

**Fuel mix disclosure  
Proposed supply licence amendment**

July 2004      171/04



## Summary

Article 3(6) of Directive 2003/54/EC of the European Parliament and of the Council concerning Common Rules for the Internal Market in Electricity (“the Directive”) obliges Member States to require each supplier to provide details to its customers of the mix of fuels in the electricity it supplies. The Secretary of State for Trade and Industry has stated that she intends to implement the Article 3(6) requirement by way of a new supply licence condition introduced by means of regulations under section 2(2) of the European Communities Act. This document seeks comments on the draft of that licence condition.

The draft licence condition covers the following areas:

- ◆ the requirement to provide the information and the categories of energy source to be used (paragraph 2-3)
- ◆ the requirement to update the information in respect of electricity supplied in the previous financial year by 1 July each year (paragraph 5)
- ◆ the evidence required in relation to the calculation of fuel mix (paragraphs 6-8)
- ◆ the method for calculation of environmental impacts (paragraph 9)
- ◆ the obligation to provide information on request to support any compliance monitoring and enforcement (paragraphs 10-13)

Replies to the consultation should be sent to Ofgem by 23 August 2004. Following that, Ofgem will consider responses and will publish a response to the consultation and advise the DTI of its views on the issues raised in responses. The DTI will make any necessary amendments to the licence condition and lay regulations under section 2(2) of the European Communities Act 1972 to incorporate a new condition into all supply licences.



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# 1. Introduction

## ***Purpose of this document***

- 1.1 Article 3(6) of Directive 2003/54/EC of the European Parliament and of the Council concerning Common Rules for the Internal Market in Electricity (“the Directive”) obliges Member States to require each supplier to provide details to its customers of the mix of fuels used to produce the electricity it supplies. The Secretary of State for Trade and Industry has stated that she intends to implement the Article 3(6) requirement by way of a new supply licence condition introduced by means of regulations under section 2(2) of the European Communities Act. This document seeks comments on the draft of that licence condition.

## ***Background***

- 1.2 The Directive is part of a package of European legislation that represents a major step towards the creation of a fully competitive, liberalised internal market in electricity and gas. The UK, which already has a competitive, liberalised energy market, has been strongly supportive of this package because of the benefits that an EU internal market holds for consumers and industry.
- 1.3 In addition to the key elements to liberalise electricity markets across the European Union, the Directive contains a number of specific measures to support those liberalised markets. Article 3(6) requires Member States to ensure that electricity suppliers provide their customers with reliable information on the fuel mix used to produce the electricity they supply. Suppliers must also provide at least a reference to existing reference sources where information on the environmental impact of the electricity produced by the overall fuel mix of the supplier, at least in terms of emissions of carbon dioxide (CO<sub>2</sub>) and radioactive waste resulting from the electricity produced, is available.
- 1.4 In February 2004, the DTI issued a consultation document on the implementation of the Directive. Further to this consultation, the DTI concluded, in June 2004, that the most straightforward and effective way of implementing these new obligations was by means of a new supply licence condition

introduced by regulations under section 2(2) of the European Communities Act 1972. The licence condition would lay down the minimum requirements of Article 3(6), including provisions on evidence, verification and compliance cycles.

- 1.5 The licence condition dealing with fuel mix disclosure will be a "relevant condition" under the Electricity Act 1989. Therefore, non-compliance with the licence condition will be an enforcement matter for the Gas and Electricity Markets Authority.
- 1.6 Ofgem has agreed to consult with suppliers and other stakeholders on the proposed licence condition and to advise the DTI of the results of the consultation.
- 1.7 Full details of the Secretary of State's decision on the implementation of Article 3(6) are included in the DTI document, *Conclusions from the Responses to the Consultation on the Electricity Directive*, available from the DTI website at: [www.dti.gov.uk/energy/domestic\\_markets/electricity\\_trading/elec\\_decision.pdf](http://www.dti.gov.uk/energy/domestic_markets/electricity_trading/elec_decision.pdf)

