

ENERGY MARKET INVESTIGATION

Summary of response hearing with EDF Energy on 28 July 2015

Opening statement

1. EDF Energy agreed with the scope of the adverse effects on competition (AECs) that the Competition and Markets Authority (CMA) had provisionally found and welcomed that the CMA had not found AECs in relation to vertical integration, tacit coordination, liquidity in the wholesale market, and market power in generation. It had concerns about the CMA's description of unilateral market power (UMP) in the domestic and microbusiness retail markets, but it agreed that there were problems in these markets, which it believed arose from problems with consumer engagement and trust.
2. EDF Energy was concerned about the CMA's analysis of the scale of profitability of the large suppliers and saw it as essential to have an accurate public narrative on profits. EDF Energy agreed with the CMA's proposed remedies to tackle problems with the development of energy policy and how the effects of that policy were communicated to the public.
3. EDF Energy was different from its large competitors in that the prices it charged domestic customers were consistently lower and because it had actively sought to engage its customers, many of whom had moved onto fixed-rate tariffs. It had already implemented practices consistent with some of the CMA's proposed remedies, such as publishing tariffs for microbusinesses and informing customers clearly about cheaper tariffs. EDF Energy was concerned about the loss of distinction between itself and its competitors in the CMA's reports and felt that the CMA should acknowledge the differences between suppliers when describing the market.
4. EDF Energy considered that improving consumer engagement should be the focus of the CMA's remedies and had evaluated the CMA's proposals against this objective. EDF Energy noted that while the majority of the CMA's proposed remedies supported increased consumer engagement, the proposed regulated tariff appeared to run counter to this goal. EDF Energy believed that customer loyalty to their supplier was a valid choice and therefore valid engagement. Switching supplier was not the only measure of engagement. As the energy market was going to change considerably over

the next few years, it was important to consider how the proposed remedies would operate in the future as well as in the current market.

5. EDF Energy supported the removal of the four-tariff rule as it believed this would benefit consumers but recognised that steps would need to be taken to enable consumers to handle the increased complexity this change would bring. EDF Energy, along with other energy suppliers and intermediaries (eg price comparison websites (PCWs)), had a responsibility to improve their relations with consumers and help them to better engage with the market. For competition between suppliers and intermediaries to benefit consumers, the intermediaries needed to be subject to a principles-based system of regulation under which they were required to put customers' interests first. This system needed to be overseen by an independent and focused regulator.

Profitability analysis

6. EDF Energy believed that it was important that the financial analysis underlying the investigation was robust so that any remedies were designed to be appropriate and proportionate. This would help to deliver increased trust for the industry. EDF Energy recognised the difficulty of analysing the profitability of the whole market. It noted that the different portfolio mix of each firm would result in a different cost structure. For example, varying levels of customer engagement led to different costs to serve. This made the concept of a theoretical efficient benchmark difficult to apply in reality.
7. EDF Energy noted that the only results it had seen were the average results for the industry as a whole. It felt that it was important for the CMA to understand the underlying drivers and distribution of profits between companies, segments and products, as this would show where any competition issues existed and would ensure that any remedies were proportionate and targeted correctly.
8. EDF Energy's view was that its domestic business did not contribute to the CMA's finding that domestic customers had been paying around £1.2 billion more than would have been the case had competition functioned more effectively. It believed this to be the case for its small and medium-sized enterprises (SME) business as well. This was because EDF Energy's domestic prices were either below or only slightly above the CMA's benchmark and were consistently lower than the industry average. Its SME EBIT margin was also significantly lower than the industry average as calculated by the CMA. The lack of consistency in defining microbusinesses made comparisons of profitability in that market very difficult.

