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The Renewable Energy Company Ltd (Ecotricity) response to Competition & Markets Authority Energy Market Investigation Notice of Possible Remedies

Ecotricity is an independent British renewable energy generator and supplier with over 160,000 customer accounts, 61.5MW of renewable capacity with around 0.1% of electricity market share. We are around 30% vertically integrated and we also trade on the electricity wholesale market. We employ some 600 staff across our supply and generation businesses. The power we supply is 100% renewable and we pride ourselves in the professional, transparent and personalised customer service that we offer, which is consistently recognised by customers and third party surveys.

We have supported the CMA's investigation into the energy market and welcome the opportunity to comment on the draft proposals. We are particularly supportive of the proposal for a safeguarded tariff for disengaged customers; but believe that it should go further than the CMA's current proposals and apply to all customers that have not chosen their tariff, not just those that come to the end of a fixed term tariff.

We agree with the CMA's advocacy of a competitive and open market. This is only possible where innovation is allowed to flourish. Current regulation is an excessive burden on suppliers. Therefore we ask the CMA to support movement towards more principles-based regulation.

Absence of locational adjustments for transmission losses

Remedy 1 – Introduction of a new standard condition to electricity generators', suppliers', interconnectors', transmission, and distribution licences to require that variable transmission losses are priced on the basis of location in order to achieve technical efficiency.

We strongly disagree with the proposed implementation of locational adjustments for transmission losses and urge the CMA to reconsider this remedy and assess the potential impacts it could have on both generators and consumers alike.

The CMA report suggested that introducing locational transmission losses would encourage generation investment in areas of high demand, and discourage further investment in generation-heavy locations. In addition, it sees benefits for consumers in certain areas. We believe this to be a false premise because the benefit to consumers is a spurious suggestion as even though a small group of households would receive transmission cost savings, a far greater number of people would have their prices increased. It would be an unnecessary penalty to certain customers for the location of generation plants, which is completely out of their control. As a result, the majority of customers, not just with Ecotricity but across all suppliers, will witness a substantial increase in the cost of their electricity. This is because the majority of the population reside in areas of high consumption and low generation areas such as Southeast England, with fewer people in high generation low consumption areas such as North Scotland.

The theory that locational transmission costs would affect the development of generation in different areas is also false. A slight increase in transmission charges is highly unlikely to have a substantial impact on whether or not a generation project is built. As with consumers, these changes would penalise generators for something which is largely out of their control. The location of generating stations is very heavily regulated through governmental and planning policies. This is especially true for renewable generation, which is also heavily influenced by natural factors such as wind yield. It is these factors which will determine whether or not a project is built, not a nominal increase in transmission costs.

Ultimately, this policy will not have the desired effect of moving generation locations because of the number of other far more serious factors at play. It will therefore have a negative effect on generation without any positive spinoff, and will only succeed in making greater numbers of energy customers worse off.

However, if (despite the obvious negative effects on consumers, generators and a low carbon future) the CMA decides to move forward with implementing this remedy, we recommend that it be implemented through a BSC modification. This would mean that the changes would be consulted on, allowing for further consideration of industry views and relevant expertise.

Administration of the Contracts for Difference Mechanism

Remedy 2a – DECC to undertake and consult on a clear and thorough impact assessment before awarding any CfD outside the CfD auction mechanism

(a) Would the remedy ensure that CfDs that are allocated outside the auction mechanism are awarded only when the benefits of doing so outweigh the costs?

We support the CMA's proposal to require DECC to consult on matters relating to non-competitive allocation of contracts under the CfD regime and urge that the same requirement apply to any removal of a technology from the scheme. However, we do not believe that this goes far enough: although consultations from DECC would give an opportunity for industry to have its voice heard, we are concerned that there is nothing to hold DECC accountable to the collective views of industry. We therefore do not feel that this requirement goes far enough in addressing the problems inherent in the current CfD scheme. We have set out our proposed remedy below.

(b) How much discretion should DECC retain in terms of the weight it places on each factor that it takes into account in coming to a decision on which projects to award CfDs outside the CfD auction mechanism? Should DECC be required to consult on and determine these factors and their relative importance in advance to enhance transparency? Should the weighting of each factor be constant across projects?

DECC need to ensure that their priorities in terms of security of supply, carbon emissions and cost effectiveness are clear; however, they also need to take both consumer and developer views on board. We therefore agree that DECC should be required to consult to determine precisely what level of importance each factor is given.

We suggest the creation of an indexation tool to quantify the security of supply offered by different technologies. A further tool should then be developed which maps out the relative merits of each technology based on the importance of each trilemma factor (reducing carbon emissions, security of supply and cost effectiveness) giving each technology a numerical rating. The weighting of each factor should be equal across all projects for each trilemma factor.

