Revision of Guidelines on Green Supply
Response from
The Association of Electricity Producers

28 June 2005

1. General Comments: The Association welcomes the opportunity to respond to these guidelines. We are generally concerned as to how they will help Suppliers to discharge their obligations. The body of the document is difficult to understand and makes very limited reference to the largest market sector for green supply: Industrial and Commercial (I&C). Nevertheless, we are sure that our members stand ready to assist Ofgem in creating a set of guidelines that are fit for purpose, provide clarity for customers and suppliers, and encourage suppliers to create innovative products that serve customers' needs.

   The 'green' products to date have been created by Suppliers with the involvement of customers and have passed the ultimate test of acceptance by the customers in a competitive market place. Any additional Ofgem guidelines must not block or stifle the scope for innovatory developments of green products that satisfy customers' needs.

   The consultation document contains a number of useful appendices that summarize the regulation of advertisements and green claims, and self regulatory codes of conduct for green claims at the moment. We suggest that the Ofgem guidelines need to be grounded on the existing codes etc., and only contain additional points where such points pass the test of demonstrating that they usefully add to the existing documents. One outcome of this review could be that Ofgem decides that additional guidelines are not required.

2. Detailed comments:

   a. Additionality: The concept of 'additionality' as expressed in the draft guidelines is difficult to understand and appears to be very restrictive in operation. Does Ofgem mean that for the additionality criterion to be satisfied, the customer must pay more than the 'going rate' for electricity?

      For example, in providing a LEC-based product to the I&C market, Suppliers are automatically contributing financially directly to those generators from whom they bought the 'LEC' generation. This is a form of 'additionality' in practice. It is not clear, however, that it would conform with the Guidelines definition of 'additionality' and if such a product could not be called 'green' it would not be purchased by the customers (who are paying above the 'going rate'). Those I&C customers who purchase such supplies know that they are contributing financially to the LEC generators and hence achieving additionality.

      We are concerned that a prescriptive set of guidelines to determine 'additionality' will have the unintended consequence of preventing innovation in 'green' products and hence reducing the additional support for environmentally beneficial product offerings. Different customers will have different understandings of and approaches to additionality. Provided the customers and Suppliers work to share this understanding and develop a product that supports it, the only remaining concerns should be verification and transparency.

b. Verification: Suppliers already have obligations regarding verification. Within advertising and promotional material, claims made are subject to scrutiny via the Advertising Standards Authority. Current legislation imposes a duty on suppliers to ensure that representations are truthful and can be substantiated. Therefore no additional regulation is required.

   Given that the obligation already rests with the Supplier to substantiate their claims, it should not be necessary for additional obligations to be imposed about the manner in which they substantiate their claims. To do so would be to risk stifling innovation and create additional costs for Suppliers by forcing them down one verification path. If a cross-industry dialogue identifies a cost-effective route for verification that satisfies Suppliers' and customers' needs, then that would be adopted voluntarily by those who valued it without any need for imposition. The proposals sketched by Ofgem are clearly candidates for verification approaches and could be assessed by industry with Ofgem.

c. Transparency: Transparency is key to verification and additionality. Suppliers who do not adopt adequately transparent approaches to informing their customers about their products and demonstrating how they provide 'green' benefits will suffer reputation damage and lose market share. Given the abundance of pressure groups and the continuing and growing media interest in this area, it is difficult to see how a Supplier who does not provide adequate transparency of information and verification of claims will survive in the competitive market.

   If Suppliers see benefit from adopting common approaches to transparency, then they will voluntarily develop and adopt them. They do not need to be imposed.

d. Industrial & Commercial market: The I&C market for 'green supply' is approximately ~11-12 TWh, compared with the domestic ~¼ TWh. The consultation is largely silent about I&C customers. They are sophisticated consumers who readily understand the significance of CCL versus ROC supply. Customers in this market sector will seek bespoke products. Most of the current products have been developed by the industry in response to customer requirements. These products have been shaped by customer perception and understanding of what a green product should be and these guidelines should allow space for customers and suppliers to develop them.

e. Renewable LEC Product: The section relating to the treatment of Renewable LEC product appears to have been drafted without any reference to, or consultation with HM Customs and Revenue. We are concerned that the current drafting regarding the treatment/definition of Renewable LEC product is not concurrent with the definition of Renewable LEC product in the relevant LEC legislation (A Renewable LEC is defined in Statutory Instrument 2001 No. 838 – The Climate Change Levy (General) Regulations 2001) and could be interpreted as requiring a supplier to breach the LEC Legislation if they want to adhere to the proposed guidelines.

f. <u>LEC Product Verification Cycles:</u> The proposed guidelines have not addressed the issue that, for LEC products, there will be problem in the differing balancing period used for LEC and FMD (Fuel Mix Disclosure) compliance. LECs use a rolling 24 month period whereas FMD is fixed to the tax year, this will always result in an imbalance between the two schemes.