

# ECO3 Guidance Consultation

## Energy UK response

20 August 2018

### Introduction

Energy UK is the trade association for the GB energy industry with a membership of over 100 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership encompasses the truly diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 27 million homes and every business in Britain. Over 730,000 people in every corner of the country rely on the sector for their jobs, with many of our members providing long-term employment as well as quality apprenticeships and training for those starting their careers. The energy industry invests £12bn annually, delivers £88bn in economic activity through its supply chain and interaction with other sectors, and pays £6bn in tax to HMT.

Energy UK strongly believes in promoting competitive energy markets that produce good outcomes for consumers. In this context, we are committed to working with Ofgem to develop reforms which enhance consumer trust and effective engagement. At the same time, Energy UK believes in a stable and predictable regulatory regime that fosters innovation, market entry and growth, bringing benefits to consumers and helping provide the certainty that is needed to encourage investment and enhance the competitiveness of the UK economy.

These high-level principles underpin Energy UK's response to Ofgem's ECO3 Guidance Consultation. This is a high-level industry view; Energy UK's members may hold different views on particular issues. We would be happy to discuss any of the points made in further detail with Ofgem or any other interested party if this is considered to be beneficial.

### Executive Summary

Energy UK is grateful for this opportunity to respond to the Ofgem ECO3 Guidance Consultation. We welcome that Ofgem is consulting on its guidance for how it proposes to administer the ECO3 scheme and in particular the long-term certainty this will provide given ECO3 will be a three-and-a-half-year scheme.

Energy UK acknowledges that Ofgem has been affected by the Government's consultation timelines which has suffered from delays and has ultimately led to this consultation only being conducted a month and a half before ECO3 is due to commence. While we recognise that Ofgem will only be able to provide final guidance once the regulations have progressed through Parliament, we urge Ofgem to ensure that it, at the earliest opportunity, provides draft guidance. This guidance will provide suppliers with some certainty around how the scheme will be administered and will go some way to ensure that suppliers can feel confident regarding the rules of the scheme should early action be needed in the event of a hiatus between ECO2t and ECO3.

Overall, Energy UK considers that ECO3 was a good opportunity for the scheme to be simplified through the shift away from the dual focus on both carbon and fuel poverty to becoming a 100% fuel poverty focussed scheme. We also considered that this would be an opportunity for Ofgem to simplify its administration of the scheme, lessening the burden for both suppliers and Ofgem. However, having read the Government decision on ECO3 as well as this Ofgem ECO3 Guidance Consultation, Energy UK are disappointed that this will not be the case. In fact, the scheme will be incredibly complex and the evidencing burden significant. Energy UK recognises that this complexity is in large part due to the way

the regulations have been drafted which has left Ofgem with little choice in how it will administer the scheme. With the complexity in mind and combined with the fact that the ECO3 target has been revised upwards, it will be of critical importance that Ofgem has the required resources to administer the scheme. We further note that the requirements should be applicable throughout the programme as much as possible and without recourse to any retrospective actions required at a later date.

Some of the proposals outlined in the consultation document add more complexity than what Energy UK considers necessary. One example of this is evidencing eligibility. Some of the new eligible benefits contain income thresholds which are difficult to verify and will require self-declaration. Until data matching with HMRC is possible to evidence these additional benefits we believe the most sensible approach would be for the precedent from LA flex to be adopted where a standard template is produced by BEIS or Ofgem and is signed by the householder.

Furthermore, Energy UK is very concerned about Ofgem's proposal that suppliers will have to ensure and evidence that a measure that has been installed in accordance with PAS has been notified to an organisation such as a certification body. While Energy UK and our members ultimately wish to see an improvement in the quality and standards and compliance and enforcement in the insulation industry and we agree that installers should be notifying their certification body of their installs, we do not consider that this proposal is the right way to achieve this. The proposal will add significant complexity in that suppliers will be required to evidence that the measure has indeed been notified to an organisation such as a certification body. No process currently exists that would allow suppliers to do this simply and until such a point that it can be done easily, ultimately Energy UK considers that the only evidencing obligated suppliers should be required to do, in this regard, is to show that they are using PAS certified installers. Thus, we are concerned that this is another example of Ofgem asking energy suppliers to police another industry.