9. EDF Energy had reviewed the CMA analysis to reach a view of a fair operating profit (EBIT) margin range of [X]. EDF Energy broadly agreed that a fair margin of [X] was appropriate for a sustainable industry on a long-term basis but was less comfortable with the range as a whole. 1% would be an extremely narrow margin, which would make the industry unattractive for new and existing suppliers and did not take into account the risks, such as volatility of non-energy costs and the impact of the weather, involved in the business. While EDF Energy agreed with the CMA's use of comparators, such as mid-tier and industrial and commercial energy suppliers, to assess large suppliers' domestic and microbusiness margins, it believed the CMA should make adjustments to reflect the different risks involved in each market and faced by each type of firm. If these differences were taken into account then the appropriate fair EBIT margin would be within a broader range that would include [X].
10. The use of return on capital employed was not an appropriate way to evaluate the profitability of retail energy supply businesses. Using notional capital involved making a number of assumptions which could lead to some strange results. EBIT margin was a much better and fairer way of comparing suppliers across the whole market.
11. EDF Energy agreed that it could improve its cost efficiency, and it was working on doing so, initially to meet the industry average and then do better. However, it believed that even if it did so, it would still earn a margin of around [X]. It was important for the CMA to consider that cost drivers differed between companies due to differences in their customer base. For example, small and medium suppliers were likely to have more digitally-enabled customers who generated a lower cost to serve. Suppliers with fewer customers on fixed-rate tariffs probably had lower service costs than EDF Energy because they did not have to deal with as much switching activity generated by customers coming to the end of their contract.
12. EDF Energy had always been a cost-conscious business. The fact that its 2013 accounts suggested it had the highest cost to serve in the industry was because it had invested in upgrading its systems and was still bedding these in at that time. [X] It was important for the CMA to take account of investment cycles in the industry when evaluating firms' efficiency.
13. The CMA should examine the margins of third party intermediaries (TPIs), who were playing an increasingly important role in the market, in relation to the services they offered, the investments they were making and the levels of risk they faced.

Retail remedies

Remedy 3 – Remove from domestic retail energy suppliers’ licences the ‘simpler choices’ component of the Retail Market Review rules

14. EDF Energy supported removing the four-tariff rule constraint. It had supported its introduction because at the time there had been a need for a ‘reset’ of the market. However, with the increase in the number of suppliers there were now a large number of tariffs available and customers needed tools to compare these, so by itself, the four-tariff rule had not led to the significant simplification of the market that EDF Energy had hoped for. EDF Energy considered that, were it to remain in place, the four-tariff rule would constrain innovation and choice and so it now favoured its removal.
15. The removal of the four-tariff rule could lead to the return of a greater number and variety of tariffs, such as discounts and tiered tariffs, and this could make switching decisions harder for consumers. The onus would be on suppliers, PCWs, and the use of tools like Midata and QR codes to make comparing tariffs and switching as straightforward as possible for consumers. EDF Energy considered that this could be achieved and saw many customers engaging in this way.
16. The introduction of a whole market PCW (Remedy 6) that could be used either directly by customers, or potentially by support organisations that have different access channels (eg Citizens Advice), would be very helpful in aiding all customers and in particular those who found the current market difficult to engage with and would likely find a market with more tariffs just as difficult or even more so.
17. As noted above, the roles of suppliers and PCWs would become even more important if the four-tariff rule were to be removed. It was therefore necessary to make sure that both suppliers and PCWs behaved properly. While there were standards of conduct which suppliers had to adhere to when designing tariffs, it would be necessary to ensure that how tariffs worked was properly communicated to consumers. PCWs should also have to act in the best interest of consumers. They should be subject to standardised direct regulation, perhaps by Ofgem, rather than being regulated indirectly by energy suppliers, whose compliance requirements could vary considerably.
18. There were other parts of the Retail Market Review that would be affected by the removal of the four-tariff rule. Requirements for cheaper tariff messaging on bills could become unworkable because a tariff could have a number of variants with different discounts. Measures like the Tariff Comparison Rate (TCR) had not enabled consumers to compare tariffs effectively, and the

introduction of discounting and cash-back offers would make this even more difficult.

