

David Hunt
Retail Markets
Ofgem
9 Millbank
London
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21 December 2012

The Retail Market Review - Updated domestic proposals (Ref. 135/12)

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, coal and gas-fired electricity generation, renewables, and energy supply to end users. We have over five million electricity and gas customer accounts in the UK, including residential and business users.

Our detailed responses are set out in the attachment to this letter. Should you wish to discuss any of the issues raised in our response or have any queries, please contact Claire Antill on 0207 752 2194, or myself.

I confirm that this letter and its attachments may be published on Ofgem's website.

Yours sincerely,



Paul Delamare
Head of Downstream Policy and Regulation

Attachment 1

Summary of EDF Energy's response

EDF Energy supports Ofgem's objectives of providing energy consumers with simpler choices and clearer information whilst ensuring that they receive fair treatment from all suppliers.

EDF Energy wishes to compete in a market where consumers are engaged and able to make the right decisions with the minimum level of effort. EDF Energy has ambitions to grow and be the first choice for consumers in such a market. In our response we highlight both where we believe the proposals will achieve the intended objectives, but also note the amendments required to ensure their effectiveness and reduce the probability of unintended adverse consequences.

To deliver effective and appropriate simplicity for consumers, Ofgem needs to fundamentally change the way consumers compare prices. A move to a national unit rate tariff structure with no standing charges would deliver the simplest price comparisons for consumers, and is a path that Ofgem has not yet explored. Such an approach would also remove the need for the TCR price comparison metric.

EDF Energy believes the proposed TCR metric will confuse consumers, and complicate rather than simplify the decision making process. The proposed regional weighting is unacceptable and will result in distorted price comparisons between suppliers, contravening the advertising code. We also foresee confusion for consumers when comparing TCR rates and consumption bands with the unit rates and actual consumption on their bills. Consumers who move between consumption bands are also likely to be misled by the resulting change in their TCR rate.

The proposed limits on tariff proliferation will make the decision process easier for consumers. However, the rules should also support alternative routes to market for suppliers and leave open alternative ways of engaging consumers, such as the use of white label offerings and collective switching. Use of trusted brands is particularly important at a time when trust in energy companies is low.

To protect consumers, the rules need to ensure that tariffs cannot be targeted exclusively at a privileged group and must be on offer to all consumers, including those tariffs offered as part of a collective switch.

EDF Energy supports the banning of variable discount tariffs, but believes that the proposals on allowable price tracking indices are likely to unnecessarily restrict consumer choice. Ofgem should instead set out generic rules governing the choice of transparent and independent indices, including tracking a market index of supplier prices. The proposal to allow pre-agreed price alterations in fixed term offers is likely to confuse consumers and complicate tariff comparisons and should not be permitted.

EDF Energy supports the standardisation of language in communications to customers which should improve consumers' understanding through greater simplicity of message and familiarisation of terminology. However, we believe the current proposals go too far in standardising copy and layout. We believe that this is an area where both suppliers and Ofgem should work together to develop the proposals, but suppliers should retain the flexibility to determine copy and layout.

Signposting of a consumer's current supplier's cheapest tariff should encourage greater consumer engagement, but this should be based on their current meter type, in order to provide the clearest, simplest, comparison. In particular, any attempt to identify whether a multi-rate tariff is better for a single rate customer risks misleading the customer as we will not have time of use information.

We believe that the annual statement is the best platform for providing this comparison and prompting consumers to engage in the market. We are concerned about the cost and unnecessary complexity that providing this information on consumer bills would add, and believe the bill should remain as simple as possible.

Fair treatment of consumers is central to EDF Energy's Customer Commitments. We welcome the introduction of the Standards of Conduct and expect this to support the progress we have already made with our commitments. The general nature of the standards means that we will require further clarity on the necessary steps to ensure compliance and to interpret definitions, as well as the bespoke enforcement policy.

We remain concerned about the additional risk that arises from principles based regulation, and particularly that the omission of a two-stage enforcement process will result in an unnecessarily negative impact on consumer trust if investigations are announced before any proper analysis of a potential issue has been undertaken. A two-stage process, with a defined time limit for the first stage, mitigates this risk by allowing a reasonable period for discussion between Ofgem and suppliers, in order to agree any required actions before a formal investigation is launched. We believe this approach offers the best solution for building consumer trust and engagement in the industry.

EDF Energy does not support the proposed trial of a scheme requiring suppliers to notify consumers of the cheapest tariff in the market. EDF Energy has led the market by telling consumers if they can save more than £1 a week as part of its Blue +Price Promise tariff. However, we believe that Ofgem should assess the impact on consumer engagement of its core proposals for tariff simplification, clearer information and signposting of the supplier's cheapest deals, prior to considering further intervention.

EDF Energy recognises that many vulnerable customers are not able to engage in the market effectively. Therefore, we believe that Ofgem should encourage legislative changes to require all suppliers to adopt EDF Energy's commitment to guarantee its most vulnerable elderly consumers always benefit from its cheapest prices.

We also reiterate our call for Ofgem to establish, or endorse, an independent, not for profit, switching service targeted at helping more disadvantaged consumers engage with confidence. This should be funded by suppliers and importantly would provide consumers with the ability to engage via all common communication methods.

Attachment 2

The Retail Market Review - Updated domestic proposals

EDF Energy's response to your questions

CHAPTER: Two "Why the market needs reform"

Question 1: Do you agree with our characterisation of the problems in the retail energy market?

EDF Energy agrees that the number and complexity of tariffs on offer can present a barrier to consumer engagement. This is why, last year, we reduced the number of tariffs we offer to just two types – standard variable and fixed price and were one of the first companies to apply the same standing charge and unit rate structure to every tariff we offer.

The underlying cost structure of the market is the cause of much of the price complexity perceived by consumers. The regional differences are reflected in tariffs and lead to confusion for the consumer, as it makes comparison in national media difficult. In addition, the use of standing charges results in the necessity to understand consumption levels in order to calculate the overall cost of energy supply. The vast majority of costs are not incurred on a per customer basis and, therefore, their value as a means of ensuring prices are cost reflective is highly debatable. Outside of this, standing charges can be used to target higher consuming customers, disadvantaging lower consumption consumers who, in turn, are more likely to be vulnerable. Ofgem should explore the option of facilitating complete simplification of the market with the removal of both regional price differences and standing charges.

We also agree that the clarity and simplicity of information presented to consumers is crucial to build consumer confidence when engaging in the market. This is why EDF Energy has introduced a clearer and simpler bill in 2012 and is introducing an improved annual statement in 2013.

The low level of consumer trust remains a major challenge for the industry and continues to affect the levels of consumer engagement. EDF Energy launched its Customer Commitments in March 2012 in order to aid the rebuilding of trust with customers. We also believe that Ofgem, the Government, consumer groups and the media all have a role in building consumer trust in the industry.

Question 2: Do you agree with the findings of our evidence base?

EDF Energy agrees with Ofgem's findings that:

- Complex tariffs create a barrier to consumer engagement;
- Consumers are more likely to engage if provided with clearer and simpler information;
- There is a lack of consumer trust in the industry;
- There are high levels of consumer disengagement from the market.

However, we strongly disagree with the assertion that it is only new entrants and small suppliers who are disadvantaged by the lack of consumer engagement. EDF Energy wants to see a market with engaged consumers, in order to fulfil its ambition for growth.

We also disagree with Ofgem's statement that there is insufficient competition resulting in similar business strategies and that this results in suppliers adjusting prices at similar times by similar amounts. The level of profitability achieved by major suppliers, as evidenced in the segmental accounts, is below that of other major retail businesses, although profits are dominated by the two largest suppliers. EDF Energy's domestic supply business is only a third of the size of the market leader and suffers from a lack of economies of scale. In a market with a low level of competition, it would be possible for EDF Energy to price through this cost advantage to consumers, but this is clearly not the case.

CHAPTER: Three "Rationale for our package"

Question 1: Do you agree with our rationale for the proposed RMR package?

As stated in the summary of our response, we support the objectives of the RMR package to increase consumer engagement through providing consumers simpler choices, clearer information and fair treatment.

Question 2: What are your views on the proportionality of the proposed RMR package in the light of the evidence we have presented?

