

Megan Cupid, Policy Manager
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Email to: Future.HeatPolicy@ofgem.gov.uk

13 August 2021

Dear Megan,

Consultation on Ofgem's administration of the Green Gas Levy

EDF is the UK's largest producer of low carbon electricity. We operate low carbon nuclear power stations and are building the first of a new generation of nuclear plants. We also have a large and growing portfolio of renewable generation, including onshore and offshore wind and solar generation, as well as energy storage. We have around five million electricity and gas customer accounts, including residential and business users.

EDF aims to help Britain achieve net zero by building a smarter energy future that will support delivery of net zero carbon emissions, including through digital innovations and new customer offerings that encourage the transition to low carbon electric transport and heating.

EDF welcomes the opportunity to contribute to the development of Ofgem's administrative framework for the Green Gas Levy (GGL). We broadly support the proposals Ofgem has made, with some points of feedback, summarised below and in the attachment to this letter.

With regard to Ofgem's proposal to trigger the draw-down of credit cover following non-payment of GGL or associated mutualisation payments. EDF does not believe that drawing down on a supplier's credit cover without prior notice to the supplier is reasonable. Prior notification three business days before any draw down takes place should be included. This will provide a supplier an opportunity to remedy the non-payment, particularly where an administrative error has occurred, without compromising Ofgem's ability to access the credit in sufficient time to prevent a shortfall. A robust notification procedure, and sufficient time to react and correct, is essential to ensure suppliers are not unfairly penalised for administrative errors, as opposed to wilful non-payment.

Ofgem notes in Paragraph 8.2 that it is considering its approach to enforcement and may consult further on this matter. We urge Ofgem to ensure enforcement measures are robust, effective and, when required, deployed with sufficient speed to mitigate significant shortfalls and prevent supplier and consumer detriment. We note over the last several years there have been numerous occurrences of supplier non-payment for Renewables Obligation, Feed-in Tariff, and other scheme costs, often followed by Supplier of Last Resort events. This has led to the mutualisation of

significant costs on compliant suppliers and their customers. Ofgem must act decisively to ensure such detriment is prevented in future.

Additionally, we request that Ofgem or BEIS provide clarity as to the status of GGL in relation to Value Added Tax.

Our detailed responses to the GGL consultation are set out in the attachment to this letter. We are not responding to the Green Gas Support Scheme consultation issued alongside this consultation. Should you wish to discuss any of the issues raised in our response or have any queries, please contact Mark Hatton or myself.

I confirm that this letter and its attachment may be published on Ofgem's website.

Yours sincerely

A handwritten signature in black ink that reads "R. Beresford". The signature is written in a cursive, slightly stylized script.

Rebecca Beresford
Head of Customers Policy and Regulation

Attachment

Administration of the Green Gas Levy

EDF's response to your questions

Q1. Do you have any comments on the first proposal on data collection methods? Do you have any further suggestions for how data collection could be improved?

Of the two options provided by Ofgem in this consultation, EDF's preference is for the first option, described in Paragraph 2.4. The volume of MPRN's in a supplier's portfolio is data which is already included in various regulatory reports, and is fundamental to operating a gas supply business. As such, suppliers should have no difficulty providing this data to Ofgem on a quarterly basis.

Ofgem should ensure any accompanying data, methodology employed, and delivery mechanisms are designed to minimise the administrative burden on suppliers. Additionally, to avoid confusion and the potential for in-flight revisions to reporting criteria, Ofgem must circulate a data dictionary at the earliest opportunity, so suppliers may provide feedback and contribute to the development of a robust and pragmatic reporting dataset.

Q2. Do you have any comments on the alternative proposal that Ofgem could collect data from a third-party and require suppliers to validate this?

Please see our answer to Question 1. While we expect third party data exists which could fulfil the requirements of the reporting; e.g. Xoserve MPRN data, overlaying supplier owned datasets on third party datasets creates an unnecessary challenge to match the data, and is an overcomplication.

Q3. Do you have any comments on the proposed list of information required to support a notification that a supplier is likely to be an exempt supplier? Is there any additional information that you believe will help support a notification?

The provision of green gas certification as a Guarantee of Origin broadly reflects the Renewables Obligation (RO) in the electricity market. Ofgem notes that BEIS will provide a list of approved certification schemes to this effect (set out in Paragraph 4.2). We encourage Ofgem and BEIS to clearly explain the rationale which will be applied to the assessment of these schemes in the context of exemption from the Green Gas Levy. Additionally, we note in Ofgem's Supplier Performance Report – Information for Suppliers document, Ofgem states (in the context of the RO): *'if a supplier only submits enough ROCs to meet 95% of its obligation but makes no buy-out payment for the remaining 5%, it will have failed to meet its overriding obligation.'*

In Paragraph 4.4, Ofgem describes a criterion for a letter of intent, signed by a 'responsible person'. This should, at a minimum, require a Director's signature, to ensure the document carries the appropriate legal standing. Additionally, a letter of intent alone is not sufficient evidence or control

to prevent gaming or robustly support compliance, particularly if a supplier becomes insolvent prior to the conclusion of a scheme year and therefore proactive Ofgem monitoring of such issues on a risk basis is required.

