

## **Electricity Demand Reduction (EDR) Pilot Phase II: procedure for appealing against a decision by DECC to reject an application to participate**

### **Applications to participate in Phase II of the EDR pilot**

1. The process for applying to participate in Phase II of the EDR Pilot is explained in chapter 9 of the Participant Handbook<sup>1</sup>, which needs to be read with the Measurement and Verification Manual<sup>2</sup>. DECC will assess applications in detail to ensure that all of the requirements explained in the Participant Handbook and Measurement and Verification Manual have been met (the evaluation questions included in the application are not considered as part of that assessment). If all the requirements have been met, you will be invited to progress from the Application Stage<sup>3</sup> to the Submit a Bid stage of Phase II of the Pilot<sup>4</sup>. If the requirements have not been met, your application will be rejected and you will be unable to proceed any further in Phase II of the Pilot.
2. Application forms, M&V plans and other supporting evidence are required to be submitted via the online portal by 17:00 on 15 October 2015.

### **DECC's commitments**

3. DECC will process information consistently and in line with the requirements set out in the Participant Handbook and M&V Manual and any amendments to these documents which have been published on the EDR pages of the UK Government website and are in force on the date that your application is submitted<sup>5</sup>.

### **Objectives of the Appeals Process**

4. The objective of this appeals procedure is to provide a clear and fair process for you to challenge a decision by DECC to reject your application if you think we have got something wrong or if you think our failure to respond to a written query caused a delay in submitting your application and for your application to be reconsidered if your appeal is successful.

### **The two stages of the appeal process**

5. There are two stages to the appeal process. The first stage is about the original decision by us to reject your application to participate in Phase II of the EDR Pilot. If your stage 1 appeal is upheld, you will be invited to resubmit your application by a specified deadline so that it can be considered afresh. If your

---

<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/435340/EDR\\_Participant\\_Handbook.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/435340/EDR_Participant_Handbook.pdf)

<sup>2</sup> <https://www.gov.uk/government/publications/electricity-demand-reduction-pilot-phase-ii-measurement-and-verification-manual-and-forms>

<sup>3</sup> The "Application" stage is described in Chapter 9 of the Participant Handbook.

<sup>4</sup> The "Submitting a Bid" stage is described in Chapter 10 of the Participant Handbook.

<sup>5</sup> <https://www.gov.uk/government/publications/electricity-demand-reduction-pilot-phase-ii-participant-handbook-and-additional-guidance>

stage 1 appeal is not upheld, you may be able to proceed to a stage 2 appeal if you think we did not conduct stage 1 properly, as per this process, and, again, if your appeal is upheld in full (as per paragraphs 23 and 24) you will be invited to resubmit your application. Our decision on your stage 2 appeal will be final.

## **Stage 1: appeal against a decision to reject your application**

### *Grounds for appeal*

6. You can appeal against a decision by DECC to reject an application to participate in Phase II of the EDR Pilot on the following grounds:
  - a) you think that we have failed to process information sent to DECC via <https://itportal.decc.gov.uk/edr> in accordance with the eligibility criteria as specified in the EDR Handbook,
  - b) we failed to respond to queries concerning your application within the relevant time period, where we have made a specific written commitment to do so, and you consider it was that delay which either:
    - (i) meant that you could not submit a completed application by 17.00 on 15 October 2015, or
    - (ii) caused your application to be rejected;

### *How to make an appeal*

If you believe one or more of the grounds for appealing against a decision to reject your application apply in your case, you may submit an appeal in writing. Appeals should be submitted via email to the following address:

[edr-project@decc.gsi.gov.uk](mailto:edr-project@decc.gsi.gov.uk).

7. The following information should be included in your appeal:
  - a) in the subject line of the email: your application number followed by “application to appeal”;
  - b) the name of the organisation lodging the appeal, including the EDR Participant number;
  - c) the name of the person managing the appeal within the organisation;
  - d) the reason or reasons why you believe that the ground or grounds for appeal exist in your case;
  - e) any supporting evidence.

### *Time limit for making an appeal*

8. You have five<sup>6</sup> working days to submit an appeal against a decision by DECC to reject your application to participate in Phase II. Those five working days start with the day that we send you an email confirming your application has been rejected and end at 17.00 on the fifth day. So, for example, an appeal in respect of a decision notified to you during the course of a Monday must be made by 17.00 on the Friday of that week. The deadline for an appeal might be varied by DECC on a case by case basis and if that happens we will notify you by email.

#### *How your appeal will be handled*

9. DECC will generally acknowledge receipt of your appeal within two working days<sup>7</sup> via email.
10. Your appeal will be considered by a member of the Electricity Demand Reduction Team in DECC who has not been involved in processing applications to participate in Phase II of the Pilot. They will consider all of the information provided in your appeal and so it is essential that you set out in full why you believe that one of the grounds for appeal applies and provide any evidence that you want the person considering the appeal to take into account.
11. The person hearing the appeal must only uphold an appeal if in his or her opinion one or more grounds for appeal, as set in paragraph 6, have been demonstrated.
12. The person considering your appeal will notify you of their decision on whether to uphold it or reject it within five working days of acknowledging receipt of your appeal. Those five working days start with the day that we send you the acknowledgment and end at 17.00 on the fifth day. During that time, the person considering the appeal may seek additional information or evidence from you (orally or in writing) and so it is essential that you are in a position to receive and respond to any such requests quickly. A failure to respond could cause your appeal to be rejected. The person who has considered your appeal will notify you of their decision by email. They will explain the reasons for their decision and what happens next.

