



**THE COMPETITIVE ELECTRICITY MARKET
FROM 1998**

**MARKETING ELECTRICITY:
A DECISION DOCUMENT**

MAY 1998

MARKETING OF ELECTRICITY TO DESIGNATED CUSTOMERS-

1. INTRODUCTION

1.1 In March 1998, OFFER published the document 'The Competitive Electricity Market 1998: A Consultation paper on Marketing Electricity'. This proposed a new condition to electricity suppliers' supply licences to regulate certain activities concerned with the marketing of electricity contracts to customers occupying Designated Premises¹

1.2 Views were sought on three main aspects of the proposal:

the need for a licence condition to regulate marketing in view of the existence of industry self regulation measures;

- the scope and terms of the proposed licence condition; and
- whether any changes are required to the proposed licence condition to reflect the particular circumstances of the electricity market.

50 responses were received to the document and a list of those organisations and groups which responded is contained at Annex A

1.3 Section 2 sets out the background. Section 3 details particular points raised by respondents together with OFFER's conclusions on the issues raised. Section 4 sets out the Director General's formal decision. Section 5 details the licence modification procedures.

¹ Designated Premises include all Domestic Premises plus those business premises at which the annual consumption of electricity is below 12,000kWh except where they are supplied through a maximum demand or half hourly meter or under a multi-site contract or an unmetered supply.

2. BACKGROUND

- 2.1 In its Green Paper² the Government has said that effective regulation should ensure that the consumer comes first. This will be achieved by, amongst other things, placing a primary duty on regulators to protect the interests of consumers. In the case of energy, the Green Paper proposes combining OFFER and Ofgas into a single energy regulator. In the interim, it has also proposed that steps be taken to ensure collaboration on regulatory issues raised by integrated energy markets.
- 2.2 Public electricity suppliers (PESs) are able now to supply gas to domestic customers, while British Gas Trading will be able from September to supply electricity to domestic and smaller business customers. In some cases customers are being offered 'dual fuel' arrangements where customers can enter a single arrangement for the supply of both gas and electricity.
- 2.3 The proposed marketing licence condition for electricity is similar to that introduced recently by Ofgas to control the misselling of gas supply contracts. The licence condition in gas was introduced as a result of an increasing number of complaints being received by both Ofgas and the Gas Consumers Council concerning the doorstep selling practices adopted by some gas suppliers and their agents as competition was being introduced into the domestic gas market.
- 2.4 Although the final stages of competition in electricity are not due to begin until September, some suppliers are active in signing up customers in readiness for market opening. OFFER has started to receive a small number of complaints about the marketing activity by some electricity suppliers.
- 2.5 To protect customers' interests and, in particular, to guard against the inappropriate marketing practices relating to doorstep selling that have been observed in the gas market, OFFER proposed to introduce a licence condition on marketing. The condition covers:
- employment and training;
customer contact audit;
 - maintaining customer contact;
 - complaints, compensation and reporting; and
 - the relationship between suppliers, agents and customers where payment in advance is requested to arrange a supply of electricity.

The adoption of this licence condition will enable OFFER and Ofgas to take joint action where appropriate against suppliers of both fuels.

² A Fair Deal for Consumers - Modernising the Framework for Utility Regulation. CM3898 March 1998

3. **VIEWS ON THE PROPOSED LICENCE CONDITION AND ISSUES ARISING FROM THE CONSULTATION**

a) **The need for and scope of a licence condition**

- 3.1 Nearly all respondents expressed general support for the proposed condition and the requirement for it to be included in suppliers' licences. The Association of Energy Suppliers, established to deal with energy marketing complaints, stated that the scale of the problem in doorstep selling was small in comparison to the amount of direct sales activity being carried on, and that consumers benefited from this form of marketing. One PES argued that self-regulation was a more efficient way of establishing a lasting and responsible market. The activity of doorstep selling was seen by one consumer organisation as being responsible for most of the marketing problems experienced by domestic gas consumers. This group argued that doorstep selling should be suspended. An electricity consumers' committee, however, felt that it would be unrealistic to do this. The majority of respondents felt that the condition should be the same as or follow closely the equivalent condition recently included in gas suppliers' licences.
- 3.2 Against this background OFFER has concluded that it would be appropriate to seek amendments to the present licences to introduce a new condition on marketing practices and this condition should mirror clearly the condition recently introduced in the gas market.
- 3.3 One PES drew attention to a potential distinction between the gas condition and the proposal for electricity; the former applies to domestic gas customers, while in electricity it would apply to designated customers. The gas licence condition defines domestic customers as all customers whose consumption is 2,500 therms or less. Most, although not all, will be customers at domestic premises. The proposed condition in electricity in applying to the Designated Market only is therefore analogous to gas.
- 3.4 One supplier commented that the condition should apply to customers who after entering a contract with a second-tier supplier, decide to revert to being supplied by their local PES on the basis of tariff. The condition as presently drafted applies only to marketing activity in relation to contracts to designated customers. At present concern has focused on activity by second-tier suppliers and so a further amendment to deal specifically with PESs marketing to their own customers seems unnecessary. However, in practice it should be irrelevant on what basis a customer is supplied. OFFER therefore expects PESs to conduct their tariff marketing in a way that complies with the marketing condition.
- 3.5 Some consumer groups felt that the condition should be more closely defined. One consumer group suggested that the licence should provide specific reference to vulnerable customer groups, for example by specifying that calls to, say, the homes of pensioners should not take place in the evenings, after dark or after a specified