EDF Energy believes that Ofgem should explore going further with its proposals for simplicity and consider introducing a national unit rate structure for all tariffs with the prohibition of standing charges.

By contrast, the proposals for simpler and clearer information are disproportionately prescriptive and should be developed through consultation with suppliers and consumer groups. In order to retain a point of differentiation, suppliers should have the flexibility to adjust copy and layout but must ensure clarity for all consumers through the use of standardised terminology.

We strongly believe the removal of the TCR would improve the effectiveness of the overall package of proposals. The TCR adds another unit rate that will confuse, rather than aid, consumers' decision making.

We agree that the package of measures must address the needs of the most vulnerable consumers. However, the proposed market cheapest deal trial is disproportionate and is not sufficiently specific to the needs of the vulnerable group. A more targeted approach should include mandating additional price protection for identifiable groups of vulnerable consumers, such as that pioneered by EDF Energy under its commitment to guarantee its cheapest prices to vulnerable elderly consumers identified through the Warm Home Discount Scheme.

Question 3: Do you agree with our reasons for not proceeding with the alternative options set out below?

EDF Energy agrees with the reasons put forward to not proceed with the alternative options for tariff simplification, clearer and simpler information, and fixed term offers. We have highlighted in our responses below the amendments required to each of the proposals to ensure the objectives of each initiative are achieved.

We agree with the reasons for not proceeding with the alternative options for the Supplier Cheapest Deal. However, we disagree with the proposal to combine two of the options to provide tailored information, both on the customer's tariff, and on other options should they wish to change their preferences. We believe the "narrow" option, with an indication of potential savings for moving to direct debit would provide clearer information and a much more straightforward comparison for customers. We believe that providing information on other options would be more appropriately achieved through a discussion with the customer about their preferences and specific circumstances to avoid misleading or frustrating consumers.

In our response, we have highlighted the major flaws to the proposed TCR. The majority of these issues would still be present in the alternative options considered. However, this is not a sufficient reason to proceed with the TCR proposal. The variation in prices by region and consumption cannot be simplified into a single comparison metric. The removal of regional cost variations and standing charges, with the creation of a simple unit rate tariff structure, would present the simplest price comparisons for consumers.

We note that Ofgem appears not to have considered a flat national average as one of the options to deliver national TCRs. We strongly believe that the proposed regional weighting for calculating national TCRs would create a distorted price comparison and is not relevant to a new customer. In fact, any national TCR would be wrong for all consumers as only a regional rate can give a true comparison if prices are allowed to vary by region.

We disagree with the reasons given for not presenting the TCR in monetary terms (£/month, or £/annum) rather than as a p/kWh average rate. The p/kWh rate is likely to frustrate consumers, as it will not correlate with the p/kWh rate they receive on their bill. We believe that simplified price comparisons, based on national unit rates, will remove this risk of frustration. In the interim, we believe that a £/annum comparison gives the strongest message for consumers looking to engage, as demonstrated by Ofgem's own research.

We disagree with the reasons given to not proceed with the two-stage enforcement process for the Standards of Conduct. We understand that Ofgem may have concerns about companies delaying the discussion process, but this can be mitigated by the addition of time limits in the first phase. Ofgem has the opportunity to define the rules for a two-stage approach and should use these to address its concerns.

CHAPTER: Four "Tariff simplification"

Question 1: Are our rules to reduce the number of tariffs appropriate? Have we set the cap on core tariffs at the right level? Should a different cap be set for time-of-use tariffs? What derogations from our tariff cap would be appropriate?

EDF Energy supports the principle of reducing the number of tariffs offered to customers and believes it is appropriate to set a tariff cap. Ofgem needs to ensure that the rules for classification ensure an appropriate balance between simplification and maintaining choice for consumers. The current proposal will lead to the unintended classification of certain tariffs and will result in limiting choice, with no benefit to customers e.g. deemed tariffs, where the prices are the same as standard variable, but the supplier is legally required to offer different terms and conditions.

It is important that the cap is sufficiently future-proofed. We believe collective switching and white label tariffs are effective routes for increasing consumer engagement in the market. The proposal to allow an additional tariff for each collective switch should be replicated to allow an additional tariff for each white label offering. To avoid the potential exclusion of vulnerable consumers to access these offers, or potential misuse, suppliers should be required to make collective switching and white label tariffs available to all consumers. We want to work with Ofgem in order to develop additional rules that may be required to ensure these allowances promote engagement in the market, rather than provide opportunities to circumvent the tariff cap.

For standard time-of-use tariffs, such as Economy 7, the four tariff cap for each type of time-of-use meter would be appropriate. However, as highlighted by Ofgem this would have to be extended for each smart meter mode. Restrictions on smart meter tariffs would risk limiting the innovation that will be required from suppliers to deliver the consumer benefits of the smart metering programme. We suggest that Ofgem works with suppliers and consumer groups to determine how smart meter tariffs should be regulated in the future.

The appropriate level of the cap is subject to clarification from Ofgem over which tariffs would be classified as separate "open" tariffs. EDF Energy believes there are three types of classification for existing tariffs: open, closed and restricted. We believe that the tariff cap should only apply to open tariffs, but that Ofgem has a role to play in ensuring that restricted tariffs provide good value for consumers and are appropriately deployed by suppliers.

Open tariffs

These would include all tariffs that are actively offered to a consumer, in line with our understanding of the intention of Ofgem's proposals. We would support a cap that allowed four open tariffs on offer from each supplier.

Closed tariffs

Closed tariffs would include evergreen tariffs that have been offered specifically to support vulnerable customers such as Energy Assist, our legacy social discount tariff. Ofgem should provide derogations for closed tariffs that offer discounted rates for vulnerable consumers.

Closed tariffs would also include existing fixed term offers that have been withdrawn from sale.

Restricted Access tariffs

Restricted tariffs are offered by suppliers but only under specific circumstances and are not available to all consumers. This would include consumers with complex metering systems, deemed consumers, legacy staff discounts and restricted access tariffs targeted at specific groups of vulnerable consumers.

Some consumers require legacy time-of-use tariffs, as the tariff is linked to the design of their heating system, which may not function correctly on a standard or alternative time of use tariff e.g. Economy 7. Consumers are also supplied under legacy complex metering arrangements for which standard tariffs may be unsuitable or incomparable. Ofgem's proposals risk excluding these consumers from the market, and, therefore suppliers should be allowed to offer four tariffs for each of these types of meter or time-of-use

arrangements. We have provided more details of the legacy electrical heating system tariffs and legacy complex meter tariffs in our letter of 19 December.

EDF Energy also believes that all suppliers should attempt to identify consumers with night or off-peak consumption that suggests they no longer use an electric heating system, invite them to confirm this and, if true, switch to a standard tariff.

Deemed tariffs are also restricted and are not offered or promoted to new consumers. Suppliers are required to supply on deemed terms to consumers under the Former Tariff Customer Scheme. We are also required to supply on deemed terms for new customers who have not signed a contract, for example for a consumer moving into a property which is currently on supply.¹ EDF Energy applies the same rates as its standard variable tariff to these consumers. We see no reason why these tariffs should count as additional to standard variable within the tariff cap.

EDF Energy also offers restricted access to our Price Reassurance Scheme, whereby consumers, identified by the government within the Core group of the Warm Home Discount scheme, will automatically benefit from our cheapest prices. Under Ofgem's proposals, this could be classified as an open tariff. However, it is only available for consumers who meet the qualifying criteria and is not offered to new consumers.

We believe Ofgem should encourage Government to mandate all suppliers to match our commitment to ensure this vulnerable group of consumers, who are some of the least likely to engage, will still benefit from the lowest prices.

Assuming all appropriate derogations are made for closed and restricted access tariffs then EDF Energy would support the four tariff cap on open tariffs.

Question 2: What surcharges should suppliers be able to offer without this counting as an additional core tariff, and why? How could these be defined in a licence?

Surcharges should be allowed if they arise from a customer behaving in a particular way or asking for an extra service that adds a direct cost for which the supplier has no other fair or legitimate means of recovery other than through a surcharge.

These should be charges that do not arise from the simplest case of a contract to supply energy and receive prompt payment for that energy. By this definition, these charges will not arise for every customer. Examples would include charges for late payment or meter changes requested by the consumer.

