

Energy suppliers and other
interested parties



Email: eco@ofgem.gov.uk

Date: 12 November 2012

Dear Sir/Madam

SUPERSEDED - Energy Companies Obligation (ECO): Notification of Completed Measures

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 fifth in 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dated 17 August 2012 and 14 September 2012², policies or processes set out in the Open Letters will be included in the draft guidance published for consultation and may change as a result of consultation.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.

The primary purpose of this letter is to provide information on the notification that suppliers must submit to us regarding a completed qualifying action or adjoining installation ('completed measure'). It includes information on when these measures must be notified to us, what must be notified for each measure, how it should be notified, what happens when a successful notification contains errors, and our approach to requests for extensions. It also references the information we will require suppliers to provide less frequently, and addresses the protection of personal data.

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

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

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.

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.

When suppliers must notify us of completed measures

A completed measure is a qualifying action or adjoining installation whose installation is complete. Subject to the paragraph below, in order for a completed measure to be able to count towards a supplier's obligations under ECO, a supplier must notify us of that completed measure by the end of the calendar month after the month in which installation of the measure was completed (the 'notification deadline'). For example, if a measure is completed during June 2014, its notification deadline will be 31 July 2014.

For all measures completed in the period between 1 October 2012 and 31 January 2013, a supplier must notify us of these measures by the end of February 2013.

When is installation of a measure complete?

The installation of a measure is complete on the date that it is capable of delivering savings at or around a level that is to be expected for that measure. This will normally be the date on which the installer finishes work on the measure.

However, subject to the following paragraph, for the purpose of monthly notification we will generally consider the measure to be completed on the date on which the measure is effectively handed over to the customer. For measures installed in accordance with the Publicly Available Specification (PAS), the meaning of handover is defined within that Specification³, and the date of handover must be specified in the Declaration of Conformity⁴. For measures that do not need to be installed in accordance with PAS, or where no Declaration of Conformity is produced, the date of handover will be the date on which the measure is installed, and any relevant information or documents relating to the operation and maintenance of the measure have been provided to the consumer.

We expect handover to take place within four calendar weeks of the installer finishing work on the measure.

A supplier may sometimes install a particular type of measure in multiple premises comprising a block of flats, or a row of houses. Where those flats or houses are owned by the same landlord, the installer may handover to the landlord or its agent (rather than to the tenants of the premises) and may do a single handover for all measures installed of that type. In this case, all the measures of that type can be notified in the same monthly notification because all the measures will have the same handover date. We expect handover to take place within four weeks of the installer finishing work on the last measure.

³ Paragraph 4.12, PAS 2030:2012

⁴ Paragraph 7.2, PAS 2030: 2012

Under the Carbon Emissions Reduction Obligation, there is a category of measures (secondary measures) that are only qualifying actions if, among other requirements, they are installed within six months before or after the date a supplier installs a 'primary measure'. A primary measure is either insulation of a hard-to-treat cavity or solid wall insulation.

Where a supplier installs a secondary measure *before* the installation of a primary measure, the secondary measure is not complete until the primary measure is installed and the requirement to notify does not arise until this time. Suppliers should therefore notify us of the secondary measure(s) at the same time as they notify us of the primary measure.

Suppliers must be able to evidence the date on which a measure was completed. The documentation we expect a supplier to produce in order to do this is explained in the 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**'.

Information suppliers must include as part of the notification

In order for the notification of a completed measure by a supplier to be successful, the supplier must provide us with the following information⁵. **If the supplier does not provide this information by the notification deadline, notification of the measure will be unsuccessful and the carbon or cost savings associated with the measure will be lost:**

- the name or ECO reference of the obligated supplier (i.e. licence-holder) that promoted the installation of the completed measure;
- the address at which the measure was installed;
- the type of measure installed;
- the date on which the installation of the measure was completed;
- the obligation the measure is intended to be credited towards;
- the carbon or cost saving as appropriate⁶;
- confirmation that the measure satisfies the conditions that must be met for the measure to be a qualifying action (by reference to the qualifying criteria for the obligation the measure is intended to be credited towards⁷);
- where the measure is an adjoining installation, identification of areas A and B⁸; and

⁵ This information is required under Article 16 of the Order.

⁶ Where a supplier intends to be able to transfer a measure between obligations, they should include both the carbon and cost saving as appropriate in the notification template. For further information please see the Open Letter titled "Energy Companies Obligation (ECO): *Information on determining savings for qualifying actions and excess actions*".

⁷ In respect of the following obligations, the conditions are set out as:

1. Carbon Emissions Reduction Obligation – Article 12 (3) - (5), and (7)
2. Carbon Saving Community Obligation - Article 13(5) - (7)
3. Home Heating Cost Reduction Obligation - Article 15(3)

- where the measure is a secondary measure, the primary measure it relates to.

In certain circumstances, we may grant suppliers an extension to the notification deadline for this information. This is discussed under the heading *Applications for extensions to the notification deadline* below.

We are also requiring suppliers to notify other important information when submitting their monthly notification of a completed measure⁹. We require suppliers to submit all of this further information by the notification deadline. Failure to do so will not render notification of that measure unsuccessful. It may, however, be treated as a failure to comply with a relevant requirement for which our enforcement powers are available.¹⁰ Some of this information is required in order for us to be able to determine whether a qualifying action can be credited towards a specific obligation.