The numerical rating received by each technology would then be used to determine the proportion of the budget that should be allocated to them. This should not apply only to technologies that have CfDs awarded on a non-competitive basis, but should be used across all technologies in conjunction with our proposed remedy below.

In addition, if the CfD mechanism is to be truly competitive, all technologies should be entitled to CfD payments for the same length of time. We note that the nuclear CfD contract currently runs for 35 years making its overall cost more than double a renewable CfD at the same strike price. Our position has always been, and remains, that nuclear should not receive any form of public subsidy; however, if it is to be included then it must compete on an equal footing. We note that an individual nuclear power plant has a longer life than most renewables, but it does not follow that it should have CfD payments for longer. The purpose of the CfD is to cover the cost of build and make investment profitable. If nuclear cannot do this over a 15 year period without charging a significantly higher strike price then its cost effectiveness score and ability to compete against mature technologies would reflect this.

Given the current cuts in support for renewable subsidies, including the threat to remove onshore wind from CfDs, despite the fact its need to compete; it is essential that the nuclear

CfD Investment Contract agreed behind closed doors be investigated, reconsidered and consulted upon. In addition, more attention needs to be given to the Capacity Market, both in terms of its impact on consumer bills and the differential treatment between it and renewable subsidies that are subject to the Levy Control Framework.

(c) In which, exceptional circumstances should DECC be able to allocate CfDs outside the auction process? For example, for reasons of industrial policy, where there are wider market failures, or where there may be insufficient competitors to hold an auction?

We firmly believe that there is no case for non-competitive allocation of CfDs unless it applies to all eligible generators. A non-competitive allocation option undermines the fundamental purpose of the CfD scheme, which was to provide cost-effective support for low carbon technologies. Singling out specific technologies for longer term support and differing strike prices has both a negative impact on other developing technologies in greater need of support and customer bills. We suggest that any technologies previously offered a non-competitive CfD should be subject to the same process and constraints that all other technologies are subject to, and should be ring fenced into an appropriate pot to facilitate this. Please see our suggested remedy below for further information on how this could work.

Remedy 2b – DECC to undertake and consult on a clear and thorough assessment before allocating technologies between pots and the CfD budget to the different pots

(a) Would the remedy ensure that future decisions taken by DECC on the allocation of technologies and the CfD budget to the different pots are taken in a robust and transparent manner?

If the allocation of technologies and budget pots were routinely reviewed, and any changes consulted on, it would provide greater transparency and robustness of operation. However, there is still nothing to hold DECC to account of the views expressed by industry. Please see our proposed remedy below for further solutions.

(b) Is the remedy likely to result in a positive change in how DECC makes decisions regarding the allocation of the CfD budget to the different pots?

If DECC is held to account when considering industry views on proposed changes, then this solution could result in positive changes. However, without greater clarity and certainty on what factors are being taken into consideration, and their relative merits with each technology, it would be difficult to ensure true transparency. Please see our answer to Remedy 2a (b) above for our view on how the budget allocation should be managed.

(c) How regularly should DECC review the allocation of technologies between pots? What information should DECC publish when deciding to amend the allocation of technologies between pots? Should it also on a regular basis consult and/or publish reasons for not amending the allocation of technologies between pots?

We suggest that DECC review the allocation of technologies between pots every year, and definitely no less than every two years. DECC should have to publish levelised cost of energy figures for each technology from a reputable source (such as Bloomberg). This should be accompanied by detailed impact assessments for each technology they propose to move to a different cost and the effect that move is likely to have on the industry. This information should be consulted on, and industry views taken into account when the final decision is made. To ensure optimum transparency, DECC must publish the reasons why any technology was or was not moved, and there should be a right of appeal if a developer does

not feel the correct decision was made. Although we would not expect an appeal to be necessary if the CfD process was amended in line with our proposed remedy set out below.

(d) Should DECC be limited in the maximum proportion of the CfD budget that it can allocate to each of the different pots?

Please see our response to Remedy 2a (b) for our view on how budget allocation should work.

Ecotricity's Proposed Remedy for CfDs:

Although the removal of the RO was a disappointment to the renewables industry, we would fully support the CfD regime if it were run in a clear, transparent manner, with no non-competitive allocation of contracts. Our suggestion is that the model of mature and immature technology pots be removed, and that each technology competes within its own individual pot. The budget amounts will be allocated to each technology pot following the process set out in our response to Remedy 2a (b):

- The creation of an indexation tool to quantify the security of supply offered by different technologies.
- A further tool should then be developed which maps out the relative merits of each technology based on the importance of each trilemma factor, giving each technology a numerical rating.
- The weighting of each factor should be equal across all technologies.
- The numerical rating received by each technology would then be used to determine the proportion of the budget that should be allocated to them.
- Any budget that is left in each technology pot following auction would then be automatically carried over to the following year's allocation round.

