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1<sup>st</sup> July 2005

Dear John,

**Revision of Guidelines on Green Supply Offerings – Consultation March 2005**

Thank you for giving us the opportunity to respond to the above consultation and we hope that you will find the comments we make in this letter useful.

Since the introduction of competition in the gas and electricity supply markets, the industry has matured and developed, customers have benefited from lower prices in real terms, improved service and greater choice. Customers have a wide choice of supplier and/or offers indicating a high level of product innovation and differentiation within the market. In addition, successive surveys by Ofgem / MORI have revealed a very high awareness (approaching 100%) of competition amongst customers and that more than 90% of customers who had changed supplier found the process easy.

It is therefore apparent that the national energy supply market in Great Britain is highly competitive. Indeed, Ofgem recently highlighted the success of energy competition<sup>1</sup>, stating “customers now benefit from Europe’s most competitive energy market with over half of all domestic customers having changed supplier at least once”.

Against this background, we are concerned by any initiative that reduces customer choice or attempts to prescribe the offerings customers can sign on to. The original Guidelines and their proposed revision are not necessary in such a competitive market.

Customers are now fully protected by Competition Law together with the specific controls that can be exercised by the Advertising Standards Authority and the Trading Standards Service. To implement further guidelines and extend their scope clearly disregards Ofgem’s own objective of Better Regulation<sup>2</sup> and a lighter touch.

Notwithstanding our overall view that there is no need for guidelines we have reviewed the consultation paper and have the following observations to make.

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<sup>1</sup> “Ofgem to Cut Industry Red Tape”, Ofgem Press Release, 18 February 2005.

<sup>2</sup> Corporate Strategy and Plan for 2005-2010

## **Scope**

We do not believe that the guidelines should be extended to the industrial and commercial market. Industrial and commercial customers negotiate their contracts individually with suppliers and therefore stipulate the specific criteria they require. Including these customers in the guidelines would reduce the choice they have.

## **Standard of Evidence**

In the event that Ofgem insists on keeping the guidelines, REGO's would form an appropriate basis for an agreed standard of evidence, as they are accredited and verified by Ofgem, include a wide number of technology types and their use would also prevent double counting.

However issues remain even if REGO's are used. As a pan European certificate it is possible that non UK REGO's could result in green sales even though the generation had not met its own country's legal obligations. In addition whilst REGO's prove the green credentials of energy they do not prove additionality. Only where generation is not CCL exempt or ROC accredited, would the REGO be proof of additionality, e.g. hydro plant above 20MW.

## **Issues of Definition and measurement of additionality**

Any definition of additionality should include offerings that deliver environmental benefits in ways other than as energy from renewables or capacity, e.g. increasing biodiversity. We consider additionality as not only new technology and new build capacity, but also any other environmental benefits that are offered as part of a green sales package.

## **Third-party accreditation**

We do not believe that there is a need for third-party verification of the green credentials of supply in energy especially if REGOs are used. It is possible that third-party verification could be used for non-energy offerings. However, we believe the requirements of the law, e.g. control of advertising, Competition Act etc. are sufficient on their own to ensure a robust and transparent market in green supply offerings.

In addition, there are a number of websites that are Ofgem accredited that make comparisons of suppliers' green offerings. At present, suppliers do not always have control of the way their offerings are presented and what is published. We believe that where Ofgem accredits a website it should provide any supplier listed with the opportunity to respond to the information held.

In summary, we do not believe that the Guidelines are necessary and could actually have a detrimental effect on the choice available to customers. Customers are now fully protected by Competition Law, and therefore the implementation and extension of these Guidelines is unnecessary, and disregards Ofgem's own objective of Better Regulation and a lighter touch

I hope that you find the above comments helpful. If you would like to discuss further, please call.

Yours sincerely,

Rob McDonald  
**Director of Regulation**