EDF Energy agrees that surcharges should be uniformly applied across all tariffs that a supplier offers.

Question 3: Are our rules to simplify tariff structures and discounts appropriate? Should they only apply to open tariffs or be extended to cover dead tariffs too?

We support the proposal to simplify tariffs to standing charges and unit rates. Since March 2011, EDF Energy has implemented this structure for all of our standard variable

¹ Former Tariff Customers are pursuant to Part III, paragraph 23, of Schedule 7 of the Utilities Act 2000. The other deemed contracts cover the relationship between a supplier and customer created by paragraph 8 of schedule 2B to the Gas Act 1986 and/or paragraph 3 of schedule 6 to the Electricity Act 1989.

evergreen consumers and all fixed term offers. However, under our interpretation of the draft licence condition, suppliers would be required to change the tariff structure for consumers on historic fixed term deals. This is likely to result in an adverse variation for some consumers, and we believe suppliers should not be required to change the structure of these tariffs. The consumers would move to a tariff with the simplified structure at the end of their fixed term.

We also support the simplification of discounts to be consistent across all open tariffs. In addition to discounts for payment type and dual fuel, we believe that suppliers should be able to offer a discount for a consumer choosing to manage their account online. We believe that suppliers should also be able to offer a discount to credit consumers for prompt payment. The same discounts should be available across all of the supplier's tariffs and reflect the cost saving made by the supplier.

As highlighted in our response to question one, we have interpreted dead tariffs as closed and restricted access evergreen tariffs. We support the standardisation of tariff structures and discounts across all forms of tariff including closed and restricted tariffs.

EDF Energy agrees with Ofgem's proposal that suppliers should review their dead tariffs to ensure that customers are benefitting from their tariff and, if not, should be moved to the supplier's cheapest available evergreen tariff with supporting prompts to examine alternative tariffs.

Question 4: What categories of dead tariffs should be derogated from our proposals, if any? Are any other measures required to avoid any consumer harm?

For the avoidance of doubt, it is important that Ofgem clarifies what is meant by 'dead tariffs'. As above, we have assumed these include all closed and restricted access evergreen tariffs which are no longer openly available to new customers.

We believe that closed and restricted access tariffs that are legally required, offer discounted value to vulnerable groups of customers, or are required for specific consumer needs should be excluded from the four tariff cap.

Question 5: What would be the implementation issues and costs of our proposals?

We will respond on the implementation costs of the proposals within our response to the Request for Information to be submitted by 18 January 2013.

We have also highlighted in our responses above the issues we foresee in implementing the current proposals.

Question 6: Is our proposed timeframe for implementation appropriate?

We will respond on the required timeframe for implementation in our response to the Request for Information. This will be subject to Ofgem finalising its full proposals in March 2013.

CHAPTER: Five “Clearer and simpler information”

Question 1: What are your comments on the degree of prescription proposed, and on the design of the documents and messaging?

The overall objectives stated by Ofgem under the initiative for clearer and simpler information are communications that contain:

- a. Effective prompts to engage;
- b. The information needed to make informed choices; and
- c. All information in a clear and accessible manner.

We agree that these overall objectives are in consumers’ best interests and that, despite the significant improvements delivered by some suppliers, some communications still do not address these needs.

EDF Energy agrees that some degree of prescription in terms of content is required to ensure that all suppliers address these needs sufficiently and consistently. However, we believe that the degree of prescription proposed is not fit-for-purpose. The current design and messaging of the documents, in particular bills and annual statements, threatens to further confuse customers and actually decrease engagement with the industry.

The level of prescription to content, layout and messaging means that these documents are not future-proofed. Future changes from Ofgem, DECC, or otherwise, requiring information on bills and statements would necessitate a change to the supply licence. Alongside the RMR, there is the advent of Green Deal, proposals for QR codes, and the development of smart markets, none of which appear to be embedded within the proposed designs. The industry changes swiftly and we believe that the lack of flexibility in the prescription is not in the best interests of consumers, suppliers, or Ofgem.

EDF Energy supports the majority of the messaging and designs on price increase and end of fixed term notices (see question two). However, we are concerned that the proposed designs and messaging on bills and annual statements will confuse customers and further disengage them from the industry. We have recently undergone a bill re-design, as submitted in our separate response to the request for information, and our research supports that which was conducted by Ofgem: “customers want communications from their energy suppliers to be short or at least succinct, clear and easy to read/understand, personalised and as far as possible be free from ‘jargon’ and overly technical language” (SPA Future Thinking).

We have conducted further research which has shown that in the context of a complete bill, the designs proposed by Ofgem confuse customers for three primary reasons:

- a. The prescribed copy is too wordy and complex;
- b. The layout (particularly the bill) does not follow a logical structure; and
- c. It introduces complicated new jargon without simplifying existing terminology.

We have found that, although much of the prescribed content is useful, customers do not read it for the reasons listed above. In addition, the bulk and placement of the prescribed messages limits the amount of space dedicated to the needs of particular consumers: for instance, Direct Debit customers will see less information about how their payments are

calculated and customers receiving an estimate will see less information about how to read their meter.

Furthermore, we note that there is not enough space available on the proposed design for other legislated information required, such as the comparisons between bill periods required under SLC31A.

EDF Energy believes that a standard set of content requirements, terminology, and a reasonable time to implement, would allow suppliers the ability to create bill and statement designs that more successfully meet the varying needs of consumers than the proposed standard template by Ofgem. We want to fully engage with Ofgem to work constructively on this.

We will respond with our estimates of the cost and timeframe required for implementation of the proposals within our response to the Request for Information to be submitted by 18 January 2013.

Question 2: What are your views on the appropriateness of content requirements for each of the communication channels?

EDF Energy supports many of the proposals on content requirements for each channel. We have already commented that we believe suppliers should be allowed to determine the layout and some copy to ensure clarity.

Bills

Summary box on bills: we support the signposting of where to access impartial advice, as we believe it gives customers a sense of control. EDF Energy's response to Chapter six highlights our concerns on the duplicate, and potentially confusing, comparisons under the proposed supplier cheapest deal message. We do not believe complicated comparative personal projections should be included on bills. It is important to maintain simplicity on bills and we believe the cost to deliver this proposal would be prohibitive. Our cost estimate will be included in our response to Ofgem's information request.

In addition, EDF Energy does not believe we should be suggesting that the consumer should change supplier. We want consumers to feel valued in their relationship with us and this would undermine that.

EDF Energy disagrees with the proposed headline of "Paying more than you need to?". Ofgem's own research highlighted that this negative framing is considerably more likely to irritate customers and only slightly more arresting (1.30 of supplementary appendix). We strongly believe that the positive version of the same message "could you save money on your electricity?" would be more appropriate.

EDF Energy has concerns over the proposed reference to the information being required by the Regulator. This means little to customers and implies that the supplier would not share this information if it did not have to. This calls into question the level of trust in the customer-supplier relationship. We believe that this undermines suppliers' and Ofgem's efforts to build consumer trust and therefore should be removed.

Tariff Information: we support this in principle and have already implemented a tariff information box on our new bill design. However, the introduction of consumption bands and the TCR will add complexity rather than clarity.

Low/Medium/High user: our research shows that customers find this confusing and we believe that many customers will change between bills. It would be more robust if it is set annually based on the consumption of the whole of the preceding year.

TCR: we have explained our concerns with the proposed TCR in our response to Chapter seven below. However, we do not support putting this on bills for three reasons:

- Rather than reducing the jargon on bills, it adds a new term that is likely to confuse most consumers;
- The TCR could be confused with the unit rate, particularly when presented alongside detailed charges, as per the proposed design; and
- The TCR could change between billing periods if customers change consumption band, meaning customers may believe their prices have changed when there has been no change to actual rates.

Annual Statements

Graphical presentation of consumption: we support Ofgem's proposal to include a graphical representation of customer consumption on the first page of the annual statement. We believe that if the measured periods are quarterly, the graph will, by necessity, be based on estimates. This will be more prone to error and less engaging to the consumer than one based on actual readings (which was the version tested by Ofgem). We do not believe the move to a potentially less accurate quarterly summary would deliver any consumer benefit above a more robust annualised version.