This process would ensure that low-carbon technologies continue to receive the support they need in order to mature and for the costs to decrease. It does not allow for non-competitive allocation of CfDs, and would set clearly defined limits on the funding available for each technology. Advances in any technology group that would increase in carbon efficiency or security of supply could mean an increase in the proportion of the budget allocated to them.

In this way, you could create a scheme which is truly competitive, cost-effective, and helps to promote innovation, development, and cost reduction.

Weak customer response from domestic and microbusiness customers and the simpler choices component of the Retail Market Review rules

Throughout the CMA's investigation we have agreed with its position that the energy market suffers from a weak customer response, with many disengaged customers. We offer our thoughts on the CMA's remedies below.

Remedy 3: Remove from domestic retail energy suppliers' licences the 'simpler choices' component of the RMR rules

Removing the tariff cap could ultimately breed more competition in the market. However, the CMA should consider the additional complexity may be more confusing for consumers and consider how this can be compensated for. One way to do this would be through the proper use of personal projections. Theoretically, as long as personal projections are calculated accurately and therefore provide a realistic picture of the differences that the

customers would pay, there would be no harm from removing the tariff limit. Appropriate use of the personal projection would depend on a single body for price comparisons, which is one of the reasons that we agree with the remedy 6: CMA's proposal for a single not for profit price comparison website. We provide more details on our views below.

The 4 tariff limit has been detrimental to the green and charitable sectors as many suppliers dropped green and social tariffs when the limit came into effect.

Ecotricity has long objected to the prohibition of discounts that came in with the RMR on the basis that this stifles innovative offerings and reduces incentives for consumers to engage. Ultimately, we were able to secure a derogation for one of these: our electric car discount; however, the process of achieving this was drawn out and cost us much in terms of wasted development costs. As with the four tariff limit, we believe that any complication that arises from discounts can be negated through proper use of personal projections.

Smart Meters – Remedies 4a & 5

We believe that there will be substantial benefits to smart meters for all consumers and for prepayment customers in particular.

We expect customers to engage more via their in-home-display as this technology will provide increased visibility of trends and energy usage. For prepayment customers, this will improve the understanding of the relationship between cash and energy consumption. This in turn will improve understanding of the energy market and encourage customers to shop around for their energy. Smart technology also reduces the risk of disconnection: smart meters can be programmed to not switch off overnight, even where the customer has run out of credit.

Ecotricity wants prepayment customers to experience these benefits as soon as possible and have made them a priority during our rollout.

From a competition perspective, the lack of interoperability of early smart meters is a cause for concern. If the smart functionality can only be used with the supplier that installed them, the customer is unlikely to switch. Although this will not be a problem with SMETS 2 meters, it will continue to prohibit switching for SMETS 1 meters until this is adopted by the DCC, which is not expected until 2017. The reason for this is that each meter manufacturer has different head end for communication with the meters. Meter Operators need to purchase access to each head end and therefore may decide that it does not make financial sense to purchase access to more than one head end. In order for a customer to continue to receive access to smart functionality with a new supplier, they will need to have their meter exchange: slowing down roll out and operate as a barrier to switching.

In order to prevent problems with interoperability we suggest that all smart meter manufacturers allow all suppliers to use their head end functionality.

With respect to the rollout, an important area to consider is the level of knowledge about a particular site that can be provided to metering agents. The better this is, the fewer failed installations and therefore the smoother the rollout will be. This improved efficiency will likely improve customer experience. This is even more relevant to prepayment meters, which may be located outside or in hard to reach locations.

Ultimately, smart meters will reduce suppliers' cost to serve prepayment customers. They will significantly reduce the cost of metering agents and eliminate the administrative burden of estimated reads.

Remedy 6 Ofgem to provide an independent price comparison service for domestic (and microbusiness) customers

We support the CMA's proposal for a single not for profit price comparison website. This would improve the customer experience as a single source for all information about the industry will make it easier to navigate.

We believe that if this were hosted by Ofgem it would have a high level of consumer confidence. Given the duties of the Regulator, we are confident this would be in the best interest of consumers. Under current arrangements there is a lack of trust. This trust is damaged as a result of greed. This greed is manifested through hidden commission arrangements and a lack of transparency. The infrastructure required to perform a comparison is simple. Ofgem (or another independent body like Citizens Advice) should offer a tool and not just a list of suppliers' tariffs.

