

**April 2002**  
**Green supply consultation**

**Summary of responses**

# Table of contents

|  |           |
|--|-----------|
| <b>1. Introduction.....</b>  | <b>1</b>  |
| Purpose of this document.....  | 1         |
| Responses to the consultation .....  | 1         |
| Contacts.....  | 1         |
| <b>2. Summary of responses .....</b>   | <b>2</b>  |
| General comments .....   | 2         |
| Definitions and Scope.....   | 4         |
| Regulatory controls and green supply offerings .....                               | 5         |
| Key features of green supply offerings .....                                       | 6         |
| <b>Appendix 1 Organisations that submitted responses to the consultation .....</b> | <b>15</b> |

# 1. Introduction

## *Purpose of this document*

- 1.1 This document:
- ◆ summarises the responses to the consultation on Ofgem's Guidelines on green supply offerings; and
  - ◆ sets out Ofgem's reasoning for decisions taken.
- 1.2 The December 2001 consultation paper set out Ofgem's proposal for Guidelines on Green Supply offerings in the domestic electricity market.
- 1.3 Following the consultation process, Ofgem has finalised the Guidelines. These have been issued separately. They may be updated from time to time; Ofgem will consult with interested parties on any future significant changes.

## *Responses to the consultation*

- 1.4 There were 27 responses to the consultation. The organisations that submitted responses are listed at Appendix 1 to this paper.

## *Contacts*

- 1.5 If you have any questions regarding this document, John Costyn on 020-7901-7166 (E-mail: [john.costyn@ofgem.gov.uk](mailto:john.costyn@ofgem.gov.uk)) or Alex Thorne on 020-7901-7194 (E-mail: [alex.thorne@ofgem.gov.uk](mailto:alex.thorne@ofgem.gov.uk)) would be pleased to assist you. Postal and fax contact details are:

Alex Thorne  
Social & Environmental Affairs  
Ofgem  
9 Millbank  
London  
SW1P 3GE

Fax: 020-7901-7387

## 2. Summary of responses

### *General comments*

#### *Respondents' views*

- 2.1 Most respondents welcomed the publication of the Guidelines and the opportunity to provide comment. Some respondents questioned the role of Ofgem in this area, citing the potential overlap and duplication between Ofgem with the work of the Energy Saving Trust (through Future Energy), and with the general consumer and media regulators.
- 2.2 Other respondents took the view that the Guidelines should be more prescriptive and supported by regulatory action such as licence conditions.

#### *Ofgem response*

- 2.3 Ofgem's decision to issue the Guidelines was based on a number of requests to clarify the relationship between the Renewables Obligation and voluntary green supply tariffs. Ofgem considers that the existing regulatory frameworks provide sufficient protection for customers and there is no need for additional regulation in the form of licence conditions.

### **Non-domestic offerings**

#### *Respondents' views*

- 2.4 A number of respondents raised issues relating to green supply offerings in the commercial and industrial markets, particularly relating to the relationship between green supply offerings and CCL exemptions. One respondent stated that the key features of the Guidelines should not apply to industrial and commercial offerings.
- 2.5 Local government organisations raised the issue of public commitments, such as street lighting or civic buildings being powered by green electricity, that may not be able to be upheld if application of the Guidelines were to lead to restrictions on the availability of green supply.

### *Ofgem response*

- 2.6 The draft Guidelines identified that the main focus of the Guidelines was domestic supply, but suggested that certain principles were relevant for other markets. Ofgem's view is that the general principles of transparency, additionality and verification should apply in all markets. Similarly the obligations that suppliers have under their licences and other regulatory frameworks apply in all markets. However, no specific statement in the Guidelines should be taken to apply to commercial and industrial supply. The final Guidelines therefore clearly state that they apply only to the domestic sector.
- 2.7 Parts of the public sector who have given commitments to purchase green energy may need to consider carefully what such commitments may entail in the light of the principles set out in this document and the introduction of the Renewables Obligation.

### **Status of the Guidelines**

#### *Respondents' views*

- 2.8 A number of respondents sought greater clarification as to how Ofgem intended to enforce the Guidelines, and raised issues such as starting dates and the need for phase-in.

