scope and intention of the CCA seems to have shifted as 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.

**Carbon targets and Net Zero**

techUK and the data centres operators sector would encourage for carbon savings being prioritised, as this would expand the scope to include enterprise (in-house/non-commercial) data centres and it would drive energy stewardship, improved efficiency, transparency, benchmarking and accountability within the part of the sector that is currently ineligible for the scheme but where there is potential for significant energy savings.

CCA scheme should move to carbon targets and encourage companies to implement a wider spectrum of carbon and energy reduction projects. A future CCA also needs to accommodate renewables, not just the purchase of certified renewable power but it needs to recognise activity that contributes to additional generation, through technologies like fuel cells, via onsite generation or power purchase agreements (adding onsite generating capacity to existing data centre facilities is frequently impractical).

This slight shift in a future scheme would balance required between energy efficiency and other decarbonisation measures to be considered and reward operators with robust plans for measuring, monitoring and reporting progress on their journey towards Net Zero. This is particularly important for the data centre operators sector as once an operator is beyond the 80/20 rule on energy efficiency (and most operators are on track to achieve this) and commitment to 100% renewable energy sources, then the focus should move from energy efficiency to other decarbonisation measures.

**Payback**

Operators need the CCA scheme as an independent set of KPI for driving and reporting on energy efficiency improvements each year to operators’ investors, operators and customers.

Furthermore, the CCA provides sufficient signals of support to enable high cost, longer payback projects to deliver acceptable ROI to go ahead. For instance, operators are currently conducting R&D into fuel cells and battery storage and if these technologies are to be adopted rapidly, financial assistance to help free up the supply chain may be necessary.

**Consultation Response**

Please find detailed answers to the consultation questions below. Should any further information be needed, please do not hesitate to get in touch.

**Q1. Do you foresee any impacts arising from this two-year extension?**

Generally, the extension to the CCA scheme is welcomed and this should drive additional energy and carbon savings across the sector.

However, the causes for concern are the tight timescales, especially for any counterproposal for sector targets and the request for increased reporting on energy efficiency actions taken and decarbonisation potential.

Another concern is that enhanced reporting of actions taken and the decarbonisation potential, should lead to additional measurement, monitoring and reporting over that which is required for SECR and the GHG Corporate Accounting and Reporting Standard.

**Q2. Do you agree with the proposed dates for Target Period 6 and Certification Period 6?**

Yes.

**Q3. Do you foresee any issues with maintaining the current scheme eligibility criteria?**

No.

**Q4. Do you agree with the dates proposed for new entrant applications?**

No. Although it is disappointing that new entrants into the CCA scheme are not allowed during 2024. We struggle to see the reasoning behind this.

The data centre sector is actively opening new sites across Europe and not allowing new sites to join at any time and secure the CCL discount will distract from investment in the UK.

**Q5. Do you agree with the proposal to maintain 2018 as the baseline year?**

Yes.

**Q6. Do you agree with process as set out for agreeing sectoral targets?**

The idea of using TP5 performance looks sensible, but there are concerns over what this will mean, and it is not clear in the consultation how this will be applied.

Greater detail would have been appreciated here to provide a more detailed response. There is also a concern if a straight-line extrapolation is used to give a TP6 target as repeating the same level of performance will be difficult due to diminishing returns on quick turn round actions. The timeline of 2024 does not give enough time for large scale investment projects to be identified costed, implemented and the benefits delivered.

This is especially relevant at the moment when significant increases in energy costs has reduced margins and cash reserves as existing customer contracts cannot have price rises enacted as quickly.

In the data centre sector, energy use and hence savings are definitely not linear and a linear trajectory would not be physically possible without excessive investment. A demanding target imposed on a sector that is relatively advanced in terms of implementing energy efficiency measures will disproportionately punish early adopters and mature sites where retrofitting options are likely to be much more limited.

**Q7. Do you agree with the proposal that surplus from previous Target Periods should not be brought forward for use in TP6?**

No. As the same base year is being used for TP6 and TP5 and any target for TP6 will be in excess of TP5 then surplus should be available for use. It could be unfair for those passing TP5 to not be able to use surplus for TP6 if significant investment made it possible.

**Q8. Do you agree with the proposed amendment to Rule 6.4 to account for operators with absolute targets?**

Yes.

**Q9. Do you agree with the proposal to introduce mandatory reporting to the Environment Agency of action taken in Target Period 6 by 1 May 2025?**

No. Our main concerns are twofold: (1) confidentiality, (2) extra reporting burden.