19. Because the usefulness of the TCR depended on consumers knowing their energy consumption, it had never been a good basis for consumers to make switching decisions. Whenever a customer switched, suppliers had to tell them at length about the TCR, which required the scripting to be longer. Removing the TCR would not stop people using PCWs to compare prices.
20. Some consumers would prefer variable-rate tariffs to fixed-rate ones if, for example, the tariffs tracked an average of prices so that consumers were reassured that they were on a good deal. EDF Energy noted that for customers currently on standard variable tariffs (SVTs) most of these, though not all, were on these through lack of engagement. Very short-term fixed tariffs might not be attractive to consumers because of the need to re-engage with the market on a routine basis. EDF Energy's view was that one-year fixed tariffs were appropriate in length.
21. Information from suppliers and PCWs would continue to assist consumers to compare tariffs even if there were many more tariffs available as a result of the removal of the four-tariff rule. Tools such as Midata and QR codes would also be able to help. It was suggested that some suppliers may respond to any increased complexity by creating very simple, easy-to-understand tariffs, with their simplicity as a selling point. This dynamic had been seen in other markets, such as mobile phones.
22. Currently, much of the complexity in comparing current tariffs was down to the need for a standing charge. If the standing charge was removed then it would be possible to compare tariffs by unit rate alone. If the four-tariff rule was removed, then the standing charge would likely be only one of a number of factors (eg discounts) which would prevent comparison by unit rate. PCW operators ought to be able to manage this increased complexity and provide consumers with suitable information. It was noted that the introduction of time-of-use tariffs would add further complexity as customers would need to know not just how much energy they used, but also when they used it.
23. As part of EDF Energy's 'Blue+ Price Promise', it would notify its customers about competitors' tariffs if they could save more than £1 a week by switching. EDF Energy effectively ran its own internal PCW in order to provide this service. It had found that when it did alert its customers about a competitor's cheaper tariff it saw relatively few customers switching away. Being transparent with its customers and notifying them when they could get a better deal increased EDF Energy's customers trust in it.

24. There was also a significant amount of internal switching by EDF Energy's customers. A large amount of the gains from switching could be achieved by internal switching and the barriers to internal switching were much lower than those for switching suppliers. Consumer engagement could not only be measured by levels of switching between suppliers.
25. EDF Energy noted that its Blue+ Price Promise customers were already engaged, so when customers received a message from EDF Energy about a cheaper tariff elsewhere, the amount they could actually save by switching to a different supplier was usually relatively low. This, along with increased levels of trust, explained why EDF Energy's Blue+ Price Promise customers tended to remain with EDF Energy despite the price alerts.
26. The four-tariff rule had also restricted competition on commission rates among TPIs. Removing the four-tariff rule would encourage suppliers to have direct-only prices which would increase competition between suppliers and PCWs and affect the commissions charged by TPIs.
27. While EDF Energy was in favour of removing the four-tariff rule, it recognised that it needed to be done in a way that made understanding and comparing tariffs simple, so that consumers would be able to handle the increased complexity that more tariffs would bring to the market.

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

28. Over time energy bills had come to be seen as a good way of communicating with customers, so they had become crowded with information. EDF Energy's customer research indicated that consumers wanted three pieces of information on their bills: how much energy they had used, how much they owed and by when they needed to pay. Having lots of other pieces of information on bills, like TCRs and Tariff Information Labels, had probably discouraged, rather than encouraged, engagement. Getting back to providing a bill with the information customers said they wanted, along with a clearly displayed call to action for those on SVTs, or default tariffs, to contact their supplier to see if they could save money, would probably increase engagement. Currently such pricing messages were buried among a host of other information. Different bill formats should be tested with customers to see what really worked for them, rather than suppliers or regulators trying to work out what theoretically ought to work.

Remedy 4a – Measures to address barriers to switching by domestic customers

29. Smart meters would assist consumer engagement by ensuring more accurate billing, but they were not in themselves a direct reason for customers to engage. The introduction of smart metering would help to enable a move from a market that primarily focused on prices to one that was about providing more holistic services to customers, rather than simply just pure energy proposals. Smart meters presented a fundamental opportunity to redefine suppliers' relationships with consumers, but it would not be a magical solution to the engagement issue.
30. How smart meters were introduced to the public would be vital for the programme's success. [X] The introduction of smart meters was a large and complex project. Aspects of it, such as the setting up of the Data Communication Company (DCC), which would manage the data received from the meters, had already experienced delays. Further delays could result in major problems for the programme. The process of installing smart meters in every home was a huge logistical project, and it was not becoming simpler. Overpromising and under-delivering could lead to the undermining of consumers' trust in the programme. It would be an opportunity missed if trust in the industry did not increase after the introduction of smart meters.
31. EDF Energy would not have difficulties in principle with PCWs being granted access to the meter point reference database in order to enable them to validate customer information and make the switching process run more smoothly. However, it should not be used by PCWs as a source of marketing information.
32. Additional support should be provided to vulnerable customers. A higher percentage of EDF Energy's Priority Services Register customers were engaged (in terms of being on a fixed-rate tariff) than was the case in its overall customer base. This was because EDF Energy had made a concerted effort to engage with these customers. Vulnerable customers could become engaged if they were given the right tools and support. EDF Energy used Priority Services Register criteria, which, among other things, were age or disability-based, to determine who was a vulnerable customer. However, it did not have access to other potentially useful information, such as income levels. EDF Energy also tried to find out from customers whether they had characteristics which might qualify them for additional support. If they did, it would then take them through its personal support service which would look at whether they could be on a better tariff or payment method, whether insulation work should be done on their home, and whether they were entitled to benefits, needed help with other bills, or needed third party support. This

process was also available online so that customers (or their helpers or carers) could check if they might be eligible.