Furthermore, some suppliers (including EDF Energy) do not bill quarterly for all payment types and will therefore incur development costs to enable retroactive seasonally-adjusted estimates. We aim to include this estimate in the response to Ofgem's information request.

Finally, an accurate quarterly analysis will be enabled with smart metering, and therefore we do not see the benefit of investing in a temporary quarterly solution that will use estimate readings and risk creating consumer confusion. We believe suppliers should be able to provide an annual comparison, in accordance with SLC31A.

Switching information: We believe the annual statement presents the most effective platform for engaging consumers, and we therefore support using this as the means to signpost the supplier's cheapest tariff and possible savings. We have made recommendations to improve the simplicity and effectiveness of the proposed message within chapter six.

We also note that the switching box in the example annual statement has the more positive headline "could you save money on your electricity?" and has also reduced the prominence of the statement about the regulator requirement and, therefore, support this version.

Tariff information: We support the introduction of standard tariff information on the annual statement. As for bills, we believe the introduction of consumption bands and the TCR will add complexity rather than clarity.

Low/Medium/High user: We have responded above in our comments on bills. We also believe that there is insufficient space allocated on the annual statement for all of the information required under the proposed SLC31, such as a detailed description of

calculations. In addition, when tested as part of the development of our new bill and annual statement, we found that consumers were confused by the descriptions of the detailed calculation for personal projections. We propose that the requirement to provide the detailed calculation is removed from the licence wording.

Green Deal placeholder: We do not believe the space allocated to Green Deal is sufficient to cover total costs as well as messaging about future savings, as per the regulation.

Personalised projections: We support the use of personalised projections in the annual statement, including the comparison with the supplier's cheapest deal as above. We have highlighted our concerns in chapter six over the proposed design of the message.

Key Contractual Information: we believe it is necessary to allow flexibility to include additional key contractual terms on a separate page to ensure relevant terms for all suppliers are included.

Jargon Explained: Our customers tell us this is useful, so we support it.

Price Increase Notice

EDF Energy supports Ofgem's overall objectives with regard to price increase notifications. Following consumer research in 2011, EDF Energy took steps to simplify and clarify its price increase communications.

EDF Energy is concerned with the proposed inclusion of the supplier cheapest deal messages in price increase notifications. The additional cost required to include this on price changes and the supporting IT investment will fall on consumers. We continue to believe that price notifications should include a prompt to engage with the market. However, it is possible that the cheapest supplier tariff may not be the best option for the consumer and a longer term fixed price tariff, although priced higher, may well offer better value for consumers. Consumers need to make their own judgments based on their appetite for risk and certainty. We believe that an indication of all the tariffs available, without personal projections, would give consumers the correct prompt to engage rather than signposting a tariff that may not suit their needs.

As with the other communications, we believe the inclusion of the TCR will confuse consumers, by presenting three p/kwh figures (old rates, new rates, new TCR).

We also believe that given the notice will serve as a prompt to engage, suppliers should be allowed to attempt to engage consumers through the inclusion of marketing materials with price change notifications. This is likely to result in more consumers engaging with the market or considering energy efficiency measures.

End of Fixed Term Notice

We support the majority of the information proposed for end of fixed term notices. We disagree with the proposed inclusion of the supplier cheapest deal message on these notices. Many consumers who have chosen fixed term offers value the price security offered by fixed prices. Longer term fixed price offers normally include a premium and are therefore unlikely to appear on the signposting of the cheapest supplier deal. This would ignore the specific needs of this group of consumers.

For this reason, we also disagree with the proposed exclusion of additional marketing information in these notices. Given the consumers have already chosen to actively engage in the market and have demonstrated a preference for a particular type of product, the supplier should be able to highlight offers that would be of value to the consumer.

Tariff Information Label

We support the bulk of the information that is presented in the tariff information label for presenting on the supplier's website, with only the following challenges:

- 'Tariff ends on' and 'price guaranteed until' seem to be the same field unless for pre-agreed price increases in fixed term offers. As detailed in our response to Chapter nine, we believe this type of tariff will be confusing for consumers and potentially mislead those looking to engage in the market.
- Estimated monthly cost has the potential to be misleading since costs are seasonal and consumers may mistake it for an estimated direct debit amount.
- The proposed TCR is likely to be confused for a unit rate and will not match the unit rate the consumer sees on the bill. Our response to chapter seven sets out our concerns in more detail.

Question 3: Should Ofgem explore further ways in which suppliers might increase the effectiveness of online/paperless communications?

We believe that consumers will increasingly choose to interact with suppliers through digital channels. We are therefore working to understand and develop effective online communications. We urge Ofgem to work closely with suppliers to ensure any regulation is flexible enough to move with the ever-changing digital landscape.

Question 4: Should Ofgem consider making further recommendations, or issuing best practice for enhancing the impact of Annual Statements by looking at messaging and co-branding of envelopes?

We are working hard to build trust with our customers, and urge Ofgem to be careful, through its prescribed messaging and actions, not to imply that consumers cannot trust their suppliers. We have raised our concerns over the proposed prescription on annual statements above. We do not believe co-branding will result in any significant impact on consumers, as it is unclear whether they would engage with the Ofgem brand.

Question 5: Do you agree with the view additional contractual information can be included on an additional page on the Annual Statement?

We believe that this is necessary as some key contractual terms are longer than others and the majority take up half-a-page at normal size 10 font.

Question 6: What are your views on the classification of dual fuel for the purposes of the template designs?

We believe that it is in dual fuel consumers' best interests to see best tariff advice split by fuel. However, this is likely to be more costly in terms of implementation and it will be more pragmatic in the short term to limit the number of billing calculations that our system needs to run.

Likewise, we know that customers will be overwhelmed by four or five comparisons, that this will reaffirm their belief that the industry is overcomplicated, and that this belief is ultimately a barrier to switching. We therefore propose that Ofgem limits the number of personalised projections required to the absolute minimum to provide simple choices for consumers.

Question 7: What are your views regarding including energy efficiency advice in Annual Statements?

EDF Energy agrees that the purpose of the annual statement, as stated in chapter five, is to “prompt quality engagement in the market by providing key information about energy use and its cost for a particular consumer making them comfortable and confident in assessing their options.”

The current proposed designs of bills, annual statements, price change letters, and end-of-contract letters all give consumers adequate information about their prices and tariffs, but each method of communication falls short when it comes to enabling consumers to make informed choices regarding their own consumption. We firmly believe this information belongs in the annual statement and that Ofgem should consider whether it may be sent with other communications – for example, an energy efficiency leaflet to accompany a clear and personalised price change letter.

CHAPTER: Six “Supplier cheapest deal”

Question 1: Do you agree with our view that the cheapest tariff message should include both supplier’s cheapest tariff for their payment method, consumption and meter type, and the cheapest overall tariff from their supplier irrespective of their current circumstances, personalised by consumption?

EDF Energy supports the objective of clearer information for consumers with respect to the savings they could make by switching to the cheapest tariff. We believe this should be signposted on the annual statement and should include a comparative annual cost personalised for the customer’s consumption and circumstances, and also highlighting how the customer could save further, for example, by a credit customer switching to pay by direct debit. We also believe that consumers need to make fully informed choices, and therefore suppliers should be able to provide the same information for other tariffs that may interest the consumer. The cheapest tariff may not offer the best value for the consumer over time, for example if a longer fixed term is available.

We do not support Ofgem’s proposal to calculate the cheapest tariff for each individual consumer, based on latest personal consumption data. This will lead to customer confusion and will create significant cost and complexity for suppliers when processing every bill or consumer communication. A simpler solution would be to identify the cheapest tariff based on typical consumption or their consumption band, and then use that single reference tariff to provide a personalised annual cost and savings estimate. The reduction in complexity and variables of the calculation will significantly reduce the risk of errors. A requirement for suppliers to maintain the same standing charge across all tariffs would also ensure that the reference cheapest tariff would be cheapest for all consumers.

