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ACTIVITY
REPORT
2016

THE NATIONAL ENERGY OMBUDSMAN



INFORMING
.....



ADVISING
.....



PROTECTING
.....

10
YEARS

**THE NATIONAL
ENERGY
OMBUDSMAN**



ACTIVITY REPORT 2016

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The national energy Ombudsman is an independent public authority established by the Law of December 7 2006 relative to the energy sector, within the framework of the opening-up to competition of the natural gas and electricity markets.

Its two legal missions are: informing consumers about their rights, and offering amicable solutions when disputes arise between consumers and energy operators.

The Ombudsman reports on its actions to Parliament.

Jean Gaubert, Ombudsman since 19th November 2013 is an expert in issues relative to consumption and energy.

The member of Parliament for Côtes-d'Armor from 1997 to 2012, he was consumption budget rapporteur for the National Assembly from 2006 to 2012, as well as vice-president of the committee of economic affairs from 2007 to 2012.

A former vice-president of the National Federation of Local Authorities (FNCCR), he has been the head of the Côtes-d'Armor energy department since 1983.



EDITORIAL

PREPARING THE FUTURE



JEAN GAUBERT

National energy Ombudsman

The year 2016 bears a particular meaning, for it marks the ten year milestone in the life of the national energy Ombudsman that was created by the law of 7th December 2006. The institution that I have been leading since 2013 has established itself as a key actor in the sector, by spearheading numerous initiatives that have reinforced the rights and protection of consumers. Its independence and influence were both strengthened when it was explicitly acknowledged as an independent public authority by the law of 20th January 2017.

This report provides a complete picture of the year 2016, from our activity to the events that had an impact on the lives of energy consumers, such the limitation of back-billing to 14 months, and the cheque energy experiment. It also offers a retrospective overview of the path taken over the last ten years, which leads us today to push our action ever further. Our efforts will be focused on two main initiatives: fighting fuel poverty, so we may better protect our most vulnerable citizens, and assisting consumers during the energy transition process.

MAKING THE CHEQUE ENERGY PERMANENT: AN IDEA FOR FAIRNESS

The cheque energy, which is currently being trialled in four departments, with a view to nationwide roll-out from 1st January 2018 onwards. This scheme, both simpler and fairer than the current

social tariffs, has faced misinformation and criticism from some suppliers. We must contribute to the existence of this reform, which brings deep changes to the system and benefits to more households. Furthermore, this provision is in line with the propositions of the European Commission regarding the “Clean energy” package: while the principle of a specific aid for the payment of energy bills has been agreed, that aid cannot be directly applied to the bill itself.

However, I believe there are two areas where further improvement could be made. Along with charity organisations, I believe that the amount of the cheque energy, on average €150 over the course of the experiment, must be significantly increased. Moreover, the system does not currently allow social or private landlords to cash the cheque energy. It must evolve so that eligible households can use the cheque energy to pay for the rental expenses linked to collective heating.

Furthermore, I advocate keeping regulated sales tariffs, to which French people are particularly attached, even if it means a distribution by all suppliers: these tariffs are key to shielding consumers against variations in the price of market offers.

CREATING A LAST RESORT SUPPLIER

Assisting French people in a situation of fuel poverty also means setting up a universal last resort supplier of electricity, similar to the existing minimum banking service. Whether they are households or companies, consumers who can no longer subscribe to a contract with a supplier should still be able to benefit from a minimum supply of electricity. The simplest solution would be to have the electricity distributor take on that duty, even if this goes beyond its original purpose. This specific task would have to be well supervised, with a separate financial account, so that the network manager would not become one supplier amongst others.

These reparative measures act as a complement to a critical preventive measure: the thermal renovation of homes, and in particular of “energy sinks”. As an incentive for individuals or corporate landlords to undertake renovation works, I call for a requirement of a minimum energy performance level for rental properties – if that level is not reached, owners could be liable for a part of the heating expenses of the tenants.

DISPLAY UNIT TO READ ENERGY CONSUMPTION

A successful energy transition implies both consuming better and consuming less. But changes in behaviour do not occur with the wave of a magic wand. While smart meters can provide accurate and daily consumption readings, citizens still need to be able to easily access these readings. Because I believe in the educational value of information, I have always advocated the idea that households should be equipped with a supplementary display unit inside their homes, indicating real-time consumption in kWh and in Euros. The law of energy transition stipulates that, by 2018, these systems should be offered for free by suppliers to people benefitting from the cheque energy. It is essential to go even further and to systematically install these units in every household, in addition to the smart meters. I am convinced that they serve as a useful complement to the data already accessible on suppliers’ websites, and would encourage all consumers to save energy.

EXPANDING THE OMBUDSMAN’S FIELD OF COMPETENCE

Works to improve energy efficiency and to produce sustainable energies are developing, bringing with them a growing number of disputes – whether related to badly installed systems or to issues caused by the buy-back of surplus electricity produced. These disputes may undermine trust in the energy transition and in the green economy if they go unchecked. The Law of February 24 2017 provides incentives for the self-supply of electricity: consumers are encouraged to consume the electricity they produce rather than injecting it into the network and selling it to EDF. For these home producer-consumers, it will be difficult to differentiate what separates a consumption dispute from a production one. We already possess the technical and legal skills required by these matters, and our activity would appear more coherent to consumers if we were in a position to process them. However, it is up to the legislator to expand the scope of our mission, as it has done so in the past.

As the legislative mandate is about to end, I would like to thank the whole parliament, regardless of political leanings, for the attention and support it has demonstrated over this period. While ten years is still childhood for a human being, our institution has long since entered maturity, and it must face the future with confidence and resolve.

AN IMPARTIAL MEDIATION

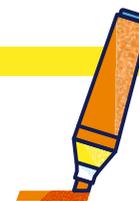
The year 2016 saw a generalisation of mediation in France, with consumers now able to exercise their rights to a free and efficient mediation process in all sectors. The national energy Ombudsman, an independent public authority, was one of the first approved Ombudsmen.

This is an important change. Since January 1st 2016, professional actors of all economic sectors must allow consumers to seek free assistance from an ombudsman in the event of a dispute. Regulations relative to the mediation of consumer disputes, set out by the ordinance of August 20th 2015, were completed by the application decree of October 30th 2015. From now on, the EU directive of May 21st 2013 is translated into French law, with the aim of facilitating consumers' recourse to amicable agreements in the event of disputes, prior to any contentious proceedings.

35

**CONSUMER
OMBUDSMEN
ARE APPROVED AS
OF 04/04/2017**

To ensure these regulations are applied, an Evaluation and Monitoring Committee for Consumption Mediation (CECMC) has been created. Composed of high-ranking magistrates, of experts, of representatives of consumer associations and of professional federations, its mission is to establish a list of Ombudsmen that meet the requirements set by the regulations in terms of quality, independence, transparency, competence, and to evaluate their activity. It notifies the European Commission of the list of approved Ombudsmen, which is displayed alongside the lists of other member states on the European platform for the extrajudicial resolution of consumer disputes, a platform accessible to the citizens of the European Union since February 15th 2016. [...]