33. Vulnerable customers who would benefit from moving to a different tariff or payment method needed to consent to this change. Previously, EDF Energy had unilaterally moved vulnerable customers on to a different tariff, but these customers were given an opportunity to opt out.
34. The only reliable mechanism to identify vulnerable customers was through data sharing. For example, customer eligibility for the Warm Home Discount rebate was provided to EDF Energy by the Department for Work and Pensions. The most robust way to identify a broader range of vulnerable customers would be to do something similar to this.

Remedy 4b – Removal of exemption for Centrica on two-year inspection of gas meters

35. EDF Energy felt there should be a level playing field in this respect and noted that Ofgem had just issued a consultation that intended to repeal the relevant licence condition.

Remedy 5 – Requirement that energy firms prioritise the roll-out of smart meters to domestic customers who currently have a prepayment meter

36. EDF Energy supported this remedy in principle as it would help prepayment customers to better engage with the market. Prepayment customers currently only had access to a limited number of products due to limitations in the current price structure. However, accelerating the roll-out of smart meters to prepayment customers was dependent on DCC availability and would need to fit in with the overall roll-out programme.
37. The DCC availability issue arose because there were currently two generations of smart meter, SMETS 1 and SMETS 2. EDF Energy's view was that an accelerated roll-out for prepayment customers should only occur once SMETS 2 meters were available. This was because a SMETS 1 meter installed by one supplier might not be compatible with one installed by another, so if a prepayment customer received a SMETS 1 meter they might not be able to switch easily to another supplier, and this could undermine their confidence in the programme. It was also important that prepayment customers were not seen to be used as test subjects. Given the current smart meter project timetable, it was still possible to have an accelerated roll-out programme to prepayment customers with SMETS 2 meters, but this would need to be decided on in the very near future.

38. EDF Energy expected proven SMETS 2 meters to be available for installation in 2017. In early 2016, EDF Energy would need to provide its smart meter roll-out plan to Ofgem and would need to consider whether it would be able to prioritise one group of customers and the effect this would have on its overall plan. It was also noted that there were currently issues with how smart meters would work in tower blocks.
39. The introduction of digital technologies would transform the energy supply business. It was important to ensure that smart meter technology, including in-homes displays, did not become obsolete too quickly, otherwise customers would not benefit from their introduction and would be left disappointed.

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

40. EDF Energy favoured the provision, by Ofgem or another party, of an all-market PCW. EDF Energy believed that this could be a key feature in rebuilding the trust of consumers. The service should be information-only and non-transactional. There should be links on suppliers' and intermediaries' websites to the independent PCW to signpost the website to customers, and vice versa.
41. The domestic market version of the service should be 'whole-market'. This would require suppliers to provide all the prices they offered to the service. This would lead to greater transparency of the arrangements between suppliers and commercial PCWs. EDF Energy did not think this would be a problem as long as the service was information-only. The service would need to include both telephone and face-to-face options as well. Its setup and operation could be contracted out in order to minimise costs. It would not need to spend the same amount on marketing as commercial PCWs, as the service could be promoted through alternative channels.
42. The microbusiness version of the service should also be non-transactional and only display published prices that are achievable. There is a risk that the credibility of the service would be undermined if this were not the case. Again, it should be information-only and be designed for the simplest profile classes of single-site business customers that are most similar to domestic customers (ie profile classes 3 and 4). Prices shown should be achievable prices, which could provide a benchmark for negotiation with suppliers for those small businesses with more complex requirements.