#### *Ofgem response*

- 2.9 It is not Ofgem's intention that the Guidelines should provide an extra level of regulation, separately enforceable by Ofgem. Ofgem considers that the existing regulatory frameworks provide sufficient protection for customers and there is no need for additional regulation in this area. Therefore issues such as phase-in or start dates do not apply. The Guidelines provide clarification of what Ofgem considers to be the most important principles in green supply offerings and identifies the existing regulatory instruments that exist.

## ***Definitions and Scope***

### *Respondents' views*

- 2.10 Most respondents supported the basic definitions of concepts in the draft Guidelines. However a number of suppliers criticised the definitions of “energy-based” and “contribution-based” as too narrow and stated that they should include references to environmentally beneficial supply other than renewables, such as CHP and energy efficiency.
- 2.11 One supplier suggested that the categories of green supply offering are not mutually exclusive.

### *Ofgem response*

- 2.12 Ofgem recognises that suppliers may wish to provide customers with a range of supply offerings that result in environmental benefits, incorporating elements such as CHP and energy efficiency, and does not wish to discourage innovation. However, there are a range of issues which would make verification and additionality difficult to achieve. For example, there is potential for double counting of benefits claimed in relation to the Energy Efficiency Commitment. Offerings based on energy efficiency or other environmental benefits are considered to be outside the scope of “green supply” and are not covered by the Guidelines.
- 2.13 The fact that offerings may include elements both of energy-based and contribution based offerings is now allowed for in the revised Guidelines.

## **Characterisation of renewable technologies**

### *Respondents' views*

- 2.14 Some respondents supported the inclusion of a core technology list in the Guidelines. However, several respondents suggested that the specification of technologies to be included in green offerings was unnecessarily prescriptive and that to characterise technologies into “core technologies” and others was incorrect, misleading and could limit innovation.

- 2.15 Other respondents questioned the inclusion of waste-based technologies in the core technologies list. Other submissions called for specific measures to determine greenness such as emissions of carbon dioxide.

*Ofgem response*

- 2.16 Analysis of the submissions supports the view that there is a considerable range of views on alternative renewable technologies and the desirability of supporting them.
- 2.17 Ofgem accepts that the definition of renewables in the Utilities Act is very broad – and also recognises that the policy instruments that the Utilities Act establishes do not support all of those technologies. Ofgem believes that the definitions used under the Renewables Obligation provide a sound basis for what is considered renewable. However this does not exclude technologies included in the wider DTI definition, however these would be considered outside the core. The final Guidelines therefore link the definition of “core technologies” to those that would qualify for support under the Renewables Obligation. For technologies outside the core the Guidelines place the onus on suppliers to disclose fully the technologies that make up an offering and allow customers to make their own judgements.

***Regulatory controls and green supply offerings***

*Respondents' views*

- 2.18 One respondent argued that this area is already heavily regulated by consumer law on marketing and advertising and that the Guidelines will not bring any benefit to consumers. One respondent thought that Ofgem should take a more direct regulatory role if the market does not work properly.

*Ofgem response*

- 2.19 Ofgem considers that general consumer law provides the best protection for consumers in this area. The purpose of the Guidelines is to support this framework by identifying the relevant areas that apply in the area of electricity supply.

## **Relationship with other regulators**

### *Respondents' views*

- 2.20 One respondent stated that bodies such as the Advertising Standards Authority (ASA) may take the technical definitions of the core renewables technologies in the Guidelines as being Ofgem's authoritative view, leading to some legitimate schemes being rejected.
- 2.21 It was also pointed out that the ASA cannot enforce other people's codes, only its own. However it may take note of relevant codes or guidelines to inform their decisions if relevant to a particular case.

### *Ofgem response*

- 2.22 The ASA has clarified its view of the relationship between its activities and guidelines such as these.

*"It is worth noting that although we support the principles behind the consultation document, we cannot enforce codes of practice or guidelines issued by other bodies. In pursuing our own self-regulatory course, the Authority may, however, take note of guidelines issued by third parties. This will only occur where such guidance appears relevant to a case, and in tune with the requirements of the BCASP."* (British Codes of Advertising and Sales Promotion)

Ofgem fully supports this approach in relation to all media regulators.

