

Appendices



Appendix I

Key Performance Indicators

Effective Competition			
Metric (KPI's)	Details of what is being measured	Annual targets for 2019-20	Actual
Offshore transmission processing	Licence grants within 70 days of commencement of Section 8A ⁵ consultations	70 days	39 days (average)
Offshore transmission processing	Preferred Bidder selection within 120 days of the "Invitation to Tender" submission (excluding "Best" and "Final" offer)	120 days	96 days (average)
Licence applications	Make decisions on Licence Applications within 45 days	100%	100% ⁶
Code modifications	Made code modification decisions within 25 days (or three months, if "minded to" consultation / impact assessment is needed)	90%	29% ⁷
Customer contacts	Time taken for first response to customer contacts	93% - 10 working days	96%
Whistle-blowers	Time taken for first response to whistle-blower contacts	100% - 1 working day to receive initial engagement	99%

Key performance indicators for our environmental and social schemes are set with the Department for Business, Energy and Industrial Strategy and the Northern Ireland Department for the Economy, for whom they are delivered. Every year, Ofgem commits to upholding specific service levels for the GB Domestic and Non-Domestic RHI, Feed-In-Tariffs, Renewables Obligation, Energy Company Obligation and Warm Home Discount schemes. Results against these for 2019-20 are set out below.

⁵ Section 8A – Electricity Act 1989

⁶ The specified time periods vary for different application types and are published in the guidance for gas and electricity licence applications https://www.ofgem.gov.uk/system/files/docs/2019/07/applying_for_a_gas_or_electricity_licence_-_2019_guidance_document_1.0_0.pdf

⁷ This figure is a result of a number of factors including competing priorities within Ofgem, for example work on Significant Code Reviews, and a number of complex decisions that required additional time.

Environmental and Social Scheme KPIs			
Metric (KPI's)	Details of what is being measured	Annual targets for 2019-20	Actual
Domestic Renewable Heat Incentive (DRHI)	Responding to enquiries within 10 working days	100%	79%
Northern Ireland DRHI	Responding to enquiries within 10 working days	64%	63%
Renewable Obligation	Responding to enquiries within 10 working days	80%	70%
Feed in Tariffs (FIT)	Responding to enquiries within 10 working days	83%	69%
Energy Company Obligation (ECO)	Responding to enquiries within 10 working days	58%	83%
Warm Home Discount	Responding to obligated party submitted Warm Homes Discount	100%	100%
DRHI	Maintaining system availability during business hours	99.74%	99.82%
Northern Ireland DRHI	Maintaining system availability during business hours	100%	99.92%
RO	Maintaining system availability during business hours	99.97%	99.76%
FIT	Maintaining system availability during business hours	99.80%	99.89%
ECO	Maintaining system availability during business hours	100%	99.91%
DRHI	Making payments within 30 working days	99.08%	97.28%
Northern Ireland DRHI	Making payments within 40 working days	90.85%	88.45%
RO	Issuing the main batch of Renewables Obligations Certificates following the generators' output data reporting deadline, within 17 working days (Apr-Jun) and 12 working days (Jul-Mar)	98.57%	97.44%
FIT	Completing the "levelisation" process within 22 working days	95%	100%
ECO	Processing the measures submitted in one calendar month by the end of the following month	100%	100%

Appendix II - Investigations and Enforcement Action 2019-20

Details of our cases are available on our website⁸ in accordance with our policy as set out in our Enforcement Guidelines.⁹ We will usually publish brief details of the facts and nature of the investigations on our website,¹⁰ although policy is different for cases relating to the Regulation¹¹ on Wholesale Energy Market Integrity and Transparency (REMIT).¹²

Below you can find details of the investigations that we have completed this year. In investigations where we secured redress, the companies made payments either directly to consumers and/or to the voluntary redress fund, administered by the Energy Savings Trust (EST).¹³

