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Dear Claire

Cutting the green customer confusion – next steps

Thank you for providing Scottish and Southern Energy with the opportunity to comment on the above consultation document. Our detailed comments on the questions posed are set out in the attached paper and appendices however we thought that it would be helpful to set out our views on some high level principles.

We are very supportive of the concept of green supply guidelines. We also agree that in order to secure customer confidence in suppliers' green supply products the guidelines should be updated and developed such that they act as an umbrella framework under which a new certification scheme would operate. In keeping with this principle, the guidelines should be sufficiently broad and flexible so that they can accommodate changes in the competitive market without needing to be revised frequently. The introduction of a certification scheme that is open to all suppliers will provide customers with assurance that claims made by energy suppliers about the environmental benefits of their products have to be verified. The wide promotion of the scheme and the use of a quality mark should therefore boost consumer confidence in green supply products.

However, the appropriate balance needs to be struck between the objective of ensuring that clear information is made available to customers whilst not being over-prescriptive about the way in which that information is provided and which product types may qualify for certification under the scheme. We are concerned that Ofgem's proposals are too prescriptive in this regard and that this will therefore risk inhibiting future green product development. For example, what Ofgem has suggested in terms of information transparency places an inappropriate burden on the customer to understand the complexities of the "green" or low carbon energy supply market. Instead, the onus should be on the supplier to obtain accreditation with the customer only having to know whether accreditation was achieved. The more curious customer should be able to access further information, either from the scheme operator or their supplier.

We are firmly of the view that neither the guidelines nor the certification scheme should make judgements or endorsements of particular product types or technologies. We also do not believe it to be the role of the guidelines to stimulate investment in renewables or low carbon technologies. This is properly left to the rigours of the competitive market to respond to customer demand and for industry to consider this in the context of wider Government policy initiatives.

We are also concerned by Ofgem's latest proposals to introduce carbon banding for all tariffs offered by suppliers. We believe that industry should focus on responding to the calls for certification of green products which have been criticised for confusing customers. This should include, where appropriate, verification of the source of the energy provided when part of the product specification.

We believe that to adopt banding for all tariffs goes much further than we had envisaged under green supply guidance and could have unintended consequences that have not been fully thought through. Indeed, individual fuel mix disclosure for all supply tariffs cannot be provided to the customer at the point of sale other than on an indicative basis and could serve to further confuse rather than help customers make a decision about which supplier and which energy product to choose. We also

consider that implementation of this aspect of Ofgem's proposals would raise significant costs and systems issues.

We are working under the auspices of the Energy Retail Association with all suppliers to develop the detail of the scheme. To help stimulate discussion, we produced a green supply certification straw man which we have attached at Appendix 3. Whilst six months is a challenging timescale on which to develop the scheme we do not consider this to be unachievable. In principle we are supportive of the proposal that the scheme should include provisions to ensure auditing and verification of claims and that a quality mark should be created to publicise the scheme. However the guidelines should not be prescriptive about the detail of the scheme. Instead, the scheme should be able to evolve in the context of the competitive energy supply market.

I hope that our comments are helpful. If you would like to discuss any of the points raised in more detail, please give me a call.

Yours sincerely

Katherine Marshall
Regulation Manager

Appendix 1: Green Supply Guidelines – Consultation Questions

Q1: Do you think that the provision of greater information will empower customers to make more informed decisions regarding their environmental preferences associated with supply tariffs, thereby providing an indication to suppliers of customer demand for renewable or low carbon forms of generation?

We agree that in order to secure customer confidence in suppliers' green products the provision of more information and transparency about the products offered is essential to enhance customers' understanding. However, in seeking to achieve this Ofgem should not be prescriptive about the way that suppliers communicate with their customers. We are concerned that what is being proposed would overly restrict the way that suppliers market renewable or low carbon tariffs to customers and could act as a deterrent to supplier innovation in future green product development.

Ofgem's information provision proposals within the revised guidelines appear to be reintroducing more formal regulation into the competitive energy supply market which is clearly inappropriate. We disagree with an approach which puts the onus on the customer to understand the complexities of the "green" or low carbon energy supply market. It is our firm view that the onus should be on the supplier to obtain accreditation with the customer only having to know whether accreditation was achieved.

We agree that it is important that customers are not confused about the products that are made available but this must be balanced against information overload. More information does not necessarily mean less customer confusion. The more curious customer will be able to obtain all the additional information they need by understanding the accreditation process and by asking their supplier or the scheme operator for further detail. The key therefore is in the design of the accreditation process and customer awareness of the scheme which gives the customer confidence that any claims being made are genuine.