(1) Commercially sensitive information cannot not be disclosed. Any information relating to how energy is used at a site could be deemed confidential as it could relate to bespoke processes or novel technologies which give rise to a competitive advantage. If such information had to be disclosed then how will the Administrator handle it and prevent it being the subject of an FoI request?

(2) This will add an additional administrative burden on to participants. Government should consider the proportionality of the extra information provision versus the benefit that the different companies get.

**Q10. What are your views on extending this reporting to include provision of further evidence of energy efficiency and decarbonisation potential?**

Do not agree. Extending disclosure to include potential is beyond current 14.2.2 wording and can be viewed as scope creep.

As per our answer to Q9, our main concerns are twofold: (1) confidentiality, (2) extra reporting burden.

1. Commercially sensitive information cannot not be disclosed. Any information relating to how energy is used at a site could be deemed confidential as it could relate to bespoke processes or novel technologies which give rise to a competitive advantage. If such information had to be disclosed, then how will the Administrator handle it and prevent it being the subject of an FoI request?

2. This will add an additional administrative burden on to participants. Government should consider the proportionality of the extra information provision versus the benefit that the different companies get. There will be an extra cost to obtain the extra information required if the site has not had a detailed ESOS or other type of audit, this could be especially time consuming and expensive for SME's.

**Q11. Do you agree with the proposal to increase the buy-out price to £25/tCO2e?**

No. Any cost increase for businesses should be avoided in the current economic climate when there are so many financial pressures on companies and their customers.

**Q12.** **Do you agree with the proposal to increase the minimum financial penalty from £250 to £500?**

No. Any cost increase on businesses should be avoided in the current economic climate when there are so many financial pressures on companies and their customers.

**Q13. Do you agree with the proposal to increase the financial penalty price for providing inaccurate Target Period data in line with the buy-out cost per tCO2e for TP6?**

No comment.

**Q14. Do you agree with giving the scheme administrator discretion to waive or reduce penalty amount when considered appropriate?**

Yes.

**Q15. In which situations do you believe it would be appropriate for a penalty to be waived or reduced?**

Penalties should reflect the nature of the infringement, there have been instances in the scheme where penalties have been significantly out of proportion to what has happened.

The details of each case should be assessed and some allowance for materiality being employed. First time errors / mistakes should not lead to a penalty, nor should data corrections due to later invoice corrections by 3rd parties such as the energy supplier.

**Q16. Do you agree with the proposal to maintain scheme rules for the purpose of this extension?**

Yes.

**Q17. Beyond the proposals listed above, are there any other reforms / changes you would recommend for this extension?**

A widening of the new entrants’ window into 2024; this was achieved during the first CCA scheme and we have never received a satisfactory explanation about why this cannot be implemented again. Introduction of a *de minimus* for penalties; incurring high penalty and administrative costs for immaterial changes is a waste of time for all stakeholders.

Need to ensure SMEs are not adversely impacted by any scheme changes; some changes will be disproportionately bigger for an SME versus a larger company.

Government should carefully consider the impacts of increasing compliance costs at a time when there are severe cost pressures in the industry following Brexit, covid, war in Ukraine, rising inflation and the cost-of-living crisis. Increased compliance costs would add to these pressures and potentially take away money for investment in energy reduction or decarbonisation measures.

Renewable energy procurement and the additional upfront cost of this supply should be recognised as part of the energy efficiency and decarbonisation scheme. Operators often procure renewable energy up to three years ahead, which send sends a strong signal to the market and drive renewable energy development as per in line with UK Government policy. in exactly the way that government wishes.

**Q18. Do you agree with the proposed timeline for the target setting and agreement variation process?**

Target setting timeline is too short, realistically only having a month to pull together a viable counter proposal is too short a time. However, the sooner we have an extension in place the better.

**Q19.** **How would the proposed timeline affect you and/or businesses within your sector?**

Time for consultation and target setting response is limited so the sector may not have been able to gather information and views from as broad an audience as we may have liked.

The extension needs to happen by 2024 in order to continue with some continuity and provide some certainty to this area so it can be factored into decision making.

**Q20.** **Do you agree with the proposed approach of collecting facility level data to establish targets for any potential future scheme?**

Recent target negotiations have used site level data; however, this has been supplied by the sector (using existing ESOS reports) not created by Government. Why can’t ESOS reports continue to be used and hence avoid duplicating audits and analysis? Only if significant data gaps exist then new site audits would be needed.