## ***General approach***

- 1.8 The new licence condition is intended to implement Article 3(6), while minimising costs to consumers and allowing maximum flexibility to adapt the arrangements as circumstances change. It is DTI's and Ofgem's view that the best way to minimise cost is to make maximum use of existing arrangements (e.g. certification schemes).
- 1.9 The licence condition covers the following areas:
  - ◆ the requirement to provide the information and the categories of energy source to be used (paragraph 2-3)
  - ◆ the requirement to update the information in respect of electricity supplied in the previous financial year by 1 July each year (paragraph 5)
  - ◆ the evidence required in relation to the calculation of fuel mix (paragraphs 6 - 8)
  - ◆ the method for calculation of environmental impacts (paragraph 9)



- ◆ the obligation to provide information on request to support any compliance monitoring and enforcement (paragraphs 10-13)

## ***Regulatory impact***

- 1.10 Ofgem has not undertaken an impact assessment for this proposal because the impacts of the proposal were set out in the DTI's Consultation Document in February 2004.<sup>1</sup> This RIA will be updated shortly by the DTI.

## ***Responses and next steps***

- 1.11 Ofgem seeks views on the draft licence condition (Appendix 1), particularly in regard to the extent to which the condition meets the requirements of the Directive and the DTI June decision document. Replies to the consultation should be sent by 23 August 2004. Following that, Ofgem will consider responses and will publish a response to the consultation and advise the DTI of its views on the issues raised in responses.
- 1.12 The DTI will make any necessary amendments to the licence condition and lay regulations under section 2(2) of the European Communities Act 1972 to incorporate a new condition into all supply licences.

- 1.13 Comments should be sent to:

John Costyn  
Ofgem  
9 Millbank  
London SW1P 3GE

Tel: 020 7901 7000  
Fax: 020 7901 7387

Email: [john.costyn@ofgem.gov.uk](mailto:john.costyn@ofgem.gov.uk)

- 1.14 There will be a consultation meeting on this on 5 August 2004 at Ofgem offices, 9 Millbank London SW1P 3GE at 15.00. If you would like to reserve a place

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<sup>1</sup> Consultation Concerning Common Rules for the Internal Market in Electricity  
([www.dti.gov.uk/energy/consultations/common\\_rule\\_elec.pdf](http://www.dti.gov.uk/energy/consultations/common_rule_elec.pdf))

please contact Alex Thorne on 020 7901 7194 or email [alex.thorne@ofgem.gov.uk](mailto:alex.thorne@ofgem.gov.uk).

## **Contact**

1.15 If you wish to discuss this consultation paper, please contact John Costyn on the contact details above.

1.16 You may also contact:

Sue Harrison  
DTI  
1 Victoria Street,  
London SW1H 0ET

Tel: 020 7215 2602

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## **Confidentiality**

1.17 All responses will normally be published on the Ofgem website and held electronically in the Ofgem Research and Information Centre, unless there are good reasons why they should remain confidential. Consultees should try to put any confidential material in appendices in their responses. Ofgem prefers to receive responses in an electronic form so they can be placed easily on the Ofgem website.

## 2. The requirements of the licence condition

- 2.1 The new licence condition will provide minimum standards for compliance. A draft is at Appendix 1.

### ***The obligation to provide information***

- 2.2 All suppliers will be required to prepare information on the contribution of certain energy sources to the total fuel mix used to produce electricity supplied to customers over the preceding year and, at least, the reference to information on the environmental impact of that fuel mix, in terms of at least emissions of carbon dioxide (CO<sub>2</sub>) and the radioactive waste resulting from the electricity produced.
- 2.3 Where a customer is provided with a bill, or statement of usage in the case of prepayment meter customers, in a 12 month period, the information will need to be provided with the bill or statement. It will be acceptable to include the information on a separate sheet that is provided with bills rather than on the bill itself.
- 2.4 It is important to note that the new licence condition will not introduce a requirement to provide the information with every bill or create any new obligations in regard to frequency of billing.
- 2.5 The information should also be provided in promotional material. The licence condition includes a non-exclusive definition of promotional materials based on guidance provided by the European Commission.