A LOOK BACK AT THE OMBUDSMAN'S FIRST TEN YEARS

Since it was created as an independent public authority, the remit of the national energy Ombudsman has been expanded twice. The law of April 15th 2013 ("Brottes law"), which aims to set up the transition to a more moderate energy system, strengthened the Ombudsman's prerogatives with two decisions.

Before the passage of the law, only individual consumers and professionals or non-professionals with a contractual electrical power below 36 kVA or a gas consumption below 30,000 kWh/year, could refer to the Ombudsman.

Thanks to the Brottes law, SMEs, artisans and liberal professions with less than ten employees and with a turnover below two million Euros may now call upon the Ombudsman. Additionally, all non-professional bodies, without any restrictions, may also do so: associations, co-owners associations and local communities.

In addition to the increase in the number of people that can benefit from its services, the remit of the Ombudsman has been extended to other types of disputes, namely those relative to contracts made with a supplier or a network operator. Disputes arising from a connection with ERDF (known today as Enedis) and GRDF during the building or renovation of a home fall within this category, as well as the ones relative to the additional services offered by suppliers, such as advice on energy savings.

The law of energy transition of August 17th 2015 brought further progress in terms of consumer rights, by allowing referrals for all disputes relating to home energies: heating oil, LPG, wood fuel, heating networks, etc. Numerous individuals who could not previously access public mediation now have access to such procedures, and their disputes may be processed in a similar fashion, no matter which energy source they are using. Finally, in 2016, the Ombudsman's remit was extended to include Wallis and Futuna. Several provisions of the Energy Code were made applicable to the overseas body by the ordinance of May 12th, including regulated tariffs and the article L.122-1 of the Energy Code relative to the Ombudsman's mission to inform and to help resolve disputes.

ADAPTING TO A NEW CONTEXT

After its hearing at the CECMC in January 2016, the national energy Ombudsman became a member of the first seven Ombudsmen approved by the French state and reported to the European Commission, along with others dealing with financial markets and electronic communications. This certification encouraged the institution to modify its dispute mediation procedure by putting an end to the “second chance” scheme. This scheme, used for the informal resolution of cases, was implemented in 2010 to meet the exponential growth of referral procedures. Previous complaints that had not been at least superficially processed by the supplier were sent back to the institution for a more thorough examination. This choice freed up the Ombudsman’s resources by allowing it to focus on “real” disputes, involving complex issues: *“This practical arrangement worked well since in more than half the cases, the solution offered by the supplier met the consumer’s expectations.”* confirms Frédérique Coffre, Managing Director. *“In our annual satisfaction surveys, respondents said that they were largely satisfied with the second chance process. We complied with the Commission’s*

requirement to process all referral procedures in depth. Formalising the simpler cases increased our workload, which we were able to manage thanks to productivity gains made through our online dispute resolution platform, SoLLEn.” As a result, the proportion of amicable agreements rose in 2016: they constituted 42% of the files processed for mediation, against 30% in 2015.

Mediation solutions for consumer issues have incidentally brought inconsistencies regarding the time allocated to process disputes. The Energy Code, which provides the framework for the Ombudsman’s activity, has set a regulatory processing time of two months

to issue a recommendation starting from the reception date of the referral. The Consumer Code increased this period to 90 days. For small businesses, which fall within the Ombudsman’s remit but which are not protected by consumer mediation (a service restricted to individuals), the processing time remains two months. [...]

42%

OF THE SOLUTIONS
PROPOSED BY
THE OMBUDSMAN
ARE AMICABLE
AGREEMENTS

CONSUMERS PRAISE THE OMBUDSMAN’S ACTION

Approachable, responsive, transparent, dynamic: these are the qualities that more than 90% of respondents recognised in the national energy Ombudsman in the yearly satisfaction survey. Seen as an expert by 89% of people and competent by 88% of them, it is acknowledged as being an efficient dispute-resolving institution. 75% of consumers agreed that it provided them with help to find a satisfying solution to their issues, or to better understand them. 79% of respondents said they were satisfied by its actions, and the time that it took – two months on average – to find an amicable solution is seen as appropriate by 90% of them. 93% consider the solutions as being clear and 82% deem the solutions as being satisfactory. The team is seen as friendly (97%), receptive (96%) and skilled (92%).

61% of respondents with a referral that could not be processed stated that they understood the reason for this. And one consumer out of two having a rejected referral still managed to solve his/her issue with the help of the Ombudsman. In 2017, more households cited the non-fee paying nature of the service as a reason for having contacted the Ombudsman: 20% against 13% in 2016. 53% of them found out about the Ombudsman by searching online. Almost three out of four contacts were made via e-mail or through SoLLEN, the online platform for the resolution of disputes, versus a third of contacts in 2016. 72% of people interviewed see the Ombudsman as being effective. Thus, 89% of them believe they would recommend it to their friends and family.

* Survey carried out by the Institut Market Audit between the 01/30/2017 and the 02/06/2017, with a sample of 350 consumers who had required the assistance of the Ombudsman.



79%

OF PEOPLE
SAY THEY WERE
SATISFIED BY THE
ACTION OF THE
OMBUDSMAN

[...] The decree of 2007, specifying how the institution operates, should soon be updated to align the two deadlines for the processing of disputes. However, the services offered by the Ombudsman strive to process most disputes in less than two months: 59 days on average in 2016. Average processing times keep on decreasing, going from 68 days in 2014 to 61 days in 2015.

ORGANISED COOPERATION WITH CORPORATE OMBUDSMEN

The ordinance of August 20th 2015 outlines the principle under which a single dispute can only result in a single mediation. The sole exception to this rule concerns the national energy Ombudsman. It can, if the consumer wishes, review a dispute that has previously been processed by a corporate ombudsman, but not the other way around. On December 22nd 2015, two agreements were signed, one with the internal ombudsman of the ENGIE group, and the other one with the internal ombudsman of the EDF group. Since then, both ombudsmen were approved by the CECMC. These agreements provide a framework of cooperation between both parties. Consumers may request the assistance of the ombudsman of their choice, but both mediations cannot take place simultaneously. In case of duplicate procedures, both parties must inform the complainant, and specify that if the corporate ombudsman is chosen but that the proposed solution is not satisfactory, then the assistance of the national energy Ombudsman may still be requested afterwards. Signees also agree to transfer cases registered with them, but which do not fall under their remit. For instance, disputes due to a change of supplier cannot be processed by a corporate ombudsman, and conversely, the national energy Ombudsman cannot process disputes dealing with business practices or photovoltaic energy produced by a consumer.

In 2017, two bilateral meetings were organised to review a year of cooperation. For Frédérique Coffre, it has been a positive experience overall: *“Our teams have been working with a mutual understanding. We do not see ourselves as competitors but rather as complementary partners.”* Cooperation worked well for the redirection of their respective non-admissible referrals. 13 consumers that had a dispute resulting in a recommendation made by the internal ombudsman of the ENGIE group sought further assistance with the national energy Ombudsman. The institution confirmed the solution previously proposed in seven cases out of thirteen. 84 disputes initially processed by the internal ombudsman of the EDF group were passed [...]