Company	Issue	Decision	Date of decision
UKPN	Power cut on 9 August 2019. UK Power Networks began reconnecting customers without being asked to by the ESO, which could have potentially jeopardised recovery of the system. This was a technical breach.	Alternative action, UKPN to pay £1.5 million into Ofgem's voluntary redress fund for a technical breach.	June 2018
RWE	Generation loss on 9 August 2019, following power cut.	Alternative action, RWE agree to pay to pay £4.5 million into Ofgem's voluntary redress fund.	January 2020
Hornsea One Ltd	Generation loss on 9 August 2019, following power cut.	Alternative action, Hornsea One Ltd agree to pay £4.5 million into Ofgem's voluntary redress fund.	January 2020
Economy Energy, E(Gas and Electricity) and Dyball Associates	Investigation into whether there has been an infringement of Chapter I of the Competition Act 1998 in relation to possible anti-competitive agreements and concerted practices	We found that the Parties committed the Infringement intentionally or negligently and we decided to impose financial penalties of £650,000 on EGEL, £200,000 on Economy Energy Trading Limited and £20,000 on Dyball. Economy Energy has since gone into administration.	July 2019
Engie Global Markets	Investigation into whether Engie Global Markets had breached Article 5 (prohibition on market manipulation) of Regulation (EU) No 1227/2011 ('REMIT')	EGM admitted the breach of Article 5 of REMIT and has agreed to early settlement. EGM will pay a penalty of £2,128,236.	September 2019
EPEX Spot SE	Breach of Competition Act (Chapter II)	EPEX Spot SE agreed commitments for improvement to be implemented. No formal findings found	June 2019
Cadent	Investigation into Cadent Gas Limited and its compliance with its obligations under its gas transporter licence (Standard Special Conditions A40, A50 and A55) and as a consequence section 9 of the Gas Act 1986	No formal finding of breach; case closed by way of alternative action. Cadent paid £3 million to the Voluntary Redress Fund and pay £3.6m in costs associated with the investigation and putting right the issues associated with the investigation.	May 2019

⁸ <https://www.ofgem.gov.uk/investigations>

⁹ https://www.ofgem.gov.uk/system/files/docs/2017/10/enforcement_guidelines_october_2017.pdf

¹⁰ The fact that we have opened an investigation does not imply that the companies involved have breached licence conditions or other obligations.

¹¹ Regulation No 1227/2011 of the European Parliament and of the Council of 25 October 2011

¹² Our Remit Procedural Guidelines can be found at: <https://www.ofgem.gov.uk/publications-and-updates/consultation-decision-remit-penalties-statement-andprocedural-Guidelines>

¹³ <https://energyredress.org.uk/>

Below are details of redress that Ofgem has secured through alternative action or compliance work. This gives a company a chance to swiftly put things right for consumers without us exercising our statutory enforcement powers.

Company	Issue	Decision	Date of decision
Utility Warehouse	Price cap overcharging	Alternative action taken, approximately £150,000 paid in refunds, £300,000 paid to consumers as compensation. Utility Warehouse also paid £200,000 into Ofgem's voluntary redress fund.	January 2020
I-Supply	Price cap overcharging/ Standards of Conduct.	Closed through alternative action. I-Supply refunded £37,193 for the period 1 overcharge, and £54 for period 2 overcharge. They also issued £5 goodwill payments totalling £30,475 and paid £1.5 million into Ofgem's voluntary redress fund.	December 2019
Utilita Energy	Under delivery of the ECO3 obligation.	Closed through alternative action. Utilita paid £175,000 into the Voluntary Redress Fund.	July 2019
Green Star Energy	Compliance with Standard Licence Conditions 0 on Standards of Conduct and Standard Licence Condition 7.7, on information for customers about deemed contracts	Closed through alternative action. Green Star Energy have paid £350,000 to the Voluntary Redress Fund.	July 2019
Shell Energy	Price cap overcharging	Closed through alternative action taken. Shell agreed to take various remedial actions. Shell refunded the overcharge to their customers of £100,736.63. They also paid £62,000 in compensation to customers who were on tariffs that were not compliant with the price cap. Another group of customers experienced a delay in their energy price being reduced under the price cap after they requested to change to a cheaper one. Shell has agreed to refund these customers and pay £29,000 in compensation and pay £200,000 to the Voluntary Redress Fund	June 2019
Cadent	Cadent left customers without gas for longer period than they should have been. Compensation not paid to all effected customers.	Alternative action taken. No formal finding of breach. Closed through alternative action. Cadent paid £20 million to a community energy fund, £5.9 million to the Voluntary Redress Fund, they are due to spend £4.8 million on costs to improve performance in blocks of flats, and an estimated £6.7m in compensation costs.	May 2019
SSE	SSE missed its target to install smart meters for its customers last year (2018).	Closed through alternative action, SSE paid £700,000 to the Voluntary Redress Fund	April 2019