time. The co-ordinating body on trading standards suggested the condition should be drafted in broad terms but with guidance notes underpinning it. The guidance could then be easily amended to reflect changing circumstances.

- 3.6** A number of other respondents suggested that guidance notes should be issued by OFFER to help suppliers comply with the proposed licence condition. Suppliers also noted that guidance could be helpful in the context of training. OFFER agrees that detailed guidance on marketing would be helpful to customers and suppliers and has produced draft guidance notes for comments. The draft notes³ at Annex B draw heavily on those produced by Ofgas, but have been changed where necessary to reflect the regulatory differences between gas and electricity.
- 3.7** One PES suggested that the licence should contain a specific provision which allowed the Director General to publicise a suspected breach of the condition only when the allegation had been investigated and substantiated. This was, it was argued, because any announcement at the outset of such an investigation could, according to the supplier, be prejudicial both to it and competition as a whole. However, where OFFER undertakes an investigation, it may need to alert customers about its concerns or assure them it is taking action about potential breaches prior to the completion of its work. OFFER therefore considers that no additional restriction should apply to the duty to alert customers about its concerns about the activities of suppliers.

b) Duration

- 3.8** Suppliers which commented said that it was right that the licence condition should terminate after 31 March 2000 subject to the results of any review initiated by the Director General. Consumer groups suggested differently: some saying that the condition should stay until there is evidence which persuades the Director General that it is right to terminate it; while others were of the view that because the domestic market will not be open fully until well into 1999, terminating the condition in March 2000 may not be long enough for a meaningful assessment to be made as to its effectiveness.
- 3.9** Various suggestions were made including allowing the condition to remain in place for a minimum of 5 years, or providing for others apart from the Director General to be allowed to initiate a review. In addition, it was suggested that the Director General in deciding to terminate the condition after receiving representations to the contrary should publish his reasons for so doing.
- 3.10** Given the proposals outlined in the Green Paper for the establishment of a single energy regulator together with the propensity amongst suppliers to market gas and electricity as a joint fuel package, any new obligations placed on electricity suppliers should reflect closely the position in gas. As in the case of gas, the

³ The Direct Marketing Of Electricity to Designated Customers - Guidance Notes

marketing condition terminates on 31 March 2000 subject to the option for renewal. It therefore seems sensible for this to apply in the case of electricity. The licence condition allows the Director General to review the date of termination and take into account any representations received requesting that the condition be extended beyond March 2000. The reasons for any decision to continue or to terminate the condition will be made public.

c) Employment and training of sales staff

3.11 Respondents which commented indicated that it was important for all sales staff, whether employed directly or through an agency, who were engaged in direct communication with customers should be properly trained. One PES said that it must be for it to decide what procedures are appropriate for the selection of staff in the light of its own arrangements and market conditions at the time.

3.12 In terms of employment status, a number of respondents commented that because some agencies used by suppliers employed individual sales staff on a commission only basis, this could lead to behaviour which conflicted with generally recognised tenets of good customer service. One marketing agency representative commented in detail on this point, suggesting that a commission only arrangement could result in more pressure being placed on, and less control exerted over, sales staff by some agencies.

3.13 The training of any sales staff is crucial in suppliers' dealings with the public, either face to face or by telephone. In the context of doorstep selling, customers should be able to make a choice on the basis of clear information which is both accurate and relevant to their circumstances.

3.14 The condition sets out general requirements for training and staff selection. It is for suppliers to comply with these. The draft Guidance Notes should be helpful in this regard.