LPG BEHIND MANY NEW DISPUTES

Since its remit was extended by law on August 17th 2015, the Ombudsman has processed about a hundred cases relating to home energies other than electricity and gas. Besides a few requests on fuel oil and the billing of neighbourhood heating systems, most of its actions (95 %) involved the resolution of disputes arising from sales contracts of liquefied petroleum gas (LPG). *“We were expecting this, since this market, having less than ten actors, has long been under the watch of both the Committee of unfair terms and the Competition authority”*, specifies Pierre-Laurent Holleville, task officer for the general management. The law of March 2014 relative to consumption brought progress, by prohibiting contracts with durations of more than 5 years, which made consumers “prisoners” of their supplier. However, difficulties persist, notably in the case of early terminations, which result in large costs such as end of contract compensation, and costs related to the removal of the tank and the pumping of the remaining LPG. Unfair changes in prices (See Chapter 5 - COMPARING), delivery and billing issues and margins of error of gauges constituted other grounds for referrals. Consumers noticing discrepancies between the gauge level and the amount delivered suspected overbilling. In a generic recommendation, the Ombudsman requested the suppliers to specify in their contractual documents that the values shown by the gauge are to remain indicative only, and do not constitute a basis for billing. These disputes often result in amicable agreements: 50 % against 42 % globally.

[...] on to the national energy Ombudsman. They shared the same analysis of the dispute in 53% of cases, but in 68% of them, they did not reach the same conclusion regarding compensation. Recommended compensation by the national energy Ombudsman was four times greater on average than the amounts suggested by EDF's ombudsman. "Our philosophy is more favourable to consumers, notably for disputes arising from the access to meters, from a dysfunctional meter being identified belatedly, or from a defect in the quality of supply." explains Frédérique Coffre. "Even if companies do not fully follow our recommendations, most consumers obtain more than with the solution initially proposed."

A STRONG DEMAND FOR THE MEDIATION SERVICE

3,183 written recommendations were issued, against 2,910 in 2015. 316 cases were resolved informally (notably by the "second chance" procedure, still in use in early 2016). Amongst the files processed,

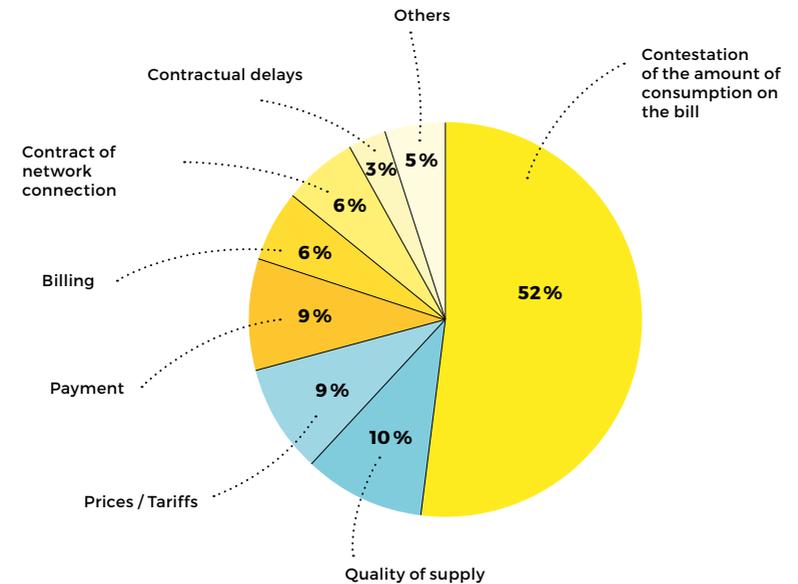
billing issues are still in the lead, with 52% of disputes contesting the amount of consumption on the bill, and 6% due to anomalies in the bill. Most of the time, it is due to estimations of consumption over long periods of time, which result in large back-billings. They may be caused by the absence of meter readings, by dysfunctional meters or by a failure to use true indexes as a basis for calculation. They may also be due to blocked bills or incomprehensible ones (See Chapter 2 - CLARIFYING).

12,260

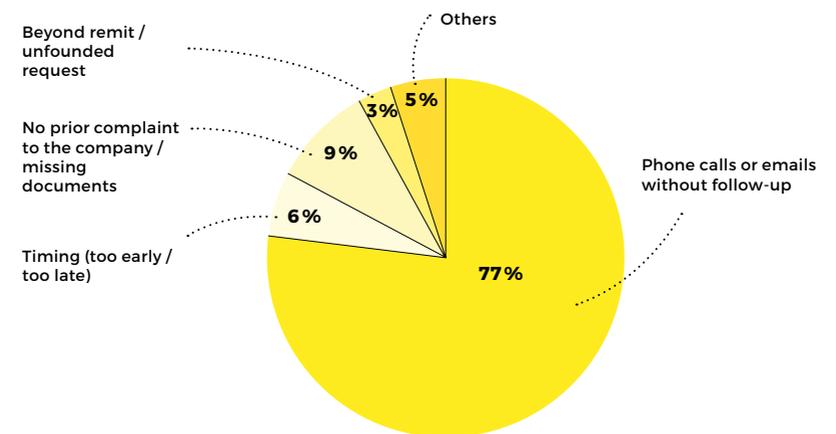
DISPUTES RECEIVED BY THE OMBUDSMAN

The year 2016 saw an increase in the number of cases involving issues with the quality of supply: they amounted to 10% of admissible disputes, against 7% in 2015. Whether they are about power dips or surges, accidental outages or power blips, these are complex disputes, because they depend upon the ability of consumers to prove the reality of the damages they suffered. The consumers must also establish that the network is faulty, which suppliers often fail to acknowledge. Disputes arising from problems with network connections make up 6% of the total, and they are most often due to works that are deemed too expensive by consumers, or prices that are difficult to verify because they are based on an unpublished rates document (See Chapter 3 - ROUTING)

The year 2016 saw an increase in the number of cases involving issues with the quality of supply: they amounted to 10% of admissible [...]



Typology of admissible disputes in 2016



Typology of non-admissible disputes in 2016

[...] disputes, against 7% in 2015. Whether they are about power dips or surges, accidental outages or power blips, these are complex disputes, because they depend upon the ability of consumers to prove the reality of the damages they suffered. The consumers must also establish that the network is faulty, which suppliers often fail to acknowledge. Disputes arising from problems with network connections make up 6% of the total, and they are most often due to works that are deemed too expensive by consumers, or prices that are difficult to verify because they are based on an unpublished rates document (See Chapter 3 - ROUTING).

