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Date: 05 November 2008

Dear Stakeholder

### **Proposed merger between British Energy and EDF**

In September, we placed a note on our website advising those with an interest in the proposed merger between British Energy and EDF to start putting their views together in advance of formal notification of the merger to the European Commission.

The merger has now been notified. The European Commission has exclusive jurisdiction to assess this merger pursuant to Article 21 of the EC Merger Regulation (the Regulation). During its assessment, it will be seeking views from those with an interest in the merger and/or sectoral expertise, including Ofgem. There is a very tight timescale for this.

We encourage you to make any views known to the European Commission – **observations must reach the European Commission not later than 10 calendar days following the date of the publication of the notification in the Official Journal**. Observations can be sent to the Commission by fax (fax no. +32/2/2964301 or 2967244) or by post, under reference number COMP/M.5224 – EDF SA/British Energy Plc, to the following address:

European Commission  
Directorate-General for Competition,  
Merger Registry  
J-70  
B-1049 Bruxelles/Brussel

**If there are particular factors that you wish Ofgem to consider in formulating our views to the European Commission (and the OFT), it would help if you could send us your comments by midday on Monday, 10 November 2008.** In any case this should not delay your response to the European Commission. Please send any comments to me, preferably by e-mail (to [andy.burgess@ofgem.gov.uk](mailto:andy.burgess@ofgem.gov.uk)).

I must emphasise that the purpose of gathering this information is exclusively for informing Ofgem views prior to us making any representations to the European Commission in the context of the European Commission's assessment of this case.

The European Commission will consider whether the merger raises serious doubts as to the acquisition's compatibility with the common market and whether to initiate an in depth investigation under phase 2 of the EC Merger Regulation. The test in phase 2 is whether the merger would significantly impede effective competition in the common market or a substantial part of it.

The European Commission has until 8 December to decide whether the case moves to phase 2. This deadline will be extended in the event that the parties offer remedies to address any concerns identified.

Yours sincerely

A handwritten signature in black ink that reads "Andy Burgess". The signature is written in a cursive, slightly slanted style.

Andy Burgess  
Head of Enforcement and Competition policy