



To all with an interest in CERT  
and CESP

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*Promoting choice and value for all gas and electricity customers*

Date: 31 January 2013

Dear Colleague

**Assessment of mitigation actions associated with the Government's Carbon Emissions Reduction Target (CERT) and Community Energy Saving Programme (CESP)**

This letter sets out details of the way the Authority and Ofgem<sup>1</sup> will approach the assessment and timing of mitigation actions taken by obligated parties under the Government's Carbon Emissions Reduction Target (CERT) and Community Energy Saving Programme (CESP).

This letter reiterates and builds on two previous open letters issued by Ofgem: the first was issued on 21 September 2012<sup>2</sup> (henceforth referred to as the September open letter); and the second was issued on 20 December 2012<sup>3</sup> (henceforth referred to as the December open letter). As set out in both previous letters, any party that did not deliver all the required measures by 31 December 2012 is, as of 1 January 2013, in breach of their legal obligations and now at risk of enforcement action. Mitigation action is not a substitute for compliance with a party's obligations, although Ofgem will take it into account when deciding whether to open an investigation and, if appropriate, impose a penalty. To be clear, obligated parties that have not complied by 31 December 2012 run the risk of investigation and possible penalty even if they take mitigation action; where investigations are launched and breaches are found, mitigation actions can be taken into account when determining the size of any resulting penalty.

The December open letter noted that we intended to publish information relating to the application of bonuses, caps and uplifts to mitigation activity before the end of February 2013. This letter responds to that commitment.

Specifically, this letter provides clarity in two areas:

- The application of CERT and CESP bonuses to mitigation actions
- The timing of the delivery of mitigation actions

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<sup>1</sup> Ofgem supports the Authority in its role as regulator of the gas and electricity industries in Great Britain. This includes supporting the Authority in its enforcement role.

<sup>2</sup> Which can be viewed on our website here:

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=264&refer=Sustainability/Environment/EnergyEff>

<sup>3</sup> Which can be viewed on our website here:

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=269&refer=Sustainability/Environment/EnergyEff>

## **The application of bonuses, caps and uplifts to mitigation actions**

In our September open letter we said that mitigation actions which match or are a close match to those undertaken under the CERT and CESP schemes will have greater weight in our assessment than other mitigation actions. Actions which under CERT and CESP schemes would have attracted bonuses, caps and uplifts are included in this. This only relates to continuation schemes as defined in our December open letter.

## **The timing of the delivery of mitigation actions**

Our September open letter noted that in considering mitigation actions, we will give most weight to CERT/CESP measures<sup>4</sup> that are delivered shortly after 31 December 2012. We consider that earlier delivery of energy efficiency measures is generally in the interests of consumers and that the timeliness of mitigation action is an important factor, not least to avoid any adverse impact on the delivery of ECO and suppliers compliance with ECO obligations. We therefore expect any mitigation actions to be undertaken – and reported to us – promptly. Ofgem will report to the Secretary of State on 30 April 2013 on the extent to which obligated parties met their CERT and CESP obligations by 31 December 2012. This will also be a key date for assessing the mitigation actions taken by the parties.

Our December open letter set out details of Ofgem's processes for the administration of mitigation actions delivered by obligated parties after 31 December 2012. In line with considering early delivery of energy efficiency measures shortly after 31 December 2012 to be generally in the interest of consumers, the last date suppliers can submit data to Ofgem for review under the Mitigating Action process is 31 May 2013, these reports should include activity to 30 April<sup>5</sup>. After this point, Ofgem intends to cease its CERT & CESP mitigation review arrangements. Obligated parties will then bear responsibility for the independent validation of the mitigation activity that would be required to be supplied to Ofgem, as well as the costs of undertaking and reporting this to Ofgem. Any such arrangements would need to be agreed with Ofgem in advance.

Yours sincerely

**Sarah Harrison**

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<sup>4</sup> We use the term 'CERT/CESP measures' to describe measures that are approved qualifying actions under CERT or CESP respectively. However our use of this term should not be taken as implying that late completion of qualifying action will be counted towards CERT or CESP obligations.

<sup>5</sup> As set out in the Annex to the December open letter, for the mitigation action period it was agreed that all obligated parties wishing to undertake CERT and/or CESP mitigation actions would submit progress reports to Ofgem at the end of each month describing the activities completed in the previous month