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14 February 2014

Dear Natasha

**Improving Consumer Protection in the Green & Renewable Energy Market:
Response of the Green Energy Supply Certification Scheme Panel**

We are writing on behalf of the independent panel of experts which oversees the operation of the Green Energy Supply Certification Scheme (the "Scheme"). The Scheme was set up by its Members, which include those responsible for the vast majority of domestic electricity supplies in the United Kingdom, in 2009-10 in response to Ofgem's Green Supply Guidelines (the "Guidelines"). Although Panel members are subject to approval by the Scheme Members, we are appointed and act independently of the member companies and have as our overriding interest the protection of consumer interests in the market for green electricity.

We welcome the decision of Ofgem to undertake this consultation, as there have been many changes to the retail electricity market since the current were published in February 2009. This led to the launch of the Green Energy Supply Certification Scheme by the major electricity suppliers in February 2010 to implement the Guidelines, although we share Ofgem's concern that the voluntary nature of the Scheme has permitted a growing number of unregulated tariffs making environmental claims. We have been engaged fully with Ofgem in the process leading up to the consultation, including sharing with the authority the results of our own earlier consultation ("Driving Demand", carried out in autumn 2012).

Yours sincerely

Solitaire Townsend, Chair of the Panel
Stephen Andrews, Panel Member
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Improving Consumer Protection in the Green and Renewable Energy Offers Market Response from the Green Energy Supply Certification Scheme Panel

This response is to the Ofgem consultation into the Green and Renewable Energy Offers Market, and represents the collective view of the five experts who form the Panel of the Green Energy Supply Certification Scheme. These experts are appointed as individuals so this response may not reflect the views of any organisations with which they are affiliated. References in this response to "we" or "us" refer to the Expert Panel collectively.

We note (2.10) that the stated purpose of the Guidelines is to reduce confusion in the market. While we accept that consumer protection is, and always has been, the main aim there is an important secondary objective of driving demand among consumers for green electricity that should also lead to new renewable energy sources coming on-stream. Using the Guidelines to encourage this would be entirely consistent with Government policy and Ofgem's statutory duties, and we therefore believe merits greater consideration than it has been given.

As noted above, there have been changes to the retail supply market (and to consumer behaviour) that were not anticipated when the Guidelines (or the Scheme) were initially developed. These include not only the recent Retail Market Review ("RMR"), but other factors such as uncertainty over the proposed move away from the Renewables Obligation to a CfD market; real price increases in the cost of electricity; the closure of the Government's QAS for the accreditation of carbon offsets; greater awareness (and improved financial viability) of small-scale renewable energy through the introduction of Feed-In Tariffs; and a period of recession. All these have affected the supply or demand for renewably sourced electricity. Some of these changes now require adjustments to the Guidelines (or to the Scheme's Rule Book implementing the Guidelines), and it is worth commenting that even if the Guidelines are fully revised and updated today, they will need to be kept under review to respond to as yet unknown future changes.

At the time that the Green Energy Supply Certification Scheme was launched, the Panel did not expect such an extensive or vibrant market for non-certified renewable electricity. At the time of the launch, green offerings were mainly provided by the Big 6 utilities, with just a handful of green offerings from smaller suppliers, one of which elected to join the Scheme. The Scheme has always recognised that certified tariffs will have to face competition from non-certified ones, usually lacking additionality and sometimes not meeting the Guidelines' requirement on evidence of supply (through separation of REGOs and LECs). However, the recent introduction of RMR limiting numbers of tariffs has led to a partial retreat from the green supply sector by the large suppliers, significantly reducing the number of certified tariffs and the choice available to consumers looking for externally verified tariffs.

In creating our response to the specific questions, we have borne the above points in mind, especially the need to improve transparency and create a level playing field between certified and unregulated offerings. We note also that there are some potential questions not raised, including the key one about whether suppliers with a 100% renewable offering (as evidenced by the FMD) should be able to claim that they are supplying 100% renewable or carbon-free electricity, and whether this might, under future market conditions, provide additionality.

Chapter two questions

Question 1: Do you agree with our proposed updates to the principles of transparency and additionality?

We are content with the minor changes suggested to the rules on transparency and additionality, although note that their incorporation will to some extent depend on much bigger issues considered later in the questions.