To facilitate this, we believe that, as a minimum, some standard information should be supplied by the certification scheme through channels that are accessible to all customers (e.g. website, Direct Mail), rather than at supplier level. We have set this out in more detail in Appendix 3. This will also ensure transparency and consistency of information available to customers. By using the certification scheme as the portal of information it will provide a point of reference if customers require further information, whilst ensuring that costs to customers from suppliers are kept to a minimum. It will also help develop consumer confidence.

We believe that the level of information proposed should not always be a prerequisite at the point of sale unless the customer requests it. If the industry achieves its objectives in designing a robust accreditation scheme the customer should have confidence in the tariff if the supplier confirms that the tariff has been through the accreditation process. The current proposals ignore that the point of sale will vary: some customers sign up online, some by phone, and some on the doorstep.

In any event, as the supplier is required under its licence to take all reasonable steps to bring the Principal Terms to the attention of a domestic customer before entering into a contract, we consider that it would be more appropriate for suppliers to provide such information to customers as part of the confirmation or fulfilment process, where customers have an opportunity to examine supporting information and contact the supplier if they have any questions. They also have the right to a cooling off period such that if they change their mind they do not have to go ahead with the tariff.

We are also firmly of the view that neither the guidelines nor the certification scheme should make judgements or endorsements of particular product types or technologies. It is not the role of the guidelines to stimulate investment in renewables or low carbon technologies. This is properly left to the rigours of the competitive market to respond to customer demand and for industry to consider this in the context of wider Government policy initiatives.

We are therefore concerned by Ofgem's proposal to introduce carbon banding of the energy source for all tariffs offered by suppliers. We believe that this goes much further than green supply guidance and that instead industry should focus on responding to the calls for certification of green products. The establishment of an independent certification scheme that is open to all suppliers will give customers confidence that the claims made by energy suppliers are genuine because they have to be verified. If

the information is retrospective, as it inevitably will be for fuel mix disclosure type information, we do not believe that it will be that helpful to the customer in terms of making informed decisions and would be subject to heavy caveats which might simply serve to further confuse. Furthermore, we consider that implementation of this aspect of Ofgem's proposals would raise significant costs and systems issues.

Q2: Do you consider it appropriate for the guidelines to be voluntary where companies "sign up" to comply with both the guidelines and accreditation schemes?
In a competitive market environment where there is no regulation of tariffs it is indeed appropriate that the guidelines are voluntary. We do not consider it necessary for companies to "sign up" to the guidelines although we would expect the accreditation scheme to have suitable governance arrangements in place in relation to the use of the accreditation mark by suppliers on, for example, their websites or marketing material.

In Appendix 2 we have attached our suggestions for what should be included within the guidelines.

Q3: Do you think that the guidelines, as currently drafted, are appropriate for non-domestic customers or would changes be required to facilitate this?
Whilst we agree that the guidelines would require minimal adaptation to apply to the non-domestic sector we believe that non-domestic customers are likely to be more interested in low carbon banding. It would not be practical or desirable to apply for certification for all non-domestic tariffs, particularly as they are generally negotiated on a case by case basis. The customer switching process is different and therefore we question whether there is a need for it. We believe that there may be a place for the certification scheme at the SME customer end.

Notwithstanding these comments, there could be scope for expanding the scheme in future to the non-domestic sector if demanded by customers.

Q4. Do you think that the guidelines as currently drafted are useful for companies to market their corporate social responsibility?
We agree that environmental credentials are an aspect of a company's corporate social responsibility. For customers, particularly non-domestic customers, it may also be a consideration. This is why it is important for that sector that customers are clear that a LEC is not the qualifier to authenticate a renewable supply. Going forward, other initiatives such as the proposed Carbon Reduction Commitment and DEFRA's Greenhouse Gas Reporting framework will undoubtedly influence customers' decision-making and demand for energy products with environmental benefits.

Consideration could also be given to whether parties other than suppliers, such as non-domestic customers, could use the certification scheme's quality mark on their own material to reflect their environmental energy purchasing decisions.