This further information is detailed in the template for the notification of a completed measure ('notification template'), and includes, but is not limited to:

- whether the person to whom the measure has been promoted is, as applicable, a member of the Affordable Warmth Group or a Householder;
- the name of the scoring tool used; and
- the identification number of the appropriate methodology used (where appropriate).

How to submit a notification

The notification template is available on our website. The notification template describes the information that suppliers must include as part of the monthly notification for a particular type of completed measure. There is also a data dictionary on our website which is intended as a reference tool for completing the notification template.

We ask that suppliers notify us of all completed measures that share the same notification deadline at the same time and include all the information relating to the completed measures in the same document.

A notification of a completed measure must be made using the notification template and emailed to us securely. We will provide further information on this in due course.

We will review each measure that is successfully notified to us and will inform suppliers of the savings attributed to that measure. Where necessary, we may require a supplier to clarify the information notified or provide further information with respect to a notification before we are able to attribute savings for the notified measure.

Errors in successful notifications

⁸ B is the area in which the adjoining installation is installed. A is the area of low income to which area B is adjoined.

⁹ We are requiring this information from suppliers pursuant to our information gathering powers under Article 23 of the Order.

¹⁰ See Article 24 of the Order.

Where a supplier successfully notifies us of a completed measure prior to the relevant notification deadline, but becomes aware that the notification contains an error, the supplier should inform us of the error and ensure that it provides us with the correct information before the relevant notification deadline. For example, for a measure installed on 15 June 2014 and notified on 10 July 2014, an error in the notification template should be corrected at any time up to and including 31 July 2014.

In the months following the relevant notification deadline (in the above example, after 31 July 2014), the notification may only be corrected with our consent.

It is the responsibility of each supplier to ensure that all notifications are accurate.

Applications for an extension to the notification deadline

Suppliers can apply to us for an extension to the notification deadline for a completed measure. The application must be in writing and must include a reason explaining why an extension is being requested. The reason should be supportable by evidence. A request for an extension should be made promptly by the supplier when it first becomes aware that it has, or will, fail to notify a measure by the notification deadline.

We are unable to grant an extension to the notification deadline for the notification of a completed measure where the reason provided is 'administrative oversight on the part of the supplier'.

In general, suppliers are expected to be able to notify us of a completed measure by the notification deadline. We are not obliged to grant an extension to suppliers and as such we will consider each application on its merits.

Suppliers may submit a completed notification template in respect of the measure(s) for which they are seeking an extension at the same time as they submit the application for the extension. Where they do not, a supplier's application must identify the measure(s) (including the address at which the measure is installed) in respect of which it is seeking an extension.

Administrative oversight on the part of the supplier

Administrative oversight includes instances where the supplier fails to carry out an administrative task for reasons within the supplier's control and where the cause of that failure was reasonably foreseeable. Examples of administrative oversight on the part of the supplier would normally include:

- forgetfulness;
- misplacing password/login details; and
- routine maintenance of IT systems.

The above list is not exhaustive and all applications for extension will be assessed on a case-by-case basis. We will take into account the degree of control exercised by the supplier over the administrative oversight when deciding whether the administrative oversight is 'on the part of the supplier'. For example, we will generally consider the

administrative oversight to be on the part of the supplier where an employee of the supplier is responsible for the administrative oversight.

Information required less frequently

We may, from time to time, require a supplier to provide us with further information regarding completed measures. This information will not be required as part of the monthly notification. For example, we may request information to assist our audit processes. We may also request information relating to technical monitoring, and the cost to suppliers of meeting their obligations. For a full list of the information we expect suppliers to retain regarding completed measures, please see the Open Letter on evidence.

Fair processing

In the course of fulfilling their obligations under ECO, suppliers will be obtaining information about consumers. Some of this information will need to be provided to us either as part of the monthly notification or in the course of our audits. Suppliers should ensure that their processing of this information complies with all applicable data protection laws. In particular, it is the responsibility of suppliers to ensure that customers to whom they deliver measures under ECO are properly informed of how their information will be processed and for what purposes, including to whom such information will be disclosed. This includes informing consumers that their data will be shared with us.

In general, the Data Protection Act 1998 requires persons collecting personal data to provide the data subject with a Notice of Fair Processing, also known as a Privacy Notice. So that we are able to process the consumer data that we receive from suppliers, we require the following wording to be included in every Privacy Notice that suppliers provide to consumers under ECO:

"Some of the information you have provided to [*name of supplier/company*] may be disclosed to Ofgem as Administrator of the ECO scheme. Ofgem is the Office of the Gas and Electricity Markets. Further information about Ofgem can be found at: <http://www.ofgem.gov.uk>. Ofgem may use such information to determine whether [*name of supplier*] is achieving its obligations under such scheme and to comply with its own statutory duties. Ofgem may seek to verify any information we provide them with by contacting you directly or by checking it against existing Government records. If you would like to know more about what information Ofgem holds about you, or the way it uses your information, full details of Ofgem's ECO Privacy Policy can be found at: <http://www.ofgem.gov.uk/Sustainability/Environment/ECO/Pages/index.aspx>. You can also contact Ofgem directly at eco@ofgem.gov.uk."

This statement is intended to discharge certain of our obligations under the Data Protection Act 1998. It is not intended, and should not be relied upon, to discharge suppliers' obligations in respect of the same or other data protection laws. Further guidance on what information Fair Processing Notices should contain can be found on the Information Commissioner's Office website at: <http://www.ico.gov.uk/>.

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

Yours sincerely,

Matthew Harnack
Associate Director, Commercial

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