3.15 On the issue of employment status, it is not for OFFER to specify the commercial arrangements between a supplier and any agency it employs. However, suppliers should look carefully at, and consider fully the implications of, the basis on which they contract with their marketing agents together with the terms on which individual sales staff may be employed by those agents.

d) Audit of Sales Activity

3.16 The majority of respondents supported strongly the need for this provision. Views included support for 100% audit rather than one based on sampling. One supplier suggested that a sample audit should also be taken of customers who chose not enter a contract after being visited at home, as a means of complementing the full

audit required of those who did. Another suggested that the audit provision should be extended to contracts entered into as a result of any direct contact with a customer. This would, for example, cover contracts entered into at suppliers' premises or in another public place. Another supplier suggested that the licence be amended to allow a change to any arrangement entered into if it became apparent during the course of the audit that there was a more beneficial arrangement for the customer from that supplier.

3.17 Consumer groups and others which commented welcomed the reference to the independent element of any audit, many saying that it was important that the audit was properly carried out on this basis and that it should not be undertaken by the agency which generated the contract in the first place. Some respondents suggested that the audit might be conducted by a third party independent of both supplier or its marketing agent.

3.18 The audit of contracts provision is important as it assists in establishing customer confidence in the developing market, whilst allowing genuine mistakes to be rectified and any weaknesses in suppliers' systems to be put right. While a sample audit may bring to light system difficulties, it will not identify all of the individual customer problems which may arise. In addition, any indication that unacceptable behaviour by individuals may not be identified because only a sample audit was undertaken undermines the effectiveness of the condition. For these reasons, it is considered necessary for a 100% check to be carried out on contracts covered by the proposal. A broader range of audit checks by suppliers to cover other face to face contact with customers would represent good practice but it does not appear necessary or appropriate to make this a licence condition at this stage.

3.19 One PES expressed concern that the requirement for the audit to be undertaken within 14 days of the contract being entered into did not accord with the change of supplier procedure for electricity, and that this could cause delays resulting in confusion for customers. Consumer legislation is already in force which allows an individual a 7 day cooling off period for any contract entered into following an unsolicited visit to the customer's home. Suppliers should have systems in place already to take account of this. The change of supplier process allows suppliers to delay registration until the cooling off period and other necessary checks are completed.

e) **Maintaining Customer Contact**

3.20 Respondents in general supported the proposals for maintaining customer contact after the contract has been entered into if there is a significant delay from that point until supply starts. One supplier said, however, that as drafted, the condition was not sufficiently clear as to whether other customers who have entered Designated Supply Contracts before it came into force would be covered by the condition.

3.21 The provision has been amended to make it explicit that suppliers are required to contact all customers who have entered into a Designated Supply Contract 60 days or more before supply commences to remind them that they have done so, regardless of whether the contract was entered into before or after the condition comes into force.

f) **Activities of Agents and Brokers**

3.22 While all who responded supported the provision in general terms, the comments made varied considerably. A number of respondents indicated that, in addition to the provision, customers should be informed that advance payments are unnecessary to obtain a supply of electricity. One supplier indicated that the condition was not specific enough. Another said it might be difficult for it to identify, and therefore avoid entering into any arrangement with, an agent which has sought payment in advance. Related to this, one consumer organisation said that the effect of the condition would be to prevent a customer who has paid in advance from receiving a supply of electricity from the supplier who had been recommended by the agent.

3.23 One PES suggested that marketing agents should be required to put up a financial bond as a demonstration of both financial viability and integrity. Also, individual sales staff should make it clear to customers that they are acting on behalf of a supplier and be required to disclose the level of commission being paid for each contract signed.

3.24 Companies which do not actually supply electricity to customers are not required to be licensed. OFFER therefore has no power to regulate their activities directly. Suppliers must be responsible for the actions of any agent with whom they enter an arrangement. Furthermore, they should ensure that they have the necessary procedures in place to satisfy themselves that such agents are reputable and are aware of the requirements of this condition. Suppliers need also to be aware of agents purporting to act on behalf of customers. There have been occasions where numbers of customers have been approached by agents who for the payment of a fee will shop around to obtain the best deal. The money may be paid by these customers before the commitment from a suitable supplier has been identified. Under the proposed condition, a supplier will be prohibited from entering into a contract for the supply of electricity with a customer who has made an advance payment to an agent after the condition comes into force.