## **Key features of green supply offerings**

### *Respondents' views*

- 2.23 Many respondents welcomed the key features of transparency, additionality and verification. Points raised included that the Guidelines would provide clarity for suppliers when marketing their offerings, that they represent good business practice, and that they are clear and have great potential to raise public awareness of renewables.
- 2.24 However there were also respondents who thought that Ofgem should focus on transparency and verification and not additionality. Another stated that the

Guidelines removed incentives to market green energy and that Ofgem should allow suppliers the freedom to provide innovative products.

*Ofgem response*

- 2.25 Ofgem recognises that excessive regulation in this area could affect innovation in supply offerings. This is the reason for the issue of general guidelines rather than more prescriptive regulation, leaving it up to suppliers to satisfy themselves that they comply with their obligations under their licences and general consumer law.
- 2.26 In terms of consumer protection, transparency and verification are most important. However, it is Ofgem's view that the Guidelines should establish a framework whereby the public can have confidence in green supply offerings and be assured that their support actually makes a difference for the environment. It is therefore proposed to retain the section on additionality in the Guidelines as a key feature of green supply offerings.

**Transparency**

*Respondents' views*

- 2.27 There was consensus on the issue of transparency in green supply offerings. However one respondent thought that it was unreasonable to require offerings to be consistent with public understanding of what constitutes green energy, as there are a variety of views on this.
- 2.28 A number of respondents advocated printing details of the typical energy mix on customers' bills, including brown and green offerings.

*Ofgem response*

- 2.29 The importance of transparency as a key feature is retained and reinforced in the final Guidelines, in line with the responses. In relation to consistency with public understanding of what constitutes green energy, Ofgem believes that offerings need to be explicit and demonstrate to potential customers why they should be supported. The Guidelines do not specifically rule out any feature of an offering.

- 2.30 Transparency in relation to total energy consumption and some measure of environmental impact on bills is outside the scope of the current guidelines. However, Ofgem's Environmental Action Plan (August 2001) stated that:  
*"accurate information about annual consumption on consumers' bills would help to improve awareness of energy use, and facilitate price comparisons between suppliers. Ofgem will provide guidance to suppliers on this and will suggest that in the first instance this could be on a voluntary basis with suppliers introducing this facility as part of any routine system upgrades".*

### **Focus on renewable energy**

#### *Respondents' views*

- 2.31 Comments on this section focussed on the need for broader definitions of what would constitute a green offering. Respondents wanted energy efficiency and energy services (ESCO) to be able to be included in any green offering. Others went further and said that this section was unduly prescriptive and that it should be up to the market as to what should be included in any offerings.
- 2.32 Other respondents advocated tighter definitions as to what should be included in offerings or, if this was not possible, that suppliers should fully disclose what their offerings included. One respondent wondered how this would be monitored, and pointed out that disclosing the exact fuel mix could only be done historically.

#### *Ofgem response*

- 2.33 Ofgem considers that there are a range of issues regarding verification and additionality that would make the inclusion of green supply offerings based on energy efficiency or energy services problematic. As an example, there is potential for double counting of benefits claimed in relation to the Energy Efficiency Commitment. Offerings based on energy efficiency or other environmental benefits are considered to be outside the scope of "green supply" and are therefore not included in the Guidelines.
- 2.34 Ofgem does not consider that tighter definitions of green supply are necessary. The Guideline notes that suppliers will base their choice of technologies on their expectations of the market, on availability and cost and on the rules set by

accreditation bodies if they are seeking to badge in this way. It is considered that the principle of transparency as outlined in the Guidelines provide sufficient clarity for customers.

### **New capacity**

#### *Respondents' views*

- 2.35 Respondents were broadly in favour of the draft position that it will not be expected that all energy supplied under supply arrangements will be from new capacity. Respondents pointed out that it is not specified how long capacity would be considered new. Another pointed out that the Guidelines do not set a timeframe as to when new capacity must be commissioned. One suggestion was for suppliers to commit to new capacity within 5 years of initial launch of the offering.