Q5: Do you consider that it is appropriate for separate sets of guidelines to be created for tariffs sourced from renewable generation and those sources from non renewable low carbon generation?
It is important to differentiate between a renewable source and a low carbon source to ensure that customer confusion is minimised and to maintain transparency of information, since customers' preferences and incentives will be different. We do believe that from the customer's perspective separate schemes may create additional confusion, particularly as it is widely acknowledged that renewable technologies are zero carbon. It is therefore our preference for one overarching set of guidelines and one certification scheme which could have separate accreditation components for renewable, carbon and 'additionality'. We would also propose that the term 'Additionality' no longer be used but instead be referred to as 'Other Environmental Benefit' or similar to facilitate customer understanding.

Q6: Do you think that it is appropriate for suppliers to provide information to customers regarding the contributions that they are already making to Government sponsored environmental programmes?
In the interests of transparency we agree that suppliers should make information available to customers and other stakeholders about Government policy initiatives relating to the environment and where appropriate this could include the costs of such initiatives. However, as stated above, there is a balance to be struck between providing customers with the information that they need to make an informed choice about their energy supplier or tariff type and the complex rules that underpin these initiatives.

It is our understanding that for the generality of domestic customers they wish to have confidence that the claims being made by suppliers about their green products are genuine. This will be achieved via the design and implementation of the certification scheme and the use of the quality mark. In our certification straw man we have proposed that there could be a portal of standard information which would be made available to customers by the scheme operator. Such an approach does not preclude the curious customer from obtaining additional information from any or all of the scheme certifier, the Ofgem website (where there is already a considerable amount of explanatory information) and their supplier. Notwithstanding, we firmly believe that it should be left to the supplier's discretion as to how such information is communicated and to whom. The successful suppliers will be those that get the product design, marketing and information balance right as they will acquire the most customers and have the best retention rates. This is the most appropriate framework in the competitive market.

Q7: Do you consider that information regarding the environmental benefits associated with "green" supply tariffs should be provided to customers in a standardised format and if so, what key information should be made available to suppliers to customers at the point of sale?
As stated above in response to questions 1 and 6, since there are varied channels via which suppliers acquire customers it is impractical to deliver standard information in a standard format to all customers at the point of sale. We also consider this to be inappropriate and onerous within the competitive market environment. In addition, such a requirement would cut across existing licence obligations and marketing guidance such as that of the ASA. Furthermore, if suppliers were to provide the information proposed in 3.24 on the non-renewable tariffs customers could be confused and assign attributes to them that apply only to renewable tariffs.

What we do believe to be desirable, as proposed in our certification straw man, is to ensure the certification scheme has a portal of standard information that all suppliers can sign on to. Such information could include the following: -

- What does a supplier need to do to gain the individual 'Quality Mark'(s)
- What is Renewable Sourced Energy
- What is Low Carbon Sourced Energy
- What is 'Other Environmental Benefits' (formerly referred to as Additionality)
- How does the certifier ensure the claims are correct
- What happens if a claim is incorrect
- Routes to make a complaint
- Alliances to any other scheme
- Supplier's Environmental Charges

Q8: Should evidence of supply be linked to the Fuel Mix Disclosure obligations, with the sub-division of renewable generation to identify a particular technology or source?
A Renewable Energy Guarantee of Origin (REGO) as the qualifier of renewable supply fits well in both the domestic and non-domestic marketplace. We believe that a REGO or European Guarantee of Origin (GoO) should be provided and that double-counting cannot happen if they are used to demonstrate the energy source. At this stage we consider that Levy Exemption Certificate (LEC) retiral (where a REGO has an associated LEC) is not necessary for the non-domestic sector. The rationale for proposing this is the incorrect perception that LECs guarantee a 'renewable supply' even though there is a separate market for LECs where they are sold as financial instruments without the REGO. We also agree that LECs should not be used as proof of renewable supply in conjunction with REGOs as this would exclude otherwise valid renewable energy sources with zero carbon intensities, such as large hydro.

It is appropriate that renewable sourced generation is demonstrated via the REGO and GoOs (where from Europe) and that low carbon sourced energy is evident via the Generator Declarations. If suppliers wish to go beyond the Fuel Mix Disclosure obligations to provide greater transparency then of course they are free to do so. If a supplier is making a claim about a particular technology source, then this will need to be appropriately verified under the scheme.

Q9: Should LECs be provided by suppliers in respect of renewable or low carbon tariffs where available?