Whilst price remains a key variable for a competitive environment, we want customers to be able to choose their supplier based on other attributes they value. For example a supplier's fuel mix disclosure or customer service levels. Focusing only on price sacrifices these qualities. This is a failing of the current price comparison website arrangements. Often the cheapest prices are only available because organisations forsake development of other areas.

An independent service would entirely undermine the PCW market. However it is in the best interest of consumers to have all the prices in the market in one, easily-accessible location. The benefits of this simplicity would outweigh any detriment caused by the lack of competition between PCWs.

Ecotricity have had contracts in place with domestic brokers since 2003. Our overall experience has been mixed. Whilst PCWs have been useful for improving customer numbers, retention rates are often poor as customers who switch through price comparison sites often switch regularly. Although the majority of companies we work with have behaved professionally, we have had instances where broker agents have been dishonest and misleading. Such behaviour damages trust in the industry. Therefore, if the PCW market is to remain, it should be scrutinised, made to be a licensable activity and heavy penalties should be used to deter unethical practices.

Remedy 7a – Introduction of a new requirement in the licences of retail energy suppliers to provide price lists for microbusinesses on their own websites and to make this information available to PCWs

We do not believe that this proposal will work in practice. This is because business contracts tend to be bespoke to each individual customer.

Remedy 7b – Introduction of rules governing the information that TPIs are required to provide to microbusiness customers

TPIs should be required to provide exhaustive and transparent information to micro businesses. This includes all commission arrangements with suppliers. They should state all

the suppliers that have been approached. All of this should be given in writing to prevent any hidden arrangements over the telephone.

Remedy 8 – Introduction of a new requirement into the licences of retail energy suppliers that prohibits the inclusion of terms that permit the auto-rollover of microbusiness customers on to new contracts with a narrow window for switching supplier and/or tariff

We support the removal of the right to automatic rollovers. The current situation in which there is just a small window in which micro businesses can choose not to roll over is unjust. Ecotricity does not automatically rollover our customers because it is a simple ethical decision.

Remedy 9 – Measures to provide either domestic and/or microbusiness customers with different or additional information to reduce actual or perceived barriers to accessing and assessing information

Our answer to this question has been combined with the Remedy 10 question below.

Remedy 10 – Measures to prompt customers on default tariffs to engage in the market

Ecotricity does not believe that any additional information is necessary: on the contrary, customers are already inundated with too much information that is prescribed by Licence Conditions. The RMR brought in an excessive level of prescription with respect to the layout of customer communications and increased the volume of information that we send our customers. We maintained throughout the RMR consultation process that if this information is required at all, it should be targeted at those customers that remain on the default tariff of the incumbent supplier. This was the group of customers that Ofgem hoped to engage: but instead they laid down blanket requirements on all suppliers in relation to all customers irrespective of how engaged those customers were already.

We agree that more analysis is needed to evaluate the effect of policies, such as requirements on the content of bills. Such policies impose significant costs and we do not believe that they have done anything to stimulate engagement in the market. They have only increased complexity and even disengaged some customers. Increasing information further would be an unnecessary administrative burden for suppliers. However, now that these regulations have been introduced requiring that the information be removed, would require a similar amount of work for suppliers.

We would support less regulation on the content of bills and that prescription should be replaced with a simple requirement that bills be clear and easy to understand. Suppliers would then be able to choose whether to leave the RMR requirements or remove them.

The CMA must recognise that any developments suppliers are asked to make, would require system changes. These come at a cost that the Big Six may be able to absorb, but are challenging for independents. As such, current and excessive regulation of customer information is not conducive to a competitive market.

Remedy 11 – A transitional 'safeguard regulated tariff' for disengaged domestic and microbusiness customers

We believe that all customers that did not choose their tariff should be on the safeguarded tariff. This should be the default tariff that all customers go onto unless they actively choose not to.

The current CMA proposal suggests that this would only apply to customers that were previously on fixed tariffs: it should go further than this and apply to those that have never switched away from their incumbent supplier.

With respect to the price basis of this tariff, we believe that taking a cost plus approach would be too difficult to police; rather, it should be a % of each supplier's most competitive tariff. Between 105% and 110% of this would be appropriate.

Such an approach will increase the price of the competitive tariffs, as it will more evenly share actual cost and profits made across all customer groups. The fact that this will reduce market segmentation by the Big 6: offering very low tariffs to attract engaged customers, whilst recovering the money from those that will never switch, will be fairer for customers and better for competition. This will make competitive offerings more realistic and reduce the gap, which is currently exaggerated, between new and old prices, and between the Big 6 and independent suppliers.