We foresee further risk of confusion, or frustration, for consumers with the current proposal for the broad definition of the supplier’s cheapest tariff, where they are shown

the cheapest tariff for their meter type and other meter types. This has been reflected in Ofgem's proposal not to signpost credit tariffs to prepayment customers, as Ofgem feels it would be counterproductive and frustrating for consumers if suppliers point out other meter types which may not be appropriate. We think that the same principle applies for all consumers. For example, it will be impossible to provide an accurate estimate of potential savings for moving from a standard meter to a time-of-use meter and tariff such as Economy 7, as there is no data on time of customer use collected on standard meters. In addition, some electricity customers are supplied on tariffs that are intrinsically linked to the design of their heating system. For these customers, it would be misleading to offer alternative time-of-use or standard meter tariffs as they are unlikely to be suitable for the customer's circumstances.

We strongly believe that the narrow definition of cheapest tariff, with the addition of the potential savings available to cash/cheque customers if not already paying by direct debit, would give the clearest and most relevant message to all consumers.

Question 2: Do you agree with the approach to tariff eligibility criteria proposed for supplier's cheapest tariff?

We foresee significant problems with the proposal to require tariffs to be open to an unlimited number of consumers for at least four weeks from the time the communication goes out. We believe that, combined with the proposed four tariff limit, this would expose suppliers to unacceptable levels of risk by limiting their ability to respond quickly to changes in wholesale costs and competitor offers, as well as unpredictable customer response rates. Suppliers need to be able to reflect the rises as well as the falls in the costs of supply and, therefore, must be free to introduce and withdraw tariffs as necessary.

We believe, due to the risks above, that suppliers would only be able to offer fixed term tariffs with limited availability and subject to withdrawal at any time. Under Ofgem's proposed tariff eligibility criteria this would mean that such fixed term tariffs could not be included. This would result in only standard variable evergreen tariffs being referred to in the supplier cheapest deal message.

EDF Energy supports the proposal to not allow any restrictions on location or qualification, subject to the resolution of the issues above concerning the proposed broad definition of cheapest deal.

Question 3: We seek views from stakeholders on whether consumers with smart meters and any relevant time-of-use tariffs that the supplier is offering require separate consideration in relation to this policy proposal.

As detailed in our response to question one, we believe that using the proposed broad definition will increase the risk of confusion, particularly if comparing between standard and time-of-use tariffs, and will also create confusion for smart meter customers. The narrow definition, plus payment savings options, will provide customers with the right message.

We believe smart tariffs require separate consideration under this proposal. We foresee significant complexity for suppliers in ascertaining the cheapest possible smart tariff for each consumer's consumption patterns, which are also likely to change. In the interim, the narrow definition of the cheapest deal comparison could be provided. Alternatively

this could be compared against the cheapest standard tariff as the smart meter could be run in standard mode.

Question 4: Do you have any suggestions regarding additional rules which you consider relevant for the construction of the cheapest tariff messaging?

As highlighted in our responses to tariff simplification we believe that white label tariffs can act as a catalyst for consumer engagement. Requiring suppliers to signpost between white label and own label customers will cause confusion and increase the likelihood of the consumer disengaging from the market. This is also likely to reduce the number of white label providers willing to enter the energy market and restrict growth in this important channel. We believe the Ofgem proposals should support the introduction of new, engaging brands into the market.

CHAPTER: Seven “Tariff Comparison Rate”

Question 1: Do you agree with our proposal to introduce a price comparison tool?

EDF Energy agrees that a standardised price comparison metric has the potential to simplify the comparison of tariffs for consumers looking to engage in the market. However, the proposed solution is likely to create significant confusion for consumers and potentially mislead consumers into making the wrong choice. We have detailed the weakness of the proposed metric in the response to question three below.

EDF Energy believes Ofgem should explore the removal of standing charges and a move to uniform national unit rate(s) for all tariffs. This could be achieved through an Ofgem clearing house mechanism to level national transmission and distribution charges, for domestic and SME customers, and to move the charges to a pence per unit basis. Behind this, Network Operators would still receive their allowed revenues through the RIIO price settlement process. The removal of regional cost complexity would enable simplification of consumer prices to national unit rates, comparable in national media. This would give consumers absolute confidence when comparing tariffs, irrespective of where they live or how much energy they use.

We recognise that low income households with high levels of energy consumption could be adversely impacted by the single unit rate proposal. These consumers should benefit from the increased engagement enabled through the simplified market and the other RMR proposals. However, we believe that the most vulnerable customers are likely to remain disengaged irrespective on supplier and Ofgem initiatives. EDF Energy has therefore introduced a scheme to ensure this group benefits from the cheapest available prices that they could have got if they had engaged, Ofgem should require all suppliers to do the same.

Question 2: What is your view about the terminology we are proposing for the two price comparison metrics? Are they clear and easy for consumers to understand?

EDF Energy believes the term personal projection is potentially misleading as it implies this is an accurate projection for the coming year, rather than a comparative cost for the consumer’s annual consumption for the last year.

We foresee issues arising where suppliers are required to use more accurate projections for estimating direct debit amounts, for example by removing any weather-related consumption from the customer's historic consumption. This could lead to confusion for consumers where the "personal projection" is presented alongside an alternative projection used for calculating a monthly direct debit amount. The term needs to more clearly reflect that the figure is meant as a comparative based on the previous year consumption.

The proposed "TCR" will introduce an additional metric and term that consumers will not readily understand. A clear and easy to explain metric would engage consumers and lead to quicker acceptance of the term. This is unlikely to be achieved with the TCR, due to the complexities and shortcomings of the proposed metric.

Question 3: In your view, does our proposal for the TCR strike an appropriate balance between different trade-offs in terms of simplicity, accuracy, confusion and saliency? Please explain the reasons for your view.

EDF Energy believes that the proposed TCR does not strike an appropriate balance and does not deliver in terms of simplicity, accuracy, confusion or saliency. The major weaknesses with the proposed methodology are:

- i. The proposal to weight the TCR by each supplier's account numbers will provide a misleading comparison. Suppliers face regional differences in transmission and distribution charges which are reflected in the prices charged to consumers. By regionally weighting the calculation, this will disadvantage those suppliers with higher concentrations of customers in higher cost regions. This would mean that two suppliers with an identical price in all regions would be presented as having different TCRs. We believe that the proposed regional weighting is likely to be inconsistent with the CAP rules on advertising which stipulate that "price statements must not mislead by omission, undue emphasis or distortion" (CAP rules on misleading advertising 3.17).
- ii. It is unclear how the TCR weighting would be calculated for new tariffs that are introduced. If this was assumed to be a flat national average then the TCR would change as consumer weighting led to changes in the calculated TCR and further confusing customers. If weighted on existing customer accounts, then this is clearly misleading.
- iii. The calculation of TCR for three consumption bands could result in suppliers structuring tariffs with higher standing charges and low unit rates to target a favourable TCR for high consumption bands, at the expense of low consuming customers. This is also more likely given the TCR for the high consumption band will always provide the lowest p/kWh figure and, as such, will probably become the standard reference figure for supplier advertising.
- iv. There is a risk that consumers will move between consumption bands, which will lead to a change in the quoted p/kWh TCR. As a result, this may give the false impression to a consumer that prices have changed. Equally, it will distort the comparison if prices have changed. Neither outcome will aid attempts to build consumer trust.
- v. The presentation of the p/kWh TCR rate and related high/medium/low consumption band on the bill and annual statements will confuse customers with contradictory

figures, as the actual p/kwh charges and consumption being shown will not agree with the TCR p/kWh and average consumption.

- vi. It is unclear how the TCR will take into consideration Ofgem's proposed allowance for pre-determined price increase on fixed term offers. There is a significant risk that consumers will be misled by TCRs based on the rates of the initial period, without understanding the true cost of the tariff. An averaging of the TCR across the entire fixed term could address this concern.

For these reasons, EDF Energy strongly believes the TCR is unworkable and may contravene the CAP advertising code. A move to a simplified national unit rate structure would address all of the above issues and provide the simplest metric to accurately compare tariffs.

Question 4: Do you agree with our proposal for the different features of the Tariff Comparison Rate, and our related proposal on the personal projection? Do you have any thoughts on whether and how time-of-use tariffs should be accommodated in the TCR and personal projection? Please explain the reasons for your view.

As detailed above, we have major concerns over the different features of the Tariff Comparison Rate. We agree with the proposed features of the personal projection.