3.25 The sources of new customer leads should be scrutinised by suppliers. Where there is uncertainty as to whether or not an advance payment has been sought by any agent providing these leads, suppliers should not give a commitment to supply until they are satisfied that no up-front payments have been requested from prospective customers. This should minimise the possibility of customers being misled that they

are entitled to a supply of electricity on the basis that they have paid in advance for this.

g) Complaints and Compensation

3.26 In principle, most respondents saw merit in the condition making some reference to compensating customers. The provision was particularly well supported by consumer organisations, including trading standards departments. However, some consumer groups suggested that the reference should be more prescriptive, perhaps with specific definitions of circumstances when compensation is payable together with indicative levels.

3.27 One PES indicated that by giving marketing complaints greater prominence by reference to possible compensation, this could lead to spurious claims by some customers. Another PES also expressed the view that in a competitive market compensation schemes are unnecessary as customers can choose to move to a different supplier if they are dissatisfied with an existing arrangement.

3.28 Under their licences, suppliers in the designated market are required to submit for approval by the Director General a Code of Practice on how they will deal with complaints. It is sensible for marketing complaints to be dealt with in this context. On the issue of compensation, it should be left to individual suppliers to determine the circumstances when this should be payable and at what level. Should spurious claims be made by customers, they ought readily to be identifiable if the other obligations of this condition are properly discharged by licensees together with the proper systems being in place to monitor its requirements.

3.29 A number of consumer groups felt that OFFER should be able to impose fines on companies which breach the licence condition. One suggestion was that this could in some way be linked to the number of dissatisfied customers identified as a result of an audit.

3.30 OFFER does not at present have powers to fine suppliers for breaching their licence. This would require changes to the Electricity Act to include such a provision. It has been proposed that all regulators should have powers like those held by Ofgas to impose monetary penalties for breaching licence conditions and certain statutory requirements.

h) Reporting requirements

3.31 Most respondents agreed there is a need for regular reports to be made to the Director General. However, some suppliers felt strongly that it was unrealistic to expect suppliers to publish and publicise a report every three months because they felt information might be commercially sensitive as well as being of little interest to

the majority of customers. Other suppliers emphasised that there should be consistency between the reports required by OFFER and Ofgas given the similarity between the relevant licence conditions; that these should be simple, non-bureaucratic and related to information which is easily obtained.

- 3.32 It is important that customers, their representatives and others have confidence in suppliers' efforts to market their services responsibly. Publication of information will help achieve this objective. Comparisons between suppliers given a common format will, it is hoped, help raise and maintain standards as the market opens. OFFER will liaise with Ofgas to ensure that insofar as is practicable there is a consistent reporting format, avoiding where possible any unnecessary duplication of information.

4. DECISION

- 4.1 In the light of the responses to the consultation and for the reasons set out above, OFFER has concluded that it is right to introduce the proposed licence condition as drafted in the March 1998 consultation paper. This is subject to a single amendment to clarify the application of the provisions requiring suppliers to maintain contact with all designated customers where a delay of 60 days occurs between the customer entering the contract and the supply starting.
- 4.2 The full text of the proposed condition is set out at Annex C.

5. THE CONSENT OF LICENCE HOLDERS

- 5.1 In order for the condition proposed by the Director General to be introduced, under the relevant conditions of the PES and second-tier licences, it is necessary that not less than 90% of electricity suppliers which are entitled to supply electricity to Designated Premises both by number and the number of premises supplied agree to the modification. At present there are only 3 designated customers supplied on contract (as opposed to tariff). Accordingly, OFFER must take account of the proportion of suppliers eligible to supply designated customers who agree with the proposals, Eligible suppliers include all suppliers who have issued a designated supply notice.
- 5.2 The Director is required to give 28 days for suppliers to express their views on his proposal. The Director's formal letter to suppliers requesting their consent to his proposal is attached at Annex D.

Annex A

Responses to the Consultation paper on Marketing electricity have been received from the following:

Age concern (X2)
Association of Energy Suppliers (AES)
Birmingham Chamber of Commerce and Industry
British Gas Trading (X2)
Cumbria County Council
East Midlands Electricity
Electricity Consumers' Committee (ECC)
Chairman's Group
ECC Eastern
ECC East Midlands
ECC Merseyside & North Wales
ECC Midlands
ECC North Scotland
ECC North West
ECC South East
ECC Southern Scotland
ECC South West
ECC Yorkshire
Eastern Electricity
Energy Action Scotland
Dundee City Council
Fife Council
Field Marketing Association (FMA)
Glasgow City Council
Institute of Trading Standard Administration
(ITSA)
Lancashire County Council
Local Authorities co-ordinating body on food and
trading standards (LACOTS)
London Electricity
Manweb
MEB
National Consumer Council
National Energy Action Charity (NEA)
Nuclear Electric
Northumberland County Council
Northern Electric
Norweb
SEEBOARD
Scottish Consumer Council
Scottish Hydro Electric