Q4. From your experience of providing credit cover for other purposes previously, do you anticipate any difficulties in being able to obtain the issue of a letter of credit that would meet the criteria requested and, in the timeframes, required? If there are concerns or there have been previous issues, please provide evidence of this within your response.

EDF does not anticipate any significant issues with meeting the criteria described by Ofgem within the timeframes required. However, whilst we support employing a template letter of credit, it is crucial that the template letter of credit is provided for supplier and bank review as soon as possible.

We note some issuing banks will be unwilling to issue letters of credit where, in the event of a claim, the payment would need to be made within a business day, particularly where a claim is submitted towards the end of the day. This circumstance previously arose in the Capacity Market.

The Balancing & Settlement Code implemented a change where letters of credit could be claimed by electronic means and no longer required the signatures of Elexon's bankers. We understand practical changes can be sensible to consider, given the currently unpredictable circumstances of the COVID 19 pandemic, and the new prevalence of homeworking. However, this leads to an increased fraud risk, which is a cause for concern for banks and could create barriers. It is important adequate anti-fraud protections are included in any template and claim process.

Provided the letter of credit is 'on demand', fit for purpose and enforceable by Ofgem, avoiding overly prescriptive or onerous requirements will ensure a wider range of banks are willing to issue letters of credit, reducing letter of credit costs. We also note that the suitable credit rating requirement refers to short-term ratings for Fitch, Moody's and S&P. However, only Moody's has a long-term rating included. We would expect equivalence for Fitch and S&P, with minimum long-term ratings of A-.

Q5. Do you agree or disagree with Ofgem's proposed approach to the discretionary return of excess credit cover in quarters 1-3 each year, including limiting requests to once per year, and the proposed de minimis threshold for returns? If you disagree, please provide alternative suggestions, including any evidence, to support your response.

EDF agrees with the proposals.

However, Section 5 focuses on return of excess cash credit and does not explicitly reference the potential reduction of letters of credit. With letters of credit, this would usually be facilitated in practice by the bank sending an amendment to Ofgem (as beneficiary) asking it to agree in writing to the reduction. Suppliers providing letters of credit should have the same rights as suppliers providing cash in this regard. We agree that suppliers providing letters of credit may choose to

provide them for a year at a time to reduce the administrative burden, but they should still have the right to ask for a reduction based on the same principles as for cash credit.

Q6. From your experience of providing credit cover for other purposes do you have any feedback on any of the aspects proposed which could be made more efficient or easier to administer for either Ofgem or suppliers? Please provide evidence to support your response.

It is not reasonable to draw down on a supplier's credit cover without prior notice to the supplier. Prior notification three business days before any draw down will provide a supplier an opportunity to remedy the non-payment. This is particularly important where an administration error on payment has occurred, and will not compromise Ofgem's ability to access the credit in sufficient time to prevent a shortfall.

Q7. Do you agree or disagree with the proposed timings for making a mutualisation payment? If you disagree, please provide alternative suggestions, including any evidence, to support your response.

EDF does not have any specific objections to the timescales described in Paragraph 6.7. However, we note our response to Question 6 above, with regard to the draw down on credit in the event of non-payment without prior notification. A robust notification procedure, and sufficient time to react and correct, is essential to ensure suppliers are not unfairly penalised for administrative errors, as opposed to wilful non-payment.

Q8. Do you agree or disagree with the proposal to include compliance with the Green Gas Levy in the Supplier Performance Report, and to use the same scoring methodology as used for other schemes? If not, please provide any other suggestions.

EDF does not have any specific objections to Ofgem's proposal to use the Supplier Performance Report as a compliance monitor for the Green Gas Levy. However, we would welcome additional clarity from Ofgem as to how specific scenarios will be recorded and scored as soon as possible.

Q9. Are there any ways that we can help reduce the administrative burden for suppliers who are serving a low number of meter points, while ensuring that Ofgem and suppliers meet their obligations as will be set out within the regulations? Please provide evidence to support your response.

Where Ofgem identifies potential savings or waste reduction in terms of the administrative burden of complying with the Green Gas Levy, such options should be made available to all suppliers.

EDF
August 2021