Company	Issue	Decision	Date of decision
Shell Energy Retail (then trading as First Utility)	Charging customers for a paper bill (SLC21B.8)	Alternative action taken, Shell Energy paid £100,000 to the Voluntary Redress Fund.	July 2019
Shell Energy Retail (then trading as First Utility)	Provision of an annual statements to customers (SLC 31A.9), and if consequences customers not being able to make informed choices (Standards of Conduct), late final bills (SLC27.17) and deficient customer service arrangements (SoC).	Alternative action taken, £224,864.82 was paid in refunds, £116,330 was paid as additional payments to customers and £198,106 was paid to the Voluntary Redress Fund.	July 2019
Ovo Energy	Following the Spark Energy SoLR, we became aware that Ovo had taken security deposit payments from some former Spark customers (those on standard credit, paying in arrears rather than by Direct Debit). Customers did not realise that their latest payments were being used for this purpose rather than to pay their energy bill and were subsequently being treated as in debt.	Alternative action taken, £469,081.36 paid in refunds with a further £173,310 paid in compensation to customers	July 2019

In addition to this, other a further 20 compliance issues were resolved involving refunds, compensation and/or redress, resulting in the following; (note that there is a minor variance due to rounding)

Type of impact	Value
Refunds paid to customers	£101,000
Compensation payments to consumers	£169,000
Redress payments to the Voluntary Redress Fund	£6,000
Total	£275,000

Open cases

Below are the open investigations as at the end of March 2020. Please note, the opening of an investigation does not imply that we have made any finding(s) about non-compliance. Ofgem does not publish information on all open investigations, in particular when Ofgem is conducting investigations into potential failures to comply with REMIT requirements. As a general rule, we do not comment further on these investigations, including who we are investigating, unless we consider it necessary to do so in the interests of consumers or market confidence.

Company	Date Opened	Issue
Western Power Distribution	February 2020	Investigation into Western Power Distribution plc and its compliance with obligations relating to the Priority Services Register.
National Grid Electricity Transmission plc and SP Transmission plc	January 2020	Investigation into whether National Grid Electricity Transmission plc and SP Transmission plc breached licence conditions and statutory obligations relating to the delivery and operation of the Western High Voltage Direct Current ("WHVDC") subsea link between Scotland and Wales.
Utilita	January 2020	Investigation into whether Utilita breached licence condition 28A, relating to the price cap for pre-payment meter customers.
National Grid Electric Systems Operator (ESO)	August 2019	Investigation into 9 August 2019 power outage.
National Grid	May 2018	Investigation into National Grid Electricity Transmission (NGET) and its compliance with its obligations under the Standard Licence Condition 16 of the Transmission Licence
Utility Warehouse	June 2018	Investigation into Utility Warehouse's compliance with Standard Licence Conditions (SLCs) 25C/0, 27.5, 27.8 and 28B of the Electricity Supply Licence and the Gas Supply Licence. We expanded the scope of the case to include SLC 32A in October 2019.
Not disclosed	July 2017	Investigation into whether there has been an infringement of Chapter II of the Competition Act 1998 and/or Article 102 of the Treaty on the Functioning of the European Union, concerning potential abuse of a dominant position by a company providing services to the energy industry.
Ovo Energy	February 2018	Investigation into whether Ovo has complied with SLCs 31A and 25C/0 in respect of information on Bills, statements of account and Annual Statements. The investigation was expanded in October 2018 to include SLC 22C, SLC 26, and SLC 27 and expanded again in August 2019 to include SLC 28A.

Provisional Orders (PO)

Provided below are the details of the provisional orders imposed during the year from April 2019 to March 2020, we issued 4 provisional orders for Foxglove, Breeze Energy Nabuh Energy and Solarplicity Supply Ltd. We saw a rise in the instances of non-compliance on the E-Serve schemes Feed In Tariff and Renewable Obligation.

Provisional Order issued	Company	Concern
February 2020	Foxglove	Foxglove indicated that they would fail to comply with the Authority's instruction to make its Feed In Tariff (FIT) levelisation Payment and contravene SLC 33.
October 2019	Breeze Energy	Failure to make Renewables Obligation (RO) payment.
October 2019	Nabuh Energy	Failure to make RO payment.
May 2019	Solarplicity Supply Ltd	Failure to make payments to FIT generators.

We have also detailed the outcomes of the PO ended during this period. There were 2 POs (npower and Solarplicity Supply Ltd) which were imposed in the previous reporting year that concluded this year.