### ***Fuel source categories***

- 2.6 In order to ensure comparability between suppliers, the licence condition specifies standardised fuel source categories. These are coal, natural gas, nuclear, renewable, and other. The information must be provided in these categories. Any subdivision of those categories is a matter for the supplier.

## ***Compliance cycle***

- 2.7 The licence condition sets out a single compliance year for all suppliers. This will assist in administering the system and in ensuring that there is no double counting of information between suppliers. The compliance year will be the financial year, 1 April to 31 March. The compliance year will be followed by a maximum three months' balancing period. That is, all information issued in the period 1 July–30 June should relate to the electricity supplied in the year ending on 31 March preceding the first day of the period.

## ***Total electricity supplied***

- 2.8 The denominator for the calculation of fuel mix percentages should be the sum of the amounts supplied as notified to the DTI in compliance with the Renewables Obligation and the Renewables Obligation (Scotland).

## ***Environmental information***

- 2.9 Article 3(6) requires, as a minimum, a reference to existing sources where the environmental information on the fuel mix of the supplier can be obtained. However, the reference to the “overall fuel mix of the supplier” means that information must be available in a way that is specific to each supplier.
- 2.10 The licence condition specifies requirements for the calculation of the information that may be provided, or to which reference may be made. Information on environmental impact must include carbon dioxide emissions (in grams of carbon dioxide equivalent per kilowatt hour) and radioactive waste generated (in grams of spent fuel per kilowatt hour).
- 2.11 It is expected that standardised factors reflecting average GB factors for CO<sub>2</sub> emissions and for radioactive waste generation will be used. The factors to be used will be published by the DTI. **Views are sought on whether information based on verified station-specific emission factors may be substituted for part of the total if they are available.**

## ***Evidence for fuel sources***

2.12 Other than in respect of the residual fuel mix contributions, the licence condition requires that the following evidence must be held by a supplier for a particular energy source to be stated:

- ◆ For renewable source electricity (wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases<sup>2</sup>) from the 2005/06 financial year; Renewable Energy Guarantees of Origin (REGOs) issued by Ofgem must be held or redeemed. In the meantime, generator declarations may be used.
- ◆ For coal, natural gas, nuclear or other sources, the information must be based on generator declarations detailing the amount of electricity assigned to the supplier and the fuel(s) used in the relevant generating station(s) for the relevant period.
- ◆ With respect to electricity obtained via an electricity exchange or imported from an undertaking situated outside the Community, aggregate figures provided by the exchange or the undertaking in question over the preceding year may be used.

2.13 For supply that cannot be certified by REGOs or generator declarations as above, suppliers will use the residual mix percentages as calculated and published by the DTI to attribute unaccounted-for electricity supplied to each of the energy source categories.

2.14 Generator declarations should be signed off as correct by a director of the generator and include the following information:

- ◆ the name and location of the generating station
- ◆ the fuel used in the generating station and when the generating station uses more than one fuel, the proportion of each

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<sup>2</sup> Consistent with the definition in the Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations 2003  
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- ◆ the amount of electricity assigned from the generator to the supplier
- ◆ a statement from the generator that the total amount of electricity referred to in declarations issued by the generator and in REGOs issued to the generator in a particular year is not greater than the total output of the station.

### ***Fuel mix disclosure data table***

2.15 The DTI will publish annually on its website a table of information which is to be used by suppliers to prepare the information referred to in this licence condition. It will include the residual mix percentages to attribute unaccounted-for electricity supplied to each of the energy source categories (i.e. electricity supplied that is not subject to certification or generator declarations) and the emission factors to be used in the calculation of environmental impact information.