9% of admissible disputes concerned the payment of bills, a slight decrease in comparison to 2015 (11%). They were related to issues arising from payment plans that were not granted, from a lack of information during an energy supply interruption, from overpayments not yet refunded, from unacknowledged payments, etc. 9%

of admissible disputes were linked to pricing issues, such as a lack of advice from the supplier regarding its rates, the application of a tariff that did not match the one stated in the contract, or failure to assign social tariffs. Cases dealing with contractual delays, i.e. delays occurring when starting or terminating a contract, amounted to 3%, a decrease in comparison to last year (6%). Uncommon disputes, grouped within the "Others" category amount to 5% of admissible disputes. This category comprises errors in delivery location, issues relating to the indication of tariffs (the peak hours / off-peak hours transition), disagreements on special tariffs such as spread gas sales or cooking packages, as well as additional services offered by the energy suppliers.

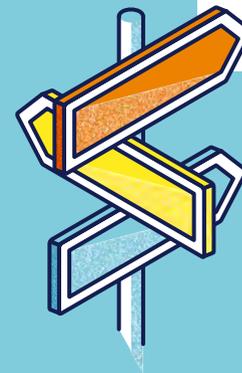
As happens every year, the proportion of disputes is greater for alternative suppliers, notably because consumers who change suppliers pay more attention to contract compliance and bills than the others. In order find resolutions to disputes, the Ombudsman's team proceeds to a thorough review by analysing the documents in its possession: supply contracts, bills, bank statements, as well as the observations made by the operators about the case. This kind of analysis is a prerequisite for solutions based on law and fairness. The way recommendations are built follows a logical path, so that they can be understood by everyone: a reminder of the dispute, items brought by the operators in question, the review of data. The conclusion drawn by the Ombudsman is a direct result of this argument and leads to the recommendation. Globally, and for all operators, [...]

3,183

WRITTEN
RECOMMENDATIONS
WERE ISSUED IN 2016

REFERRALS FILED BY THIRD PARTIES

Consumers are not the only ones to request assistance from the Ombudsman. Some of them initiate action through third parties: consumers associations, legal protection bodies, social workers or friends and family etc. In 2016, the proportion of third parties in referrals amounted to 20%. Insurance companies (6%) led this category, taking action for their customers mainly for disputes dealing with the quality of supply. They were followed by the friends and relatives category and the co-owners associations (3% each), public authorities such as the National ombudsman and law professionals (2%), and finally, social workers (0.75%). Amongst these third parties, about thirty requested the assistance of the Ombudsman more than twice for different consumers. Satisfied by how disputes were resolved, these third parties trust the institution and regularly use its mediation service.



[...] 81% of recommendations were fully followed, 5% were partially followed and 14% were not followed. Compensation amounts are the most frequent bone of contention. In 2016, suppliers payouts to consumers totalled 2.4 million Euros. The compensation varies greatly according to the type of dispute, from €25 to several thousand Euros, or even tens of thousands of Euros.

Beyond solving individual disputes, generic recommendations have also been issued and published to improve market mechanisms. (See the case study below). In 2016, 28 generic recommendations were published on the Ombudsman's website: energie-mediateur.fr. In 80% of cases the operators fully followed the recommendations.

MID-YEAR DIALOGUE WITH THE OPERATORS

As soon as it was created, the Ombudsman set up bilateral meetings with operators, which take place twice a year. Through these meetings, mediation benefits from a continuous improvement process. Debates allow for the review of the follow-up rate of recommendations, the discussion of issues on which parties may disagree and for removal of deadlock points, and the fine-tuning of organisation to ensure files are processed smoothly. To reflect current events, 2016 meetings mostly concerned the application requirements of the limitation of back-billing to 14 months, which entered into force on August 17th 2016: *"Some network operators intended to include in their calculations estimated indexes that are not usually taken into account for billing, but we called for a calculation using half-yearly indexes that are suitable for billing. This is the solution that is in place today."*, states Catherine Lefrançois-Rivière, head of the Mediation department.

Some difficult topics, such as consuming energy without a supplier (which results in large adjustments), or how to process disputes relating to the quality of supply, recur frequently in discussions. *"We disagree with Enedis, which sometimes refers this type of case to its insurance company, whereas by contrast mediation implies a completely different method and assumes direct communication with the supplier, which should remain part of the dispute. These regular meetings also enable us to communicate verbally and sometimes reach shared solutions."*, specifies Catherine Lefrançois-Rivière. [...]

€753

THE AVERAGE
AMOUNT OBTAINED
BY CONSUMERS IN
2016 FOLLOWING A
RECOMMENDATION OF
THE OMBUDSMAN

CASE STUDY RECOMMENDATION

THE CONTRACT TERMINATION PROCEDURE MUST IMPROVE

"Following the sale of his house in Saint-Crépin-aux-Bois (Department 60), Mr. G. requested that his supplier terminates his electricity contract on January 6th, the date at which he would be leaving the house. When he received his final bill, he realised that the termination only went into effect on January 18th, with indexes higher than the ones that he had observed when he left his house. His complaint to his supplier X remained unanswered, and the consumer decided to seek the assistance of the Ombudsman.

Observations sent by supplier X and the distributor revealed that Mr. G.'s termination request had not been taken into account because a request for a new connection had been made by the supplier Z for the new occupant, which resulted in the automatic termination of Mr. G.'s contract. His request was somehow impeded by the one made by his successor. Indeed, the procedure stipulates that a request for termination on a delivery location should be cancelled if a new connection is taking effect on the same location.

However, the Code of consumption stipulates that *"a termination request shall take effect at the date chosen by the consumer, and at the latest thirty days after notifying the supplier of the cancellation"*. We observed that the procedures in place prevented the consumer from terminating his/her contract at the desired date.

However, the supplier X, bound by an obligation of information, should have encouraged its customer to record a meter reading, so his rights would have been preserved, and to initiate a procedure with the network operator.

In a spirit of mediation, we deemed it fair that both the distributor and the supplier would bear the expenses, at 30% and 70% respectively, €130 of consumption and €5.50 of subscription.

In order to avoid disputes, the Ombudsman advise the managers of the gas and electricity networks to study, within the dialogue groups of the Energy Regulatory Commission, how termination procedures could evolve. They must allow the termination of a contract to take effect at the date desired by consumers, even in the event of an ongoing connection request at the same delivery point."



**MARIE-AMANDINE
BAIN**
Task Officer

Recommendation n° D2016-00693,
displayed online at:
energie-mediateur.fr/recommandations

(same generic recommendation for
natural gas: n° D2016-01165)

[...] "They are also a way for us to get to know each other better. Employees of the Ombudsman met with staff members from Enedis' control centre for Île-de-France, in order to better understand how they work and the conditions of their on-site interventions. It is essential to explain to consumers the constraints that the operators are facing, and to offer fair and amicable solutions."

ONLINE MEDIATION IS BOOMING

In 2016, the Ombudsman continued the digitalization of its activity. Created at the end of 2013, the SoLLEn platform (online solution for energy disputes) allows consumers to seek assistance from the Ombudsman online, and to communicate with both the institution and the operators within a confidential environment. "This interactivity makes the processing of cases faster and more efficient," says Frédérique Coffre, Managing Director. "The SoLLEn tool has become our single information system and today, referrals that we receive by mail, as well as their follow-ups, are integrated with the platform."

