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30 January 2003

Dear Annette

**MAKING MARKETS WORK FOR CONSUMERS:
THE REGULATION OF GAS AND ELECTRICITY SALES AND MARKETING:
PROPOSALS FOR THE AMENDMENT OF STANDARD LICENCE
CONDITION 48**

We welcome the opportunity to comment on your proposals for modifying Standard Licence Condition 48. This response represents the views of EDF Energy, which includes the retail brands of London Energy, SWEB Energy, Seeboard Energy and Virgin HomeEnergy. I can confirm that our response can be treated as non-confidential and may therefore be placed on your website.

We agree with the view expressed by Ofgem in its document that across the industry suppliers continue to invest in their brand and therefore it is in their own interest to implement good sales practice. As you know, we have been very active in our support for the AES Industry Code of Practice and the EnergySure training scheme for sales agents and we remain fully committed to making these industry self-governance arrangements work. As a founder member of the Energy Retail Association (ERA), we continue to work closely with other industry players, Ofgem and energywatch to review and develop the Code of Practice for face-to-face marketing. We are also developing improved internal communications and training programmes for customer facing staff in our call centres to heighten awareness of the AES Code.

Following implementation of the AES Code, initial reports show encouraging signs of improvements in sales activity across the industry. The energywatch league table statistics demonstrate that for the period August-October 2002 the

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industry average ratio for sales complaints was 1.35, whereas for the same period 12 months later it had virtually halved to 0.71.

In our previous response, we supported the extension of the existing licence condition, in an unaltered form, for a further period of two years, until March 2006, in order that customers, consumer bodies and Ofgem could become fully confident with the industry self-governance arrangements. We continue to hold that view and believe that the above fall in sales complaints statistics is an encouraging sign that the self-governance arrangements are taking effect.

We are concerned moreover that the proposed changes to Standard Licence Condition 48 in April 2004 would frustrate rather than promote competition by removing opportunities for suppliers to develop a competitive advantage through the provision of differentiated services. The proposals are also in direct contrast to the objectives of other industry initiatives, such as the Customer Transfer Programme, which aim to improve the transfer experience for customers that switch.

Our views on each of the proposals put forward by Ofgem are attached.

I hope you will find our comments helpful. If you have any queries on them please do not hesitate to contact Ann Neate on 01273 428464 or myself.

Yours sincerely

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

Denis Linford
Head of Regulation

Attachment

EDF Energy's comments on specific proposals

1. FieldSales, Telesales, Internet and Direct Mail

The proposal is to provide clearer definition of what activity is regulated by the Licence Condition and a set of core requirements applicable to all sales and marketing channels

At present Licence Condition 48 (LC48) covers Fieldsales and Telesales activities (including win-back and save). These channels involve, to a large extent, the cold calling of customers and are justifiably captured under LC48.

On the other hand, customers that are signing up via the Internet or Direct mail are pro-actively entering into a sales contract and are not at risk of feeling pressurised by sales agents. Furthermore, these customers are already well protected by existing consumer legislation. To implement additional barriers to switching for these channels would be inconsistent with consumer protection regimes covering other goods and services.

2. Prohibition of certain activities

We are sympathetic to Ofgem's concerns that certain activities such as misleading a customer or selling to a minor should be prevented. However, these activities are already covered by the AES Code and existing consumer legislation. Whilst we totally embrace the ethos behind this proposal, the introduction of such prohibitions into LC48 would appear to serve no purpose, as they would only duplicate existing obligations. In addition, we are not persuaded that the proposed limitation on telesales, i.e. no marketing or sales to be undertaken after 8 pm in the evening, would work in the interests of customers. Our experience has been that many customers who are out at work all day welcome the opportunities provided by evening calls to take advantage of the competitive market and are happy to be approached after 8 pm.

3. Improvement of Information provided to customers

We fully support Ofgem's view that information provided to customers should be accurate. As part of their legislative and regulatory obligations suppliers already provide a considerable amount of information to customers at the time of sale, e.g. contract terms, price schedules, and a right to cancellation clause. EDF Energy makes every effort to ensure that the information we provide is accurate and up to date.

We are concerned that the implementation of a mandatory process for producing written quotations, for which in our experience there is little evidence of customer demand, will increase costs and may confuse rather than inform customers. For example, the accuracy of the quote would be dependent on customers providing their correct consumption history and their pattern of energy use remaining consistent over time. Clearly, this is not always the case and the dynamic nature of the business in which we operate means that any

quotation provided will be subject to change, e.g. because of customer lifestyle changes and weather variations.

4. A consumer right to a 14 day cancellation period

We are committed to supporting the aims of the industry-wide Customer Transfer Programme, whose goal is the simplification and speeding up of the transfer process. We are not persuaded that the introduction of a 14 day cancellation period is consistent with these two objectives. The introduction of such a measure may also frustrate competition, as the extended window of opportunity for win-back activity to take place may also encourage the industry to develop more defence driven strategies that will reduce switching.

5. Reporting and Audit

Ofgem has already acknowledged that suppliers' brands are valuable. We support that view and agree that compliance procedures are a key element to protecting brand image. The extent to which companies support their brand image through the reporting of sales compliance statistics at board level should be at the discretion of individual companies rather than under mandate from Ofgem via licence obligations. Those suppliers that have a high level of compliance and reporting in these areas will reap rewards for their diligence in the form of their brands' standing within the market.

6. Contract Verification

We recognise that obtaining separate verification that a customer wishes to enter a contract can benefit some customers and help reduce Erroneous Transfers. Many suppliers, including EDF Energy, are already implementing contract verification processes. We strongly believe that this decision should be left to the discretion of individual suppliers rather than be mandated under LC48. Suppliers should have the opportunity to promote verification as a differentiated service to their customers that can then be explained and promoted at the time of sale. The insistence on mandatory verification would be seen by some customers as patronising, whilst other customers who wish to switch may be stopped from transferring supply if they were unobtainable for verification calls.

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