Paragraph 2.8 points out that 'it is difficult for consumers to engage with the features of a 'green' tariff and therefore differentiate between a green tariff and a renewable tariff'. We agree with this, as for most consumers renewable electricity defines 'green'. Their expectation of a 'green tariff' is essentially satisfied by transparency and matching, and therefore the requirement for 'additionality' by other means will always be difficult to understand. The existing Guidelines and accreditation scheme were constructed in this way entirely because of concerns that one effect of the Renewables Obligation (RO) is that consumers purchasing renewable electricity do not increase the overall supply of renewables. We agree with this analysis: under the RO suppliers essentially face an obligation to supply a fixed quantity of renewable electricity each year, so that voluntary renewables purchases reduce the need for supply of renewables to other customers and do not affect the aggregate of renewables supplied. However, we do not agree with the implication of paragraph 2.3 that all government policy to support renewable generation inevitably has this effect. Neither feed-in tariffs nor the planned Contracts for Differences operate in the same way. They provide support directly to renewable generators and do not cap suppliers' incentives to sell renewables. Under these proposed incentive arrangements, we would expect increased demand for renewables might raise the value of renewable supply compared to non-renewable supply and therefore lead to greater incentives to supply renewables. In this way 'additionality' might be provided through normal market mechanisms in the same way as in other sustainable product markets (e.g. organic food, sustainable timber, fairtrade coffee). We believe this merits further consideration by Ofgem, as it potentially allows better alignment of 'additionality' and 'transparency' goals.

Question 2: Is the current CO₂e abatement threshold of 1 tonne of CO₂e emissions abated per tariff per annum (or broadly equivalent materiality depending on the additionality type) appropriate?

We have no particular view on the right level as additionality is a "gift" designed to provide an environmental benefit independent of the level of electricity purchased by the consumer. We note further that although this is the only figure included in the Guidelines, for practical reasons the Scheme Rule Book has three levels (1.8 tCO₂ for QAS offsets, 1.0 tCO₂ for Gold Standard offsets and 0.05 tCO₂ for green funds and certain other measures). We have further comments on the last of these numbers under question 9.

Question 3: Do you agree that our updated green supply guidelines should apply to any electricity tariff whose proposition relates to the supply of renewable energy alongside additional environmental benefits at tariff level?

We agree that the Green Supply Guidelines should apply to all offerings based on renewable supply and additionality provided by other means. However, we also believe that there should be equivalent mandatory Renewable Energy Supply Guidelines detailing transparency and evidence of supply rules for renewable-only supply tariffs.

When purchasing certified green tariffs, consumers are primarily looking to the Scheme to provide assurance that they are getting a renewable electricity supply; the additionality is seen as a bonus, if considered at all. It is therefore an artificial distinction to have different Guidelines for "green" (with additionality) or "renewable" (without additionality) as they are the same basic product in the eyes of most consumers. Indeed, it is possibly misleading consumers to even define "green" as requiring additionality, as this is not what they would expect. The Guidelines should reflect these priorities if they are to achieve their purpose of protecting consumer interests.

The distinction could potentially be eliminated by requiring a fairly simple transparency statement about additionality. If the tariff contributes towards additionality measures then it should clearly report the level of CO₂ savings that are expected per customer or kWh; if there are no additionality measures then this should also be stated.

Question 4: Do you agree with our proposals for nuclear and CHP tariffs?

We agree that nuclear and CHP (other than biomass) should be excluded from green supply.

We have not historically considered voluntary Good Quality CHP as additionality (although it is possible that a supplier could seek to use it as such under the "fourth plinth" of possible additionality within the existing Guidelines). Our current view is that this would be unlikely to meet consumer expectations and so should not be accepted, even if it can demonstrate real carbon savings.

Question 5: Do you agree that environmental bundles should avoid broad terms such as green or environmentally friendly when marketed to consumers?