#### **Detailed responses to questions:**

##### **Carry-over and early delivery**

#### **1. Do you agree with our administration of carry-over? If you disagree, please provide alternative suggestions, including any evidence, to support your response.**

Energy UK agrees with Ofgem's proposed administration of carry-over. However, the definition of 'rural' has been updated for ECO3 and we would urge Ofgem to update the list as soon as possible to provide suppliers with needed certainty. This is especially important given that activity is likely to continue right up until scheme closedown.

We would welcome more information about how carry-over will work particularly in relation to caps.

#### **2. Do you agree with our administration of early delivery? If you disagree, please provide alternative suggestions, including any evidence, to support your response.**

Energy UK agrees with Ofgem's proposal for the administration of early delivery. We note that Ofgem has indicated that it would be willing to look to put in place a process for voluntary pre-notification in the event of a substantial hiatus between ECO2t and ECO3. Energy UK welcomes this and note that regardless of the length of the hiatus between the schemes, allowing suppliers to voluntarily pre-notify measures could be of help to both suppliers and Ofgem. This would allow both parties to better manage the process and would enable Ofgem to carry out tests on the new ECO Register.

Given that it is likely that there will be a hiatus between the two schemes, we welcome Ofgem's commitment to publishing draft guidance before the end of September as this will enable suppliers to minimise the risks of taking early action.

##### **Obligation targeting and household eligibility**

#### **3. Do you agree with our proposal that child benefit should only be used as evidence of eligibility where it is the only available route to eligibility? If you disagree, please provide alternative suggestions, including any evidence, to support your response.**

We support the proposed administrative approach for demonstrating the customer is a help to heat group member as detailed in section 4.15 with households going through a DWP check or providing benefit letters as evidence. However, there will be households who are eligible for ECO through receipt of child or military benefits which cannot be verified by DWP. We support the introduction of data matching with HMRC to verify these benefits, however, until HMRC data matching is available we support a self-declaration approach.

The most sensible approach is for the precedent from LA Flex to be adopted where suppliers rely on an LA declaration as evidence and we consider that suppliers should be able to rely on self-declaration for evidencing child benefit eligibility.

We believe it will be very difficult for health professionals, social workers and teachers to produce letters of support as we do not believe they are authorised to do so and there are additional issues around confidentiality and GDPR which need to be taken into consideration.

**4. Do you have any suggestions for verifiable means of evidencing household income & Child Benefit, or other means of evidencing the new Ministry of Defence benefits? If you have a suggestion, please provide evidence to support your response.**

Energy UK considers that others are better placed to respond but would refer to our position on self-declaration as outlined in question 3.

**5. Do you agree with our administration of the new PRS rules? If you disagree, please provide alternative suggestions, including any evidence, to support your response.**

Energy UK considers that Ofgem's approach is sensible. We agree that the EPC must be present pre-installation. We also agree that it should be the latest EPC for the property that should count, although it would be helpful if Ofgem could clearly set out what the definition for 'latest EPC' is.

We support an industry standard declaration to be signed by the occupier confirming the tenure of the property. As with the response around child benefit eligibility, the principle should be in place that any occupier self-declaration can be accepted by suppliers as evidencing tenure.

**Solid wall insulation and the in-fill mechanism**

**6. Do you agree with our proposal that where measures that provide equivalent savings to solid wall insulation are installed, all relevant measures would need to be installed within a six-month period to count towards the SWMR? If you disagree, please provide alternative suggestions, including any evidence, to support your response.**

Energy UK is concerned about this proposal as we consider that there is nothing in the legislation that requires Ofgem to introduce this restriction. In addition, where a supplier will be looking to install a package of measures to meet the solid wall minimum requirement, a six-month timescale might be too tight. We also note that this proposal will be problematic where a supplier is looking to make use of demonstration actions, as scenarios could be envisioned where longer than six months would be needed to demonstrate the savings.

**7. Do you agree with the other elements of our administration of SWMR? If you disagree, please provide alternative suggestions, including any evidence, to support your response.**

Energy UK considers that others are better placed to respond.

**8. Do you agree with our proposal that transferring in-fill measures would not be possible until all connected measures are approved? If you disagree, please provide alternative suggestions, including any evidence, to support your response.**

Energy UK agrees.