Whilst this is a detail to be finalised within the certification scheme, at this stage we consider that Levy Exemption Certificate (LEC) retiral (where a REGO has an associated LEC) is not necessary for the non-domestic sector. The rationale for doing this with a domestic sale is to remove the possibility of double-selling the same 'renewable electricity' in both the domestic and non-domestic market, where LECs may be perceived as a 'renewable supply' even though there is a separate market for LECs where they are sold as financial instruments without the REGO. LECs should not therefore be used as proof of renewable supply. We also agree that LECs should not be used as proof of renewable supply in conjunction with REGOs as this would exclude otherwise valid renewable energy sources with zero carbon intensities, such as large hydro.

Q10: What, in your opinion would be the costs associated with the administration of a centrally administered "green" fund?

A centrally administered fund is not our preferred option as it reduces flexibility in product offerings from 'Other Environmental Benefits'. Should such a process be adopted, this should be put out to tender to gauge accurate costs from the relevant areas of expertise. Instead, our preference is for individual suppliers to continue to operate their own funds. Either way, if a supplier was making a claim about a fund this would of course need to be independently verified by the scheme operator. We therefore believe that such details should be further developed as part of the design of the certification scheme.

Q11: Do you agree with our assessment of the five options available to measure additionality including BE's and Centrica's proposals?

We agree that any definition of additionality should be that it will be demonstrated where there are environmental benefits beyond that required by existing legislation. However we firmly believe that it is the role of the certification scheme to define and verify 'Additionality', which should not be limited but should allow for broad innovative offerings that have genuine other environmental benefits in addition to renewable or low carbon energy sources. For credibility qualifying 'Additionality' could obtain a separate quality mark in order to give customers confidence that claims made can be substantiated and do offer an extra environmental benefit. We also suggest that it is not for the scheme to apply any weighting to additionality but to ensure that the customer has transparency of what is being offered. The term 'Additionality' should therefore be replaced with a more meaningful term that relates to other qualifying environmental benefits, since demand for renewable supply is additional where in exceeding supply will provide the signal for developing further renewable generation.

We agree that ROC retiral is a short lived outcome within the Compliance Period where the Recycling Payment value is increased and no long term signal is provided to drive new developments. Use of this should be optional.

As discussed above a centrally administered fund may limit the products that can be offered within the marketplace.

Q12: Do you think it is appropriate that renewable tariffs should comprise 100% renewable electricity or a stated percentage?

As long as it is clearly visible as to the percentage of renewable supply being offered (such as within the quality mark), there should not be a restriction and therefore both alternatives should be available. By definition supplies at 100% would probably be more competitive in the niche market place.

Q13: Is it appropriate to rate supply tariffs by their carbon intensity to allow an at-a-glance comparison of different offerings made by each supplier as well as competing tariffs across different suppliers?
As indicated above we believe that to adopt banding for all tariffs goes much further than green supply guidance and could have unintended consequences that have not been fully thought through. Indeed, it is not practical to provide carbon intensity for all tariffs since sources of brown energy are currently quantified retrospectively via the Fuel Mix Disclosure and reflect the supplier's entire generation mix across all customer groups. Hence for tariffs other than renewable or low carbon, the energy source cannot be allocated to one particular carbon band and could only be provided on an indicative basis. We are not convinced at this stage that this will necessarily help customers make a decision about which supplier and which energy product to choose. We also consider that implementation of this aspect of Ofgem's proposals would raise significant costs and systems issues.

Instead, we believe that industry should focus on responding to calls for the certification of green products to address the concerns that customers are confused. The use of an individual quality mark with possible distinction between zero and low carbon as part of the mark should be considered for eligible tariffs. Information regarding carbon intensity bands for different generating technologies still has value if held by the certifier as part of the portal of information offered.

The approach proposed also ignores the potential for gas supplies to be offset as it focuses solely on electricity products.

Q14. What is an appropriate treatment for electricity that is not supported by a REGO or generation declaration in order to calculate a tariff's emission intensity?
Since it is desirable to have a quality mark for zero/low carbon at the tariff level rather than the carbon intensity and for only those tariffs that the source can be identified such as renewable or low carbon, we believe there should not be any other means of identifying the electricity other than those already stated: REGO, GoO and Generator Declarations.

Q15. Is it appropriate to calculate carbon intensity using standardised emission Factors at the point of generation, and recognising the lower emissions of certain technologies e.g. CCS and CHP?
We suggest that for the domestic sector it will be more practical to have a carbon quality mark rather than a set of bands with visibility of either zero carbon or low carbon. As stated previously there is also still value in identifying where the carbon intensity of different generating technologies lies.

