

Decision not to open an investigation into SSE's¹ non-compliance with the Carbon Emissions Reduction Target (CERT) Order 2008

7 February 2014

1. Under the Carbon Emissions Reduction Target (CERT) Order 2008 ('the CERT Order') (as amended) SSE had a total obligation² and a number of sub-obligations to reduce carbon emissions by promoting energy efficiency measures in domestic households in Great Britain. This included obligations to promote energy efficiency measures to consumers within a 'Priority Group' and a 'Super Priority Group'. It also included an obligation to promote a certain proportion of energy efficiency measures through use of insulation (the 'Insulation Obligation').

2. In May 2013, the Gas and Electricity Markets Authority produced a final report for the Secretary of State for Energy and Climate Change on the extent to which SSE and other obligated parties complied with their carbon reduction obligations. The report described that SSE had failed to meet its obligations under the CERT Order, achieving 99.7% of its Priority Group obligations, 73.8% of its Super Priority Group obligations and, in respect of one licensee 99.83% of its Insulation Obligation. This resulted in a final position against SSE's total obligation of 98.6%.

3. The report was unable to take account of new evidence which SSE had submitted to Ofgem immediately before the report's publication and which was relevant to its Priority Group and Super Priority Group obligations. The evidence emerged from an exercise which SSE carried out with the Department of Work and Pensions (DWP).

4. The DWP evidence indicated that SSE delivered more qualifying measures for members of the Priority and Super Priority Groups than were known at the time of reporting to the Secretary of State. The evidence was subsequently processed by Ofgem and the results demonstrated that targets for the 'Priority Group' and 'Super Priority Group' obligations had been achieved.

5. The report to the Secretary of State also confirmed that SSE achieved carbon reductions equivalent to 101% of its Insulation Obligation overall but had under-delivered against one licence by 13,143 tCO₂ while over-delivering on the other. This resulted in a technical non-compliance for the Insulation Obligation on one SSE licence and subsequent technical non-compliance for the total obligation.

6. Ofgem considers that this resulted in limited (if indeed any) harm to consumers and in overall terms SSE delivered CERT measures in excess of all obligation targets. However, there has been an impact on Ofgem's resources in terms of time spent to assess whether or not to open an enforcement case.

¹ 'SSE' refers to SSE Energy Supply Limited and Southern Electric Gas Limited

² Total Obligation refers to the main obligation. In order to achieve the total obligation an obligated party was required to meet all sub-obligation targets. Any shortfall would lead to a shortfall in the total obligation.

7. Ofgem seeks to act proportionately when exercising its enforcement powers. Taking into account the new evidence from the DWP exercise, SSE's overall position and the limited (if indeed any) consumer harm, we have decided not to open an investigation into SSE's alleged breach of Article 9 and/or Article 13³ of the CERT Order on administrative priority grounds. In accordance with our Enforcement Guidelines, we note that this is not a repeat offence and the alleged breach is not continuing (i.e., this is not a contravention which is causing ongoing harm to consumers). In the circumstances, Ofgem considers that resources can be better allocated elsewhere. However, this matter forms part of SSE's compliance history and Ofgem would consider any repeat offence to be a serious matter.

³ Articles 9(1) (total CERT obligation), 9(2) (Insulation obligation), 13(1) (SPG obligation) and/or 13A (1) (PG obligation) of the CERT Order 2008.