Calculating TCR for a time-of-use tariff will present all of the same issues as highlighted above. However, it will also require an assumption on the relative consumption of different time periods, and whether these proportions could be expected to change between the low/medium/high consumption band. This will add further complexity and require further explanation for consumers.

We believe a TCR p/kWh for time-of-use tariffs would be more confusing than a standard tariff TCR due to the increased number of actual p/kWh rates presented to consumers on these tariffs.

Question 5: In your view, should suppliers be required to make available up to date information on TCRs for their tariffs? What is your view on the barriers to the publication of best buy tables, and how could we better facilitate publication by third parties?

EDF Energy disagrees with the proposed TCR. As previously mentioned we believe the TCR is likely to contravene the advertising codes in presenting a distorted view of price comparisons. This will present a major barrier to publication of the TCR.

The amount of supporting explanation that would be required to explain the TCR to consumers will also present a further barrier to publication in best buy tables.

The simplification of market prices to national unit rates will enable publication by third parties, giving confidence that the rates they are publishing are accurate and not misleading to consumers. This would provide the simplest, clearest option for consumers

Question 6: Do you have any concerns regarding the implementation of this proposal? How long after a decision has been made would you take to implement this proposal? What drives those timescales?

We have highlighted in our responses above the major foreseeable issues with implementing the current proposal. We will respond on the costs and timeframe of implementation within our response to the Request for Information to be submitted by 18 January 2013. These would be subject to Ofgem finalising its full proposals in March 2013.

CHAPTER: Eight “Standards of Conduct”

Question 1: Do you agree that the revised Standards of Conduct (SOC) will help achieve our objectives?

EDF Energy shares Ofgem’s objective for the SOC to rebuild consumer trust and confidence in suppliers so that consumers are more confident to engage in the market. This is why we made fair value and better service central tenets of our Customer Commitments. However, success in achieving the shared objective is dependent on the clarity of the SOC and Ofgem’s approach to enforcement. We believe Ofgem and suppliers need to work together to build consumer trust in the industry and the SOC should provide a constructive environment for achieving this objective.

Principles-based regulation reduces the level of certainty for licensees by increasing the risk of interpretive differences between Ofgem and licensees. This is compounded by any lack of clarity over the definition of key terms and concepts such as “treating customers fairly” and the concept of a “reasonable person” and a “representative”.

We welcome Ofgem’s proposal to provide further clarity about the terminology used in the SOC, although we understand this would be limited to guidance around existing key legal terms (appropriate, professional manner etc). We would urge Ofgem to provide further written and published guidance soon to allow suppliers sufficient time to implement processes for compliance.

EDF Energy strongly believes that the increased risk of interpretative differences should be reflected in Ofgem’s enforcement approach. We foresee significant risk that frequent enforcement investigations under the SOC will undermine rather than rebuild consumer trust. We strongly believe that a two stage enforcement approach would be more successful in achieving the objective of the SOC, as detailed in our response to question three below.

Finally, we also believe Ofgem would need to review the existing licence framework and remove any overlaps with existing regulation. Ofgem is requested to confirm that a supplier acting under existing prescriptive regulation could not be investigated under the SOC.

Question 2: Is there a different name for the SOC that will have more meaning to consumers and can be used by stakeholders across the industry?

EDF Energy believes that initially some customers will struggle to understand the concept of the SOC. Better understanding will be gained over time through a consistent approach

to the implementation and enforcement of the standards, rather than by providing the standards with a different name.

Suppliers have developed labels for communicating their standards of conduct to customers. EDF Energy introduced its Customer Commitments in March 2012, and other suppliers have introduced Charters, Codes or Guarantees. We believe suppliers should be allowed to define how to communicate the principles of the SOC to their customers in line with their existing frameworks.

Question 3: Does our approach to enforcement mitigate stakeholder concerns about clarity and regulatory risk?

As stated above, EDF Energy believes that principles-based regulation introduces a level of interpretive ambiguity that increases risk for licensees. EDF Energy welcomes Ofgem's commitment to take a proportionate approach to investigating issues. However, we strongly believe a two stage enforcement process is needed to address the regulatory risk. This would provide the environment required for Ofgem and suppliers to work together to build consumer trust. It would also mitigate the significant risk of unnecessary damage to consumer trust arising from public investigations where no breach is found.

We believe Ofgem and suppliers should be discussing and agreeing any changes needed to secure compliance before an investigation is launched. After a reasonable time, Ofgem could then commence formal action if the supplier concerned had not taken the steps Ofgem regards as appropriate.

Ofgem could define the first stage of the process to address the concerns raised around limiting its ability to take action for alleged non-compliance or incentivising the appropriate supplier behaviour. A well defined first stage would still allow suppliers the opportunity to promptly respond and address any identified issues, prior to the announcement of a formal investigation. The process could also allow Ofgem to take more immediate action where significant harm to consumers has been identified.

EDF Energy is concerned about the definition proposed in Ofgem's enforcement approach to be judged on "whether a reasonable person would have acted in the way the supplier did". We believe that Ofgem's consideration should focus on whether the supplier can demonstrate its intention to comply with the Standards. We also welcome Ofgem's statement that enforcement would only apply for systemic issues; leaving the ombudsman responsible for enforcement on individual customer issues.

We are also concerned with the requirement for the supplier to take "all reasonable steps" to ensure compliance and believe this increases regulatory risk. A requirement for suppliers to take "sufficient reasonable steps" would reduce the risk whilst retaining Ofgem's ability to take enforcement action in serious cases.

We believe the identified regulatory risks would be further reduced through the introduction of a process for merits-based appeals, for instances where there is disagreement over the interpretation of the standards. This would require an independent body to hear any such appeals such as the Competition Appeals Tribunal as used for the Communications Act 2003 and the Competition Act 1998.

EDF Energy urges Ofgem to consult on the necessary changes to its enforcement guidelines at the earliest opportunity. We also request that changes to its enforcement guidelines are embedded in the supply licence at the same time as the SOCs, or issued as

a formal written policy. This is necessary to ensure there is a consistent and transparent approach for Ofgem and licensees.

In their enforcement approach, Ofgem should consider the time required for the SOC to become embedded in suppliers' business practices, particularly where the SOC represents changes from the commitments or charters that some suppliers, including EDF Energy, have already introduced. This is particularly challenging given the proposed implementation of the SOC on day one of the new licence conditions. Ofgem should also consider the risk of premature enforcement activity undermining consumer trust, particularly during this initial period.

Question 4: Do you have any information regarding potential costs this may impose on suppliers?

Ofgem has said that its proposed approach to enforcement will be based upon whether it believes that a company has taken the principles seriously. To demonstrate this, they would expect companies to be able to produce contemporaneous documentation that shows how the principles have been embedded in suppliers' cultures and operations. The requirements for documentation need to avoid becoming overly onerous and minimise the cost of compliance for consumers.

We will respond in more detail on the expected costs within our response to the Request for Information to be submitted by 18 January 2013. This will be subject to further clarity requested from Ofgem on the definitions of key terms and the bespoke enforcement policy.

CHAPTER: Nine "Protecting consumers on fixed term offers"

Question 1: Do you agree with our proposal for rules to be applied to fixed term offers in the domestic retail market?

EDF Energy supports the principle of protecting consumers on fixed term offers and in particular protecting consumers from adverse unilateral variations. Since 2011, EDF Energy has not offered discounted variable products, only offering fixed term tariffs with fixed prices.

EDF Energy strongly believes that the proposed allowance for fixed term tariffs with pre-agreed price increases will result in tariffs that will confuse and mislead consumers. This proposal risks moving the market towards the telecoms model where products are promoted heavily on the discounted period, with little clarity around the longer term cost for the customer. We believe that there is a significant risk to consumer trust if consumers are allowed to sign up on a fixed term product at a discounted rate and the price is then increased afterwards, even if this change is pre-agreed. We are particularly concerned if suppliers were to be allowed to have a lower price at launch for a tariff starting in the summer and if this price were then to be increased as the winter approaches. Even if pre-agreed, this would be clearly untrustworthy supplier behaviour and Ofgem should not permit this type of tariff to exist.