#### *Ofgem response*

- 2.36 The draft Guidelines did not set a target or requirement for new capacity. The issue was addressed because it is a feature of several accreditation schemes. The Guidelines state that there are benefits from the use of new generation capacity. However, as with the choice of technology, this is ultimately a matter for suppliers, their customers and any accreditation bodies.

### **Generators outside Great Britain**

#### *Respondents' views*

- 2.37 It was pointed out that, as Renewables Obligation Certificates (ROCs) can be traded independently from the physical electricity, it is not necessary to demonstrate actual physical energy supply.
- 2.38 One respondent's view was that it was not desirable to include generation from outside the UK, as the purpose of green supply offerings and the Renewables Obligation should be to increase renewables capacity in the UK.

### *Ofgem response*

- 2.39 Ofgem accepts that the location of emissions is not relevant for the avoidance of the greenhouse effect. However, it is considered that at present there are not sufficient mechanisms available to allow verification of additional supply or capacity outside Great Britain beyond the provisions that exist already for CCL exemption. The Guidelines therefore propose that physical supply to Great Britain should be a feature of energy-based green supply offerings. As the existence of viable and credible green certification becomes more widespread, this feature may be reconsidered.

### **Price levels**

#### *Respondents' views*

- 2.40 One respondent said that this section of the Guidelines was the key area. They suggested that the market for green supply was not necessarily fully competitive, which could leave customers open to excessive prices from suppliers. Another respondent said that there was no justification for cost reflectivity in green supply offerings and that insisting on it would lead to backdoor price regulation.

#### *Ofgem response*

- 2.41 The Guidelines do not propose any new regulatory sanction in regard to price discrimination in this area. However all green supply offerings will be subject to the Competition Act 1998, which prohibits anti-competitive pricing. Ofgem considers that, for green supply offerings to remain credible, they should be able to justify to the market that any premium charged reflects the cost of providing the additional environmental benefit.

### **Additionality and relationship with the Renewables Obligation**

#### *Respondents' views*

- 2.42 There were a range of views on the concept of additionality. A number of respondents disagreed with the concept saying that there was no justification for it, that it was too restrictive and that it would be difficult to achieve in practice because of shortages in renewable generation. Some respondents claimed the

Guidelines as they stood would effectively price consumption based products out of the market.

- 2.43 A number of respondents, though, agreed with the additionality concept, one going as far as to say that it was crucial to the successful development of the voluntary green market. Another respondent thought that the Future Energy scheme would be in the best position to judge additionality as it is currently one of the criteria for their scheme. One company made the point that offering CCL exempt green supply onto the domestic market already creates additionality, as it reduces the number of LECs on the market.
- 2.44 One suggestion to address the potential problems envisaged with additionality was for a period of transition that would allow suppliers to comply with the Guidelines.
- 2.45 Regarding the relationship of the Guidelines to the Renewables Obligation a number of respondents agreed that premiums for green supply should be directed at obtaining additional ROCs or meeting the additional cost of non RO-accredited sources. Others said that the position regarding non-premium products and LECs should be further clarified.
- 2.46 A number of respondents disagreed with the point that suppliers that meet their obligation with ROCs rather than by buyout were making a greater contribution to the Government's target. They stated that suppliers who meet the obligation by buyout are making an equally important contribution to the development of renewable generation.

*Ofgem response*

- 2.47 Many of the issues regarding additionality relate to the industrial and commercial markets. The final Guidelines apply only in the domestic market. However, Ofgem recognises that the CCL and the exemption for renewables, means that there are material differences between the industrial and commercial and domestic markets for renewable energy.
- 2.48 The issue of transitional arrangements is addressed in paragraph 2.9.

