

Energy suppliers and other
interested parties

Email: eco@ofgem.gov.uk

Date: 13 November 2012

Dear Sir/Madam,

**SUPERSEDED - Energy Companies Obligation (ECO): Information on applications
for excess action**

ECO is a new statutory scheme to be established by the Electricity and Gas (Energy Companies Obligation) Order 2012 ("the Order")¹. Under ECO, certain energy suppliers will be required to deliver energy efficiency measures to domestic households. Further information about ECO is available on the Ofgem and DECC websites.

The Order names the Gas and Electricity Markets Authority as the Administrator of ECO. Ofgem ('we', 'our' or 'us' in this letter) will administer ECO on behalf of the Authority.

This is the second of a series of Open Letters, which will provide information on different aspects of ECO. As set out in our letters dated 17 August 2012 and 14 September 2012², policies or processes set out in the Open Letters will be included in the draft guidance published for consultation and may change as a result of consultation. However, the finalised guidance will not operate retrospectively to override a policy or process set out in an Open Letter.

Under the Order, an obligated supplier may apply to us to gain credit towards its ECO obligations for 'excess actions' that were approved and installed under the Carbon Emissions Reduction Target (CERT) or Community Energy Saving Programme (CESP), but which are not required by the supplier to meet its CERT or CESP obligations³.

This letter explains what an excess action is, the circumstances in which a supplier can use excess actions to claim credit towards its ECO obligations⁴, what an application should include, and the grounds on which we will approve an application.

The approach outlined in this letter is based on the Order as laid in parliament. The Order is not yet made. Although we anticipate that the Order will be made, suppliers and other interested parties relying on this letter should recognise the possibility that it may not be.

¹ The Order was laid in parliament on 30 October 2012. It has not yet been made.

² Published on our website 20 August and 14 September respectively.

³ Its obligations under the Electricity and Gas (Carbon Emissions Reduction) Order 2008 and the Electricity and Gas (Community Energy Saving Programme) Order 2009 as amended.

⁴ Namely, its total carbon emissions reduction obligation; total carbon saving community obligation; or total home heating cost reduction obligation.

Once the Order is made it will be the responsibility of each supplier to understand the provisions of the Order and how those provisions apply to them. This letter is not intended to be a definitive guide to those provisions.

What is an excess action?

An excess action is an energy efficiency measure that meets *all* of the 'core requirements' and any relevant 'additional requirements' specified below.

The core requirements

The core requirements are that the measure:

- (i) is approved and installed under CERT or CESP;
- (ii) is installed from and including 2 January 2012;
- (iii) if installed between 1 October and 31 December 2012, is:
 - installed by a person of appropriate skill and experience⁵; and
 - in accordance with the Publicly Available Specification 2030:2012 (PAS) (where the measure is referred to in an annex to that Specification);and
- (iv) is not required by the supplier to satisfy its CERT or CESP obligations.

In relation to core requirement (i), we will deem a measure to have been 'approved and installed' under CERT or CESP where:

- the measure is reported in the final notification submitted by suppliers (and generators, in the case of CESP) by 31 January 2013; and
- we judge the measure to be qualifying action for the purpose of CERT or CESP.

In relation to core requirements (ii) and (iii), we will determine the date of installation of a measure by reference to the date on which installation of the measure was completed.

In relation to core requirement (iv), a measure is *not* required by a supplier to satisfy its CERT or CESP obligations, in the following circumstances:

CESP:

We will assess applications relating to excess action after we have made our final determination, at the close of the CESP scheme, as to whether suppliers have achieved their carbon emissions reduction obligation. We will judge that a measure is not required by a supplier to meet its obligation under CESP where:

- the supplier achieved the obligation; and
- the measure was not counted towards achievement of the obligation

⁵ Evidencing conformity with PAS and/or that a 'person of appropriate skills and experience' has installed the relevant measure is addressed in our Open Letter entitled "*Energy Companies Obligation (ECO): documents and data to be made available to Ofgem on request; general information about some legislative provisions of ECO*", hereafter the "Open Letter on evidence".