Clarity is also required on how prices will be compared for products that have automatic price increases within a fixed term. The rules around how this would be reflected in the TCR are unclear, but whatever method is utilised, EDF Energy believes this will make

comparisons more difficult and is more likely to erode consumer trust than having a pure fixed price or a price that tracks an index that the supplier cannot affect.

We believe the proposed rules over allowable exceptions to price variations are unnecessarily onerous. Any suitable published index or set of prices that is visible to the customer but not under the control of the supplier should be allowable under the proposals, for example a product that tracks prices an index of other supplier prices.

EDF Energy fully supports the proposed prohibition on auto-rollovers to fixed term offers. For the avoidance of doubt, EDF Energy believes the “cheapest evergreen” tariff that consumers move to at the end of a fixed term should exclude any derogated or dead evergreen tariffs, such as legacy social discounted tariffs, but would include restricted evergreen tariffs that are specific to the consumer’s meter arrangement.

We believe that at the end of a fixed term consumers should still be required to notify the supplier of their intention to leave, in line with Ofgem’s RMR proposals in December 2011. The proposal for suppliers to automatically backdate prices on receipt of any industry flow within 20 days of the end date, will require changes and add complexity to supplier billing systems; we will include the estimated cost in our response to the request for information.

It is also unclear how an automatic price adjustment dependent on industry flows rather than consumer notification will benefit a customer if the move from the fixed term product to the evergreen is a price decrease. Under Ofgem’s proposal suppliers would be required to continue charging the higher price of the fixed term product if an industry flow arrived within 20 days.

Question 2: Do you agree with our proposed strategies to mitigate concerns regarding increases in network charges?

Ofgem states that two of its objectives are bringing simplicity and clarity for consumers. Therefore, EDF Energy believes the prices of a fixed term tariff offered as fixed price should remain fixed.

Consumer trust will be eroded if derogations or variations are allowed on fixed price tariffs for unforeseen increases in network charges. A consumer signing up to a fixed price deal will clearly not expect the prices to be increased. Any subsequent increases, however justified, will lead to customer dissatisfaction and an erosion of trust. A further challenge from consumers would be whether there is appropriate allowance for passing through unforeseen decreases in network charge as well as increases.

A clearing house for domestic transmission and distribution charges could result in the ability for charges to be varied on a less frequent basis than at present.

Question 3: Is 30 days the appropriate notification period for mutual variations? Should there be any exceptions to our proposals for mutual variations (e.g. direct debit amount variations)?

EDF Energy supports the proposed 30 day notification period for mutual variations, with Ofgem’s proposed exception of prices that track an external index not controlled by the supplier. We also believe that direct debit (DD) amount variations should be excluded from the 30 day notification period. These variations are already governed by the direct debit scheme rules requiring a 14 day/10 working day notification period. Any change in the rules for DD amount variation will impact on system processes for calculating the

variation. In addition to the cost of the change this will also increase the time required to correct inaccurate DD amounts, with any delay increasing the impact on the consumer.

It is unclear how a 30 day notification on DD amount variations would work in instances where the DD amount changes further within the initial 30 day notification, for example with the submission of a customer meter read. It is unclear whether this would reset the 30 day notification period and further delay the required correction to the DD amount.

Question 4: Are there any expected implementation issues or costs associated with this proposal?

We will respond on the implementation costs of the proposals within our response to the Request for Information to be submitted by 18 January 2013.

We have also highlighted in our responses above the issues we foresee in implementing the current proposals.

Question 5: Do you agree with our proposed timetable for implementation of our proposal?

We will respond on the timeframe required for implementation within our response to the Request for Information to be submitted by 18 January 2013. The timeframe required would be subject to Ofgem finalising its full proposals in March 2013.

We foresee challenges in complying with the proposed rules for automated price protection (i.e. without consumer notification) on existing fixed term offers that expire in the transitional period. This will not provide sufficient time to implement the system changes required to deliver this functionality from the effective date of the licence conditions.

CHAPTER: Ten “Market cheapest deal”

Question 1: Do you agree that we should trial a Market Cheapest Deal initiative?

The proposed trial to require suppliers to communicate competitor offers to vulnerable consumers and those who have not switched for over three years ignores the personal choices made by many consumers.

The proposal could also lead to consumers receiving incorrect or misleading advice, whereby they are notified of the cheapest deal at a particular point, which may not be the best choice for the consumer over time. For example this could lead to consumers being notified of cheaper competitor tariffs with shorter fixed price periods, or with pre-determined price increases within the contract.

The proposal could also lead to misleading advice for those consumers currently benefitting from rebates under the Warm Home Discount (WHD) Scheme or for those who may benefit in the future. This is because suppliers with less than 250,000 consumer accounts are not required to offer WHD rebates and eligibility for the broader group rebates also varies between suppliers. Consumers could therefore be notified of cheaper tariffs with another supplier, but upon switching would no longer be able to access the £130 rebate.

Furthermore, we would not have consent from consumers to share their data with a third party. Although we recognise this could be deemed to be in the interests of consumers, we believe Ofgem would need to work with the Information Commissioner to ensure that these concerns are addressed.

Finally, we see little consumer benefit in the proposed trial that would not be achieved with the inclusion of the supplier's cheapest deal on consumer annual statements. Ofgem should consider the impact on consumer engagement that arises from its core proposals before considering further intervention in this area.

Question 2: Do you consider there are other approaches we should consider to address the particular issues with engaging sticky and/or vulnerable consumers? If so, what are they?

EDF Energy recognises that the most vulnerable consumers need additional support and are less likely to benefit from some of the RMR proposals to facilitate engagement. This is why we have introduced our Price Reassurance Scheme, whereby our most vulnerable elderly consumers, as identified by the government, will automatically benefit from our cheapest prices. We believe this should be made mandatory for all suppliers to ensure that this group of customers automatically benefits from the most competitive deals.

We also believe that vulnerable consumers need to be able to engage with confidence, and so reiterate our call for Ofgem to sponsor an independent switching service. The service should be available through the internet but, most importantly for vulnerable consumers, also by phone and post. This service should be run on a not for profit basis, paid for by energy suppliers to co-exist alongside commercial sites.

Question 3: Would you be willing to work with us in conducting the trial?

As stated above, we do not believe the proposed trial is the best mechanism for engaging and protecting vulnerable consumers. As such, EDF Energy would not be willing to participate in the trial.

We would welcome the opportunity to discuss further the benefits of our Price Reassurance Scheme and how it could be implemented across the industry. We would also look to work with Ofgem to develop appropriate initiatives for all groups of vulnerable consumers.

**EDF Energy
December 2012**

Attachment 3

Draft domestic licence conditions for the Retail Market Review proposals

EDF Energy's comments and proposed amendments

We recognise that the policy proposals and associated standard licence condition wording are evolving throughout the consultation process. However, we have below included our comments on the SLC drafting that we believe should be considered as part of Ofgem's review of the consultation responses and the continued development of its RMR proposals.

SLC	Paragraph	Comment; and Proposed amendments
SLC22A	22A.4	"Separate Charges" defining as an exhaustive list is inappropriate; list of applicable charges should not be hard coded in the licence but alternatively as a list set out in guidance that can be amended accordingly. Should Green Deal Charges be included within the definition?
SLC22B	General	Need to exclude some legacy arrangements from the core tariff proposals – for example legacy former tariff customers on deemed contracts under para 23 of Sch 7 UA 2000 would be captured by the definition of "Domestic Supply Contracts". Exclude expired fixed term tariffs from the requirements in respect of discounts The wording in 22B.1 regarding the application to affiliates etc is used consistently and substantially throughout the SLC's. Can wording not be drafted in a single place that meets its intent?
	22B.1(d)	This as written would prevent offering live fixed term tariffs.
	22B.3	Definition of "Discount" is very wide and could capture vulnerable customer benefits and other social tariffs – this would have a significant impact on meeting the tariff cap.
	22B.4(c) & (d)	What happens if a discount does not have a precise financial value?
	22B.8	(c) is not required given the wording of (d).
	22B.12	"Time of Use Arrangement" – refers to five contractual arrangements yet only four are referenced.
	Schedule	Should Green Deal Charges be explicitly excluded from the definition of "tariff" Unclear what the effect of (i) is.
SLC22C	22C.2	Remove "of Standard Condition 22C" wording not required.
	22C.3	"Statement of Renewal Terms" is already used as a defined term in SLC7A
	22C.3 (e)	Replace "Evergreen Supply Contract, a new Fixed Term Supply