- 2.49 Ofgem recognises the potential market difficulties in the early years of the RO/ROS and the likely shortages of renewable energy available for sale under green supply offerings. However, Ofgem does not consider that this provides sufficient justification for ignoring a basic principle of environmental marketing good practice: environmental benefit should not be claimed for supply that is not exceptional. The final Guidelines therefore retain the basic principle that energy supplies under the RO/ROS should not be sold at a premium in the voluntary green supply market.
- 2.50 Ofgem agrees with submissions that identify the key role that accreditation schemes such as Future Energy can play in assessing and defining additionality.
- 2.51 Energy that is certified by LECs is exempt from the CCL if sold to industrial and commercial customers. If this energy is sold in the domestic market, the benefit of that exemption is forgone. Ofgem accepts the argument that this represents some additionality. However, the value of this additionality is small given the value of the CCL and uncertainty about market conditions. Such additionality would therefore need to be independently audited and verified and thus are unlikely to provide a basis for a premium being charged. These views are incorporated into the final Guidelines.
- 2.52 Offerings whose only claim for additionality is based on forgone CCL exemption seem unlikely, in practice, to provide a sufficiently material environmental benefit for it to be justified for them to be regarded as green supply offerings. However, in every case where an offering is claimed as green Ofgem considers that suppliers should state explicitly what specific additional environmental benefit is being provided.
- 2.53 Ofgem accepts that the RO/ROS provides a number of alternative routes for suppliers to meet their obligation including buyout (which ultimately provides some assistance to renewable generation). Therefore the final Guidelines do not include the distinction between these, which was made in the draft Guidelines

## **Additional capacity**

### *Respondents' views*

- 2.54 Respondents generally agreed with the Guidelines stating that expenditure on promotion and education should not be considered additional. However some thought that some funding in these areas for research and development or small amounts in conjunction with small scale projects should be allowed.
- 2.55 Many respondents thought that it would be difficult to demonstrate whether or not a project would have gone ahead without funding from a green supply fund. They questioned how this would be verified.
- 2.56 A number of respondents called for the issue of future benefits to be specifically addressed. One respondent said that clear rules and an audit trail were needed. However on the issue of retiring ROCs and LECs one respondent thought that this was impractical and undesirable.

### *Ofgem response*

- 2.57 Ofgem recognises the difficulty in developing strict rules of additionality in regard to the provision of assistance to new capacity and considers that Guidelines such as these are not an appropriate forum. The draft Guidelines drew attention to the issue of future benefit. Ofgem considers that suppliers should address the legitimate concerns in these areas and that transparent reporting of the arrangements will allow customers and accreditation schemes to make their own assessment of the reasonableness of those arrangements.

## **Verification**

### *Respondents' views*

- 2.58 The majority of respondents supported the principle of verification. A number of respondents called for Ofgem to be the body to undertake this work, although others thought that the Future Energy scheme was best placed to do the work. On the issue of retiring LECs and ROCs it was thought that a mechanism should be set up to allow this and that verification bodies should be allowed to hold retired LECs and ROCs.

2.59 Most respondents were in favour of provision of accreditation bodies. One respondent questioned what would happen if Future Energy was discontinued.

*Ofgem response*

2.60 It is now confirmed that there will be a mechanism established under the RO/ROS for the verification of the holding and setting aside of ROCs. However, a similar provision for LECs does not exist and would require the participation of HM Customs and Excise.

2.61 Ofgem does not consider it appropriate to be involved in the verification of offerings on an individual basis. This would be inconsistent with its current roles in the regulation of suppliers. However, Ofgem strongly supports the value that one or more accreditation schemes could play in the market in order to provide consumer confidence in green supply offerings.

2.62 The EST has announced its intention to continue in the accreditation of green supply offerings through Future Energy.

## **Appendix 1 Organisations that submitted responses to the consultation**

Advertising Standards Authority  
Association of Electricity Producers  
British Energy plc  
British Gas Trading Ltd  
CO2e.com  
Corporation of London  
Department of Trade and Industry  
Ecofys  
Electricity Association  
Electricity Direct UK  
Energy Saving Trust  
Energywatch  
Friends of the Earth  
Green Certificate Company  
Innogy plc  
LE Group  
London Utilities Consortium  
Origin Energy, Australia  
Powergen  
RSPB  
RWE Trading Direct Ltd  
Scottish and Southern  
Scottish Power  
Scottish Environment Protection Agency  
TXU  
Utility Link  
WWF - UK