CERT:

We will assess applications relating to excess action after we have made our final determination at the close of the CERT scheme. In the course of making this final determination we will decide whether suppliers have achieved their carbon emissions reduction obligation, and the following sub-obligations:

- (i) Insulation obligation;
- (ii) Priority group obligation; and
- (iii) Super priority group obligation.

Generally, we will judge that a measure is not required by a supplier to meet either its main obligation or a sub-obligation where:

- the supplier achieved that obligation; and
- the measure was not counted towards achievement of the obligation.

However this general rule is subject to the following two rules.

1. *Measures that are surplus to the remainder of the main obligation*

Under CERT, a supplier must achieve each of its sub-obligations in order to achieve its main obligation. For the purposes of this letter, we refer to the part of the main obligation that is not included within a particular sub-obligation as '*the remainder of the main obligation*'.

A supplier may fail to achieve its main obligation because it fails to achieve a particular sub-obligation, even though it delivered sufficient measures within *the remainder of the main obligation* to meet its main obligation. If the measures delivered to *the remainder of the main obligation*

- a. cannot count towards achievement of that sub-obligation, and
- b. are surplus to achieving *the remainder of the main obligation*,

we will judge that a measure is not required by the supplier to meet its main obligation.

For example, if a supplier does not meet its super priority group obligation, but does meet *the remainder of its main obligation*, then a measure that is not required to meet *the remainder of the main obligation* and does not qualify for the super priority group will be deemed surplus. Therefore, as long as the measure does not qualify for any other unachieved sub-obligations, and all other core and additional requirements are met, it is an excess action.

2. *Measures that exceed a limit on qualifying action*

Where a qualifying action exceeds:

- the limit on market transformation action and demonstration action; or

- the limit on priority group flexibility action⁶,

the CERT Order prevents us from counting the qualifying action towards achievement of an obligation. However, a supplier is able to change the status of these actions to a standard action (rather than market transformation action or priority group flexibility action, as the supplier originally may have intended). By notifying in this way, a supplier ensures that it does not exceed the relevant limit. (Suppliers will soon receive correspondence from CERT administrators explaining more about the treatment of actions that exceed the limits under CERT.)

Given the ability of suppliers to change the status of a qualifying action, we will judge that a measure *is* required to meet an obligation, and therefore does NOT qualify as an 'excess action' where:

- the qualifying action involving the measure exceeded one of the two limits described above; and
- the status of that action could have been changed such that the action could have counted towards the main obligation or a sub-obligation that the supplier failed to achieve.

The additional requirements

In addition to meeting all of the core requirements, a measure must also meet the following additional requirements, where relevant.

The additional requirements that are relevant will depend on which scheme the measure was originally approved and installed under (i.e. CERT or CESP), and which of the ECO obligations the supplier intends the measure to be credited against.

Measures approved and installed under CESP

- If the measure is intended to contribute towards the **carbon emissions reduction obligation** or the **carbon saving community obligation**, then there are **no** additional requirements.
- If the measure is intended to contribute towards the **home heating cost reduction obligation**, then it must have been installed to a householder as defined in the ECO Order⁷.

Measures approved and installed under CERT

⁶ We have not described treatment of a qualifying action that exceeds the limit on real-time displays and home energy advice packages. This is because the Order restricts suppliers from carrying these measures across to ECO. In most circumstances, suppliers will be unable to calculate savings for these measures. There is no methodology available under the Standard Assessment Procedure or the Reduced Data Standard Assessment Procedure for these measures. Further, suppliers will be unable to apply for an appropriate methodology for these measures until the Order comes into force – which is currently anticipated to be during December 2012. The ECO Order requires suppliers to apply for an appropriate methodology before installing the measure to which that methodology will apply.

⁷ Further information on the definition of a householder and how to evidence this is contained in our Open Letter on evidence.

- If the measure is intended to contribute towards the **carbon emissions reduction obligation**, then it must either have been installed to a member of the super priority group⁸; OR be solid wall insulation.
- If the measure is intended to contribute towards the **carbon saving community obligation**, then it must have been promoted and installed in an area of low income (as defined in the ECO Order).
- If the measure is intended to contribute towards the **home heating cost reduction obligation**, then it must have been promoted and installed to a householder as defined in the ECO Order⁹ who was a member of the super priority group¹⁰.

