

Fuel Mix Disclosure – Supply Licence Condition Modification Consultation
Response from the Association of Electricity Producers

23rd August 2004

The Association of Electricity Producers (AEP) is the UK trade association representing electricity generators. It has over 100 members ranging from small firms to large, well-known PLCs. Between them they embrace nearly every generating technology used in the UK. Many member companies have interests in the production and development of renewable energy

General Comments: The Association welcomes the pragmatic approach adopted by DTI and Ofgem towards the implementation of Article 3(6) of Directive 2003/54/EC. In general, we anticipate this process may be subject to substantial external scrutiny by green enthusiasts and therefore we believe the design of the process should avoid the risk that Suppliers will be criticised for delays, data inaccuracies and other issues of this type, if these arise from matters outside Suppliers' control. We have a number of comments arising from the consultation document and the useful workshop organised by Ofgem. Some of these points were raised during the workshop, but for completeness we have included them here again.

Detailed Comments

1. REGOs:

- a. Timescales: Ofgem indicated that from year two onwards REGOs would be the basis for the system. At the workshop no details were available of the implementation path for the REGO system. Regarding the system, we understand that Ofgem envisages web-based self certification with separate verification, and that the process would be virtually instantaneous due to this self-data-entry nature without an official verification delay before the REGO registration becomes valid.

We are concerned at the lack of clarity regarding the implementation programme. We urge DTI/Ofgem to commit to a detailed timetable soon. With IT systems "the devil is in the detail" generally and the sooner industry and regulator engage in dialogue about the practicalities, the less danger there is of mistakes being made. As an example, one member has posed the following concern: The REGOs that can be used for fuel labelling purposes are those in the supplier's account on the relevant date. However, there does not appear to be anything to require those REGOs to relate to the year that the fuel label refers to. Plus REGOs are not deleted from the registry when used for this purpose. Therefore, if they have no other purpose it appears that the supplier could just go on adding new ones each year with the increasing cumulative total counting towards the label each year

- b. Trading: When asked during the workshop to confirm if REGOs were separable from the energy, Ofgem responded that there was "nothing preventing their separation". This seems to mean "yes", but we would appreciate an unequivocal statement about the status of REGOs and their ability or not to be traded separately from energy.

2. Para 2.5 Promotional materials: The definition is open-ended ("including but not limited to") and therefore impossible for a Supplier to demonstrate compliance with. In internal discussions with our members they have seen this as applying to promotional material that would be provided to prospective customers who had

already shown some interest in the Supplier's goods and services. Existing customers would receive fuel labelling information at least once a year via their bills, or bill stuffers. To force Suppliers to supply this information with all materials (all paper-based product fliers/descriptions, or even in extremis ball pens etc) would be to waste energy and money.

We would suggest that a definition of 'promotional materials' could be something like "means written materials handed out or sent directly to prospective final customers but where several items are sent in one package, or where the process of agreeing a contract requires further consequent communications, the entire package of communication shall be treated as a single item of promotional material. For clarity: promotional materials do not include newspaper, magazine, bill-board and television advertisements."

Para 2.7 Compliance Cycle: Members are concerned that the compliance cycle may not work. The position regarding the use of provisional information is unclear: for instance, could renewable sources be claimed in anticipation of the issue of a REGO? We understand that production of the Residual Mix Table will not be a two-stage process. We would request confirmation of this.

Additionally, there may be issues of post end of year trading that would delay achieving an accurate reconciliation, as well as verification of information from SVA-metered generation.

We are concerned that delays in the production of 'official' data by DTI could result in Licensees being in default in achieving the overall compliance cycle time. We seek a formal statement of comfort on this, in view of the likely external scrutiny of this process.

Finally, on average, suppliers would need 2-3 months from receipt of the relevant information to complete their print runs, discard the previous year's information and prepare to begin dissemination of the new information.

We remain of the view that Ofgem and Suppliers need to sit down and determine the timeline for production of the material so that a practicable compliance cycle is established. We suggest this is done after the end of the consultation, but before the report to DTI is finalised.

3. Para 2.11 Emission factors: Members are concerned that emission factors to be published by the DTI¹ are those endorsed by DEFRA. The industry's Joint Environmental Programme (JEP) has already agreed a process for calculating CO2 emissions for coal, gas and oil with the Environment Agency, and this should form the basis of the emission factors used by DTI.

This is an example of a general concern that the numbers used are consistent with numbers used elsewhere by official sources. Otherwise we run the risk of endless "picking at" the numbers by green enthusiasts. The emissions year is not co-terminus with the compliance cycle. Care will also be required in describing which versions of numbers are being used.

4. Para 2.12 Evidence for Fuel Sources: Will ROCs meet the "generator declaration" requirement in year one, provided that the supplier takes reasonable efforts to avoid double counting? LEC certifications for non-ROCable plant were not explicitly discussed; will similar considerations apply?

What will be required for green imports to be accepted? The definition of 'guarantees of origin' appears to exclude green imports, which may not be compatible with the requirements of the Renewables Directive.

¹ (Note that the DTI said all the data it will publish for suppliers (including these factors), should be available by end April each year).

To ensure consistency across suppliers, it needs to be clear what measure should be used in generator declarations and how it should be scaled to reflect consumption.

5. Paras 2.16-2.18 Verification: Members are particularly concerned about the dawn raid possibility. Given the potentially charged atmosphere surrounding fuel labelling, Suppliers are only too aware of the reputational damage that could follow, even if they are innocent. They had presumed based on the most recent DTI document that an audit certificate from an accredited auditor covering the process would be made available to Ofgem and that this would discharge Suppliers' responsibilities. In the Association's view, this should obviate the need for any draconian measures. Following the discussion at the workshop members are unclear as to whether the proposed licence condition can be enforced or not. Clarification is needed here.
6. Para 3 Guidance on Best Practice: Members are concerned that "guidance" in similar circumstances has been used as a direct reason for Ofgem to declare suppliers were in breach of licence condition. Additionally, they are concerned that overly prescriptive "guidance" would stifle innovation and force publication of information not in a format consistent with Suppliers' brands. We would welcome an explicit statement that the guidance would not be prescriptive, but would be voluntary.
7. Other Points: Members would like an explicit statement on how long this data has to be kept.
Ofgem and DTI should assist the industry in educating interested parties as to the benefits and limitations of the fuel mix data.