We disagree with the principle of prohibiting the use of bundles to green up tariffs under the RMR. Our view, which we explained in detail to Ofgem during the RMR consultation process, is that consumers should be able to elect to be able to "green up" any core tariff that is not explicitly tied to an alternative source of energy such as nuclear (ie. a green bundle could be added to any tariff within the supplier's normal FMD mix). This would be done by permitting consumers to buy a green bundle that included the three elements of a certified green tariff, namely transparency, matching and additionality. The matching element would have required purchase of (or matching by) renewable electricity guarantees of origin equal to the volume of the supply, alongside retirement of an equivalent level of LECs. Additionality would follow the normal rules in the Guidelines. This bundle would then allow conversion of any regular or core tariff into a fully compliant certified green tariff. However this opportunity to expand the green market was rejected by Ofgem, with only a very limited bundle permitted that would convert a renewable-only tariff into something approaching a green tariff. We believe this merits re-consideration.

Question 6: What do you think are the pros and cons of all, or some, of our proposed principles for green tariffs being extended to large non-domestic consumers? Is 100,000 kWh an appropriate threshold?

We welcome the principle of extending certified green or renewable tariffs to larger non-domestic consumers. Under almost any definition, an electricity use of 100,000 kWh per annum would still not be "large" (for a business customer), but accept that it is an improvement over the current even lower level of 55,000 kWh. We know from sister schemes in Australia and California that there are many SMEs which exceed this threshold and would like to be able to purchase independently certified green electricity. We would therefore suggest that the upper threshold limit should be removed completely, and any supply that is available to non-domestic customers on a fixed tariff basis (as opposed to a negotiated contract) should be capable of being structured in accordance with the guidelines and certified as green, and leaving it to the market to determine the appropriate upper level for such offers. This could also significantly expand the additionality market, as non-domestic additionality is based upon supply volumes and not a fixed level per customer.

Question 7: Do you have a preferred implementation and verification option? Why?

Before giving our answer to the question, we would like to make a more general comment that the reason there are a significant number of non-certified renewable energy offerings in the market is primarily due to certain suppliers being unwilling to observe the Ofgem Guidelines, and not to the institutional arrangements around the implementation of those Guidelines. These non-certified tariffs typically fail to provide any additional environmental benefits and/or fail to retire LECs alongside REGOs. (We do not agree with the statement in paragraph 2.46; green tariffs with additionality have complied with the Guidelines and applied the principles consistently; the problem remains that there are non-accredited renewables-only tariffs that currently fail to do so.) Consequently **any implementation and verification route must address the renewables-only part of the market on an equal footing with the green tariff market.**

As a general principle, we believe that as consumer trust in the energy industry is low, some form of external verification is essential, whether provided through a scheme (such as the Green Energy Supply Certification Scheme) or by Ofgem itself.

Option 1 represents a return to the pre-2010 situation, where there was in effect a free for all, with little control over environmental claims other than through the ASA codes. However since 2010, consumer trust in utility companies has fallen significantly, so this option is unlikely to lead to an improvement in consumer confidence or a sustainable increase in demand for green electricity.

Option 2 represents the status quo, but is not sustainable due to the existence of the parallel market in non-certified renewables-only tariffs that fail to comply with the Guidelines. This has been exacerbated by the withdrawal of most certified green tariffs following the implementation of RMR.

Option 3 is viable, but only if it is properly policed by Ofgem. As with Option 1, it may be difficult to persuade the public that it is working, but providing sanctions are clearly imposed if the Standards are broken, this should achieve the aim of bringing order back to the market.

Providing its scope is comprehensive, Option 4 is the one most likely to achieve the twin aims of consumer protection and encouraging additional renewable energy supplies to be brought into the market. Independent verification is essential; this could be through a certification scheme (as at present), or it could be enforced directly by Ofgem, using independent audits of each regulated tariff.

Question 8: What is the best method of ensuring that the principles are consistently applied in the market?

As indicated in our answer to Question 7, we believe that consistency will only be possible if the voluntary Guidelines are replaced by a mandatory standard or licence condition that applies to all environmental tariffs, not just those including an element of additionality on top of renewable supply.

Question 9: Do you agree that a prescriptive approach should be applied to the additionality principle for green tariffs? If so what activities should be included? Please provide evidence to support your answer.