Remedy 12a – Requirement to implement Project Nexus in a timely manner

Implementation of Project Nexus is the subject of significant discussion at all levels of industry at present. All efforts across industry are being applied to implement it in a timely manner. Essentially, this remedy is already being applied and the best approach for the CMA to take would be to support the efforts of the Project Nexus Steering Group and Ofgem who are working hard to achieve this remedy. Pushing through an additional licence modification would simply waste time and detract from the task at hand.

Remedy 12b – Introduction of a new licence condition on gas shippers to make monthly submissions of Annual Quantity updates mandatory

This is a more complex issue than is presented in the CMA's report. We agree that there is an opportunity for gaming in the current system. We consider, however, that Nexus will mostly address this by providing that AQ for Small Supply Point's (SSP)'s be automatically updated following submission of meter reads. In our opinion shippers would need to make a lot of effort in building their systems in order to game the new Nexus approach to AQ. Mandatory submission of AQ data is therefore disproportionate.

We consider that it would be more appropriate to focus on meter read performance and required submission of reads whether advantageous to the shipper or otherwise. Adequate provision will, however, always need to be given to the Shipper to allow it to challenge and/or amend incorrect reads, AQs and resultant reconciliation charges.

Remedy 13—Requirement that domestic and SME electricity suppliers and relevant network firms agree a binding plan for the introduction of a cost-effective option to use half-hourly consumption data in the settlement of domestic electricity meters

Using half hourly consumption data is an approach to settlement that could create innovative time-of-use tariffs. The main problem with it, however, would be the additional complexity of tariffs that would inevitably follow. There is no market research to suggest that customers want more tariff offerings. The energy industry already suffers criticism due to its complexities. Should this form of settlement be necessary, it should not be until 2020, when all domestic customers have smart meters installed.

On the question of barriers to the use of half hourly data for PC1-4, we note that this proposal would generate a huge volume of data, roughly 1500 times more data per customer than is currently processed. This would require significant IT infrastructure

investment at a high cost. Trading and forecasting systems and process would also require enhancement. These costs would inevitably be passed through to customers.

On the question of replacing profiles with half hourly consumption data our view was that a better way to gain more accurate settlement would be to improve the granularity of Profile Class definitions. This could be done using a test sample of around 2000 sites. Re-defining the profile classes based on this test data and then re-classify customer's profiles to more accurately describe their consumption patterns. This way we would get closer to more accurate consumption patterns without requiring the management of unwieldy volumes of half hourly data.

Innovation via tariff offerings should not be mandated into legislation: where suppliers wish to offer it and invest in the systems necessary, this should be their choice and it should be left to competition to drive such innovation.

Lack of robustness and transparency in regulatory decision-making

Remedy 14 – Remedy to improve the current regulatory framework for financial reporting

One area that has been given insufficient attention is the lack of transparency in cross border transfer pricing by the Big Six. Whichever changes are made to the segmental statements it is essential that improving the transparency of this should be the priority.

(a) Should the scope of the individual areas reported on align with the scope of the markets as set out for generation and retail supply in our provisional findings? For example, should a requirement to report wholesale energy costs on the basis of standard products traded on the open wholesale markets be imposed?

No, because what a retail arm would purchase from the generation arm. Under these circumstances no matter the type of generation, such internal trades cannot be aligned with standard products.

The obligations for reporting will largely be covered under REMIT, which assumes that all products will be standard products.

(b) What regulatory reporting principles would be particularly relevant to the preparation of regulatory financial information in this sector?

In order to maximise comparability, there should be requirements around the standardisation and consistency of information provided. We acknowledge that not everything can fit into the same box and flexibility is required for certain contracts; however, we advocate standardisation where possible.

(c) Would summary profit and loss account and balance sheet information for each area be sufficient to enable the effective regulation of the sector and the development of appropriate policies? Or should the large domestic and SME energy suppliers be required to collect and submit additional, more granular financial information?

In addition to the above the structure of assets should be included.

(d) Should Ofgem require that the summary profit and loss and balance sheet information be audited in accordance with the regulatory reporting framework?

We believe that use of a professional accounting firm should be sufficient.

- (e) Should this remedy apply to the firms that are currently under an obligation to provide Ofgem with Consolidated Segmental Statements? Or should it apply to a larger or narrower set of firms?**

The obligation should be with the Big Six alone: only the Big Six have the combination of market dominance; being vertically integrated; and operating in multiple jurisdictions. Therefore, it is only in these companies that such reporting should be required. Their consolidated segmental statements reflect over 90% of the market and little can be gained from the additional information provided by smaller market participants.

