Ofgem consultation
Fuel Mix Disclosure
Proposed supply Licence Amendment

Response from Centrica

Centrica is pleased to respond to Ofgem on the proposals to amend the supply licence to give effect to the requirements on suppliers to inform customers of the fuel mix used in the generation of electricity.

We believe this consultation must be supported by a further Regulatory Impact Analysis to take account of the new information following the decision by the DTI that Renewable Energy Guarantees of Origin (REGOs) will be used to verify the amount of electricity that has been generated from renewable sources. We suggest that costs will arise from the trading in REGOs and these costs have not been taken into account by the earlier consultation .

We believe there are a number of areas in the proposals that require clarification to create a workable framework for suppliers. These include:-

- The definition of "promotional material" that is required to include the fuel mix disclosure needs to be made more specific.

- The timetable by which all promotional material is to be replaced by 1st July every year is too tight to be workable. In addition the tight timetable will lead to high costs and excessive waste of marketing material.

- A deadline needs to be set for the DTI to publish the residual mix data table in order to facilitate the suppliers specified deadline to use the data.

- The timetable between the end of the generation period (the holding date) and the date from which suppliers must publish the revised data is too short to be workable.

- The proposed licence conditions include specific powers of investigation that appear to be inappropriate given the existing powers of enforcement of licence conditions.

Finally we question whether the proposed framework will secure the principles required by Article 3(6) of Directive 2003/54/EC. There is no obligation placed on suppliers to obtain the REGO certificates used in the process of verification. The framework as drafted will only allow these suppliers to disclose the residual mix (which is proposed to exclude renewables).

The whole framework appears to require suppliers to disclose information to customers about various forms of generation certificates which are held on a given date. There is no requirement that these certificates should represent the electricity purchased by the supplier.

Comments on individual paragraphs

1.3 – Background.
The requirements of Article 3(6) of EU Directive 2003/54/EC 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.

Energy suppliers will be faced with a decision about the cost of obtaining REGOs to support the renewable component of their generation mix or whether to present customers with a lower cost product offering with a different disclosure of generation mix. This means that suppliers will have to decide whether their customers are likely to be prepared to pay the premium for a “greener” label. If suppliers do not obtain the REGOs for the renewable energy in their mix they will only be allowed to use the published data for the residual mix as the balancing component in their portfolio.

1.8 - General Approach.
We note the stated view of DTI and Ofgem that the best way to minimise cost is to make maximum use of existing arrangements (e.g. certification schemes) yet the proposals are that REGOs should be used for verification of all renewables. We feel that Ofgem and DTI have missed an opportunity to maximise the use of the existing scheme for the certification of renewables by using existing ROCs.

1.10 - Regulatory Impact
We note the DTI will shortly be updating the RIA that was produced in support of the February consultation process. We suggest this revised RIA should take full cognisance on the likely costs to suppliers (and their customers) of the additional costs of obtaining REGOs.
We note that REGOs will be issued to generators without charge. Ofgem have confirmed that trading of REGOs can occur independently from the trading of the associated power. We therefore expect that REGOs will acquire a value without which trading would be unlikely to occur.

2.5 – Obligation to provide information.
We note the requirement to include the disclosure data in marketing material. We support the principle that this information should be available to potential customers since it is one factor that may be taken into consideration when choosing an energy supplier. However, the requirements as drafted make the scope of this a very wide condition indeed and it appears that all forms of marketing material for all products that are on offer from a supplier could be caught by the definition.

Suppliers send out an extensive range of marketing material, including promotion of gas supplies, promotion of maintenance contracts of various forms, brand promotion etc etc. A large proportion of general marketing material is also sent to existing electricity customers who will receive the data via the annual bill data/enclosure.

We believe the requirement should be focussed on only the printed or on-line material which is specifically designed to support the marketing of electricity to potential new customers.

2.6 – Fuel source categories

We support the designated five categories of fuel source and we agree that suppliers should be free to choose whether any sub division of the primary fuel categories should also be provided (e.g. Renewables – Wind and Renewables – Hydro).

In the original response to the DTI we identified one potential area for confusion in the subdivision of the total generation portfolio into products having a greater (or lesser) "greenness". We believe that Ofgem should provide guidance about the requirements for disclosure of the overall mix in addition to any product sub division.

2.7 – Compliance cycle

We believe that the proposed "balancing period" between the end of the compliance year (1st April) and the date from which updated disclosure will be required (1st July) is too short.