Scottishaower
Southern Electric
Suffolk County Council
SWALEC
SWEB
Union Energy
West Yorkshire Trading Standards Service
Yorkshire Electricity
York City Council

Annex B

The Direct Marketing of Electricity to Designated Customers - Guidance Notes

Contents

1. Purpose
2. General Responsibilities
3. Selection of Sales Personnel
4. Training
5. Interface with Customers
6. Managing Direct Marketing Activity

Appendix 1 Sample Employee Vetting Procedure

1. Purpose

This document sets out guidance on what practice in relation to the direct marketing of electricity to domestic customers should cover. For the purposes of this document, direct marketing includes visits (doorstep selling) and telephone communication with customers (including potential customers).

These Guidance Notes apply to the marketing of electricity to designated customers. They have been prepared because OFFER believes there is a need to protect designated customers from poor quality marketing. They set out the standards the Director General of Electricity Supply expects licensed electricity suppliers to achieve. These Notes should be read and applied in conjunction with suppliers' codes of practice relating to designated customers

2. General Responsibilities

Electricity suppliers have to comply with the Marketing of Electricity to Designated Customers Condition of their licences. These Guidance Notes are intended to be helpful to suppliers and their agents in ensuring that they comply with paragraph (3) of the licence condition.

OFFER is responsible for issuing licences to electricity suppliers and for ensuring compliance with the Electricity Act 1989 (the Act) and various licence conditions. Through its regional offices OFFER will, with assistance from the electricity consumers' committees, investigate any complaint drawn to its attention.

Electricity Consumers' Committees assist OFFER in investigating any relevant matter as defined by the Act and advise the Director General on any matter that the Committee considers may require him to exercise his functions under the Act or licences.

OFFER is also responsible for publishing these Guidance Notes, for their amendment and for arranging for any revisions. OFFER will, where appropriate, consult licensed electricity suppliers and electricity consumers' committees before making any changes.

3. Selection of Sales Personnel

The Marketing of Electricity to Designated Customers Condition of the electricity suppliers' licence places a responsibility on suppliers to ensure that those conducting direct marketing to electricity customers have been through an appropriate selection procedure.

Sales staff, shall be of good character and able to demonstrate that they can adequately perform the duties expected of them.

Electricity suppliers will need to satisfy themselves that they have procedures in place to ensure that only suitable candidates are employed as sales staff. At Appendix 1 is an example of an employee vetting procedure.

Whilst operating within current employment legislation, sales staff will be recruited with due regard to:

a) **Behaviour and Appearance**

The important role that a salesperson plays as the 'public face' of both the electricity supplier and the wider industry should be recognised. Sales staff should not adopt an attitude or demeanour which is or may be physically intimidating; and

b) **Security**

Sales staff should not be a threat to any customer's security; due regard should be given to the checking of references and the exclusion of persons with convictions for criminal offences relevant to the role of a sales person.

4. Training

The Marketing of Electricity to Designated Customers Condition of the electricity suppliers' licence places a responsibility of electricity suppliers to ensure that those involved with direct marketing possess the relevant expertise to avoid misleading customers.

Sales staff shall receive adequate training before they commence contacting potential customers. Whilst being trained they may contact potential customers if they are accompanied by a fully trained colleague, who is also trained in how to teach others.

Electricity suppliers should stipulate how many sales staff can visit a customer at one time, whether training is being conducted or not. In general having more than two sales staff visit at once should be avoided. Large groups can appear intimidating.

All potential sales staff shall attend a training programme that covers:

- a) **An introduction to the electricity industry:** this will include an explanation of: the structure of the electricity industry, the roles of OFFER and the electricity consumers' committees, an appreciation of the main changes in the industry since 1990, an understanding of the change of supplier process and the role of, and differences between, second tier suppliers and PESs. Also an outline of the Controlled Market Start-Up arrangements. Lists of all suppliers licensed by OFFER should be included in the training literature given to all potential salespeople.
- b) **Safety knowledge:** The role of the supplier in providing the same level of safety as was the case with the local public electricity supplier.
- c) **Customer service skills:** including how to deal with cases involving customers with special needs, the elderly and non-English speakers.
- d) **Product knowledge:** including a thorough understanding of what the supplier's principal terms and conditions are for each contract offered and how to calculate a reasonably accurate assessment of what a customer is likely to pay for their electricity in a year.
- e) **Customers' Rights:** including an understanding of the applicable parts of the relevant legislation, that is: The Electricity Act 1989; Consumer Protection (Cancellation of Contracts Concluded Away From Business Premises) Regulations 1987; Control of Misleading Advertisements Regulations 1988 and Unfair Terms in Consumer Contracts Regulations 1994.
- f) **Confidentiality:** including an understanding of the need to protect any information about the customer..

