

Our Ref  
Your Ref

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13th February 2004

Dear Iain

**Testing domestic consumer take-up of energy services: trial suspension of 28 day rule**

Thank you for providing us with the opportunity to comment on the above consultation document. This response is made on behalf of EDF Energy, which owns the following energy retail brands: London Energy, SWEB Energy, Seaboard Energy and Virgin HomeEnergy.

I confirm that our response can be treated as non-confidential and may be placed on your website.

We welcome Ofgem's suggested approach to this trial and consider that the general principles behind the trial and the suggested time period are sound and equitable. The trial will enable suppliers to encourage the take up of energy services products. In conjunction with the Energy Efficiency Commitment (EEC), this should offer a strong platform to enable the industry to meet its commitment to the Government's sustainable energy policy. We are pleased that Ofgem, through its membership of the Energy Services working Group, has supported the trial and we trust that Ofgem will complete the legal steps necessary in a timely way to ensure that the trial can start promptly.

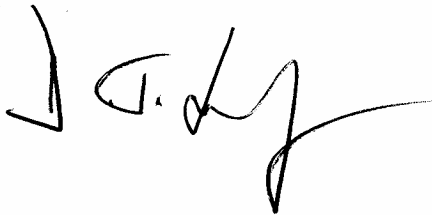
As you are aware, EDF Energy is represented on the ESWG and have, through this forum, contributed to the development of the principles and guidelines of this trial. The approach of the ESWG throughout its discussions was driven by a desire to encourage suppliers to offer a wider range of environmentally positive products to

domestic customers at a financially attractive price. We have recently told the Secretary of State for Trade and Industry that we will be participating fully in the trial and that we look forward to assessing its results and conclusions in due course.

The consultation makes a number of references to the Energy Efficiency Commitment (EEC), but does not link the trial to EEC. We would like to see this link explicitly confirmed. From April 2005, EEC will be updated to EEC2. EEC2 targets have not yet been agreed and we believe that it is essential to the success of this trial that the EEC 50% uplift benefit should be carried over into EEC2.

You have raised a number of issues for consultation in the body of the document. Our responses to these issues are detailed in the attachment to this letter.

We hope you find these comments helpful. If you wish to discuss any of these issues further please contact Ann Neate on 01273 428464 or myself.

A handwritten signature in black ink, appearing to read 'D. Linford', with a stylized flourish extending to the right.

**Denis Linford**  
**Head of Regulation**

## **Attachment**

**EDF Energy's detailed comments on Ofgem's consultation document "Testing domestic consumer take-up of energy services: trial suspension of 28 day rule".**

### **Issues for consultation**

#### **4.6.1 Respondents are asked to comment on Ofgem's proposal to conduct a trial suspension of the 28 day rule, and the proposed objectives.**

EDF Energy intends to participate in the trial proposed by Ofgem to offer fixed term contracts to domestic customers wishing to install energy saving products at their homes, subject to confirmation of the details of the trial proposed in the consultation. We believe that, through their being allowed to offer fixed term energy services contracts, the financial risk to suppliers will be sufficiently mitigated to encourage those suppliers to actively market those products. This, in tandem with the initiatives being carried out under the EEC scheme, will better enable us to test whether or not we are able to overcome current barriers to customer take-up of energy saving products (lack of awareness, prohibitive cost etc.). However, in the light of the key points listed within the publication from the Government Chief Social Researcher's Office - "Trying it out: The role of "pilots" in policy- making"- we are concerned, at this stage of the development of the pilot, that there is no clear assessment of what criteria would determine its success or failure.

#### **4.10 Comments are invited on Ofgem's proposed approach to setting up the trial.**

EDF Energy supports the method that Ofgem intends to use to set up the trial and the draft wording for Supply Licence Condition 46 for the Gas and Electricity Supply Licences.