Suppliers will be required to obtain information from generators about the power generated from each source, DTI will need to obtain information from suppliers and generators, then deduct the amount of renewable generation that is likely to be claimed by suppliers before publishing the residual mix data.

Suppliers will only be able to calculate the final value of their own generation mix data once this residual component is known. Once the mix has been determined then suppliers will be able to incorporate these data into their marketing material and prepare the information to be published with the bill.

While we note that it is intended that the information be sent to all customers with a bill or statement at some time during the year there is less flexibility with the promotional material since it has been specified in the licence condition that all (relevant) marketing material must be replaced by the updated versions no later then 1st July following the end of the compliance period.

We suggest that there should be a period specified such that suppliers are required to update marketing material (assuming it is restricted as comments above) by the later of either:-
four months after the publication by DTI of the residual mix data, or
1st September.

2.11 - Environmental information
We suggest the production of station specific information about CO2 emissions would represent an unnecessary level of detail, given the proportion of electricity that is traded through the exchange. However we feel it would be useful if CO2 emissions data was produced on a technology basis.

2.12 – Evidence for fuel sources
We note the requirement to use REGOs as an indicator of the amount of renewable electricity that has been purchased by the supplier. However, since the procedures for the issue of REGOs has yet to be established it is not yet clear whether ROCs can be used as evidence of generation when applying for REGOs.

The document indicates that generator declarations must be used to provide evidence of the amount of electricity (other than that traded through an exchange) assigned to the supplier – yet there is no requirement on generators to issue such documents. Moreover there doesn't appear to be any mechanism to prevent suppliers from trading such declarations. The possible outcome must be that a supplier could finish up holding a portfolio of generator declarations which are not representative of the electricity that the supplier purchased. We believe that the suppliers remain responsible to determining the evidence that is used to verify the disclosed generation mix.

We note the proposal that only REGOs issued by the Authority will be recognised, yet it is our understanding that one of the guiding principles of Article 5 of the EU Renewables Directive was that REGOs should be recognised by other Member States.

The consultation document also specifies how imported electricity should be treated when it is imported from outside the Community. Where electricity is imported into Great Britain it is more likely to have been obtained from other member states, – but it is not clear how this should be treated. If a supplier has a contract with a renewable generator in [say] France, then is he allowed to import it as Renewable or is it imported at the national mix of the exporting country?. If it is imported as renewable and qualifies for LECs (but not ROCs) then should the supplier be also able to include it in the disclosure through the surrender of the French REGOs or obtain additional REGOs from the Authority. If additional REGOs are issued in Great Britain then there would be an opportunity to either trade the French REGOs or, if the supplier has an associated supply business in Europe, to double count the REGOs through parallel submission in another Member State.

We also believe there may be a need to clarify the process applicable to power imported from another Member State (e.g. Belgium) via an intermediate State (e.g. France).

We understand that France accepts REGOs from other Member States.

We also suggest that the position regarding Northern Ireland needs to be clarified.

We have a number of concerns about the form of the REGO register as envisaged from the consultation on the implementation of Article 5 of the EU Renewables Directive. We understand that the register will record the details of the generator to whom the certificate was issues (with all relevant data). However it appeared that there wouldn't be any mechanism for recording the details of the party holding the REGO after it leaves the generator.

When the ROC register was being developed there was a degree of concern about the security of the data and the need to record all subsequent transactions such that the register became a comprehensive register of who holds what.

We believe that the REGO register must be structured in a similar manner in order to ensure that the records are accurate and that each certificate is only traded with a single counterparty (unless surrendered and divided).

2.13
We note that where generator declarations or REGOs are not available, suppliers should use the residual mix data as published by the DTI. We understand that this data will be net of renewables (to avoid double counting since it is expected that this will be accounted for via the REGOs). However, we suggest one possible consequence of this is that the disclosure data will inaccurate for any suppliers who chose to avoid the cost burden of obtaining REGOs.

2.15 – Fuel mix disclosure data table
We note the DTI will publish the table of information that will be needed by suppliers in calculating the data to be entered into their disclosure. There is no requirement for this data to be available by any given date, yet suppliers will be required by their licences to have published a disclosure based on this data by a given date. We believe it is unreasonable to place such obligations on suppliers when their compliance is dependant on the un-regulated provision of the data by a third party.

2.16 – 2.19 Verification, compliance and audit
We object strongly to the almost draconian powers that are proposed, allowing Ofgem (or nominated persons) to have access to suppliers' premises for the purposes of audit. There are many obligations placed on suppliers where the requirements for compliance are managed satisfactorily without such powers.