- g) Services available to customers with special needs: including an understanding of how relevant customers can take advantage of the arrangements the electricity supplier has made to comply with relevant codes of practice for designated customers, in particular those codes relating solely to Domestic Customers on: the payment bills and guidance for dealing with customers in difficulty of their licence, and the provision of services for persons who are of pensionable age or disabled or chronically sick .

- h) Complaints handling: including the provisions contained in the supplier's Code of Practice on dealing with complaints.

5. Interface with Customers

Sales staff talking to and visiting a customer in addition to complying with the requirements of the Code of Practice with respect to **site access shall:**

- a) before a contract is signed, explain the main terms of the contract (such as price, payment method, notice period, termination fees);
- b) leave customers who sign a contract with:
 - a copy of the contract;
 - a copy of the electricity supplier's Code of Practice detailing the procedures for handling complaints and for paying compensation to those customers with valid complaints;
 - an explanation of the 7 day 'cooling off period';
 - a simple explanation of how the contract can be cancelled;
 - the salesperson's name and identity number; and
 - contact details for OFFER's relevant regional office.

Customers should also be told to expect a telephone call or letter from the electricity supplier checking that they wish to continue with the contract and that they were content with all aspects of the meeting; **the importance** of the subsequent audit contact should be emphasised.

- e) **afford common courtesy** to electricity consumers and avoid bringing the electricity industry into disrepute;
- f) ensure their performance is **not affected by drink or drugs**; and
- g) **dress in a presentable manner.**

Sales staff talking to and visiting customers **shall not:**

- a) **smoke, eat or drink** on the customer's premises without the express permission of the customer;
- b) **discriminate** against customers, for example on grounds of sex, colour, race, creed, nationality or ethnic origin;
- c) **misinform** the customer about any aspect of their current or future electricity supply arrangements;

- d) sell to those in a household who are not responsible for the electricity supply industry (eg in most cases, minors);
- e) sell to residents, who are responsible for their own utility services, of sheltered housing or homes without first seeking the approval of the warden or person in charge.

Where appropriate the above principles for sales visits shall be applied to telephone communication.

6. Managing Direct Marketing Activity

As well as being responsible for ensuring sales staff are appropriately selected and trained, electricity suppliers shall introduce appropriate management systems which allow them to monitor sales activities and to take remedial actions where necessary.

Electricity suppliers shall need systems that verify sales staff are following the guidance they have been given. Where deviation from procedures has occurred the electricity supplier shall take prompt remedial action (eg retraining or dismissal). The electricity supplier may also have to arrange additional training where experience highlights weaknesses in the original training programme.

Electricity suppliers will want to ensure sales staff (and where appropriate their sales agencies) are not rewarded for contracts that are cancelled as a result of poor sales practice. Paying commission for contracts that are cancelled potentially incentivises sales staff to mislead customers so as to gain their business in the short-term.

Electricity suppliers should develop systems to monitor the time taken to resolve problems that arise for customers as a result of inappropriate marketing activity and report on them under their standards of service.

Audit Records

Electricity suppliers will maintain marketing campaign records for the areas their sales staff visit. These records will include details of which sales staff were operating in which areas, the approximate time of visits and which sales staff were responsible for which signed contracts.

In addition, electricity suppliers will maintain records of the results of audit checks conducted to comply with paragraph (4) of the Marketing of Electricity to Designated Customers Condition and what action was taken to remedy problems highlighted. A separate record will be kept of all compensation requests received and of what payments were made.

When requested these records will be made available to the Director General. The Director General may publish them in summary form.

Appendix I- Sample Employee Vetting Procedure

The information in column 1 below shall be obtained from all applicants who shall sign to confirm the information is correct. Any false declaration shall constitute grounds for immediate dismissal.

All information shall be verified in accordance with column 2. The verification shall be recorded in column 3 and signed by the supervisor/manager responsible.