#### *The outcome of your appeal*

13. If your appeal is successful, you will be invited to re-submit your application by a specified deadline to participate in Phase II again. A successful appeal does not mean that your application will ultimately be accepted: it means that we have found that your application was not handled as it should have been and that it should therefore be looked at again if that is what you want to happen. If you do not resubmit your application, we will not take any further action and you will not be able to participate in the Submit a Bid stage of Phase II of the Pilot.
14. If you do resubmit your application when invited to do so, it will be considered afresh in accordance with the Participant Handbook and the Measurement & Verification Manual. Your resubmitted application must contain the same information as your original application, together with any revisions that respond to requests made by DECC in the application feedback (voluntary/general check), if applicable, on the

---

<sup>6</sup> If a rejection decision letter on an application is sent out on December 21, you will have until December 31 to appeal at the first stage. However, we encourage participants to appeal as soon as possible.

<sup>7</sup> Please note that the 24<sup>th</sup> of December is a non-working day for DECC as our offices are closed.

original application. You may only amend your application at this stage if the appeal process has identified a need for that. For example, if your appeal is upheld because of a finding that your application was rejected because you followed advice from DECC that was inconsistent with the requirements of the Participant Handbook or Measurement & Verification Manual, you will be able to amend the relevant parts of your application so that they are consistent with those requirements. In any case where amendments to your application are needed as a result of your appeal, this will be explained when you are informed of the outcome of the appeal and the nature of the amendments that can be made will be clearly set out.

15. If your appeal is rejected, you will have the option to submit an appeal under stage 2 of the appeal process for a final determination.

## **Stage 2: appeal against a decision to reject your appeal at stage 1**

### *Grounds for appeal*

16. You can appeal against a decision to reject your stage 1 appeal if you consider that your grounds of appeal at stage 1, or the evidence you provided to support those grounds, were not properly considered or that inadequate reasons were given for rejecting your stage 1 appeal.

### *How to make an appeal*

17. The process for making a stage 2 appeal is the same as for stage 1, as set out in paragraphs 8 and 9 above. However, stage 2 appeals are **about the way that your stage 1 appeal was handled** and not directly about the consideration of your original application. The possible grounds of appeal at stage 2 are those described in paragraph [18] and your evidence should relate to those grounds. You do not need to resubmit your stage 1 appeal.

### *Time limit for making a stage 2 appeal*

18. You have up to four working days to submit an appeal against a decision by DECC to reject your stage 1 appeal. Those four working days start with the day that we send you an email confirming your appeal has been rejected and end at 17.00 on the fourth working day. So, for example, an appeal in respect of a decision notified to you during the course of a Monday must be made by 17.00 on the Thursday of that week. The deadline for an appeal might be varied by DECC on a case by case basis and if that happens we will notify you by email.

### *How your appeal will be handled*

19. DECC will generally acknowledge receipt of your stage 2 appeal within two working days via email.
20. Your stage 2 appeal will be considered by a more senior DECC official than the person who considered the stage 1 appeal and who was not involved in processing your application to take part in Phase II of the Pilot or in considering your stage 1 appeal. They will consider all of the information provided in your stage 2 appeal and so it is essential that you set out in full why you believe that one of the stage 2 grounds for appeal applies and provide any evidence that you want the person considering the stage 2 appeal to take into account.

21. There are two elements to a stage 2 appeal. The person considering the appeal will first of all consider whether your stage 1 appeal was properly dealt with, taking into account the grounds of your stage 2 appeal and the evidence you have provided. If they are satisfied your stage 1 appeal was properly dealt with, your stage 2 appeal will be rejected and the appeals process will be at an end. If they consider that your stage 1 appeal was not properly dealt with, they will consider your stage 1 appeal afresh and may either uphold it or reject it.
22. The person considering your stage 2 appeal will notify you of the outcome within two working days of acknowledging receipt of your appeal. Those two working days start with the day that we send you the acknowledgment and end at 17.00 on the second day. During that time, the person considering the appeal may seek additional information or evidence from you (orally or in writing) and so it is essential that you are in a position to receive and respond to any such requests quickly. A failure to respond could cause your appeal to be rejected. The person who has considered your appeal will notify you of their decision by email. They will explain the reasons for their decision and what happens next.

#### *The outcome of your appeal*

23. If your stage 2 appeal is upheld in full, which is to say that the person considering it finds that your stage 1 appeal was not properly dealt with and goes on to uphold your stage 1 appeal following a reconsideration of it, you will be invited to re-submit your application to participate in Phase II of the EDR pilot. The arrangements for resubmitting applications explained in paragraphs 13 and 14 above apply equally at this stage.
24. If your stage 2 appeal is not upheld in full, which is to say that the person considering it either finds that your stage 1 appeal was properly dealt with or finds that it was not dealt with properly but on reconsideration rejects your stage 1 appeal, the appeals process is at an end. The decision of the person considering your stage 2 appeal is final.