#### **4.19 Comments are invited on the relevance of this trial to community energy schemes, and pre-payment meter customers, and what changes might be required to facilitate their inclusion.**

We do not object in principle to the suggestion that community energy schemes should be included in this trial. However, we consider that some work would need to be carried out to assess its feasibility and practicality. As you are undoubtedly aware, EDF Energy have been supporting an amendment to the Energy Bill to allow prepayment meters to be used for energy services packages or other applications which it judges to be in the consumer's interests. We are pleased therefore to see Ofgem considering extending this trial to pre-payment meters.

## **5.7 Ofgem invites comments on its proposals for a 4%/50,000 customer limit, and for a two-year trial.**

We believe that in order for the trial to gather sufficient data, it is necessary that it should be conducted over two winters and we support the length of the trial as proposed. Additionally, we are content with the proposed customer limit for the trial and support the view that the 4% limit should be applied collectively across the company's retail customer base. We believe that the 4% cap provides sufficient headroom to adequately test the market. We also believe that in order to maximise suppliers' ability to market to customers with capital constraints it is necessary that the current 50% uplift benefit offered under EEC should be extended to EEC2.

## **5.9 Ofgem invites comments on the proposed definition of energy services, and in particular: whether the Energy Efficiency partnership for Homes Code of Practice for Energy Efficiency Providers provisions on advice should be made mandatory; whether a 15% threshold is sufficient to make these unnecessary; and how the reduction in supplied energy should be measured (in particular, whether the methodology as proposed is sufficient to allow the inclusion of alternative generation); the proposal that customers should save money as a result of the package, and what discount rate might be used to assess this; and the proposal to allow up to one-third of the total cost to be paid up-front by the householder.**

We support the view that a clear definition of energy services should be developed for the trial and note that the consultation document makes several references to EEC and EEC2. We note, however, that nowhere in the document does Ofgem link its definition of energy services to the products that are covered by EEC. We suggest that this link should be expressly confirmed within the consultation. If boiler replacement, as an example, is not to be subsidised through EEC2, it should be excluded from this trial. We would also prefer that the Energy Efficiency partnership for Homes Code of Practice for Energy Efficiency Providers provisions on advice should be left to suppliers to decide but have no strong objection to its being made mandatory.

The consultation makes reference to the actual threshold for energy reduction being between 10-15% and then comes down in favour of 15%. This topic was debated at some length during the ESWG meetings and 10% was the highest threshold agreed by all suppliers. Forcing suppliers to adopt a 15% threshold will exclude certain measures which could deliver a genuine saving from energy services products. Solar heating, for example, delivers approximately 10% energy reduction but we see no good reason why it should be excluded from the trial.

We support the view that energy savings should be calculated in exactly the same way as is currently used for EEC. We would however stress that no guarantee can be provided in relation to reduction in a customers' bills, as this is also dependent on a number of external factors, e.g. changes in customer

behaviour or lifestyle, weather and energy industry changes. We further believe that a small number of customers may be prepared to enter into an energy services contract purely for the environmental benefit rather than for any presumed financial payback. We hope that these customers would not be excluded from the trial.

We have a further query with the statement “the supplier lending a substantial part of the cost of efficiency measures to the consumer” in paragraph 4.12. Ofgem should confirm that this is not intended to preclude suppliers from entering into a relationship with a third party to provide the finance for the customer’s installation.

#### **5.10 Comments are requested on the proposed duration.**

As stated in our previous comments, we support the proposal to continue the trial for two years.

#### **5.12.2 Ofgem would welcome views on how indexation of prices for energy supplied should be applied, and how notification of price increases should be managed.**

We understand Ofgem’s concerns that customers unable to switch supplier should not be at risk of over-charging. We believe that the energy services products that are offered to the customer should stand alone and not be linked to the energy unit price for that product. Customers who purchase energy services products should be treated in the same way as any other supply customers in respect of any proposed price increase. Mandating suppliers to cap, fix or index prices for all energy service products would force suppliers to adopt a large number of new tariffs, something that may prove prohibitive on cost grounds and would certainly not be possible in respect of pre-payment meters. Our preferred approach would be that suppliers should offer a guarantee that their prices will remain within a fixed percentage of a specified basket of industry retail prices. Where a supplier decides to move outside this range, they should advise the customer that they are no longer locked into their fixed term contract, and the customer could then be entitled to pay termination fees and exit the contract.