**9. Do you agree with the other elements of our administration of in-fill for SWI and DHS? If you disagree, please provide alternative suggestions, including any evidence, to support your response.**

Energy UK considers that this aspect of the ECO3 scheme is quite complex. Suppliers making use of the in-fill mechanism will have to carefully oversee the ratios of measures to ensure that they are able to manage their obligations as cost-effectively as possible. To enable this, it would be helpful if Ofgem could clearly set out in its guidance different scenarios for how this process would be managed especially given that the window for notification of measures will be tight. This will be especially problematic should there be any issues with any of the measures which are only identified later in the process. We consider that Ofgem should allow measures to be notified against a unique reference number which would allow suppliers to monitor the 66% threshold at a scheme level.

**Changes to heating measures**

**10. Do you agree that we should continue to use the same criteria for determining if a heating system is broken as we currently use? If you disagree, please provide alternative suggestions, including any evidence, to support your response.**

Energy UK agrees that Ofgem should continue to use the same criteria for determining if a heating system is broken.

**11. Do you agree with our proposal to continue to use the definitions and tables in the boiler assessment checklist and electric storage heater checklist to determine if broken heating systems can be economically repaired? If you disagree, please provide alternative suggestions, including any evidence, to support your response.**

Energy UK agrees but note that it will be important that Ofgem provide clear guidance on what evidence is expected to be retained to support that a boiler cannot be economically repaired. We also consider that the definitions of 'Good/Standard/Poor' condition of boiler should be tightened or removed to avoid subjectivity. Furthermore, it is critical that Ofgem confirm at the start of the scheme what additional evidence may be called upon to verify Broken Heating Systems in the event of an audit.

**12. Do you know of any heating systems (other than boilers or electric storage heaters) for which we would need to develop a definition for inefficient? If you do, please provide evidence to support your response.**

Energy UK considers that others are better placed to respond.

**13. Do you agree with our proposal to use a declaration to evidence first time central heating. If you disagree, please provide alternative suggestions, including any evidence, to support your response.**

In principle, Energy UK agrees with this proposal. However, as with other areas that will have an element of self-declaration, we consider that it is important that Ofgem accept these at face value. We are concerned that Ofgem will see self-declaration as an area it will need to audit to ensure compliance. Like Ofgem, suppliers will have to trust the information household/landlords provide where no other evidence is forthcoming. For this reason, it is critical that Ofgem put in place a fair and proportionate process and it would be helpful if Ofgem could outline what approach it will be looking to take regarding auditing for ECO3.

**Innovation, in-situ performance monitoring and scoring**

**14. Do you have any suggestions for our administration of demonstration actions? If you do, please provide further information, including any evidence, to support your response.**

Energy UK notes that in terms of ECO3, there is still a significant lack of information and certainty regarding the innovation element of the obligation. We eagerly await the guidance that Government has committed to publishing, without sight of this guidance it is difficult for us to comment.

We would, however, urge Ofgem to be very clear in how it intends to administer innovation. This will include Ofgem clearly outlining the process it intends to follow as well as the timelines for responding to

and approving applications. It might indeed be useful if Ofgem could work through an example in its guidance of how it would administer an innovation application. Such an example would be similar to those provided in previous cases when further clarity was required on Percentage of Property Treated (POPT).

In addition, we are concerned about the potential for the delay in convening the panel that will examine applications. If the panel is only to meet every three months, it is vital the Ofgem put processes in place whereby suppliers are able to engage with Ofgem on applications and any guidance on an ongoing basis. Otherwise, there is a risk that the process becomes protracted and suppliers will run out of time to make use of the innovation provisions.

We recognise that there is still a lot of development work to be done around how innovation will work. BEIS and Ofgem have committed to hosting a workshop with obligated parties in late September and therefore we believe the guidance for this area should not be finalised until after the workshop has taken place. This will help to ensure as much clarity is in place for demonstration actions when they are included in guidance and avoid the necessity of making changes to published requirements.

**15. Do you have any suggestions for our administration of innovation measures? If you do, please provide further information, including any evidence, to support your response.**

Please see Energy UK's response to question 14.