### ***Verification, compliance and audit***

- 2.16 The accuracy and reliability of the information provided will be the responsibility of suppliers. The licence condition will be a "relevant condition" under the Electricity Act 1989. If the information provided by suppliers is not prepared in accordance with the requirements of the licence condition, it will be an enforcement matter for the Gas and Electricity Markets Authority.
- 2.17 In order to ensure that it will be possible for Ofgem to check suppliers' compliance with the condition, the licence condition obliges a supplier to provide Ofgem or persons appointed by it with certain information on request, relevant to the question of whether it is compliant with the condition. The new licence condition also requires that the Authority or persons appointed by it shall be permitted by the licensee to examine evidence at the licensee's premises.
- 2.18 A new licence requirement has not been placed on generators in respect of declarations that suppliers will require for evidential purposes. However, Ofgem may use its information gathering powers to scrutinise information contained in declarations should it consider this to be necessary.

**2.19 Comments are sought on the extent to which the proposed verification, compliance and audit framework provide an acceptable balance between the requirement to provide accurate and reliable data and the desire to minimise the regulatory burden on suppliers.**

### 3. Guidance on best practice

3.1 As foreshadowed in the DTI decision document, Ofgem will issue best practice guidance on how suppliers may meet their obligations under this condition. The issues that it will cover will include:

- ◆ the format of tables;
- ◆ the use of graphics;
- ◆ comparison with averages;
- ◆ disclosure for specific products;
- ◆ information on sub-categories

3.2 Guidance on other issues in the licence condition may be included to ensure clarity for suppliers. Ofgem will consult on guidance later in the year.

**Comments are sought on the appropriate form and content of guidance for suppliers.**



# Appendix 1 The draft licence condition

## Draft Supply Licence Condition

1. In this condition:

“disclosure period” means 1 April to 31 March each year after the first date.

“energy source” refers to the fuel used for the generation of electricity supplied by the licensee being coal, natural gas, nuclear, renewable or other.

“first date” means 31 March 2004.

“fuel mix disclosure data table” refers to a table published by DTI annually on the DTI website in respect of the preceding year and identified as for use when calculating the amount of each energy source in the residual fuel mix for the purposes of paragraph 7 and environmental information for the purposes of paragraph 9.

“generator declaration” means a document compiled by the generator containing the details specified in paragraph 8 in relation to the preceding year.

“guarantees of origin” means certificates issued by the Authority under The Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations 2003 certifying that the electricity in respect of which the certificates were issued is electricity produced from renewable energy sources.

“other” means derived from a fuel other than coal, natural gas, nuclear or renewable.

“preceding year” means the financial year immediately before 1 July each calendar year.

“promotional materials” includes but is not limited to materials handed out or sent directly to customers.

“reference sources” includes but is not limited to web-pages.

“relevant person” means a company director.

“renewable” refers to wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases.

“total amount of electricity supplied by the licensee” means the sum of the figures determined by the licensee under article 6(3) of the Renewables Obligation Order 2002 and article 6(3) of the Renewables Obligation (Scotland) Order 2002.

