



To all with an interest in CESP

Promoting choice and value for all gas and electricity customers

Date: 29 May 2013

Dear Colleague

Administrative processes for the delivery of mitigation actions associated with the Community Energy Saving Programme (CESP)

This letter sets out the administrative arrangements that Ofgem will use to process the mitigation actions delivered beyond 30 April 2013 by companies which failed to comply with obligations under the Community Energy Saving Programme ("CESP") and which are engaged in the delivery of mitigation actions.

Specifically, this letter provides clarity in three areas:

- mitigation processing arrangements;
- delivery of alternative mitigation actions;
- trading of excess mitigation activity.

Mitigation processing arrangements

Several companies have contacted us about our arrangements for mitigation activity delivered after 30 April 2013. In our 31 January open letter we indicated that Ofgem's mitigation review arrangements would cease after 31 May 2013.

We have decided to extend our mitigation processing arrangements to 31 July 2013 because a number of obligated parties are still undertaking mitigation activity. We understand that there are various reasons for this, including adverse weather conditions in earlier parts of the year meaning that delivery of mitigation activity may have been slower than originally anticipated. We wish to ensure that any further mitigation activity is processed where possible in a manner consistent with activity reported so far. Continuing our mitigation processing arrangements for a short period of time is, we consider, in the best interests of consumers, in line with Ofgem's principal objective.

This extension relates to any mitigation activity delivered up to **30 June 2013**.¹ Once we have removed our mitigation processing arrangements, obligated parties will bear responsibility for the independent verification of the number and types of measures that have been installed, as well as the costs of undertaking and reporting this to Ofgem. The

¹ As set out in the Annex to the December open letter, for the mitigation action period it was agreed that all obligated parties wishing to undertake CESP mitigation actions would submit progress reports to Ofgem at the end of each month describing the activities completed in the previous month.

onus will be on obligated parties to come forward with detailed proposals of such arrangements and to agree them with Ofgem in advance.

Ofgem and the Authority will take all mitigation actions into account in considering whether to impose a penalty and the level of that penalty. At the same time we reiterate the points made in our previous open letters that we will give most weight to CERT/CESP measures delivered shortly after 31 December 2012 and that 30 April is a key date for assessing the mitigation actions taken by the parties. Consistent with this approach, mitigation delivered between 31 December 2012 and 30 April 2013 will be given most weight, i.e. more weight than mitigation delivered after 30 April in considering whether to impose a penalty and the level of that penalty.

Alternative mitigation actions

We have previously recognised that some obligated parties may wish to undertake 'alternative mitigation actions'². In accordance with what we have already communicated about the administrative processes for the delivery of alternative mitigation actions³, should any obligated party wish to pursue alternative mitigation action, the onus is on that party to propose an alternative action. This includes providing evidence and information on the extent to which the measures would achieve CESP-equivalent outcomes. At the same time we reiterate what we said in the September open letter, that most weight will be given to mitigation actions which match or are a close match to those under the CESP scheme.

Trades

In our open letter of 20 December 2012 we stated that:

"We do not anticipate that Obligated Parties will be seeking to transfer measures after 31st December 2012 and so we do not propose to put in place administrative arrangements to manage transfers."

We have considered whether obligated parties should be allowed to "trade" excess CESP delivery (whether delivered within the compliance period, or delivered as "excess" mitigation activity). We note that mechanisms existed within the compliance period for parties to trade delivery and we do not consider that it is appropriate to allow similar post-compliance period trades given the period for compliance has ended. We consider that parties who were not compliant as of 31 December 2012 should not be able to benefit from any "excess" mitigation action. Furthermore, even if we were to allow such trades, we are concerned about whether the prices negotiated for such trades would be in consumers' best interests. Accordingly, we do not propose to allow transfers of mitigation activity between obligated parties.

As we have previously stated, and as we reiterate in this open letter, mitigation action by parties will be considered as part of the enforcement process.

Yours sincerely,

Sarah Harrison
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² See our September 2012 open letter where we said: "We recognise that some obligated parties may wish to undertake alternative mitigation actions."

³ Open letters dated 21 September 2012 and 20 December 2012.