- (f) What would be the costs of imposing such a remedy? We note that some firms' reporting systems are not currently capable of providing information on such a 'market-orientated' basis and that our remedy could require significant additional system requirements.**

It is difficult to determine what the cost of this would be on larger players; however, if the obligation were on small suppliers as well then providing information under a 'market-orientated' basis would be a significant amount of work potentially requiring system changes.

- (g) Should the CMA implement this remedy by way of licence modifications or by way of a recommendation to Ofgem?**

The remedy should be recommended to Ofgem and go through the usual consultation process.

Remedy 15 – More effective assessment of trade-offs between policy objectives and communication of impact of policies on prices and bills.

- (a) Are current assessments of the impacts of policies on prices, bills and on the trilemma trade-offs carried out to a sufficient extent currently? Are there specific areas where such assessments are not currently carried out, or might be undertaken more comprehensively?**

Our experience is that Ofgem's approach to impact assessments tends to be biased to proving that the policies they wish to implement will be effective even when they turn out not to be. For example, the RMR proposals had extensive impact assessments, which were used to back up the changes Ofgem made; but we are yet to see evidence that these changes actually increased customer engagement.

We acknowledge that it is not always possible to fully assess the impact of proposals at the early stage and we ourselves are not always able to respond: it is difficult to get a quote for a change when the proposals are still unclear. However, we believe that Ofgem and DECC could do better: firstly through fully investigating initial concerns raised in the consultation process; secondly, through allowing sufficient time for all parties to be involved; thirdly through being prepared to drop policies if, following consultation and assessment, they discover that they would be too costly and/or not achieve their aim; and fourthly, ensuring that the data used for impact assessments is up to date. We note the introduction of QR codes on bills as an example of a policy whose impact assessment was outdated since by the time the policy was implemented, the technology had moved on.

Some of the least tested policies have come from Ministerial statements rather than Ofgem. These tend to be motivated by political considerations rather than consumer benefit or any consideration of the trilemma. There is little accountability or justification needed for either ineffective gimmicky policies or for policies that have major negative impacts on the industry and our ability to meet carbon reduction and renewables targets.

One example of an ill thought out policy was the £12 Government Electricity Rebate: a proposal that required a significant investment of time and effort by suppliers in the delivery, tracking and auditing of the Rebate and, given the small amount, was of little benefit to consumers. The scheme was announced with no prior consultation or impact assessment. Subsequent consultations changed the detail but did not affect the overall policy. The costs of delivery could have been foreseen had DECC consulted before making the announcement, rather than after it. As it was, the entire process has been a farcical exercise, which cost the tax payer and industry, but had no meaningful result.

More recently, the removal of CCL was announced three weeks before the proposed implementation date with no warning or consideration of the impacts that this change would have on investor confidence in the industry; PPAs, business supply contracts or other Government schemes.

Similarly, the announcement of the closure of the RO to onshore wind gave no consideration of the impact of this change on the supply chain congestion and delays as developers rush to beat the new deadline. It has also ignored the difficulty of achieving financial close when much of the detail will not be known until guidance is produced. This will most likely only start to be developed once the bill has reached royal assent. This will have a severe impact on certainty within the industry.

As a solution to this bad decision making, we would advocate that all energy policy making decisions by ministers and civil servants should be corroborated with impact assessments. These should include a review of the impact on the trilemma and consider the experience of other countries that have attempted to solve similar problems and/or introduce similar policies.

(b) Are the assessments sufficiently scrutinised?

It is difficult to know what level of internal scrutiny is given to impact assessments. For major changes we believe that third party scrutiny is needed.

(c) Are the assessments sufficiently disseminated to interested parties? Which parties need to be informed about these assessments?

We are happy with Ofgem's current notice system and use its daily email updates. We note, however, that neither Ofgem nor DECC have user friendly websites and finding the latest position or assessment can be a challenge.

(d) Is there an additional role for either Ofgem and/or DECC in carrying out assessments of the impacts of policies and trilemma trade-offs, or communicating the results of them?

There should be a greater emphasis on the administrative burden of policies, which needs to be assessed against their benefits. Examples where this was not done sufficiently was in RMR, QR Codes and £12 Rebate. Please see our response to question a) of this section for

more detail. Allowing suppliers more time to respond to consultations could lead to better analysis.

(e) Should further, authoritative analysis be published to assist the public discussion? What form might this take? Which existing bodies are best positioned to undertake this role?

Yes, there needs to be proper analysis of administrative costs as well as the trilemma. We suggest that different bodies assess the different aspects of the trilemma in accordance with their expertise. For example Citizens Advice should assess the impact on price; The Committee on Climate Change should assess its impact on carbon reduction; and National Grid should assess its impact on security of supply. In addition, better use could be made of academic institutions in reviewing assessments.