2. Subject to paragraph 5, the licensee shall provide the information referred to in paragraph 3:
  - (a) at least once in a 12 month period, to each customer that receives a bill or a statement in that period; and
  - (b) in promotional materials.
3. The information referred to in paragraph 2 is:
  - (a) the contribution of each energy source, even where the contribution is necessarily expressed as zero, to the overall fuel mix of the total amount of electricity supplied by the licensee in the preceding year, and
  - (b) at least the reference to existing and publicly available reference sources detailing information about the environmental impact of emissions of CO<sub>2</sub> and radioactive waste resulting from the overall fuel mix referred to in sub-paragraph 3(a).
4. The contribution referred to in sub-paragraph 3(a) must be expressed as a percentage of the total amount of electricity supplied by the licensee.
5. Once the licensee has supplied electricity for a full disclosure period, it shall provide the information required to be produced under paragraphs 2 and 3 no later than 1 July immediately following the end of the disclosure period, and shall update that information no later than 1 July each year thereafter.
6. A contribution referred to in sub-paragraph 3(a) may only be claimed by the licensee where specified evidence in relation to the electricity supplied by the licensee in the preceding year is held; specifically an energy source shall only be:
  - (a) renewable when the licensee has redeemed guarantees of origin or, if such a redemption process is not available, when the licensee holds guarantees of origin in its account in the register of guarantees of origin at midday on 1 June following the preceding year or, until 1 July 2006, when the licensee holds a generator declaration; or
  - (b) coal, natural gas, nuclear, or other, when the licensee holds a generator declaration; or
  - (c) in the case of electricity obtained via an electricity exchange or imported from an undertaking situated outside the Community, attributable to an energy source where the licensee holds a generator declaration or, in the case of aggregate figures being provided by the electricity exchange, an indication of the composition of the electricity according to energy source provided by the electricity exchange.
7. Where the licensee does not hold the evidence required under paragraph 6 in respect of an amount of electricity supplied in the preceding year, the licensee shall apportion that electricity to each energy source according to the percentage of each energy source detailed in the fuel mix disclosure data table relevant to the preceding year.
8. A generator declaration referred to in paragraph 6 shall include:

- (a) the name and location of the generating station; and
  - (b) the fuel used in the generating station and when the generating station uses more than one fuel, the proportion of each; and
  - (c) the amount of electricity assigned to the licensee expressed in MWh; and
  - (d) a statement that the generator has not issued generator declarations and been issued with guarantees of origin in respect of electricity assigned to suppliers in the preceding year in relation to an amount of electricity exceeding the output of the generating station in that year; and
  - (e) the signature of a relevant person of the generator to verify the facts referred to in sub-paragraphs 7(a) to (d).
9. For the purpose of sub-paragraph 3(b), the licensee shall only refer to information expressed in terms of grams per kWh in the case of CO<sub>2</sub> and grams per kWh of spent-fuel burnt in the reactor in the case of radioactive waste, where the figures are calculated:
- (a) for CO<sub>2</sub> emissions, by multiplying the percentage of each energy source as calculated according to paragraph 3(a) by the CO<sub>2</sub> emission rate for each energy source as appears in the fuel mix disclosure data table and totalling the result obtained for each energy source; or
  - (b) for radioactive waste, by multiplying the rate of spent-fuel burnt in the reactor for nuclear as appears in the fuel mix disclosure data table by the percentage of nuclear as calculated according to sub-paragraph 3(a).
10. The licensee shall produce copies of the evidence referred to in paragraph 6 and any other information that may be relevant to the accuracy of information provided under sub-paragraph 3(a) and sub-paragraph 3(b) to the Authority or a person or persons appointed by the Authority for examination by either on request by either.
11. The licensee shall permit the Authority or a person or persons appointed by the Authority to examine the evidence referred to in paragraph 6 at the licensee's premises.
12. The licensee shall cooperate fully with the Authority and a person or persons appointed by the Authority for the purposes of paragraph 14 so as to enable thorough examination of the evidence and any other information that may be relevant to the accuracy of the information provided under sub-paragraph 3(a) and sub-paragraph 3(b).
13. The licensee's obligation under paragraph 14 includes, but is not limited to:
- (a) providing access to relevant personnel or independent contractors to discuss any matters relevant to the carrying out of the examination,
  - (b) allowing an examiner to inspect and take copies of any documents and records of the licensee, including those in electronic format, relevant to the question of whether the licensee has provided accurate and reliable information for the purposes of this condition, other than those that are subject to legal privilege.

14. This condition shall not require the licensee to produce any documents or give any information which it could not be compelled to produce or give in evidence in civil proceedings before a court.