Provisional Order (PO) ended	Company	Outcome from PO
February 2020	Foxglove	Foxglove made the FIT Year 10 Quarter 3 Levelisation Payment, in full, by the deadline. PO revoked as Foxglove paid the outstanding sum.
January 2020	Breeze Energy	Breeze ceased trading. We revoked Breeze's license 22 December 2019. As a result, the provisional order issued to Breeze Energy is no longer in effect.
November 2019	Nabuh Energy	PO revoked as Nabuh paid the outstanding payment to discharge their renewable obligation.
August 2019	Solarplicity Supply Ltd	Solarplicity ceased trading. We revoked Solarplicity's license 17 August 2019. As a result, the PO issued to Solarplicity Supply Limited is no longer in effect. Solarplicity had not made their FIT payment. We will look to claim the FITs payment through the administrator. Solarplicity ceased trading. We revoked Solarplicity's license 17 August 2019. As a result, the PO issued to Solarplicity Supply Limited is no longer in effect. Solarplicity had not made their FIT payment. We will look to claim the FITs payment through the administrator.
May 2019	npower	PO revoked, npower demonstrated that they have complied with SLC 32A.
May 2019	Solarplicity Supply Ltd	We decided not to confirm the PO due to Solarplicity's improved performance and the undertaking to take further steps.

Final Orders

Below you can find details of the final orders imposed during the year from April 2019 to March 2020, we issued 7 final orders for the suppliers detailed below

Final Order issued	Company	Concern
January 2020	Symbio	Failure to become a DCC User.
January 2020	Euston Energy (trading as Northumbria Energy)	Failure to become a DCC User.
January 2020	Entice Energy	Failure to become a DCC User.
January 2020	Daligas Ltd	Failure to become a DCC User.
January 2020	Enstroga Ltd	Failure to become a DCC User.
October 2019	Gnergy Ltd	Failure to make Renewables Obligation (RO) payment.
April 2019	Avro Energy	Failure to become a DCC User.

In addition to this, details of the notices of consultation for a FO where we did not proceed to issue a FO are listed below.

Provisional Order (PO) ended	Company		Outcome from PO
January 2020	UK National Gas Ltd	Failure to become a DCC User.	UK National Gas had completed the SEC provisions for the DCC User Entry Process as of 28 January 2020.
January 2020	Better Energy	Failure to become a DCC User.	Better Energy requested the revocation of their electricity and gas licences.
January 2020	Ampower Ltd	Failure to become a DCC User.	Ampower had completed the SEC provisions for the DCC User Entry Process as of 16 January 2020.
January 2020	Green Supplier Ltd	Failure to become a DCC User.	Green Supplier had completed the SEC provisions for the DCC User Entry Process as of 17 February 2020.
October 2019	Toto Energy	Failure to meet its Renewables Obligations (RO)	TOTO Energy Ltd ceased trading on 23 October 2019, the Authority has taken the decision not to proceed with issuing a FO.
October 2019	Delta Gas and Power Limited	Failure to meet its RO	Delta Gas and Power Ltd made full payment of its RO for 2018-19, including all applicable interest, thus ensuring compliance with its RO for 2018-19. FO was not issued as they complied with obligation.
October 2019	Robin Hood Energy Limited	Failure to meet its RO	Robin Hood Energy Ltd made full payment of its RO for 2018-19, including all applicable interest, thus ensuring compliance with its RO for 2018-19. On 29 October 2019, we made a decision not to make a FO

We have also detailed the outcomes of the FOs that have concluded during this year. The Final Orders for URE and Avro were issued during the previous year but concluded within this year.

Final Order (FO) ended	Company	Outcome from FO
October 2019	URE Energy Ltd	URE did not make the outstanding RO payment. We issued a Notice of failure to comply with a final order, which gave URE 3 months to comply. We revoked their license on 14 September 2019.
August 2019	Avro Energy	Avro completed all the required steps to become a DCC user. They met the requirements set out in the Final Order. We revoked the FO.

Appendix III

Off-payroll appointees

Off-payroll engagements as of 31 March, for more than £245 per day and that last for longer than six months.

The following table summarises the situation on off-payroll engagements as at 31 March 2020.