We recognise that this activity does not fall within Ofgem's primary functions, however we do not believe that such extensive powers should be established which are not in keeping with the powers that exist to secure compliance of other activities. The powers of enforcement contained in section 25 of the Electricity Act 1989 (as amended) appear to be sufficient to secure compliance with the proposed licence condition.

We also consider the proposed approach is inconsistent with the objectives of Better Regulation and inconsistent with the philosophy of modernising the supply licences which Ofgem have proposed in their corporate strategy.

3.0 – Comments on Guidance on best practice

We note that the guidance on best practice is yet to be published. While we welcome the publication of best practice we are cautious about the degree to which it will be expected that suppliers should adopt the guidance.

We believe best practice should be just that. It is important to ensure that guidance does not become overly prescriptive and thus stifle innovation and constrain the ability of suppliers to tailor their price/product/service offerings to achieve differentiation in a competitive market place.

Comments on Appendix 1
Draft licence condition

We are greatly concerned that the licence condition as drafted requires amendment in a number of areas. We believe the current timescales are unachievable and the broad definitions need to be modified in order to make the obligations clear.

In view of the supplier's financial risk arising out of any non compliance we believe the draft licence should be subject to further consultation before implementation – particularly in view of the intended implementation under section 2(2) of the European Communities Act where suppliers will not have the opportunity to vote on acceptance.

Definitions

"Guarantees of Origin" is restricted to certificates issued by the Authority which fails to recognise the possibility of recognition of REGOs issued by the relevant authority of other Member States.

"Promotional materials" is stated to include materials handed out or sent directly to customers. The fact that it is not limited in any way could be interpreted to mean all promotional material, however insignificant, whether or not related to the supply of electricity, produced by the licensee. We suggest that it would be unreasonable to have all such material caught by the definition. This situation is unacceptable and the definition must be more specific. We suggest the following wording –
"To include all printed material relating to the promotion of the sale of electricity to potential customers".

"Reference Sources" – we believe the definition of reference sources to be helpful. It removes doubt about the possible use of web pages for this purpose but does not constrain suppliers to using this method of publication

Paragraph 5

The effect of this paragraph is that suppliers will be required to replace all promotional material which contains the disclosure data and replace it with new material by 1st July every year. We suggest that the period between the end of the compliance year (31st March) and this required publication date is too short to enable suppliers to achieve compliance.

Once the compliance period has ended on 31st March suppliers will be required to obtain data from generators, calculate totals from each fuel source, remove data relating to IPP agreements or equity supplies and submit data to Ofgem by a date to be specified. Once the data are available the component relating to renewables will need to be identified and the residual mix data calculated.

We would suggest that it would be extremely optimistic to expect the publication of such data to be achieved even by 1st May. Once the data are

published then suppliers will need to calculate the revised fuel source data, ensure that the necessary evidence is available, prepare any explanatory content and arrange publication and distribution to point of use. We suggest that the minimum period that is required for the supplier's processes should be 4 months after publication of the data by DTI.

We therefore suggest that the wording should be "the later of 1st September or 4 months after the publication residual fuel mix data by DTI"

Paragraph 6
It would appear from the drafting that a supplier only needs to hold evidence in proportion to the quantity of electricity sold to end user customers and that no adjustment needs to be made for losses. Hence a supplier's disclosure could show 100% renewable if the REGOs held represent 100% of sales even though they might only represent 93% of the electricity input to the system.

Paragraph 6 (c)
It is not clear how electricity obtained from within the Community will be treated. See notes above.

Paragraph 7
The requirement to use residual mix data where REGOs are unavailable appears to introduce significant errors by failing to provide a mechanism to recognise the renewable component of a suppliers' mix by any other means.

It should be the aim of Ofgem and DTI to show residual mix net of all bilateral trades and equity suppliers used by suppliers.

Paragraph 8 & 9
No comment

Paragraphs 12 & 13
These paragraphs contain cross references to paragraph 14. This appears to be a typographical error for paragraph 11

Paragraphs 11 – 13
We are concerned about the powers Ofgem are seeking to secure under these provisions. We accept that compliance is the supplier's responsibility and the evidence to support the disclosure should be available for audit purposes, and that it should be submitted to Ofgem on request.

However, we do not consider it appropriate for Ofgem to be granted powers of investigation at the level proposed in order to secure compliance with the requirements of the Directive. We believe that the powers of enforcement available to Ofgem in respect of all licence conditions under Paragraph 25 of the Electricity Act should be sufficient to secure compliance.