Information to be Obtained	Verification Required	Verification OK? Yes or No
Applicant's Name	Documentary evidence of identity, ideally with photograph or minimum 2 documents with name and address eg driving licence	
Current address and length of time at this address	Documentary evidence of residence eg driving licence, utility bill	
Is current address a permanent or temporary home?	Applicant to confirm details in writing	
Previous address(es) if less than 5 years at current address	As for current address	
Is applicant registered on the Electoral Roll? If so, at what address?	Applicant to confirm details in writing.	
Applicant's NI number	Document evidence eg P45, P60, Tax coding notice	
Previous employment history (minimum 10 years or since leaving full time education)	Confirm employment history with each employer	
Names and addresses of 2 referees	References to be obtained in writing	
Any previous convictions or criminal record?	Applicants to confirm details in writing. Any convictions not regarded as spent under the Rehabilitation of Offenders Act 1974 to be subject to management review with due regard to the duties to be undertaken.	
Undertaking to notify employer of any change to the above information.	Written undertaking required.	

Annex C

Condition . Marketing of electricity to Designated Customers

1. This Condition applies to the marketing activities of the Licensee in respect of the supply or the proposed supply of electricity to the Designated Premises.
2. This Condition shall cease to have effect on a date (the “termination date”) which shall be 31 March 2000, provided that:

(a) if the Director, after consultation with the Licensee, all other Electricity Suppliers, the Electricity Consumers’ Committees and such other persons or bodies as in the opinion of the Director are representative of those likely to be affected, gives notice for the purposes of this Condition generally:

(i) by publishing the notice in such a manner as the Director considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it; and

(ii) by sending a copy of the notice to all Electricity Suppliers and Electricity Consumers’ Committees,

that he considers that the development of competition in electricity supply is such as to require the continuation of any part of this Condition until such date - not later than two years from the termination date - as may be specified in the notice (the “new termination date”), then such part of this Condition as may be specified in the notice shall continue to apply as if for the termination date there were substituted the new termination date; and

(b) notice under sub-paragraph (a) may be given on more than one occasion.

3. The Licensee shall:

- (a) set up appropriate procedures for the selection of staff employed or engaged in roles the principal duties of which involve oral communication with Designated Customers for the purposes of the marketing activities of the Licensee;
- (b) take all reasonable steps to ensure that each such person is trained so as to have a sufficient understanding of:
 - (i) the arrangements for competition in electricity supply in England & Wales; and
 - (ii) the Principal Terms of Designated Supply Contracts made available by the Licensee;

such that any relevant advice given by him to Designated Customers is not misleading;

- (c) take all reasonable steps to ensure that:
 - (i) a Designated Customer may readily identify the Licensee whenever he is contacted by a representative of the Licensee; and
 - (ii) any unsolicited contact made on behalf of the Licensee with any Designated Customer takes place at a reasonable time; and
- (d) take all reasonable steps to ensure that any agents or sub-contractors of the Licensee set up equivalent procedures and take equivalent steps to those set out at sub-paragraphs (a), (b) and (c).

4. Where a contract has been entered into by a Designated Customer in the course either of a visit to his premises by a representative of the Licensee or of a telephone conversation between him and a representative of the Licensee, the Licensee shall, through a representative who is not engaged in activities leading to the making of contracts between the Licensee and customers, and not less than 24 hours nor more than 14 days after the date of the contract:

(a) use its reasonable endeavours to contact the customer by telephone or by letter seeking his confirmation that:

(i) he understands that he has entered into an electricity supply contract;

(ii) he is content to have entered into that contract; and

(iii) he is content with the way in which the marketing activities of the Licensee were conducted;

(b) if in the course of such telephone contact, or within a reasonable period of the despatch of such a letter, the customer indicates that he is not content to have entered into the contract and wishes to terminate it, take all reasonable steps to ensure that the contract is terminated and, where reasonably practicable, that the Licensee does not commence a supply to the customer; and

(c) if the response of the customer, alone or when considered with the responses of other customers, suggests weaknesses in the methods, systems or personnel employed or engaged by the Licensee or its agents or sub-contractors for the purpose of its marketing activities, ensure that all reasonable steps to remedy the matter are taken.

5. Where, by virtue of any Designated Supply Contract, electricity is not to be supplied to premises before the expiry of 60 days after the date of the contract, the Licensee shall take reasonable steps during the period after that date and prior to the

commencement of supply to keep the customer informed that he has entered into an electricity supply contract with the Licensee.

6. The complaint handling procedures to be established by the Licensee in accordance with Condition 23 shall provide in appropriate cases for the payment of compensation to Designated Customers adversely affected by failure by the Licensee to perform its obligations under this Condition.

7. The Licensee shall keep a record of its compliance with its obligations under this Condition including-

(a) the contacting of customers in pursuance of sub-paragraph 4(a) and the response of customers to such contact;

(b) the termination of contracts in pursuance of sub-paragraph 4(b); and

(c) compensation paid in pursuance of paragraph 6.