The following table summarises these additional requirements:

Summary of additional requirements	CESP	CERT
Carbon Emissions Reduction Obligation	None	Super Priority Group OR Solid Wall Insulation
Carbon Saving Community Obligation	None	Area of Low Income (ECO definition)
Home Heating Cost Reduction Obligation	Householder (ECO definition)	Householder (ECO definition) AND Super Priority Group

CERT and CESP closedown and ECO excess actions

Suppliers should note that the delivery of CERT and CESP obligations take precedent over the ECO and the provision for the carry-over of excess actions. Procedures and precedents for the final closedown of the current obligations will be provided as part of the ongoing administration of CERT and CESP and nothing contained within this letter or subsequent guidance consultation overrides these.

Suppliers should note the contents our open letter dated 21 September 2012 regarding the approach to enforcement of CERT and CESP¹¹ and should be aware that any mitigating action delivered after the close of the CERT/CESP obligation period is not action that may be carried over into ECO as excess action.

Content of an application

An application should include the following information:

- a. details of each measure that the supplier believes is an excess action, including:

⁸ As defined in Article 2 of the Electricity and Gas (Carbon Emissions Reduction) Order 2008.

⁹ Further information on the definition of a householder and how to evidence this is contained in our Open Letter on evidence

¹⁰ As defined in Article 2 of the Electricity and Gas (Carbon Emissions Reduction) Order 2008.

¹¹

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=63&refer=SUSTAINABILITY/ENVIRONMENT/ENERGYEFF/INFPROJMNGRS>

- the CERT or CESP scheme code;
 - the address of the premises where the measure is installed;
 - the type of measure/its specification;
 - the date of installation; and
 - confirmation that the measure meets the core requirements as well as any relevant additional requirements;
- b. the ECO obligation that the supplier intends the application to be counted towards:
- the carbon emissions reduction obligation;
 - the carbon saving community obligation; or
 - the home heating cost reduction obligation.
- c. calculation(s) of the carbon saving or cost saving of the excess action and the scoring method used to calculate the carbon or cost saving.

Savings will be calculated in accordance with the ECO Order and will be different to the savings awarded under CERT and CESP. Further explanation on how to calculate the savings referred to in 'c' above is provided in our Open Letter entitled, "*Energy Companies Obligation (ECO): Information on determining savings for qualifying actions and excess actions*" (hereafter the "Open Letter on scoring").

For the purposes of audit, the type(s) of evidence that suppliers need to hold or obtain as confirmation that a measure approved and installed under CERT or CESP meets certain of the additional requirements, are as follows:

- *Proof a measure has been installed to a member of the super priority group*
Suppliers must be able to demonstrate that a measure has been installed to a member of the super priority group in the same way as they do under CERT.
- *Proof a measure has been installed to a householder and in an area of low income*
Information on these requirements is included in our Open Letter entitled "*Energy Companies Obligation (ECO): documents and data to be made available to Ofgem on request; general information about some legislative provisions of ECO*", hereafter the "Open Letter on evidence".

Submitting applications for excess action

An application for excess action must be made in writing by 1 June 2013. Further explanation on how to submit the application, including a template to complete, will be provided at a later date and made available on our website.

Approving applications for excess action

Where we are satisfied that an application for excess action contains the correct information, meets all of the core requirements and any applicable additional requirements, the application will be approved¹².

¹² Note that approval of an application for excess action does not mean that the full amount of savings notified by the supplier as part of their application will necessarily be credited towards the elected ECO obligation.

As outlined above, a core requirement for a measure to be considered an excess action, is that a supplier does not require that measure to meet its CERT or CESP obligations. Therefore, we will be unable to approve any applications for excess action until a final determination has been made under CERT and CESP.

If you have any queries in relation to this letter of the ECO Order please contact Jessica Ladbury at eco@ofgem.gov.uk.

Yours sincerely,

Matthew Harnack
Associate Director, Commercial

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