**16. Do you have any suggestions for our administration of in-situ monitoring? If you do, please provide further information, including any evidence, to support your response.**

Energy UK regrets the lack of information regarding the proposals for in-situ monitoring. We eagerly await the guidance from BEIS on the innovation element of ECO3 and we are keen to engage with both Government and Ofgem on how innovation will work within the obligation.

**Local Authority Flexibility (LA Flex) EPC F & G uplift**

**17. Do you agree with our administration of the uplift? If you disagree, please provide alternative suggestions, including any evidence, to support your response.**

Energy UK agrees with Ofgem's proposed approach and would also refer to our response under question 5.

**Consumer protection**

**18. Do you agree with our proposal that measures installed in accordance with PAS 2030:2017 Edition 1 must be notified to an organisation (such as a certification body) accreditation to EN 45011 or EN ISO/IEC 17065:2012? If you disagree, please provide alternative suggestions, including any evidence, to support your response.**

Energy UK is very concerned about Ofgem's proposal that suppliers will have to ensure and evidence that a measure that has been installed in accordance with PAS has been notified to an organisation such as a certification body. While Energy UK and our members ultimately wish to see an improvement in the quality and standards and compliance and enforcement in the insulation industry and we agree that installers should be notifying their certification body of their installs, we do not consider that this proposal is the right way to achieve this. The proposal will add significant complexity in that suppliers will be required to evidence that the measure has indeed been notified to an organisation such as a certification body. No process currently exists that would allow suppliers to do this simply and until such a point that it can be done simply, ultimately Energy UK considers that the only evidencing obligated suppliers should be required to do, in this regard, is to show that they are using PAS certified installers. Thus, we are concerned that this is another example of Ofgem asking energy suppliers to police another industry.

**19. Do you agree with our proposal that, where a supplier does not wish to register a DHS project with Heat Trust, they must arrange an audit by a third party and the result of the audit must confirm that the arrangements are equivalent to the requirements under Heat Trust? If you disagree, please provide alternative suggestions, including any evidence, to support your response.**

Energy UK disagrees with this proposal as it adds a significant degree of complexity. If Ofgem decides to adopt this approach it will be important that it clearly defines the process, the appropriate third parties that will be able to carry out the audit and indeed what arrangements qualify as being equivalent to requirements under Heat Trust.

#### **Definition changes and our administration**

**20. Do you agree with our administration of the new definition of ‘cost saving’? Please provide further information, including any evidence, to support your response.**

Energy UK agrees.

**21. Do you agree with our revised interpretation of ‘domestic premises’? If you disagree, please provide evidence that the premises outlined in paragraph 9.18 should be treated as domestic premises.**

Energy UK anticipates that suppliers will respond individually to this question.

**22. Are there any areas where you think further guidance would be useful?**

Energy UK considers that others are better placed to respond to this question.

**23. Do you have any further comments on our proposed administration for ECO3?**

As highlighted in our executive summary as well as throughout this response, Energy UK considers that Ofgem, where possible, should take steps to simplify its administration. Furthermore, in light of the complexity of the scheme as well as the increase in the overall ECO3 target, Ofgem will need to be adequately resourced to be able to deal with the additional measures, queries and processes that this will entail.

Energy UK has highlighted throughout this response that where declarations, EPCs or a certified PAS installer is used as evidence, these should be considered in their own merit without suppliers being expected to police other industries. If Ofgem are planning to audit high risk areas in ECO3, we suggest these are conducted early and that Ofgem outline to suppliers any additional evidence required to support the validity of measures at the start of the scheme. We also urge Ofgem to consider, if audit findings suggest initial guidance has not been sufficiently clear, that those findings are used to inform future guidance rather than applying retrospective action which will negatively impact the supply chain.

**24. Did you use our online response tool? If you used our online response tool, do you have any feedback.**

Energy UK did not use the online response tool. Instead, we have chosen to respond in this format. Energy UK responds to consultations on behalf of our members and using an online tool is not conducive to getting across the nuanced positions that we might hold.

**For further information or to discuss our response in more detail please contact Cecilie Ingversen on 020 7747 2969 or at [cecilie.ingversen@energy-uk.org.uk](mailto:cecilie.ingversen@energy-uk.org.uk).**