#### **5.12.6 Ofgem would welcome views on the proposals for a written quote and an independent second opinion.**

We fully support the view that a written quote must be provided to the customer prior to a decision being taken for the purchase of Energy Services products. The consultation makes reference to this quote including “the consequent notional carbon saving”. The provision of this information at the point of quotation has not previously been mentioned during the development of this trial at the ESWG meetings and we are surprised to see it included at this stage. Ofgem have previously provided carbon savings and we would seek clarification of the method by which Ofgem proposes to make these available. We consider that reference to carbon savings at this stage would complicate the sales message to potential customers. We further do not support the view that an independent second opinion is necessary, as we consider that current direct

sales legislation protects customers sufficiently. We confirm that EDF Energy will use either independent or trained Energy Efficiency advisors to carry out surveys/quotations for this activity and would assume, from discussions at the ESWG, that other suppliers would agree to do likewise. This should obviate the need to supply an independent second opinion. Building the additional expense of an independent second opinion into the price for energy services products would make these products less desirable and in some cases cost prohibitive to potential customers.

#### **5.12.6 Ofgem invites views on its proposed approach to cooling off periods.**

We support Ofgem's decision to rely on the standard seven day cooling off period provided by existing consumer legislation.

#### **5.12.9 Ofgem would welcome comment on whether its proposed termination arrangements would be appropriate, and whether there are other situations in which a right to terminate would be appropriate.**

We support Ofgem's proposed contract termination arrangements in the case of change of tenancy or change of supplier. As stated previously, we believe that a different arrangement should be introduced for termination arrangements in the event of a price increase.

#### **5.13 Ofgem would welcome views on whether provision of service guarantees should be regulated.**

We do not believe that service guarantees for energy services products should be regulated. Suppliers are unlikely to offer products without manufacturers guarantees or warranties.

#### **5.16 Comments are requested on Ofgem's approach to enforcement and verification.**

The approach to enforcement and verification proposed in the document seem to be reasonable and the reporting requirements are very much in line with Ofgem's current reporting requirements. We would propose that Ofgem publish a further consultation on reporting, prior to the start of the trial, that provides a better definition of the actual reporting criteria.

#### **5.21 Ofgem would be interested if there is support for the creation of a national list of sites where a non-terminable contract is in force, and the practicalities of such an approach.**

We believe that the creation of a national list of sites for energy service products that is available to all suppliers would breach current Data Protection legislation. We are also concerned that if such a list was produced and was then used to ensure that customers that had contracted energy services products were no longer approached by the marketing and sales agents of other suppliers (as the consultation states), these customers would be unfairly discriminated against.

Customers included on the list would have no opportunity to benefit from savings for products not related to Energy Services. There are also administrative issues with the compilation of such a list, which, although held centrally, would need to be kept updated by suppliers, a process that is likely to prove onerous. Assuming that there was some way to guarantee that the list is regularly updated, then suppliers would need to attempt to cross reference against this list for the purposes of sales targeting and in many cases prior to the registration of customers. This seems unreasonably complicated.

**5.25 Taking all the design parameters together, Ofgem would welcome information from suppliers about the expected costs of participating in the trial.**

Work is still underway to determine the financial implications of the various products that we wish to introduce and we would see no commercial benefit in sharing the actual figures publicly. However it should be noted that all products developed under this scheme are likely to have cost implications in the following areas: changes to billing, contract and account system changes, retraining of sales and operational staff, establishment of some kind of sales quality benchmark, redesign of marketing literature and the development of processes and standard letters to support these activities.

**6.3 Comments are requested on Ofgem's proposed approach to evaluation, and on the key priorities.**

We support the view that an independent evaluation should be sought for the assessment of the results of the trial and agree that Ofgem are best placed to provide this. We further support the general priorities that Ofgem has identified to be monitored. The consultation as it stands does not, however, clearly define exactly what will be monitored or what weighting will be placed upon the variables. We are also concerned that there is no clear definition in the document of what will constitute success or failure of this trial.

EDF Energy plc  
February 2004