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

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

43. EDF said that the current definition of microbusinesses was too broad. It claimed that it should solely be based on energy consumption, and not turnover or number of employees (as per the current Ofgem definition). This was because energy suppliers did not have this information. Another issue was that currently prices were not widely publicised or published. EDF Energy published its prices on its website and had a quoting service that would provide a price quote (subject to a credit rating) within 60 seconds. If the customer passed the credit rating check then they would receive the price quoted.
44. TPIs, including PCWs, in the microbusiness market needed to be directly regulated in a principles-based fashion, and be subject to the same level of scrutiny as suppliers and by the same regulator. It was essential that how much of the market TPIs covered, what commissions they received (and on what basis) and whether they were genuinely offering the best price to their customers was totally clear. TPIs should be obliged to act in their customers' best interests and offer the lowest total cost (including commission) deal available to them. There should be transparency over the level of commission. It was highlighted that suppliers took a considerable amount of risk in supplying customers (eg credit and energy and non-energy costs) which TPIs did not, and that TPIs received a disproportionate return on that basis.

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

45. EDF Energy said that it still offered an auto-rollover product. The key feature was that it was a one-year fixed price product with no termination fee. Customers could leave at any time having given the appropriate notice. EDF Energy did not consider that auto-rollover tariffs were innately bad for customers; rather, it was the short window to give notice and the large termination fees that had been problematic. Backed by customer feedback, EDF Energy had addressed these issues, so it had not felt the need to wholly withdraw auto-rollover tariffs. It priced its auto-rollover tariff more expensively

than its one-year fixed price contract but it was cheaper than its variable tariff (where customers had total freedom to leave).

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

46. EDF Energy considered that clearer messaging on bills encouraging customers to engage with their energy supplier, or shop around, would be helpful. There were opportunities to ensure that customers who had become engaged stayed engaged and did not revert onto default tariffs. Having an industry-wide standard message in a standard format for this type of communication would be helpful. This type of engagement message could be delivered every six months, and regularly delivering this message would remove the need to provide messages in response to specific events, such as home moves, and provide a hook for consumer organisations and industry commentators to talk about switching.
47. In contrast, messaging to business customers needed to be personalised and targeted to key moments for those customers, such as changes of tenancy. EDF Energy currently wrote to business customers when tenancies of premises changed hands and then followed up 30 to 45 days later if the bill was still addressed to the owner/occupier. EDF Energy had found this to be successful in getting some business customers on default tariffs to engage.
48. EDF Energy agreed that renaming the SVT to, say, a ‘default tariff’ might help to encourage engagement by implying it was not the best tariff to be on. As for payment methods, EDF Energy considered that many customers who had not taken up direct debit and/or continued to pay by cash or cheque had chosen to do so as they had been told about the benefits of direct debit many times. EDF Energy considered, from looking at its own figures, that direct debit discounts across the industry were genuinely cost-related.

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

49. EDF Energy had concerns about the proposed transitional safeguard regulated tariff, in particular the concern that it might lead to increased disengagement among customers, but wanted to understand more about how it might work and its potential effects on the market. Regarding the setting of the safeguard regulated tariff, EDF Energy noted that there were two main ways of determining the energy costs. First, purchasing ahead of time to cover an estimate of what would be needed, or alternatively based on spot prices, which would mean that the safeguard tariff would be more volatile than suppliers’ current variable tariffs that had the effect of smoothing out changes

in the wholesale price. This volatility would have to be accepted by customers. Assuming that a body such as Ofgem was setting the safeguard regulated tariff, that body would be best placed to explain the relationship between wholesale prices and the level of the safeguard tariff. This would help to restore trust in the market. It was noted that moving to a shorter-term hedging strategy to make retail prices more reflective of short-term changes in wholesale prices could make the market a more challenging one for suppliers to operate in.

50. There might be other ways of restoring trust and explaining the relationship between wholesale and retail costs that did not involve a safeguard regulated tariff. Greater transparency about all the costs involved in supplying energy, particularly those which were policy-driven, and the effects of policy decisions on energy prices would be helpful. Having a politically independent body that could explain how retail prices were arrived at using suppliers' segmental accounts ought to address concerns about the market, but although there had been some efforts in this respect, they had not been successful in allaying concerns about the market.
51. EDF Energy said that hedging policy should remain the responsibility of energy suppliers, although key principles of how hedging policies operated could be discussed with the regulator. If a supplier was more expensive because it had a sub-optimal hedging policy it would be less competitive. In the market, the best hedging policy was usually to not differentiate yourself too much from what other suppliers were doing, because margins were thin and following a different policy would increase a supplier's risk. The fact that there were differences in large suppliers' hedging policy would be addressed by competition over time, since considerable differences in hedging policy should not be sustainable. Suppliers' hedging strategies needed to take account of both their SVT and fixed-rate tariffs because of the movement of more customers from SVT to fixed-rate tariffs over time. If all customers were on one-year fixed-rate tariffs then hedging strategies would be more straightforward, although suppliers would still need to cover volume risk.
52. While EDF Energy understood the CMA's concerns about disengagement of domestic SVT customers and microbusiness customers, it was not convinced by the CMA's provisional finding that suppliers had UMP over inactive customers. EDF Energy considered that the CMA's criteria (as set out in its guidelines) for the presence of UMP were not met. It also did not agree with the suggestion that the companies were able to use this market power to disengage customers. Finally, EDF Energy considered that, apart from the safeguard tariff, the CMA's remedies package was proportionate but did not need to rely on a finding of UMP. The CMA stated that the use of the term UMP was a term of art that it was obliged to use in order to identify an AEC

