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Wednesday 30<sup>th</sup> April 2014

Dear Barbara,

**Warm Home Discount: Amendments to Guidance for Licensed Electricity Suppliers and Licensed Gas Suppliers (Version 3)**

Thank you for the opportunity to provide feedback on Ofgem's proposed amendments to the Warm Home Discount (WHD) Guidance for Licensed Electricity Suppliers and Licensed Gas Suppliers (Version 3).

Energy UK is the trade association for the energy industry. We represent over 80 members made up of generators and gas and electricity suppliers of all kinds and sizes as well as other businesses operating in the energy industry. Together our members generate more than 90 per cent of the UK's total electricity output, supplying more than 26 million homes and investing in 2012 more than £11 billion in the British economy.

Energy UK welcomes Ofgem's decision to update the WHD Guidance document to take into account recent changes to the WHD Regulations 2011 and to formalise the expectations that Ofgem has developed since Version 2 of the Guidance was published in March 2013.

Overall, the updated Guidance clearly sets out Compulsory Scheme Electricity Suppliers' (CSESs) obligations in relation to the WHD and provides CSESs with greater clarity on key aspects of the WHD scheme. Energy UK does, however, have a number of specific comments it would like to raise in relation to the amendments proposed by Ofgem:

**1. Applicability**

With the exception of changes driven by amendments to the WHD Regulations 2011 (2.36, 2.37, 2.38 and 4.5), Ofgem should confirm that wider changes to the Guidance apply from scheme year 4 onwards only. Current drafting is ambiguous and could be interpreted to mean that all proposed changes to the WHD Guidance could apply for scheme years 2 through to year 4.

In line with the principles of better regulation, Ofgem should not be seeking to apply changes to the Guidance retrospectively, especially when assessing a CSES's WHD compliance in previous scheme years.

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CSEs have been working hard over the past year to deliver their obligations in line with Version 2 of the WHD Guidance. Furthermore, we are now over a month into scheme year 4 and any formal changes to the Guidance are unlikely to be formally made before the scheme year 3 End of Year reporting deadline. With this in mind, CSEs compliance with the WHD regulations for scheme year 3 should be adjudged in accordance with Version 2 of the Ofgem WHD guidance, as these were the rules and guidelines in place when activity was being delivered.

## **2. Core Group/Broader Group duplication**

As previously discussed with Ofgem, whilst it was always DECC's intention to minimise the number of households that received both Broader Group and Core Group rebates, it was never DECC's intention to eliminate such incidences and neither was it their intention for a Core or Broader Group payment not to be counted if such an incidence did occur. Both the scheme regulations and the policy documents confirm this.

Energy UK would, therefore, welcome further justification for Ofgem's proposals to expand on 4.15 though the introduction of 4.15 (A). By suggesting a CSES "*should*" use the information that they have to facilitate the provision of Core Group rebates to help reduce the possibility of a customer account receiving more than one WHD rebate in each scheme year, Ofgem is potentially placing an expectation on CSEs that go beyond the requirements of the WHD Regulations.

Section 19 of the scheme regulations provides that Ofgem must approve Broader Group eligibility criteria if they meet two conditions. The second condition – 19(6) - is that "*customers meeting the criteria will wholly or mainly be persons who were not core group customers in the previous scheme year*". Furthermore, the existing version of 4.15 already requires CSES to ensure customers "*meeting the [Broader Group] criteria will wholly or mainly be persons who were not Core Group customers in the previous scheme year*" (regulation 19(6)) and to "*monitor the duplication between the Broader Group and Core Group to satisfy themselves that regulation 19 (6) is being adhered to.*"

## **3. Delivery in accordance with an approved notification**

We note that the intent behind Ofgem's proposal to introduce 4.10 (a) And 6.7 (a) is to clarify that approval of a Broader Group / Industry Initiative notification does not automatically mean that a CSES's spend has been counted towards their non-core obligation, or that the CSES has been found to comply with the WHD Regulations. If, however, a Broader Group scheme or Industry Initiative has been delivered in accordance with its *approved notification*, Ofgem should not prevent a CSES counting any committed spend toward their non-core obligation.

## **4. Industry Initiatives – 'Wholly or mainly'**

As raised with Ofgem at the biannual Ofgem/Supplier WHD Workshop on the 6<sup>th</sup> December 2013, Energy UK understands that Ofgem has internally been using the amended and supplemented drafting of 6.21 when reviewing notifications and assessing the compliance of Industry Initiatives since scheme year 2. We are, therefore, working under the assumption that Industry Initiatives already approved for scheme year 4 were approved on the basis that if delivered in line with their notification, they would be compliant with the amended and supplemented version of 6.21.

If this is not the case, and Ofgem has changed its interpretation of '*wholly or mainly*', we would welcome clarification as to why such a decision has been made, particularly at such a late stage in the obligation, and when there have been no wider changes to the WHD regulations around Industry Initiatives.

In considering 6.21, it is also important for Ofgem to recognise that the WHD regulations state that '*as far as reasonable practicable*' the benefits provided by an Industry Initiative should be provided wholly or mainly to persons in or at risk of fuel poverty. In using the words '*as far as reasonably practicable*' DECC's intention was clearly to recognise that there may be instances where for legitimate reasons, it is not possible for an Industry Initiative to deliver benefits wholly or mainly to persons in or at risk of fuel poverty, despite the best efforts of the obligated party or their delivery partners to do so.

I hope you find our comments helpful, should you require any more information please do not hesitate to contact me directly on 020 7747 2965 or at [daniel.alchin@energy-uk.org.uk](mailto:daniel.alchin@energy-uk.org.uk). Energy UK and our members are always willing to discuss with Ofgem ways in which we can work together for the benefit of consumers and the industry.

Yours sincerely

Dan Alchin  
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