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Dear John

**Revision of guidelines on green supply offerings**

**Introduction**

This letter is E.ON UK's response to Ofgem's consultation document on guidance for green supply offerings. E.ON UK is one of the country's largest developers, purchasers and suppliers of renewable power. Our objective is to increase our renewable generation capacity by 1,000MW by 2010. Together with partners Shell WindEnergy Ltd and CORE Ltd<sup>1</sup>, we are developing the London Array<sup>2</sup> project, which if it goes ahead will be the UK's largest offshore wind farm, consisting of up to 1000MW of installed renewable capacity. We are actively exploring the possibilities of renewable generation technologies other than wind (e.g. marine). We are co-firing biomass commercially at two of our power stations and are also developing new dedicated facilities.

Like Ofgem, Government, NGOs and the public in general, we wish to see a flourishing renewables market. This will require the right regulatory framework to support existing production and expand new sites. Whilst it is not Ofgem's role to set renewable policy, clearly the way in which legislation is interpreted by the Regulator has a significant impact on investors' and developers' perceptions of the market's stability and attractiveness, and these guidelines play a key role in establishing those perceptions. We therefore want to work with Ofgem, other suppliers and all stakeholders to get the formula right.

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<sup>1</sup> CORE Ltd is a joint venture between Energi E2 and Farm Energy

<sup>2</sup> www.londonarray.com

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These guidelines do not impose new regulations – however they may potentially alter the market environment and therefore we are surprised that Ofgem have decided not to issue an impact assessment, particularly since we believe that preparing one in co-operation with stakeholders and licensees would have highlighted some of the concerns that we raise in our response.

We have divided our response into three sections: general comments, answers to specific questions, and comments on the draft guidelines themselves, the latter being included as an attachment to this letter.

### **General response to guidelines**

#### *Context and other legislation*

The following points need to be taken account of when developing the final guidelines to ensure that suppliers are able to meet requirements for additionality and transparency in practice:

- The majority of renewable power is currently sold in the I&C market as generators, suppliers and customers are able to share the saving of Climate Change Levy (CCL). However, the costs of the Renewables Obligation are distributed evenly across all consumers.
- The accounting periods for fuel disclosure (12 months in arrears) and Levy Exempt Certificates (LECs - 24 month rolling window) do not coincide.

#### *Additionality*

If a supplier increases the proportion of the RO met by renewable generation, rather than pay the buy-out, this is additional green supply. It is therefore disproportionate to apply ‘a hair shirt’ approach and say that only unsubsidised (non-RO supported) green supply is additional.

It is also pragmatic to consider that green supply within the RO actually supports additional generation as it encourages customers to show their support for green energy at a modest or nil premium. As customer interest grows, and given that a supplier dare not risk undersupply, the combination of I&C renewable LEC offers and residential green supply will require

suppliers to aim to meet the RO through renewable generation above the buy-out price.

We are also concerned that changes in requirements for additionality compared to the previous guidelines could potentially erode the perception of support available for existing renewable capacity investment and reduce investor confidence in the stability of the regulatory regime.

#### *Verification*

It is clearly in consumers' interests, and the interests of the renewables market to ensure that regulatory requirements are proportionate and justified by their benefits. In our view, this means making the transparency and verification processes as simple and self-regulated as possible.

We do not therefore believe that a formal reporting process, monitored and regulated by Ofgem, would be appropriate. Instead, the scheme should operate on the same basis as fuel labelling with suppliers maintaining their own processes which are then open to audit. This will minimise bureaucracy and costs, and enable suppliers to operate in the most efficient way, while maintaining openness to scrutiny. The alternative, an ongoing reporting scheme requiring the submission to Ofgem of returns on a regular basis, would move away from the better regulation principle of increasing self-regulation as the market matures. It would also impose an unnecessary bureaucratic burden and thereby increase costs for the product – making it even less attractive to customers.

However, we do believe that there is a role for independent third parties – see answer below to question posed in paragraph 3.39.

#### **Specific questions (3.34 and 3.39)**

##### **How should definitions, measurement and minimum standards for additionality be set?**

Mandating additionality is a very complex area. Factors which make it so include the role of LECs (which arguably do provide additional financial support and are currently linked to the bulk of green energy supply). We are concerned that over-zealous application of additionality requirements under the current CCL framework would oblige suppliers to charge a significant premium for domestic green product offerings, potentially extinguishing

consumer interest. Rather, the key requirement here is one of transparency – i.e. that a supplier may not make a strong claim of ‘making a difference’ when the reality, for instance, is a somewhat weaker green supply from an existing source. We would be happy to discuss this further with Ofgem and Government, since we believe that there could be scope for fiscally neutral measures to encourage demand for green supply in the domestic sector.