The carbon intensities of generating technologies should be holistic enough to consider emissions as a result of fuel inputs and technologies used, so for example Good Quality CHP can be recognised as being lower carbon technology than congenital CHP.

Q16. Should CCS be treated as a low carbon technology or should the carbon sequestered be included in the calculation of carbon intensity?
CCS should be classed as low carbon, since the technology allows reduced carbon emissions. As this is experimental technology advice should be sought on carbon intensities expected as a result of implementing the technology.

Q17. Are the illustrative bands presented in this document appropriate? If not, how should they be amended?
Banded values should be assessed by an independent party with expertise in carbon intensities.

Q18. Who should be responsible for setting the low carbon bands?
Banded values should be assessed by an independent party with expertise in carbon intensities.

Q19. Should the bandings adjust over time to reflect a growing commitment to reduce the carbon intensity? Are the 2020 or 2050 targets the most appropriate basis on which to make these adjustments?
To ensure longevity the EU 2020 GHG target should be used to evaluate carbon bands rather than the current UK policy targets, which may be at greater risk of change in the long term.

Q20. Do you agree with our proposals to progress compliance with the guidelines and development of the accreditation scheme?
We are very supportive of the concept of green supply guidelines. We also agree that in order to secure customer confidence in suppliers green supply products the guidelines should be updated and developed such that they act as an umbrella framework under which a new certification scheme would operate. In keeping with this principle, the guidelines should be sufficiently broad and flexible so that they can accommodate changes in the competitive market without needing to be revised frequently. The introduction of a certification scheme that is open to all suppliers will provide customers with assurance that claims made about the environmental benefits of their products have to be verified. The wide promotion of the scheme and the use of a quality market should therefore boost consumer confidence in green supply products.

In appendices 2 and 3 we have set out more detailed comments on the draft guidelines and the development of the certification scheme. As stated previously we are concerned that Ofgem's information proposals are overly prescriptive and risk inhibiting future product development. We therefore do not agree with the timescales that have been suggested or that suppliers should agree a standard format of information within four weeks of publication. Our alternative is that a standard portal of information would be provided by the certification scheme which could be endorsed by Ofgem and consumer groups.

We are working under the auspices of the Energy Retail Association with all suppliers to develop the detail of the scheme. To help stimulate discussion, we produced a green supply certification straw man which we have attached at Appendix 3. Whilst six months is a challenging timescale on which to develop the scheme we do not consider this to be unachievable as the industry has a good track record in delivering such initiatives as demonstrated by the success of the Energy Supply Ombudsman. In principle we are supportive of the proposal that the scheme should include provisions to ensure auditing and verification of claims and that a quality mark should be created to publicise the scheme. However the guidelines should not be prescriptive about the detail of the scheme. Instead, the scheme should be able to evolve in the context of the competitive energy supply market. Timelines provided for the development of the certification scheme should consider the impact of a formal external tender process that may be required in order to appoint a certifier.

Once the scheme has been established we also consider that suppliers would need to maintain certification once it had been achieved and that the certifier, not Ofgem, would monitor compliance with the scheme.

Additional comments
For Renewable Supply, is there a further alternative where a supply is 'Fund based only' or 'Demand Reduction Focused?'

Premiums to be applied to green offerings should be supplier determined and not prescribed by having 'additionality.' If customer demand for renewable energy exceeds supply this will drive new renewable generation and is by definition additional.

The exclusion of biomass in top band Carbon Intensity band A is based on solid bio fuels which has differing inputs to biomass. Biomass is shown in same category as coal but what of dedicated biomass using energy crops? Is this then referring to co-firing?

Carbon Intensity Bands should be evaluated independently to ensure clarity.

Extension to non-domestic customers refers to DEFRA's current proposals as including a requirement to retire ROCs to apply a zero conversion factor for renewable generation. This is incorrect as

DEFRA's June 2007 Greenhouse Gas Conversion Factors for Company Reporting Guidelines states that LECs should be used as the proof of a renewable source contract. We understand that DEFRA is currently stating its Guidelines will be updated following the outcome of this Ofgem consultation. In our view it should be recognised that the REGO is the most effective identifier of renewable energy since some valid sources of renewable energy are not eligible for LECs. This should therefore feed through to the Greenhouse Gas reporting criteria for applying the zero conversion factor to harmonise the Greenhouse Gas Reporting Guidelines and the Green Supply Guidelines.