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6 November 2024

Dear Daniel

Future of the Ban on Acquisition-only Tariffs (BAT) beyond March 2025

EDF is the UK's largest producer of low carbon electricity. EDF operates low carbon nuclear power stations and is building the first of a new generation of nuclear plants. EDF also has a large and growing portfolio of renewables, including onshore and offshore wind and solar generation, as well as energy storage. With over five and a half million electricity and gas customer accounts, including residential and business users, EDF aims to help Britain achieve net zero by building a smarter energy future that will support delivery of net zero carbon emissions, including through digital innovations and new customer offerings that encourage the transition to low carbon electric transport and heating.

EDF welcomes the opportunity to provide comments on Ofgem's proposals for the BAT (and associated Market-wide Derogation) beyond its current expiry of end of March 2025. EDF is committed to supporting all of our customers to save cash and save carbon. It is why we recently completed a successful migration to the Kraken platform. It is why for two years running we have been the best performing large supplier on smart installs, and this winter we will be providing an additional £29m of support to help our customers most in need in response to the ongoing Cost of Living crisis. This commitment to our customers is reflected in our Trustpilot score recently increasing to 4.6 out of 5.

EDF has previously set out that it supports the retention of the BAT as an essential and enduring feature of the domestic retail market, at least until more fundamental reform of price regulation can be progressed to protect consumers and ensure market stability. We strongly opposed Ofgem's previous minded to position to remove the BAT as we considered this would be a backwards step and inconsistent with Ofgem's duties to protect the interests of both existing and future consumers and promote effective competition.

Contrary to concerns about the impact of the BAT on the levels of competition, the market continues to show a significant recovery from the period of the energy crisis. This is clearly demonstrated by recent levels in customer electricity switches to a new supplier which in

September 2024 reached over 318K switches¹, an increase of over 100K from the previous month and a 54% increase over the same period in the previous year. These figures also do not take account of the significant levels of internal switching that takes place from DTC tariffs to fixed products by customers.

On this basis we are fully supportive of Ofgem's updated proposal to extend the BAT for a further 12 months beyond March 2025, while longer term decisions are being made on the future of the retail energy market. We look forward to engaging further with Ofgem next year as part of its consideration of future retail market reforms, including a possible enduring role for the BAT. We also welcome the additional certainty provided by Ofgem through its intention to continue to extend the BAT, potentially beyond March 2026, until such time decisions are made on the future retail market.

In terms of extending the market wide derogation for retention tariffs, we recognise Ofgem's arguments for maintaining the derogation in line with the BAT extension. Specifically, we agree that any impact on competition is not significant at this time and so extending it alongside the BAT would be a sensible approach. However, Ofgem should further review the need for such a market wide derogation again as part of its discussions on an enduring BAT next year.

As set out further below in our response to Ofgem's specific questions, we consider there is, however, a need to amend the existing market wide derogation rules to prevent practices that are not within the spirit of the rules and/or could be damaging to competition. Specifically, practices that involve providing targeted incentives to win back customers following receipt of a loss notification notice is not consistent with the policy intent of the BAT and accompanying market wide derogation and should therefore be explicitly excluded from derogation rules.

Should you wish to discuss any of the issues raised in our response or have any queries, please contact Steven Eyre, or myself.

I confirm that this letter may be published on Ofgem's website.

Yours sincerely



John Mason
Senior Manager - Senior Manager (Price Regulation and Market Dynamics)

¹ Energy UK Electricity Switching Report – September 2024.

Appendix

Future of the Ban on Acquisition-only Tariffs (BAT) beyond March 2025

1. Do you agree that the BAT should be extended for another 12 months post 31 March 2025, i.e. until 31 March 2026?

Yes. We support the retention of the BAT as an essential and enduring feature of the domestic retail market, at least until more fundamental reform of price regulation can be progressed to protect consumers and ensure market stability.

2. Do you agree with the reasons set out in this section supporting our proposal to extend the BAT until 31 March 2026?

Yes. We welcome Ofgem's acknowledgement of the significant stakeholder response to its previous proposals and that there is wide industry support for the retention of the BAT. Retaining the BAT is essential to prevent discriminatory pricing between existing and new customers. It provides effective and proportionate regulatory protection for loyal customers against unfair and unsustainable pricing practices which mean they are forced to switch supplier if they want to access the cheapest deals. It will also ensure that suppliers are encouraged to focus on supporting all of their customers, including their existing customer base, by for example investing in high customer service levels and innovative offerings.

3. Are there any other factors which Ofgem should consider, when determining whether or not the BAT should be extended post March 2025?

Not at this time. We look forward to engaging with Ofgem next year as part of its discussions on future retail reform, including a possible enduring BAT.

4. Do you believe that the existence of the Market-wide Derogation, and the ability of suppliers to offer bespoke retention-only deals, is consistent with the principle of consumer fairness within the retail market?

We agree with Ofgem's analysis that there is currently no evidence of any significant impact on either fairness or competition from the existence of the market wide derogation. However, this should be kept under review and the existence of the derogation should be further considered as part of future discussions on an enduring BAT.

5. Do you believe that the Market-wide Derogation has (or is likely to have) a significantly positive or negative impact on consumer interests, or on competition within the retail market? Please provide supporting evidence wherever possible.

See answer to Question Four above.

6. Are there any other factors which should be considered when looking at the impact of the Market-wide Derogation on the market?

No, not at this time.

7. Do you agree with our proposal to retain the Market-wide Derogation until March 2026, and our reasons therein supporting this proposal?

Yes. However, we consider there is a need to amend the existing market wide derogation rules to prevent practices that are not within the spirit of the rules and/or could be damaging competition. Specifically, practices that involve providing targeted incentives to win back customers following receipt of a loss notification notice, as opposed to offering retention tariffs in advance of fixed term endings or other segmentation approaches, is not consistent with the policy intent of the BAT and accompanying market wide derogation.

The intent behind the derogation was to allow suppliers to reward loyalty, however, offering retention tariffs to customers only at the point such a customer has expended time to engage in the market and actively choose to seek an alternative supplier is not consistent with this policy intent. On this basis Ofgem should either amend the licence condition to explicitly exclude such practices under the derogation or alternatively provide clearer guidance on what types of retention tariffs are permissible under the derogation.

8. Would you recommend any changes to the operation of the Market-wide Derogation (assuming that it was being retained for the longer term)?

Subject to our response to Q7, no further changes are recommended at this time.

9. Are there practical and/or operational difficulties with how the BAT functions at present? Where possible, we would also welcome any perspectives on how these may be resolved in any future enduring BAT.

None at this time.

EDF
November 2024