No. of existing engagements as of 31 March 2020	16
Of which:	
No. that have existed for less than one year at time of reporting.	16
No. that have existed for between one and two years at time of reporting.	0
No. that have existed for between two and three years at time of reporting.	0
No. that have existed for between three and four years at time of reporting.	0
No. that have existed for four or more years at time of reporting.	0

New off-payroll engagements, or those that reached six months in duration between 1 April 2019 and 31 March 2020, for more than £245 per day and that last for longer than six months.

No. of new engagements, or those that reached six months in duration, between 1 April 2019 and 31 March 2020	16
Of which:	
No. assessed as caught by IR35	1
No. assessed as not caught by IR35	15
No. engaged directly (via PSC contracted to department) and are on the departmental payroll	0
No. of engagements reassessed for consistency / assurance purposes during the year	0
No. of engagements that saw a change to IR35 status following the consistency review	0

Off-payroll engagements of board members and / or, senior officials with significant financial responsibility, between 1 April 2019 and 31 March 2020.

No. of off payroll engagements of board members, and / or, senior officials with significant financial responsibility, during the financial year.	0
Total no. of individuals on payroll and off-payroll that have been deemed "board members, and / or, senior officials with significant financial responsibility, during the year.	2

Appendix IV

Trade union facility time

Table 1
Relevant union officials

What was the total number of your employees who were relevant union officials during the relevant period?

Number of employees who were relevant union officials during the relevant period	Full-time equivalent employee number
16	930

Table 2
Percentage of time spent on facility time

How many of your employees who were relevant union officials employed during the relevant period spent a) 0%, b) 1%-50%, c) 51%-99% or d) 100% of their working hours on facility time?

Percentage of time	Number of employees
0%	0
1-50%	16
51-99%	0
100%	0

Table 3
Percentage of pay bill spent on facility time

Provide the figures requested in the first column of the table below to determine the percentage of your total pay bill spent on paying employees who were relevant union officials for facility time during the relevant period.

Total cost of facility time	£13,697
Total pay bill	£64,966K
Percentage of the total pay bill spent on facility time	0.02%

Table 4
Paid trade union activities

As a percentage of total paid facility time hours, how many hours were spent by employees who were relevant union officials during the relevant period on paid trade union activities?

Time spent on paid trade union activities as a percentage of total paid facility time hours calculated as: (total hours spent on paid trade union activities by relevant union officials during the relevant period ÷ total paid facility time	25%
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Appendix V

Statutory arrangements under Section V of the Utilities Act 2000

Section 5(1) of the Utilities Act 2000 requires that the Authority makes a report to the Secretary of State each year on:

- the activities of the Authority during the year; and
- the activities of the CMA during that year in respect of any reference made to it by the Authority.

The activities of the Authority during the year are reported on throughout this report. [There have been no references made by the Authority to the CMA on which to report]

Section 5(2) of the Utilities Act 2000 requires that the annual report of the Authority includes the following:

- A general survey of developments in respect of matters falling within the Authority's functions, including in particular developments in competition between persons engaged in, or in commercial activities connected with:
 - the shipping, transportation or supply of gas conveyed through pipes; and
 - the generation, transmission, distribution or supply of electricity;
(These developments are referred to in the Performance Report)
- A report on the progress of the projects described in the forward work programme for that year;
(Progress is reported in the Performance Report)
- A summary of final and provisional orders made by GEMA in that year;
(This can be found in Appendix II)
- A summary of the penalties imposed by GEMA during that year;
(This can be found in Appendix II)
- A summary of any final notices given by GEMA under REMIT in that year;
(This can be found in Appendix II)
- A report on such other matters as the Secretary of State from time to time may require.

Section 5(2A) of the Utilities Act 2000 requires the Authority to include in its annual report a report on

- (a) the ways in which the Authority has carried out its duties under section 132(1) and (2) of the Energy Act 2013 in relation to a strategy and policy statement designated by the Secretary of State (so far as the statements designation was in effect during the whole or any part of the year); and
- (b) the extent to which the Authority has done the things set out in a forward work programme or other document as the things the Authority proposed to do during that year in implementing its strategy for furthering the delivery of the policy outcomes contained in the strategy and policy statement.

(The Secretary of State has not designated a strategy and policy statement applicable to this reporting year)

Section 5(3) of the Utilities Act requires the Authority to set out in its annual report any general directions given by the Secretary of State under s34(3) of the Gas Act 1986 or s47(2) of the Electricity Act 1989.

(The Secretary of State has not made any such general directions)