### **Does the retirement of ROCs provide sufficient evidence of additionality?**

In terms of *physical* additionality, it makes no difference whether ROCs are retired or not – the plant still generates renewable energy. Retirement of ROCs only really proves the strength of the supplier’s financial commitment to green supply (which may or may not be linked to investment in renewables nationally).

### **How can suppliers otherwise demonstrate that green supply offerings deliver benefits above the legal requirements of the Renewables Obligation?**

This is most easily demonstrated by retirement of ROCs, although any action by suppliers which can be demonstrated to raise the premium available to renewable generators could be argued to be additional to the RO – but it would be harder to demonstrate that this leads to new capacity or generation. If a supplier has an alternative audit process there is no reason why this should not be allowed, since it could be readily cross-checked against RO and ROS returns.

### **Would there be a role for suppliers to retire EU-ETS allowances to demonstrate additionality?**

Yes, potentially, subject to further analysis. This is something that we would be interested in discussing further with Ofgem and Government.

### **Views are sought on the need for a system of third-party verification for green supply in Great Britain, the form this system should take, the possible organisation or organisations that could carry this out, and the preferred funding mechanisms.**

We do believe that there is a role for independent third parties, e.g. NGOs or other qualified bodies such as environmental auditors, to provide an

independent accreditation service. There is a need to draw up clear rules for such a process in co-operation with stakeholders and licensees. We believe such accreditation would back up some of the approaches taken by suppliers to date and would help lend confidence to the market. We propose that Ofgem set up forum with stakeholders (e.g. NGOs, electricity industry, ERA, AEP) and BSI with the aim of developing a BSI audit standard.

We hope that you find these views constructive and would be pleased to discuss any of the issues raised in this letter with you.

Yours sincerely

**Ralph Chamberlain**

Regulation and Government Affairs Analyst

Attachment: E.ON UK Comments on Draft Green Guidelines

## **Attachment: E.ON UK Comments on Draft Green Guidelines**

Paragraph numbers below refer to those in the consultation document.

2.1 We are unconvinced that additionality is a key feature. It would for instance be nonsensical to have to say that hydro output wasn't green just because the plant was installed prior to the RO. We recommend that additionality is covered by the guidelines on transparency – a green supply offering can only be presented as making a difference if there is an element of additionality.

### Transparency

2.3 Renewable plant which may be too small to bear the cost of REGO accreditation is still green and supply based on it can be described as green supply. The audit process should be appropriate to the size of plant. It is unproven that the public would wish to favour large renewable plant over micro-plant.

2.4 We disagree with this suggestion as it would add to the cost of implementations and is potentially confusing if the product is backed by multiple sources, and even changing sources from year to year.

### Additionality

2.7 It is impractical to judge whether renewable generation would have occurred if there had or hadn't been a green supply offering. All business cases for renewable generation presume that there will be additional revenue over and above the wholesale price; none are so precise as to say that so much will come from contract sale, so much from the renewables obligation buyout rebate, so much from sharing CCL exemption benefits and so much from premia associated with green supply. What can be said is that all customer purchases of green supply cause suppliers to have to back off their offer with renewable generation and this increases the negotiating power of renewable generators. Any green supply therefore makes a difference – the extent to which it makes a difference depends on how tight the margin between demand and supply is.

Proposed text:

2.7 If a supplier presents a green supply offering as making a difference to the environment, the supplier should be clear as to whether it is:

- purchase of the output of a renewable sources;
- adding to investment in renewable generation; and/or
- an environmental benefit not directly related to renewable energy supply.

Delete 2.8.

2.12, 2.14 Account needs to be taken of the discrepancy between fuel labelling (REGO) and LEC accounting periods, as described above. In a given period it may be possible to satisfy HM Revenue and Customs requirements relating to LECs but fail to satisfy the fuel labelling requirement. We strongly recommend that Ofgem consult with HM Revenue and Customs on this matter.

2.15 Evidence for preceding years is an acceptable measure to support marketing to future customers over a suppliers historic support for green energy, but must not be claimed as guaranteeing future supply is green.