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RWE npower's response to Ofgem's consultation on its proposed supply licence amendment on fuel mix disclosure

Dear John,

We welcome the approach taken by DTI and Ofgem towards the implementation of Article 3(6) of Directive 2003/54/EC of allowing flexibility and aiming to minimise costs by making maximum use of existing arrangements. However, we would emphasise the need for the process to be sufficiently rigorous to satisfy our green stakeholders and green lobbyists generally.

Our comments on the consultation are as follows:

The obligation to provide information

We welcome the clarification that labels provided with bills or statements are only "at least once in a 12 month period". However, we have concerns regarding the present definition of "promotional materials" which is open-ended and hence very difficult to comply with. Our view is that the definition needs to be much tighter. Given that existing customers receive labels on or with their bills, it follows that promotional materials only need to relate to prospective customers. We would propose the following definition:

"promotional materials" means written materials handed out or sent directly to prospective final customers but where several items are sent in one envelope, 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. Promotional materials do not include newspaper, magazine, billboard and television advertising.

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Compliance cycle

The compliance cycle proposed of a compliance year ending on 31 March with information release from 1 July clearly cannot work. Suppliers are dependent on data provided by DTI: the volumes supplied as notified to the DTI in compliance with the RO and the fuel mix disclosure table. Given that we have stated that we need three months from availability of data to release of bills and suppliers provide final data for the RO to DTI by 20 June, it is not possible to meet the July 1 deadline. We would propose that either the delivery dates are specified in relation to the relation to the publication of the DTI fuel mix disclosure table and total volume supplied, e.g. three months after its release, or that paragraph 5. of the licence condition is subject to publication of the DTI information by a specified date.

In addition, we would suggest a transitional period, of say two months, for running down existing stocks of stationary to avoid having to throw them away, whilst emphasising that customers would still receive an up-to-date label in the "presentation" year. It also might be helpful to define that period in the licence condition.

Environmental information

Our view is that it is essential that the factors used are consistent with other information produced by Defra to assure our green stakeholders of the rigour of the process. Suppliers that wish to use station specific emissions factors should be allowed so to do.

Evidence for fuel sources

Our view on renewables is that for the first year these may be declared through a range of means including ROCs, renewable LECs, REGOs (if available) or generator declarations. It is reasonable that a supplier is required to avoid double counting of the consumption it declares i.e. it does not declare ROCs and renewable LECs from the same generation.

We are concerned about the choice of certificates for renewables. Our view is that, in the current context of making maximum use of existing arrangements, the best evidence that the electricity supplied is from a renewable source is provided by a certificate which is not separable from the power, which leads to choosing renewable LECs. However, even in this case, whilst we believe that LECs are not separable, we are aware that the whole industry does not share this view. On the issue of minimising cost, generators will charge suppliers for REGOs seeking to extract the market value for the certificates. In addition, there is still uncertainty as to how the REGOs system will work, in particular the time between generation and issue, and when the system will be operational.

Determining the issue of whether REGOs are separable or not will lead to different outcomes. If they are separable, as Ofgem have suggested, then they "should be mutually recognised by the Member States" (Article 5(4), Renewables Directive (2001/77/EC)) and certificates from all Members must be accepted. This would require a change to the definition of "guarantees of origin" being expanded from those issued by the Authority to those issued by competent bodies of other Member States. If REGOs are not separable, then Ofgem has to put in place procedures to enable green power with REGOs to be imported as it has done for LECs.

Generator declarations require further discussion. For consistency, it needs to be decided what measure of output is used and how this is scaled to reflect consumption. A further issue is how power stations, which use more than one fuel allocate their output between fuels. Our view is that all fuel used effectively contributes to plant output and so its usage should be attributed using plant-specific efficiency factors. However, there is an issue with regard to consistency with the ROCs process, where fuel used for start-ups which do not result in synchronisation is not counted. Our view is that it would be better if the approach taken in issuing ROCs were changed.

Verification, compliance and audit

We consider that the requirement to permit access is disproportionate and unnecessary. The Authority currently has powers to require information where it appears that a licence holder may be contravening or may have contravened any relevant licence condition (Section 28 of the Electricity Act). Similarly under Supply Licence Condition 19, the licence holder is required to provide the Authority with such information as it may reasonably require to perform the functions conferred on it by the Electricity Act and the Utilities Act. Interestingly, Ofgem considers its existing powers sufficient for scrutinising generator declarations.

We would prefer the approach set out in the DTI's consultation that suppliers use accredited verifiers to verify the data they use to produce labels. This is the process we would expect most suppliers to adopt to assure their green stakeholders that sufficient rigour has been given to fuel mix disclosure.

It also would be helpful if Ofgem could state how long data used for fuel mix disclosure needs to be retained.

Guidance on best practice

We would appreciate an explicit statement that the Guidance will be voluntary and will not be prescriptive. We consider that it is important neither to restrict flexibility nor to stifle innovation through such Guidelines.

If you wish to discuss any of these issues further, please call me on 01793 892653.

Yours sincerely

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