8. Except as the Director may for the purposes of this Condition determine, as soon as reasonably practicable after the end of each period of three months ending on 31 March, 30 June, 30 September and 31 December in every year, the Licensee shall submit to the Director and to all Relevant Electricity Consumers' Committees a report dealing with the matters specified in paragraph 7 in that period and shall:

(a) publish the report so submitted in such manner as will in the opinion of the Licensee secure adequate publicity for it; and

(b) send a copy of it free of charge to any person requesting one,

except that, in performing its obligations under sub-paragraphs (a) and (b), the Licensee shall exclude from the report such information as appears to it to be

necessary or expedient to ensure that, save where they consent, individual customers referred to therein cannot readily be identified.

9. Reports in pursuance of paragraph 8 shall be presented by the Licensee, in so far as is reasonably practicable, in a standard format submitted to and approved by the Director for the purposes of this Condition.
10. Except as the Director may approve:
 - (a) for the purpose of protecting the interests of any Designated Customer who, prior to the date on which this Condition came into force, may have made a payment in advance with a view to arranging a supply of electricity; or
 - (b) where any payment in advance is wholly or mainly for services other than arranging the supply of energy,

the Licensee shall not enter into any commercial relations connected with the supply of electricity to Designated Premises with any person who has sought, after the coming into force of this Condition, payment in advance (other than a security deposit) from any Designated Customer with a view to arranging a supply of electricity, and the Licensee shall not enter into a contract for the supply of electricity to any such customer made through the agency (either for the Licensee or for any customer) of such a person.

11. In this Condition:

“marketing activities”

means any activities of the Licensee directed at or incidental to the identification of and communication with Designated Customers supplied or to be supplied with electricity by the Licensee, and includes entering into

contracts with such customers.

“representative”

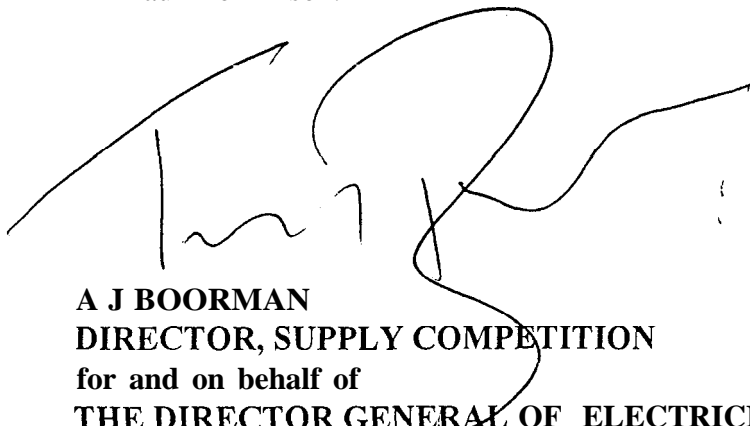
in relation to the Licensee, means any person directly or indirectly authorised to represent the Licensee in its dealings with customers.

Annex D

Notice of Proposal to Modify Electricity Suppliers' Licences Granted Under the Electricity Act 1989

The Director General of Electricity Supply pursuant to Condition 33 of the Public Electricity Supply Licence, Part V Condition 27 of the Generation, Transmission and Public Electricity Supply Licence in Scotland, and Condition 41 of the Second Tier Supply Licence and Condition 42 of the Scottish Second Tier Supply Licence gives notice as follows:

1. The Director General proposes to modify each such Licence by the insertion of a new condition numbered and entitled: "Condition 42- Marketing of electricity to designated customers" in each Public Electricity Supply Licence; Part V "Condition 3 7 - Marketing of electricity to designated customers" in each Generation, Transmission and Public Electricity Supply Licence in Scotland; "Condition 5 1 - Marketing of electricity to designated customers" in each Second Tier Electricity Supply Licence; and "Condition 52 - Marketing of electricity to designated customers" in each Scottish Second Tier Supply Licence .
2. The text of the proposed new condition is set out at Annex C to this decision document.
3. The effect of the proposed modification is set out, together with the reasons for its adoption, in the preceding pages of the document accompanying this notice.
4. Electricity Suppliers which are entitled to supply electricity to Designated Premises are requested to express their consent or refusal to consent to the proposed modification in writing by 26 June to the Office of Electricity Regulation, Hagley House, Birmingham B 16 8QG, marked for the attention of Paul Tonkinson.



A J BOORMAN
DIRECTOR, SUPPLY COMPETITION
for and on behalf of
THE DIRECTOR GENERAL OF ELECTRICITY SUPPLY

29 May 1998