73%

OF CONSUMERS THINK THAT SOLVING THEIR DISPUTE WAS MADE EASIER WITH SOLLEN

(Source: satisfaction survey of February 2016)

Since the remit of the Ombudsman has been extended to all home energies, the platform evolved to allow for the online processing of new disputes relating to LPG, wood fuel, heating oil, etc. This service took effect in July 2016. Almost half of mediations are now processed electronically. ♦



INTERVIEW



RENAUD LE BRETON DE VANNOISE

President of the high court of Bobigny

"Mediation is an alternative mode of dispute resolution that has significant advantages compared to legal action, to the extent that it should become the main mode of resolution, with referrals to judges becoming a last resort action. Judges take decisions on disputes using binary logic based on the law, which may be unsatisfactory for one or the other party, or even for both. Because mediation focuses on understanding the conflict, with the dispute often being a surface manifestation of an underlying problem, and because it seeks various ways to solve issues, it allows for a peaceful resolution that is beneficial to everyone. Justice provides authoritative solutions based on the law, while mediation seeks a legal solution built jointly by both parties, with the help of the institution.

Mediation is particularly well adapted to process consumer disputes, which it can solve with a reasonable cost to the community, in line with the amount at stake in the disagreement. In a courtroom, technical issues must often be explained using a costly expert. Additionally, legal turnaround times rarely match the needs

of the consumer, who wishes for as swift a response as possible. Designed with the help of a neutral and impartial third party, the resolution brought by mediation maintains communication between both parties: the consumer receives a thought-out answer and the professional does not lose its customer.

Mediation is useful because it prevents conflicts from worsening, which would result in legal action. If no agreement can be reached, and if either the consumer or the professional is not satisfied with the final recommendation, a legal recourse is possible. The mediation initiative that was previously undertaken can undoubtedly allow both parties to fine-tune their arguments and put forward clearer issues in the courtroom."

2

FOR A CLEAR
AND ACCURATE BILLING

CLARIFYING

UNUSUALLY HIGH, INCORRECT OR INCOMPREHENSIBLE
BILLS ARE OFTEN AT THE ROOT OF TENSION BETWEEN
CONSUMERS AND SUPPLIERS. IN THIS CONTEXT
THE OMBUDSMAN BECOMES BOTH A TEACHER AND
AN ARBITRATOR.



CLARIFYING

FOR A CLEAR AND ACCURATE BILLING

Referrals for disputes relating to billing still make up the majority of cases processed by the national energy Ombudsman. Coming into effect on August 17th 2016, the 14 month limit for back-billing in the event of unbilled consumption is an essential step for consumers. But fully understanding its effects will take some time.

In 2016, disputes relating to billing remain as frequent as ever, and are the main reason for referrals. 52% of mediations dealt with the contestation of the levels of consumption on the bill, 9% with prices and tariffs, 9% with the payment of bills and 6% the issuing of bills. An IT anomaly preventing billing for several months, human errors, absence of readings over a large period of time, dysfunctional meters: there are plenty of reasons why households receive incorrect, confusing or even absurd bills. When consumers disagree with consumption levels on their bills, 26% of disputes are caused by an adjustment following a dysfunctional meter, 39% are linked to an unexpected rise in consumption or to contested indexes, 14% are related to an issue with the contractual indexes during connection, during termination or when changing supplier. Dual billing following an erroneous correction of indexes after a change in supplier is another recurring dispute. A procedure enables consumers to modify their billing by sending their new supplier a reading they recorded themselves, to make the switchover index reliable. However, whether it has been forgotten or because of an IT bug, this information is not always transmitted correctly to the new supplier by the former one. This has prompted the Ombudsman to remind Enedis of the procedure in order to avoid any risk of dual billing (See recommendation n° D2016-04268).

In 2016, about a third of disputes dealing with bills still were about back-billings above the 14 month threshold. Indeed, the measure of the law of Energy Transition of August 17th 2016 which prohibits [...]



A LOOK BACK AT THE OMBUDSMAN'S FIRST TEN YEARS

The fast and automatic refunding of overpayment has been one of the first victories of the Ombudsman. In its first activity report (2008), it exposed unacceptable practices: some suppliers took several months before to refund their clients of sums of hundreds of Euros; another supplier only refunded overpayments smaller than €15 after its customer had made repeated requests. The NOME law of December 2010 brought a first round of improvement: it stipulated that in the event of a contract termination, the customer must receive a closing bill within four weeks of the end of his/her contract, and that the refunding of overpayments must occur at the latest fifteen days after the closing bill has been issued. The decree of April 18th 2012 related to bills has further improved the refunding of overpayments during an ongoing contract. Amounts larger than €25 are automatically paid back within fifteen days. When the overpayment is below that limit, the customer is reimbursed upon request, or paid back on their next bill.

The Ombudsman has always been an advocate of fair billing, through a better acknowledgement of self-readings. The NOME law obliges the supplier to establish a service dedicated to the collection of self-readings. The recommendations it made to the minister in charge of energy in December 2010 in its *"Report on suppliers' billing, information to consumers and processing of complaints"* have been included in the decree relative to bills of April 18th 2012. Their new, clearer, presentation includes several new informative items for the consumers. For instance, the bill must legibly display the consumption history over a year, indicate whether billed consumption is estimated, real or based on a self-reading, and mention recourse solutions, including how to contact the Ombudsman.

Because energy suppliers are bound to send at least one bill per year based on real consumption, the Ombudsman has always advocated time limits on back-billing. The law of energy transition of August 2015 sets a single back-billing threshold to 14 months. It is a major step forward for consumers, who before could sometimes face outrageous bills to be paid within 15 days. This was a cause of stress and insecurity; particularly for precarious households which could fall into poverty or over-indebtedness because of such bills.

[...] back-billings of more than 14 months came into force only a year later, on August 17th 2016. "We suggested to operators that they anticipate the application of this provision." says Catherine Lefrançois-Rivière, head of the Mediation Department. "However, our suggestion has not been followed, except by Enedis, the network operator, which decided to systematically restrict back-billing to 14 months." For the Ombudsman, the limitation of back-billing to 14 months represents undisputable progress for consumers, which will soon be followed by the deployment of smart meters, ensuring a more reliable billing with steadier readings.

76%

76% OF ADMISSIBLE DISPUTES ARE DUE TO BILLING (CONTESTATION OF THE LEVELS OF CONSUMPTION ON THE BILL, APPLIED PRICES OR TARIFFS, PAYMENT, OR ISSUING OF BILLS)

To protect the consumers who acted in good faith, the Ombudsman has been a long-standing advocate of back-billing limits of one year, while professionals acknowledged at best the legal limitation period of two years. Moreover, the application of the statutory limitation rule, amended by the law of June 17th 2008, was one of the first campaigns of the Ombudsman. However, network operators had differences of interpretation, notably on how to apply the rule in cases where no meter readings are taken over a long period of time. "Is this absence of reading the responsibility of the distributor or the consumer? We have always believed that it was up

to the operator, when the meter has not been read for more than a year, to start formally reaching out to the consumer, so that it may access the meter, for instance with a registered letter and an acknowledgement of receipt.", states Catherine Lefrançois-Rivière. Set to 14 months, the back-billing limit provides more room for manoeuvre with two additional months for distributors to warn the consumer, and to take a meter reading if the planned yearly one cannot take place.