Confidentiality is crucial and no companies will want to share what they consider to be commercially sensitive information which could lead to competitors gaining an advantage (i.e. production volumes, energy use and hence cost per product, unique processes). If ESOS reports provided cannot justify being redacted, then Government needs to propose how commercially sensitive information will be prevented from being made public by either them, the 3rd parties or the Administrator, and how any information used will only be used for the purpose stated and not for other reasons without seeking permission.

**Q21. What else should be considered in setting targets for any potential future scheme?**

See answer to Q20.

**Q22. Do you agree that targets should be primarily focused on the implementation of cost-effective energy efficiency improvements, and that the target setting exercise is the best way to determine where carbon targets would be more appropriate?**

No. Given the focus companies give to decarbonisation and the use of on site electricity generation the possibility of a carbon target would seem a sensible option.

For much of the sector most efficiency savings have been completed, and the sector is entering a phase of diminishing returns when it comes to investment in energy reduction. Companies are now focussing on carbon reduction.

**Q23. Do you agree with moving to Facility level reporting and performance measurement?**

In principle targets at a facility level may provide additional granularity and responsibility.

A number of the participants in the sector take a wholistic approach to efficiency and carbon savings across their portfolio, so individual targets are fine, as long as there is some way to trade or move carbon within the legal entity, to bring it in line with the companies’ approach of managing their sites as an inter-linked group.

**Q24. What do you think the impact of this change would be for your sector?**

To prevent this from being a ‘big deal’ the CO2 result against the target (i.e. generated from over or under performance) from the different sites belonging to a legal entity should be tradable without further action necessary (i.e. verification of data like in the first CCA scheme).

The net CO2 position should be recorded at the legal entity level and if the net position is a buy-out, then one buy-out invoice should be raised to prevent administrative complexities.

**Q25. Do you agree with the proposal to reform reporting as described above?**

We know that analysing energy use and developing a robust statistical link to IT energy is challenging. The proposals are totally over the top and will only work for sites with lots of energy and production data. It will not work for sites with little data. The proposal will be costly and complicated, and the analysis will need repeating when significant changes are made (i.e. major new IT equipment is introduced).

For many colocation operations the IT equipment is customer owned and installed, the datacentre operator has no control over choice of equipment or changes. This should not be mandated.

**Q26. What would the impact of this change of reporting be for you and/or your sector (e.g. estimated operational/logistical costs or overarching impacts)?**

The proposal is completely disproportionate for smaller sites. This would add significant cost and complexity to scheme administration.

**Q27. Do you agree that carbon emissions factors should be updated to the currently available factors for each TP?**

Yes, this is sensible.

**Q28. Do you agree that the primary electricity factor for electricity should be updated for a new scheme?**

Yes.

**Q29. Do you agree that self-generated electricity should be accounted for as set out above?**

Do you agree that self-generated electricity should be accounted for as set out above?

Yes. There needs to be greater allowance and benefit for on-site electricity generation. This is an important aspect of any company or national decarbonisation plan, so the current lack of acknowledgement within CCA's should be removed.

**Q30. Do you agree with the proposal to bring UK ETS energy into the target energy for any new scheme?**

Only back-up generator fuel and tiny bits of office heating fall under UK ETS for the data centre sector.

Most sites have opted out of the UK ETS. Whilst the overlap in emissions in not huge, we would appreciate only reporting emissions in one scheme not two to reduce the compliance costs and administrative frustration.

**Q31. Do you have any further views on adding annual reporting beyond those provided in the last consultation under any potential future scheme?**

No comment.

**Q32. Do you agree with maintaining the calculation for buy-out in carbon rather than energy?**

Yes, but we need visibility of costs and methodology in advance so budgets can be assigned for any buy-out costs.

**Q33. What are your views on how buy-out could be calculated for a future scheme?**

However, it is calculated government needs to make sure price is known well in advance to help budgeting.

**Q34. Would you agree or disagree with this utilising a formula rather than a fixed value set out in legislation?**

However, it is calculated government needs to make sure price is known well in advance to help budgeting.

**Q35. With consideration for the reforms outlined elsewhere in this consultation, do you have any comments on how surplus should operate for any potential future scheme?**

Surplus should stay and be available for use, especially if each site has its own target and multi-site companies can use the surplus for internal trading.

**Q36. Please provide any comments on the timing of a future scheme.**

No comment.

**Contact**

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