Additionality has been the most contentious element around the existing Guidelines, which were drawn up with a presumption towards offsetting through internationally traded carbon offsets. Our informal research suggests that most members of the public would prefer to see an increase in renewable energy within the UK and, within the existing Guidelines, that this is most readily achieved through the "Green Fund" mechanism designed to channel investment into smaller or community-scale generation. However, we recognise also that certified green tariffs have offered a mix of additionality measures, including some focused around energy efficiency, and that this has offered consumers real choice. We have been concerned since the start of the Scheme that the 50kg additionality level for green funds and energy efficiency measures is seen by some as being too low, although it was selected to provide a similar cost for these measures to that obtainable through purchasing 1 tonne of traded carbon offsets. Any changes to additionality measures should take this into consideration.

The Panel has never been comfortable with the broader restrictions on direct investment on larger scale renewable energy projects, providing that there are sufficient controls over double counting. Any new renewable supply that does not contribute to supplier obligations under the RO should potentially be eligible for inclusion as additionality. Essentially this would require any ROCs on the new supply to be surrendered, but REGOs and LECs could be used as evidence of supply as part of a green or renewable tariff. With the anticipated move away from the Renewables Obligation to Contracts for Differences, there will be in future be no minimum level target level on suppliers for purchase of renewables, and any new investment may be considered additional. For this reason, we believe that the current proposed revisions to the Guidelines should keep open a degree of flexibility around what is acceptable. Furthermore, as one of our key recommendations is to end the artificial distinction between green tariffs with additionality and renewable-only tariffs without, it may be that all limits on additionality (over and above matching) can be removed. This could be replaced by a transparency requirement that tariffs should state what additionality measures (if any) are being funded through the tariff, and the level of CO₂ savings that are expected per customer or kWh.

Chapter three questions

Question 10: Do you agree that there is a need for increased transparency around the sale of other renewable energy tariffs?

Yes

Question 11: Do you agree that other renewable energy tariffs, without any tariff level environmental benefits, should follow our 'transparency' principles for green tariffs (excluding requirements relating to additionality)?

Yes – this is essential if order is to be restored to the market.

Question 12: What is the best way to convey to consumers at the point of sale that purchasing the tariff will not drive additional environmental benefits? If this is a message, what should it be?

As our answer to Q1 indicates, the underlying premise here is not obviously correct when the RO is replaced. Moreover, The Chair of the Panel is a communications expert, and she has noted that saying "This is not a green tariff" is almost meaningless to the average consumer. It assumes that they understand what is meant by a green tariff, and the quite subtle distinction between a green one (as defined by Ofgem) and a renewables-only tariff. Given Ofgem's own research shows a lack of public understanding in this area, we find it surprising that such a simple message as that in 3.19 should even be considered. If a simple statement is required, the sentence "You are not adding extra renewable energy into the electricity supply by buying this tariff" would be slightly more understandable, or: "The UK is committed to supplying an increasing amount of renewable energy each year. By signing up to this tariff you are unlikely to be increasing that amount." However any wording options would need to be tested carefully with real consumers.

Any tariff sold on the basis of its supply mix (or as a green, environmental or renewable tariff) should also be required to include the relevant portion of the Fuel Mix Disclosure upfront – typically the renewables and total non-renewable split, taking care to ensure that the information is accurate. This will help prevent misleading claims around 100% renewable energy, when the tariff is simply reallocating supply between a number of different tariffs.

Question 13: Do you agree that other renewable energy tariffs should also follow the 'evidence of supply' principle?

Yes. We believe that it is absolutely essential that any renewable-only tariff follows the same rules prohibiting double selling by preventing LECs and REGOs being split (or buying LECs for use with imported REGOs).

Question 14: What do you think the pros and cons of our proposals for other renewable energy tariffs being extended to large non-domestic consumers are? Is 100,000 kWh an appropriate threshold?

We would refer back to our response to Question 6, as we believe that the same principles should be applied (namely that there should be no fixed upper limit, but that certified supplies should be available to any business on a non-negotiated tariff).

Question 15: Do you have a preferred implementation option for our proposal for other renewable energy tariffs? Why?

We would refer back to our response to questions 7 and 8, where we state that any rules for green tariffs should be applied equally to renewable-only tariffs.

This response has been coordinated on behalf of the Expert Panel by the National Energy Foundation, but does not necessarily reflect the views of the Foundation.