This measure encourages network managers to take a more active approach to meter readings, or to better take into account self-readings by consumers. Conversely, safeguards are in place to avoid abuses: operators may obtain payment for consumption over the 14 month limit in the event of fraud or if consumers fail to respond after receiving the registered letter from the distributor. [...]

RETROACTIVE INCREASE OF THE REGULATED TARIFFS OF ELECTRICITY SALES



The Council of State, referred to by the association of alternative operators, cancelled two ministerial orders on June 15th 2016. The decree of July 28th 2014 froze the "blue" regulated tariffs applied to individuals, cancelling a planned rise of 5% set out in a previous decree. The decree of October 31st 2014 set a rise of 2.5% on the same tariffs. The Council of State deemed that the rise in tariffs was too low in regard to the costs borne by EDF*, the historical operator. It requested that the relevant ministers issue new tariff orders, with a retroactive effect over the period from August 1st 2014 to July 31st 2015.

These orders were published on October 1st 2016. The Energy regulatory commission estimates that the average back-billing amount is 30 Euros, excluding VAT. EDF, the historical supplier, is obliged to retroactively apply these new tariff orders for the bills of the concerned period. All of its customers who benefitted from the tariffs invalidated by the Council of State are subject to this adjustment, even if their contracts have since been terminated. Consumers, who were often unhappy, contacted en masse Énergie-Info, the information service of the national energy Ombudsman. The most frequent question was: "Can you provide me with an explanation regarding this retroactive amount for 2014 and 2015... since we are in 2017?".

* or, on 5% of the territory, by the local distribution company.

MIX-UPS IN THE BILLS

Back-billings on consumption sometimes create confusion around bills, and consumers have a hard time understanding them. In 2016, the Ombudsman was often contacted because of mix-ups in the bills, mainly from ENI and Lampiris. For instance, Mr. B., who had a gas supply contract with Lampiris, received no less than ten bills between January 7th and March 26th 2016! About two years into his subscription, he received a cascade of bills. Since some of those cancelled the previous ones, his dispute became quite complex. This supplier also faced billing backlogs, which resulted in the late sending of annual bills, and consequently in adjustments over long periods of time. Additionally, amounts including taxes and monthly payments already made were not displayed clearly, which made the bill even more unclear to consumers. The supplier ENI also faced billing backlogs. Moreover, a few of its customers did not understand the final amount to be paid because the bills mentioned both the amount due and previous unpaid months. *“During a meeting with ENI, we were able to discuss their billing process and review the anomalies we had observed.”*, explains François-Xavier Boutin, Unit manager in the Mediation department. *“ENI provided us with explanations and submitted to us a list of the actions they would implement in order to avoid repeat anomalies.”*

TWO MAJOR TAX CHANGES IN 2016

Implemented in 2004, the CSPE (Contribution to the public service of electricity) was a “tax” amounting to close to 15% of the electricity bill paid by all consumers, which was used to finance sustainable energies, social tariffs and electricity in the ZNI (Non-connected zones). It was modified at the end of 2015 by the amending finance law and merged with the TICFE (Domestic tax on the final consumption of electricity). The new CSPE is used to finance the “Energy transition” fund, created to support the growth of sustainable energies. This account is further financed by the TICGN (tax on gas), by the TICPE (tax on fuel) and by the TICC (tax on coal). This reform also expands the scope of the financing of sustainable energies, which was until then mainly, and unfairly according to the Ombudsman, borne by electricity consumers. There will be new limits in the rise of consumer bills, since the CSPE amount [...]

24%

THE AMOUNT OF TAXES ON
A GAS BILL

(Source: CRE Observatory,
4th quarter of 2016)

CASE STUDY RECOMMENDATION

A BACK-BILLING DECREASED BY €854

“On August 28th 2016, Mr. and Ms. J., living in Préseau (59) received an adjustment bill amounting to €1,765, which they contested. Following a meter malfunction, the distributor rectified their consumption for the period between March 7th 2014 to March 7th 2016, using the previous year’s level as a basis for their calculation. The couple argued that the issue had been detected belatedly and asked for a decreased bill.

Following our intervention, the network operator agreed to re-examine the adjustment calculation and reduced it to 14 months. By doing so, it was deliberately anticipating the application of the law relative to back-billings, which entered into effect on August 17th 2016.

The calculated consumption was 213kWh for mobile peak period instead of 683, and 8,144kWh for normal hours, instead of 14,469. For Mr. and Ms. J., this translated into a decrease of €854 on the disputed bill. They accepted this amicable solution, particularly since the supplier offered them the option of paying the remaining amount in instalments.”



ALINE SIDORENKO
Task Officer

Recommendation n°D2016-03007,
displayed online at:
energie-mediateur.fr/recommandations

[...] (which had regular increases of €3/MWh/year) was set to €22.50/MWh for both 2016 and 2017.

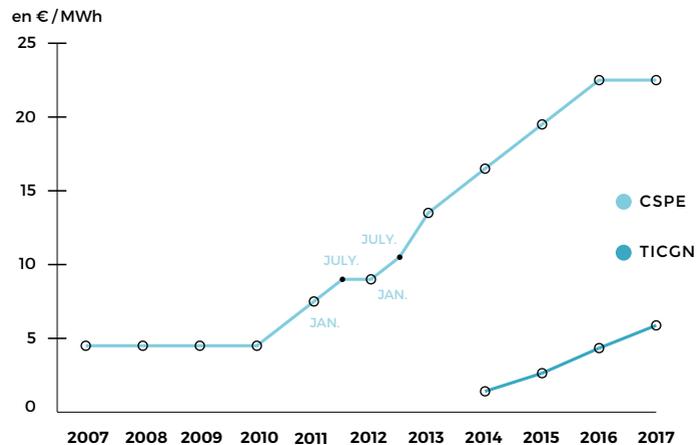
35%

THE TOTAL AMOUNT
OF TAX ON
AN ELECTRICITY BILL

(Source: CRE Observatory,
4th quarter of 2016)

In parallel, the TICGN (domestic tax on the consumption of natural gas) has absorbed the CTSSG (Contribution to the social tariff of gas) and the CSPG (Contribution to the public service of gas), also called biomethane contribution. With a single tax on the consumption of natural gas, the reform simplifies bills, while securing the financing of bio-gas and social tariffs.

Moreover, a budgetary programme called "Public service of energy" regroups categories that are not relative to energy transition: social tariffs, cheque energy, cogeneration, national energy Ombudsman. ♦



Changes in the TICGN (gas) and in the CSPE (electricity)
for individual consumers

CASE STUDY RECOMMENDATION

A BILLING DEBACLE

"Mr. R., living in Nanterre (92) did not understand the changes made to his gas bill of August 18th 2015, after he had previously made a request to his supplier to apply the correct tariff for his usage over the period from September 23rd 2014 to April 7th 2015. He referred the case to the Ombudsman so it could verify the bills, and the institution had to mobilise all of its skills to obtain a clear picture of this entangled web of bills sent, cancelled and reissued by the supplier.