(f) Is there a sufficient case to justify creating a new, independent body tasked with scrutinising the impact assessments of policymaking bodies and/or providing authoritative analysis to inform the public debate?

Overall we would not support this. Although having a check on Ofgem and DECC could be useful, but it is not clear whether an entirely new body is justified. This could just result in additional regulatory burden on industry participants, additional costs and an additional body to respond to.

Remedy 16 — Revision of Ofgem’s statutory objectives and duties in order to increase its ability to promote effective competition including the removal of some of the points added in the Energy Act 2010 to make competition a primary objective. The Energy Act 2010 includes requirements for consideration of the impact of the policies on: climate change; security of supply and affordability.

It is essential that the requirement to consider the impacts of climate change on future generations is not compromised. Although as a small supplier we believe that improving competition is important, the urgency of combatting climate change means that where it conflicts with price or competition, combatting climate change must take priority.

Consideration of security of supply should also remain, but the particular method of ensuring this must not artificially prop up fossil fuel generation as happens with the Capacity Market. With a stable regulatory environment that supported renewable generation, security of supply could be achieved via a low carbon route.

Price considerations should take second place to competition: the reason for this is that effective competition should lead to a reduction in prices anyway.

Remedy 17 – Introduction of a formal mechanism through which disagreements between DECC and Ofgem over policy decision-making can be addressed transparently.

(a) In which circumstance should Ofgem have the right or duty to express views on DECC’s policies and DECC/Ofgem strategy for their implementation? What format should such views take? Should DECC have a duty to formally respond?

Ofgem should express its views when its knowledge of the market means that it can identify problems that DECC might have overlooked. It is not surprising, for example that the Minister was unaware of quite how difficult the delivery of the £12 Rebate would be, however, Ofgem would have known this and should have pointed it out.

It should also comment when this knowledge would be beneficial to consumers; and provide balance and an independent view on whether the trilemma points have been met.

(b) In what circumstances should Ofgem have the right to seek a formal direction from DECC to implement a certain policy?

Only where it is unable to fulfil its statutory duties under its existing powers. Such a direction must always be subject to consultation and impact assessment.

(c) Would DECC's formal direction undermine (or appear to undermine) Ofgem's independence?

Potentially, although there is already significant scepticism about Ofgem's independence so we do not believe that this would have a material impact.

d) Would other measures be effective in promoting the independence of regulation?

Yes, we believe that if Ofgem focussed on enforcing regulation and assisting suppliers in complying, not pandering to public/political moods with press statements about suppliers. Ofgem should be mindful of the impact of its interactions with the press and refraining from automatically pointing the finger of blame at suppliers, for every problem.

Industry-led system of code governance

Remedy 18a – Recommendation to DECC to make code administration and/or implementation of code changes a licensable activity

We are in two minds with regards to this remedy. Whilst we recognise the potential benefits making code administration a licensable activity could have, there is also a significant downfall which has not been addressed. A license would hold code administrators accountable for their actions and behaviours, with serious consequences to any breach. This could mean more efficient and effective code management, which would be beneficial. However, licensing their activity could also limit administrator's innovation in the way they interact with both the codes and their parties. It could also have the very negative effect of limiting the independence of the administrators, and bringing Government views and policy to bear on the codes, which are supposed to be industry managed.

We are firmly against any measures which limit the independence of code administrators, but we do support the creation of an enforceable minimum standard of operation for all such bodies. We therefore suggest considering giving Ofgem enforcement powers over the Code administrators Code of Practice (CACoP). This would mean that the administrators retain their independence, but are still forced to adhere to an enforceable minimum standard of operation.

Remedy 18b – Granting Ofgem more powers to project-manage and/or control timetable of the process of developing and/or implementing code changes

(a) Is this recommendation likely to result in a positive change in the development and/or implementation of code changes that pursue consumers' interests?

We strongly disagree with this remedy suggestion. We feel that giving Ofgem greater powers in code regulation would result in more negative changes in the development of code changes. The code administration bodies were set up as independent bodies in order to manage change without undue government or regulatory influence.

Greater involvement of Ofgem would undermine this, and the opportunities for industry bodies to make changes beneficial to them. Any change must undergo impact assessments and careful scrutiny before it is accepted by the code Panel. To date, the changes that have been most costly to consumers and industry alike have been the changes raised through Ofgem's significant code reviews. These changes, such as the BSC change P305 which significantly increased risks for small suppliers, were pushed through by Ofgem despite strong opposition by industry and the BSC Panel itself. This demonstrates the danger of Ofgem's power within the code governance realm, with the result of increasing cost to suppliers and consumers alike.

