

27 August 2008

Hannah Cook
Ofgem
9 Millbank
London SW1P 3GE

Dear Hannah,

THE GREEN SUPPLY GUIDELINES: UPDATED PROPOSALS

British Energy is the UK's largest low carbon generator of electricity and the only major low carbon, baseload generator of electricity. It owns and operates the UK's eight most modern nuclear power stations with a combined capacity of approximately 9600MW together with the 2000 MW Eggborough coal-fired power station. We are proud to play a key role in helping the country meet its climate change targets. Last year our nuclear generation avoided the emission of almost 35 million tonnes of carbon dioxide, when compared to the prevailing fossil mix. This is equivalent to removing around half of the cars from the UK's roads. British Energy is also the largest supplier of electricity exclusively to the UK's industrial and commercial (I&C) sector.

It is in this context that British Energy welcomes the opportunity to comment on Ofgem's proposals to revise its Guidelines for suppliers in relation to green supply offerings, as set out in the above consultation paper dated 16 July 2008. Please note that British Energy is also co-signatories to an industry response on this issue. This was co-ordinated by the Energy Retail Association (ERA) who are representing most suppliers based on our combined efforts to date to develop with Ofgem a verification scheme capable of underpinning the Guidelines. Rather than repeat the points made there, we therefore request that this response is also read in conjunction with that letter.

Overview:

We support without reservation the broad intent of these Guidelines, namely to help the UK meet its climate change and related targets by removing confusion and suspicion and increasing transparency and confidence in this area. This will allow customers to make informed choices about exactly what they are purchasing, whilst removing the potential for them to be misled. We do however have some serious reservations about the way in which Ofgem are currently proposing to do this, which if not changed could actually be counter-productive. It could create even more potential confusion, particularly in the I&C market, and could also undermine the business models of some of the most innovative and environmentally conscious niche suppliers in the market.

For the reasons set out herein the Guidelines should:

- **not just cover renewables but all low carbon offerings**
- **not cover offerings to I&C customers; and**
- **include information on the source / carbon content of the generation underpinning the supply offering**

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Competitive Effects of Customer Pull

A basic concept underpinning competitive markets is that customer demand for a product in short supply will ultimately increase the supply of that product. Ofgem's proposed approach in the latest version of these revised Guidelines effectively rejects this fundamental principle for renewables and potentially other low carbon generation. We believe this is erroneous, and note that no evidence or analysis has been presented by Ofgem as to why customer pull would not result in any additional deployment of these technologies.

On the contrary, there are good reasons to believe that customer pull may have a valuable role to play in helping reduce the UK's carbon intensity by bringing forward additional renewable and other low carbon generation. From our experience in supplying the I&C sector, we know that some of these customers are prepared to pay a premium for this kind of generation. This will certainly provide improved investment signals – even if this may only currently be at the margin for renewables. By removing the ability for suppliers to offer willing and well-informed customers electricity that is verified as being matched by the equivalent volume of renewables or other low carbon generation, this signal will be lost.

Furthermore, this proposed approach will also fundamentally undermine the business models of a number of well-regarded and reputable smaller suppliers who have entered the market (and they are almost the only suppliers who have done so) by offering mainly renewables backed supply to their customers. In a competitive market, these are exactly the sort of new entrants that should be encouraged rather than undermined and penalised.

For these reasons that the Guidelines should include fuel mix disclosure / carbon content information on the source of the generation underpinning the supply offering.

Coverage of the Guidelines

In our experience arguments about customers being mislead or confused over green or low carbon offerings do not extend to the generality of I&C customers. It is clear to us that, in contrast to the domestic sector, customers in this segment of the market are generally well-informed and understand these issues very well. Nor do we accept that I&C consumers are only concerned about additionality from their supply offering. Our view, and one which has been supported throughout this consultation period, is that I&C consumers are primarily looking for three levels of information about their energy supply: its carbon content, whether or not it is from renewable source and that any claims that may be made about additionality are robust and verified.

That being true, any Guidelines applying to I&C customers should concentrate on these issues and thereby ensure that consumers can answer the questions that they have about the tariff or product. This will then allow them to make informed choices about how they themselves deal with the challenge of climate change, rather than effectively delegating this to their electricity supplier. It is important that in this way customers are encouraged to choose how they achieve emissions reductions, from the full range of options available.

Overlap with Other Initiatives

The proposed alignment with the recent changes in Defra's voluntary carbon reporting guidelines fails to recognise that many of the organisations reporting their carbon footprint are global in their structure and therefore use other reporting protocols. Many of these alternatives require more accurate information about the carbon content of their electricity source than would be provided under this scheme. Furthermore, given that Defra plans to consult further in the autumn on carbon

reporting for I&C customers it is premature to try and devise Guidelines which cover this sector now.

Under Ofgem's proposals, it appears suppliers can continue to legitimately supply LEC-backed renewables as climate change levy (CCL) exempt tariffs but will not apparently be able to market them as green. Although Ofgem seems to suggest that green tariffs and CCL exempt tariffs are different products which can co-exist, to many business customers, the two are synonymous. The marketing of both green tariffs under the Ofgem scheme and LEC-backed renewables will certainly lead to confusion in the business market (both SME and I&C markets). Consumers should be able to purchase a tariff that is both green and CCL exempt but this is not an option under Ofgem's guidelines. This anomaly needs to be addressed, or this sector excluded from the coverage, before the Guidelines are finalised.

For these reasons, it is our view that in their current form it would not be appropriate for these Guidelines to be applied to offerings to I&C customers. The current protection against unjustifiable or misleading 'greenwash' claims afforded by the normal routes to the ASA for these customers should be sufficient.

Timescales

Given both the length of time that has already passed during this process, the continuing level of disagreement from many of the parties, and the understandable complexity of devising a robust verification scheme, we believe that the proposed timelines outlined here are completely unrealistic. This view is supported through our experiences to date working with the ERA on establishing a verification scheme.

If you would like any further information, or wish to discuss any of the issues raised here, please do not hesitate to contact me.

Yours sincerely



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