An analysis of the data sent by the supplier and the distributor suggested that the amounts billed to Mr. R. with the appropriate tariff adjustment were correct. However, the data on the amounts paid and on the balance remained obscure. Not only were the operations not chronologically listed, but their labels ("ISU annulation fact.", "rapproch. Annulé", "plan paiement ISU") made them very difficult to understand. The layout of the bills sent to Mr. R. did not comply with the decree on bills of April 18th 2012, which stipulates that bills, including their modifications, must clearly specify "the information relative to the period, to the applied tariff and to the appropriate amount of kWh, which allows to verify their calculations". Given the inconvenience caused by the complexity of the bills, and the absence of a response to his complaints, the Ombudsman

recommended that the supplier compensate Mr. R. with €150 and reimburse the banking expenses he incurred because of the stoppage of his payments. The institution also requested that the supplier send to Mr. R. a summarised statement of his account, that would clearly display the amounts billed, refunded and paid.

In order to avoid disputes, the Ombudsman recommended that the supplier modify its adjusted bills and ensure its compliance with the decree of April 18th 2012."



LEILA MAROUF
Task Officer

Recommendation n°2016-0125,
displayed online at:
energie-mediateur.fr/recommandations

♦
INTERVIEW

SOPHIE AUDIC

Chief executive of Lampiris France

"As an energy supplier, most of the complaints we process are related to billing. The consumer who has decided to choose an alternative supplier pays more attention to his/her bill, because lower prices are expected. We must then meet consumers' demands in terms of clarity by providing informative details about the bill, about its characteristics – consumption, taxes, subscription – and about traceability of energy consumption. Numerous complaints can be resolved with a simple explanation. This is the reason why the relationship we maintain with our customers is based on communication and closeness, whether it is through phone, email, online chat or social networks.

Bills take into account several elements imposed by the law, which makes them complex. We have improved readability with a clearer layout that separately displays the consumption volume and the potential adjusted amounts after a meter is read, because consumers frequently contested the consumption levels after an adjustment. We have at our disposal an effective IT tool that manages these

matters. For instance, one of the recommendations of the Ombudsman has led to a law that sets the limit to back-billings to 14 months. Therefore, we have put in place a tool dedicated to follow-ups and reminders to encourage our customers to send us their self-readings on time.

Lampiris has a team specifically dedicated to processing as reactively as possible the cases of consumers who have contacted the Ombudsman. We follow the generic recommendations of the Ombudsman, as well as its individual recommendations when appropriate."

♦
INTERVIEW

DANIEL FAVA

Chief Executive of ENI France

"Billing energy is a delicate task, because it is based on data received from the distribution network managers (GRDF and Enedis), and we cannot always be sure as to the quality of the data. However, we strive to produce bills that are as accurate and legible as possible. When the national energy Ombudsman informs us of the issues that consumers raise, we ensure that we take its remarks into account. For instance, we had decided to bundle within a single document the consumption for a given period along with the recovery of amounts unpaid during the previous term. This "two-in-one" system confused our customers and we found a solution to this situation after communicating with the Ombudsman, by separating the bill and the recovery of unpaid amounts.

Complaints are essentially due to the billing peaks during winter. We strive to smooth these peaks using several methods, including the monthly payment of bills, chosen by 70% of our customers. We have made efforts to communicate with our customers around these issues over the past year. We strongly encourage

our customers to send us self-readings so that our bills reflect real consumption as closely as possible. We have also implemented warning calls, called "bill shock": when we notice large levels of consumption, we call our customers to warn them that the bill will be higher than what they normally expect. This communication allows consumers to provide us with information regarding the increase: a more severe winter, a change in the number of people in the home, or other situations. If the customers state that they may have difficulties with their payments, we offer to set up a payment plan.

Because the Ombudsman has a complete picture of the market, it plays an essential role. We accept most of its offers of amicable agreements and compensate customers with the recommended amount in the majority of cases."

3

DISTRIBUTION NETWORKS • ROUTING

IN A MONOPOLISTIC SITUATION, THE MANAGERS OF DISTRIBUTION NETWORKS HAVE A MISSION OF PUBLIC SERVICE. THE NATIONAL ENERGY OMBUDSMAN ENCOURAGES DISTRIBUTORS TO DEVELOP GOOD PRACTICES FOR CONSUMERS, WHO CANNOT CHOOSE ANOTHER OPERATOR



DISTRIBUTION NETWORKS

Whether they arise from connection issues or from the quality of supply, disputes due to distribution networks are increasing and are complex to process. Very little progress is being made on the tricky topic of the renovation of electrical risers. The Ombudsman requests that the legislator once again reach an acceptable financing solution.

In 2016, the number of disputes due to distribution networks increased, with most linked to the electrical network. Financial stakes in this area are significant. Cases related to the quality of supply amounted to 10% of the admissible disputes, against 7% in 2015. The percentage of disputes due to connections to the network was 6%, against 4% in 2015. The Ombudsman considers the monopoly of distributors as being a good thing, since it allows for the continuity of the distribution of energy over the territory. However, this situation must drive operators to maintain an outstanding service when dealing with their customers, who cannot capitalize on competition. *"Consumers must be guaranteed to receive a service of the highest standard", states Jean Gaubert. "We underline this rule in our recommendations, even at the cost of a few disagreements with the distributors. By straying off this guideline, network managers risk a future opening up to competition regarding some services."*

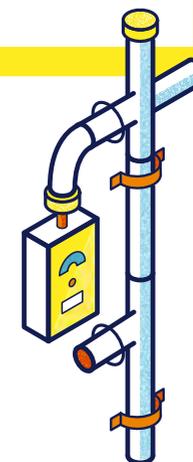
PERFORMANCE OBLIGATION FOR THE QUALITY OF SUPPLY

Whether they are about power dips or surges, accidental outages or power blips, these are complex disputes to process because they depend upon the ability of consumers to prove the reality of the damages they suffered, and if it is possible to establish that they are caused by a network failure. *"These disputes rarely end up with amicable agreements, except in the event of a neutral loss: a power surge that damages the equipment of consumers, which Enedis usually acknowledges as being its responsibility," says François-Xavier [...]*



A LOOK BACK AT THE OMBUDSMAN'S FIRST TEN YEARS

The law of April 15 2013, called "Brottes law", which has the objective of setting up the transition to a more moderate energy system, has extended the scope of competence of the Ombudsman to connection contracts. Connecting issues are wide, from the moving of structures to the renovation of a single connection undergoing a rise in power, not to mention the old age of electrical risers. This extension of the scope of competence has notably allowed highlighting disputes due to the transparency of the cost estimates of connections and to the bearing of costs associated with making risers compliant, by calling for an action of public authorities.