We do not feel that there are any circumstances under which Ofgem should take a more substantive role in code governance. We have concerns over the amount of influence Ofgem are already able to exert within code management and strongly recommend against an increase in their powers.

Remedy 18c – Appointment of an independent code adjudicator to determine which code changes should be adopted in the case of dispute

We do not support the introduction of an independent code adjudicator for dispute mediation. The cost of setting up and running this further body would fall on parties to each code, which would ultimately mean increased costs to suppliers, which would be passed on to consumers. It would introduce a further level of complexity within code governance, which is already beyond a level manageable to most parties, especially smaller suppliers. Further, we do not see how transparency over the independent adjudicator body would be managed with regards to how the company is chosen, their remit, who is on it and so on.

We suggest instead that all code administrators adopt the process in use by Electralink with the DCUSA and SPAA. In this, no modification is progressed until all parties come to complete agreement on the modification and all its terms. In this way, only robust modifications are moved forwards, and all party views must be taken into consideration. We would support more widespread use of this system as opposed to the introduction of yet another body into code management.

Remedies not minded to consider further

We support the CMA's decision not to take forward the following potential remedies:

- Price control regulation of all domestic and microbusiness retail energy tariffs;
- Requiring energy firms to inform customers about the cheapest tariff on the market (across all suppliers);
- Opt-out collective switching of disengaged customers;
- Introduction of price non-discrimination provisions; and
- A transitional safeguard regulated price structure.

We would, however, urge the CMA to reconsider the introduction of a single price for electricity and gas customers. As acknowledged by the CMA, the Big Six are currently able to exploit the low level engagement of customers who have never switched and gain a competitive advantage with respect to engaged customers. Until this practice ends, the retail market will never be truly competitive and incumbency will always have significant benefits.

The CMA is concerned that such rules would prevent innovation with respect to innovation over the design of tariffs. This can be prevented if the rule only applies to each time of use

mode and if suppliers are allowed to offer discounts to reward energy saving behaviour by customers (we draw your attention to our own electric vehicle discount as an example of this).

Customers should be rewarded for using their energy when there is the most available and different time of use modes make sense for different customers. However, there can be no justification for having multiple prices for products that are in other respects the same. The only reason is exploitation of the vulnerable and disengaged.

Conclusion

In conclusion, we urge the CMA to reconsider the proposal to introduce locational pricing into transmission charges as we do not believe it will have the desired impact, but it will result in increased costs for many consumers and developers.

We support the proposal that the SoS be required to consult before giving any CfDs through a non-competitive process. The same should apply should the SoS remove any technology from the scheme and the non-competitively awarded nuclear CfD should be reconsidered. We propose a new model for assessing the merits of each technology, which we urge the CMA to consider. We also urge the CMA to fully investigate the impact that the Capacity Market will have on consumer bills. The capacity market highlights the differential treatment between fossil fuels and renewables, which are funded through the tightly budgeted Levy Control Framework.

With respect to smart metering, we are concerned that the lack of interoperability of SMETS 1 meters will prevent switching. In order to combat this, we suggest that the manufacturers be required to allow all suppliers to use their head end functionality.

We support the CMA's proposal for a single not for profit price comparison website and believe it would improve consumer experience. We strongly support the proposal for a safeguarded tariff and believe that all customers that did not choose their current tariff should be put on this.

We agree that the implementation of Project Nexus will bring significant benefits, but we do not think that additional actions are needed as industry is already working on this with an effective timetable in place. We do not believe that monthly AQ updates are necessary as Nexus will address many of current problems. It would be more appropriate to focus on meter read performance. We believe that the proposal to introduce half hourly settlement for profile classes 1-4 would require an unjustified level of system change. A better approach would be to focus on improving profile accuracy.

We believe that more transparency is needed with respect to the inter-jurisdictional transfer pricing policies by the Big Six.

We believe that there is insufficient consultation or assessment of impacts ahead of policy changes. This problem is most pronounced when the changes come from Government ministers and are motivated by political goals rather than consumer interest or the trilemma. We advocate that all energy policy making decisions by ministers and civil servants should be corroborated with impact assessments. We would not support the removal of the obligation on Ofgem to prioritise combating climate change in favour of prioritising competition. Such a policy would be short sighted and dangerous.

Ecotricity welcomes the opportunity to respond and hope you take our comments on board. We also welcome any further contact in response to this submission. Please contact holly.tomlinson@ecotricity.co.uk.

Yours sincerely,

Dale Vince
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