SLC	Paragraph	Comment; and Proposed amendments
	(iv)	Contract" with "Domestic Supply Contract"
	22C.4	How is this consistent with requirement for 30 day notice under SLC23.2
	22C.5 (b)	Is it practicable to require a customer to agree to a further fixed term period in Writing? A customer can enter into a new contract without providing consent in writing. Provisions should be consistent with general contract law.
	22C.11 (a)	Drafting should reflect what we understand to be the intent of the proposal that an acceptable index is one which is relevant, published, transparent and under no direct control of the licensee. The current drafting would appear to limit price indexation to a stock exchange/financial market rate.
	22C.13	Should read "paragraph 22C.13" – general comment that the numbering format for paragraph references is not consistent throughout the proposed SLCs.
	22C.16	Incorrect paragraph number. After "revise" add "following further consultation."
	22C.17	Simply repeats the requirements of 22C.1
SLC23A	23A.2	Incorrect reference. Should reference 22C.5?
	23A.2 (b) (ii)	Wording not required; <u>All</u> customer communications need to be in "plain and intelligible language" as required by SLC25B – Standards of Conduct.
	23A.2 (d)	Sub paragraph reference incorrect. Should read "sub-paragraph 23A.2(b)
	23A.3	Refers to "within 5 Working Days" – it is not clear from when – is it from when the customer agrees to the variation.
	General	Impact of SLC on changes to DD amounts??
SLC25B	25B.1	Definition of "Representative" is wide and includes indirectly authorised persons. How will this impact on indirect sales channels (comparison services) where a suppliers ability to control standards of service is limited.
	25B.3	We believe more appropriate wording to be: 25B.3 For the purposes of this condition, the licensee or any Representative may not be regarded as treating a Domestic Customer fairly if their actions or omissions: (a) significantly favour the interests of the licensee; and (b) give rise to a likelihood of detriment to the Domestic Customer.
	25B.7	No reference is made to when the first statement is to be prepared.
SLC31B	General	Expired fixed term tariffs should not be subject to the SLC.
	31B.4	Should this only apply when written information is provided to a customer? How would it work otherwise for telesales calls? As drafted would also include any conversation by a FS Agent.
	31B.5	"Gas Supply Licence" is defined also in SLC23.13; Suggest that the definition is moved to SLC 1 Definitions. "TIL estimated Monthly Costs" could this can be simply defined as the

SLC	Paragraph	Comment; and Proposed amendments
		"TIL Estimated Annual Costs" divided by 12?
SLC31C	General	
	31C.3 (c)	The TCR is required to be included on the TIL (SLC31B) and on Bills (SLC31A) in a prescribed format that seems to be contrary to this obligation.
SLC1		"Termination Fee" should read "if he continued to be supplied under his Domestic Supply Contract for a...."
		"Alternative cheapest tariff" How would a supplier be confident in calculating this accurately given it may not have the consumption pattern information available to it. Needs to include wording such as "based on the information available to the supplier".
		"Discount" wide definition - would potentially inadvertently capture other payments such as those made to fuel poor, energy efficiency arrangements and any redress payments?
		"Evergreen Supply Contract" as defined this would capture [all/most] contracts. [All/most] contracts are for an indefinite length until such time as they are terminated in accordance with the T&Cs. A contract that has a tariff which is fixed for a defined period still remains in place even when that period ends. The contract remains in place and the tariff reverts to another tariff in accordance with the contract e.g. standard variable.
		"Fixed Term Supply Contract" as per comment above -contracts don't have fixed term periods – it is elements of the contract i.e. a tariff that may be fixed for a defined period not the contract term itself.
SLC23	23.1	Requirement to communicate in plain and intelligible language is a duplication of SLC25B requirements.
	23.1A	As above.
	23.2	How is this consistent with SLC22C?
	23.3 (b)	No rationale is given as to why "significant" has been deleted. The requirements of 23.4 are inappropriate for minor, yet disadvantageous, contract term changes.
	23.4 (g)	Suggest amending wording by saying that any comparison provided under (f) shall include (i) to (iii). This would then allow the prescribed format set out in the Schedules to be consolidated.
	23.4 (k)	Oppose suggested drafting – more appropriate to say "the Domestic Customer is free to consider...."
	23.4 (q)	Why is this not included under (g) with a prescribed format in the Schedules?
	23.4 (r) (ii)	Delete "and"
	23.4 (s) (t)	This requirement is prescribed in the format set out in the Schedules which must be complied with under 23.11. Therefore explicit wording here is not required.
	23.4A	Is this still required if only a change in one fuel is being made?
	23.4C-F	Duplicates requirements set out in 22C.12 which are not constrained to that SLC.

SLC	Paragraph	Comment; and Proposed amendments
	23.5 (a) (i)	Not required, already a requirement under SLC25B
	23.5 (b) & 23.5A	A SLC23 Notice can only provide the information set out in the SLC. These two paragraphs set out requirements for prominence and for information on the front page. However, all but two of the information requirements are required to be prominent and on the front page or prominent. Given no further information is to be provided, it is debateable how almost all the information can be deemed prominent.
	23.8 (a) (i)	Replace wording with "the contract is a Fixed Term Supply Contract".
	23.8 (a) (ii)	Replace "the Domestic Supply Contract" with "the contract". Drafting should reflect what we understand to be the intent of the proposal that an acceptable index is one which is relevant, published, transparent and under no direct control of the licensee. The current drafting would appear to limit price indexation to a stock exchange/financial market rate.
	23.8 (a) (iii)	Why is there a need to make reference to the requirement of 23.1 again here?
	23.8 (b) (i)	Replace wording with "the contract is a Fixed Term Supply Contract".
	23.8 (b) (ii)	Replace "the Domestic Supply Contract" with "the contract"
	23.8 (b) (iii)	Why is there a need to make reference to the requirement of 23.1 again here?
	23.11	Reference should be to "Schedules 1 to 6"
	23.13	"Gas Supply Licence" is defined also in SLC31B; Suggest that the definition is moved to SLC 1 Definitions. "Supplier and Customer Information" is a term used and defined in SLC22C also. However, the wording of the definition is slightly different. Duplication of a term with different definitions across SLCs is inappropriate and risks confusion.
SLC24	24.3 (a)	Replace wording with "the contract is an Evergreen Supply Contract"
	24.3 (c)	If this section only applies to fixed term supply contracts this paragraph does not work as SLC22C.9 prevents suppliers increasing charges and or disadvantageous unilateral changes to be made to fixed term contracts. Termination during the switching window is covered by 24.8
	24.8 (a)	Unclear what the purpose of this is?
	24.9 / 24.10	Is the reference to "22C.10" meant to be "24.10"? If not what does paragraph 24.10 apply to?
SLC31A	31A (b)	For clarity "Notice" should be amended to "SLC23 Notice".
	31A.4 (f)	Oppose suggested drafting – more appropriate to say "the Domestic Customer is free to consider...."
	31A.4 (h)	Not required – it is already a requirement to provide where information on charges is given to the customer in accordance with SLC31C.

SLC	Paragraph	Comment; and Proposed amendments
	31A.5 (a)	Not required – requirement is captured already by SLC25B.
	31A.5 (d) (i)	“Relevant Charges” is not defined.
	31A.5 (d) (iii)	Reference is made to Charges <u>increasing</u> only. Surely the statement should include wording that states that the Charges may be varied (increased or decreased) by the licensee in the future.
	31A.8	Duplicated obligation – obligations already apply by virtue of 22C.12 and 23.4C.
	31.A.15	“Supplier and Customer Information” is a term used and defined in SLC22C also. However, the wording of the definition is slightly different. Duplication of a term with different definitions across SLCs is inappropriate and risks confusion
	General	Is there any conflict with the annual statement requirement under the Green Deal SLC37 with the annual statement requirements under 31A; i.e. should the GD annual statement be separate from the other customer communication requirements under these proposals and not contain any information other than that which is set out in SLC37?