and that it considered lack of engagement and UMP as two ways of saying the same thing.

53. EDF Energy noted that the CMA was concerned that in the current market, suppliers that had made unwise hedging decisions were able to pass these costs on to their disengaged customers rather than having to absorb them. As noted above, there were different ways of setting retail energy prices and these had their advantages and disadvantages in terms of predictability and volatility.
54. It may be possible to define a subset of customers to which a safeguard regulated tariff could be applied. The smaller the group of customers to which the tariff applied, the less potential damage to competition in the overall market there would be. If the headroom for the tariff was set too low, competition would be greatly reduced, if it was set too high, little would be achieved in terms of protecting disengaged consumers. A safeguard regulated tariff could lead to some customers completely disengaging from the market because they felt protected by it. These potential effects should be evaluated by customer research.
55. As far as subsets of customers to whom a safeguard regulated tariff could be applied, EDF Energy thought that prepayment customers might potentially be a suitable group for consideration, as they did not currently fully benefit from competition and a detriment had been identified. Although there was a solution in the pipeline for these customers in the form of smart meters, this would not be implemented for some time. The roll-out of smart meters to prepayment customers would provide a clear end point for any regulated tariff targeted for them. Ways of defining other groups of vulnerable customers should also be considered.
56. There was a general point to be considered about having clear exit criteria (as opposed to just sunset clauses) for the removal of safeguard tariffs applied to the wider market. The exit criteria should be based on levels of customer engagement. These criteria could also be applied to the other remedies proposed by the CMA as a way of encouraging suppliers to improve levels of engagement.
57. There had always been challenges in having a sensible hedging policy on the one hand and explaining to customers in a straightforward way how prices were set on the other. EDF Energy wanted to engage with its customers on this issue in a way that earned their trust.
58. Some of the remedies proposed by the CMA for the domestic and microbusiness markets formed coherent packages which would make a

positive difference to the market. EDF Energy wanted to understand how the success of these packages would be assessed.

Industry governance remedies

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

59. EDF Energy noted that a revised deadline had been set for Project Nexus' completion and that it would be able to comply with this deadline.

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

60. EDF Energy would support this remedy if it were able to provide an assurance mechanism to prevent suppliers gaming the system by withholding readings in order to manipulate the flow of the Annual Quantity.

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

61. EDF Energy supported the introduction of half-hourly settlement in electricity for domestic customers and expected a timetable for its introduction to be developed via Ofgem's Smarter Markets programme. This timetable should then be turned into a detailed plan for the industry. There were a number of changes currently happening in the industry including Project Nexus, smart metering, next-day switching, and so the introduction of half-hourly settlement would need to be considered alongside these challenging developments.

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

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

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

62. EDF Energy said that at times the industry may not have been as proactive as it could have been in progressing changes. However, there was a concern that if too much power over the code change process were given to one party, eg Ofgem, then the necessary level of discussion and debate about code

modifications might not take place and this could lead to sub-optimal results. EDF Energy's view was that in some of the long debates that had taken place in the significant code reviews, for example, in Project Nexus and in half-hourly settlement, the industry had provided a lot of very valuable input into the final outcome.

