

Suppliers and interested parties

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Dear colleagues

Carry forward of excess actions from the Carbon Emissions Reduction Target scheme ('CERT') to the Energy Companies Obligation scheme ('ECO')

The purpose of this open letter is to inform interested parties of the approach that Ofgem intends to take when assessing *applications for excess action*, and to obtain views on this approach. The approach relates to the way in which Ofgem will judge whether a measure installed under the CERT scheme was required to meet the CERT obligation.

Background information is provided below under the subheadings:

- The super priority group obligation
- Applications for excess action
- The CERT final determination: use of results from an exercise between a supplier and the Department of Work and Pensions ('DWP')

The approach on which we seek your views is described under the subheading:

- Applications for excess action: use of results from a DWP exercise.

The super priority group obligation

Under the CERT Order¹, a supplier must meet certain sub-obligations in order to meet its main carbon emissions reduction obligation. One of these sub-obligations is the super priority group obligation ('the SPG obligation'). The SPG obligation is achieved by delivering measures to members of the super priority group. The CERT Order defines the *super priority group* as a group where each member is in receipt of state benefit listed in the definition.²

In this letter we use the term *SPG measure* to describe a measure delivered to a member of the super priority group.

¹ The CERT scheme is established by The Electricity and Gas (Carbon Emissions Reduction) Order 2008 ('the CERT Order')

² For the definition of the term 'super priority group' see article 2 of the CERT Order.

Applications for excess action

ECO is established by The Electricity and Gas (Energy Companies Obligation) Order 2012 ('the ECO Order').³

Article 21 of the ECO Order permits a supplier to make an *application for excess action* to Ofgem for carry forward of measures installed under CERT.

Ofgem will assess an application for excess action by reference to the relevant criteria set out in the ECO Order. A supplier may carry-over SPG measures to either the CERO⁴ or the HHCRO⁵ under ECO if the measure 'is not required by the supplier to meet its carbon emissions reduction obligation' including its SPG obligation.⁶

To reiterate, in the case of some applications for excess action Ofgem will assess whether a measure was required by the supplier to meet its SPG obligation.

Applications for excess action must be submitted to Ofgem by 1 June 2013.

The CERT final determination: use of results from an exercise between a supplier and the Department of Work and Pensions ('DWP')

Under the CERT Order, Ofgem must determine whether each of the CERT suppliers has achieved its carbon emissions reduction obligation (and sub-obligations) ('the final determination'). Ofgem must notify the final determination to the supplier, and report to the Secretary of State on overall compliance, by the end of April 2013.⁷ Ofgem is currently administering the process by which it will meet these statutory requirements.

Between 13 and 18 March 2013, two suppliers separately submitted the results of a DWP exercise to Ofgem. In broad terms the exercise consisted of taking the addresses at which CERT measures had been installed and checking those addresses against DWP's records of benefit recipients to obtain evidence of how many measures had been delivered to members of the SPG (a 'DWP exercise'). The suppliers asked Ofgem to accept the results of a DWP exercise as evidence of delivery to the SPG. Before receiving these submissions, Ofgem was not aware that suppliers could engage DWP to conduct this type of exercise. Once Ofgem was satisfied that the DWP exercise had the potential to produce meaningful evidence of delivery to the SPG, Ofgem judged that it should alert all suppliers to the possibility of conducting the exercise – and, accordingly, did so.

Two suppliers have submitted the results of a DWP exercise to Ofgem in sufficient time for Ofgem to take those results into account in the final determination on CERT compliance. But not all suppliers have done so. It appears that some suppliers only became aware of the possibility of conducting a DWP exercise when notified of this possibility by Ofgem. In turn there was not sufficient time for these suppliers to obtain results from a DWP exercise for the purpose of those results influencing Ofgem's final determination on CERT compliance.

³ For information about ECO see the Ofgem website at:

<http://www.ofgem.gov.uk/Sustainability/Environment/ECO/Pages/index.aspx>

⁴ The CERO refers to the carbon emissions reduction obligation under article 12 of the ECO Order. See also article 21(4)(d)(i) and (6) of the ECO Order. A supplier may also carry solid wall insulation measures over to the CERO.

⁵ The HHCRO refers to the home heating cost reduction obligation under article 15 of the ECO Order. See also article 21(4)(d)(iii) and (8) of the ECO Order.

⁶ See article 21(4)(a) of the ECO Order.

⁷ See articles 19(2) and 22 of the CERT Order.

Applications for excess action: use of results from a DWP exercise

Under this subheading we describe the approach on which we seek your view.

Ofgem has considered the nature of its statutory function in relation to applications for excess actions, and has also considered the facts surrounding suppliers' use of results from a DWP exercise.

Ofgem's current view is that when assessing an application for carry-over of an SPG measure to either the CERO obligation or HHCR0 obligation, it should consider any results of a DWP exercise that have been put forward by a supplier in support of its application for excess action. In other words, we are of the view that we should take the results of a DWP exercise into account even where those results were not submitted to Ofgem in time to be taken into account in Ofgem's final determination on CERT compliance.

This approach is likely to produce the following effect. Those suppliers who have been unable to submit the results of a DWP exercise for the purpose of Ofgem's final determination on CERT compliance, but who submit these results for the purpose of Ofgem's assessment of an application for excess action, will – for the purpose of that application – be judged to have delivered more measures to members of the SPG than were deemed to have been delivered for the purpose of the CERT final determination. To simplify, those suppliers will have an increased number of SPG measures for carry over to ECO.

Conclusion

Ofgem is interested in obtaining views on whether it is appropriate to adopt the above approach. If you wish to provide a view, please do so in writing – including supporting argument and evidence – by end of Tuesday 7 May 2013. Please submit those views to the following email address: Andrew.abraham@ofgem.gov.uk.

Yours faithfully

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