63. The licensing of code administrators would help to improve their quality and accountability. If code administrators were to be licenced, then it would make sense to give them more project management responsibilities rather than giving these to Ofgem. This would allow Ofgem to act as an enforcer that parties could appeal to if progress on a modification was not fast enough.
64. EDF Energy wanted changes to the code modification process that would create better accountability and faster progress, but these should not be at the expense of the industry's and experts' contribution to that process. EDF Energy did not believe that delays to code modifications were often caused by conflicts of interests. Instead, delays were most often caused by the degree of complexity involved in modifications and the limited amount of expert resource available to work on them.
65. EDF Energy noted that it had written separately to the CMA on industry codes. It believed that there were real opportunities to streamline and tidy up the codes in the short term, and then to have a medium-to-longer term programme of improving the codes, their governance and parties' engagement with them.

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

66. EDF Energy was very supportive of this remedy as it considered there were different levels of transparency for the costs that made up customers' bills. It argued that while wholesale costs were transparent, costs of regulation and government programmes, such as the Energy Company Obligation (ECO) were not, as they were not accounted for by energy firms in the same way or published. When EDF Energy was setting its tariffs it looked at a number of costs. Wholesale costs were no longer the driving force they once were because of ECO costs, feed-in tariff (FiT), and Renewables Obligation (RO) costs among others. When wholesale costs fell, the fact that these other costs had not, or had risen, was not reported. The public therefore gained a false impression about why their bills had not fallen in line with wholesale costs. This led to public pressure on politicians which in turn could lead to political pressure on Ofgem, which could undermine its independence. Ofgem's SMI had not addressed this issue because it only used information from public sources, which was sometimes out-of-date and made suppliers' profits look

much higher than they actually were. A statement like the SMI, but done properly with the right information, would be very helpful in addressing this problem.

67. EDF Energy noted that all of the information required to create a comprehensive statement of energy costs and prices was currently not all gathered together in one place. It considered that this information should be collected and reviewed by a new and enhanced Ofgem, which would include the necessary economic expertise to conduct this type of analysis.

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

68. EDF Energy favoured the government being clearer about its priorities for the energy industry. It considered that the most recent Strategy and Policy Statement from the Department for Energy and Climate Change (DECC) to Ofgem had not been as substantive as it could have been in terms of providing Ofgem guidance as to trade-offs and priorities. EDF Energy was wary about granting DECC a power to formally direct Ofgem as this could be used to facilitate interference with Ofgem's work. The main problem was the lack of a clear story about the energy industry and where it was headed that the public could understand. Even if the direction power had to be initiated by Ofgem, there was still a possibility it could be misused, but if it could be done in a transparent way that protected Ofgem's independence then EDF Energy would be interested in such an approach.

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

69. EDF Energy generally supported clarity about how different types of financial reporting should be done and was in favour of suppliers showing more information on the supply to SME customers. It was not in favour of having reporting requirements that determined energy firms' corporate structures. For example, it was not in favour of creating segmental balance sheets as these would be arbitrary, not reflective of firms' performance, and might not provide much more information than was already available. EDF Energy and other participants in the market needed to be able to organise themselves so they could carry out their respective competitive strategies. EDF Energy and other firms already published a large amount of financial performance information. EDF Energy appreciated that along with providing information, firms needed to provide a credible, transparent narrative so the information was properly understood.

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

70. EDF Energy could see the theoretical benefits of introducing locational pricing of transmission losses. It noted that some of the analysis previously used to assess the benefit of introducing locational pricing for losses was now out-of-date and would need to be updated. Also, it was important to assess the effect of locational pricing for losses on smaller firms who would have to manage the risks it would create for them, especially in an industry with more intermittent generation.

Contracts for difference

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

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

71. EDF Energy generally agreed with the CMA’s provisional views on CfDs. CfDs were a good way to support low-carbon generation. It welcomed the CMA’s recognition that CfD auctions were not appropriate in all cases, such as for EDF Energy’s Hinkley Point C project, where competition had not been practical, and where assurance of efficient pricing had been achieved by other means, in that case.
72. EDF Energy also supported the CMA’s possible remedies that were intended to improve the robustness and transparency of the allocation of energy technologies into different pots and the use of auctions. More transparency about DECC’s thinking on these points would better enable energy investors to assess the risks involved in a given project.

Remedies the CMA is not minded to pursue

73. EDF Energy had previously advocated a simple, pence-per-kilowatt hour, tariff structure, as it saw value in this in a world of four tariffs, where the biggest challenge in comparing tariffs was the standing charge. However, if the four-tariff rule were to be removed, then the increased number of tariffs and the

subsequent complexity would be difficult to reconcile with a simple tariff structure of this type.