[...] Boutin, Unit manager in the Mediation Department. *"The discussions deal with the financial assessment of material damages. It is easiest to reach a resolution when consumers can produce invoices or statements from professionals proving the irreparable nature of the damaged equipment."*

A LOOK BACK AT THE OMBUDSMAN'S FIRST TEN YEARS

10%

OF DISPUTES DEEMED
ADMISSIBLE BY
THE OMBUDSMAN
ARE RELATED TO
THE QUALITY
OF SUPPLY

The law of April 15 2013, called "Brottes law", which has the objective of setting up the transition to a more moderate energy system, has extended the scope of competence of the Ombudsman to connection contracts. Connecting issues are wide, from the moving of structures to the renovation of a single connection undergoing a rise in power, not to mention the old age of electrical risers. This extension of the scope of competence has notably allowed highlighting disputes due to the transparency of the cost estimates of connections and to the bearing of costs associated with making risers compliant, by calling for an action of public authorities.

However power blips, which may cause electrical devices to malfunction, and power dips, which prevent ovens or washing machines from working properly, are incidents that are more rarely acknowledged by the network manager Enedis as being its responsibility. The company considers that it is not bound to a performance obligation when it comes to the quality of supply. The Ombudsman begs to differ on that topic. It believes that the distributor, which has under its care the network equipments, is expected to supply continuous electricity of high quality. It can only be exempted from this responsibility in an event of force majeure such as storms of exceptional scale. Additionally, it is the one holding the technical elements that are required to determine if incidents occurred on the network.

A significant percentage of cases dealing with the quality of supply are referrals from insurance companies. They have partially compensated their customers for the damages and sought the assistance of the Ombudsman so they could be refunded by the distributor for the paid amounts, and be reimbursed of the deductible borne by the customer *"We ensure that the insurance companies referring to the Ombudsman remain within the rights of their subrogatory [...]"*

ERDF BECOMES ENEDIS

Created in 2008 as a fully owned subsidiary of EDF, the manager of the electrical distribution networks - formerly ERDF - saw its name changed to Enedis in May 2016. This identity change reflects a demand from the Energy regulatory commission (CRE), which thought the former name was too close to the one of the parent company EDF, and thus confusing and incompatible with the independence required from the network manager. It compelled the company to opt for a new name so that consumers may better distinguish between the distributor on the first hand, which provides a mission of public service as a monopoly, and the electricity suppliers on the other hand, which are competitors since the opening up of electricity markets in 2007, i.e. EDF, Engie, Direct Énergie, ENI, Lampiris...



32M

HOME METERS
FOR ELECTRICITY

18

NATIONAL SUPPLIERS
OF ELECTRICITY
(APRIL 2017)

[...] proceedings after indemnifying their customers. It is acceptable that they benefit from recourses available to consumers against the liable party.”, specifies Catherine Lefrançois-Rivière, head of the Mediation Department. The initial response of a consumer suffering from damages on his equipments is indeed to turn to his/her insurance company. This facilitates procedures and the organising the expertises to which the distributor is summoned, even if sometimes it chooses not to be part of that process.

However, compensating for damages does not only mean reimbursing the equipments that were destroyed, but also indemnifying the consumer for the inconvenience of being deprived of devices essential to daily life, of having to purchase them again, and of initiating procedures with an insurance company. The inconveniences are usually not taken into account by insurance companies.

The recommendations of the Ombudsman on disputes related to the quality of supply are not often followed, or only partially. But insurance companies and consumers which brought their matters in a courtroom usually saw the Ombudsman’s recommendation confirmed by a legal decision. In 2016, six judgments that the Ombudsman heard of have been rendered to this effect. The insurer of a SCI (real estate company) that owned a house in the Paris area referred to the Ombudsman because ERDF (now Enedis) refused to refund an amount of €1,913, the compensation paid to its customer, and the €875 deductible borne by the latter, whose heat pump was damaged by a power surge. With the elements at its disposal, and notably an action of the distributor to repair a connection failure and a faulty circuit breaker close to the SCI two days later, the Ombudsman deemed the link between the damages and the electrical incident as being significant enough to be referred to. The network manager did not follow its recommendation. In June 2016, the local court of Puteaux deemed that the distributor could not bring the proof of an absence of power surge: *“One can only wonder why ERDF did undertake such an action, if an incident had not been identified a few days before. This is how the energy Ombudsman has logically established that the causal link (...) provides sufficient grounds for a referral”*, states the judgment. The court ordered ERDF to pay €1,913 to the insurance company and €875 to the SCI, as well as €400 to both parties under the article 700 of the Code of Civil Procedure. [...]

CASE STUDY RECOMMENDATION

THE HEADACHE OF SELF-SUPPLY

“Mr. and Ms. M. had wind turbines and solar panels installed in 2013, to produce their electricity. They are practically “self-sufficient” in terms of energy, with an electromechanical meter that functions normally when they are consuming, but works backwards when they are producing. They receive bills of low amounts, based on the difference between what they injected in the network and what they obtained from it. Because of incoherencies noticed in the meter readings, the network manager observed that the meter worked backwards, which is forbidden. In October 2015, it was replaced with an electronic meter, which cannot record electricity produced.

Ms. and Mr. M. contested this change of meter and the adjustment of their consumption since 2013. The Ombudsman stresses that the couple has not reported its activity of electricity production: they should have registered with an agreement of connection and an agreement of operation, in compliance with regulations. They exercise a form of uncontrolled self-consumption. Indeed, until the most recent documents relative to self-consumption (ordinance of July 17 2016, ratified by the law of February 24 2017), consumers had to sell to EDF the electricity they produced, and buy what they consumed from the network. The decision to change the meter was therefore well-founded, but the decision to adjust consumptions from October 9 2013 to October 9 2015 less so.

According to the Ombudsman, the electromechanical meter worked correctly: the consumption history in the household clearly showed that most of the electricity used during this period was self-produced. Thus, it recommended to cancel the adjustment bill. Ms. and Mr. M. also demand to have the consumptions recorded by the new meter deleted, since they injected about the same amount of electricity in the network. However, that production was disregarded since it had not been recorded by the electronic meter. The Ombudsman requested the distributor to delete this consumption record, provided that the couple would regularise administrative matters promptly by registering their installation.”



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Recommendation n° D2016-00247,
displayed online at:
energie-mediateur.fr/recommandations

LACK OF CLARITY ON THE COST ESTIMATES OF CONNECTION

Disputes linked to connecting the network are notably caused by works deemed too expensive by the consumers, and having cost estimates calculated from an unpublished grid, which prevent any verification. *“There is a lack of transparency when it comes to cost estimates, in electricity as in gas, for services that are not priced according to the scale approved by the Energy regulatory commission.”* underlines François-Xavier Boutin. *“For consumers, it is hard to determine if the prices of works are fair.”* There are several existing types of connection, and one can wonder about the choice of the most affordable one for the consumer. Sometimes, the Ombudsman may not share the analysis of the distributor and question its proposition. According to Jean Gaubert, the choice of a specific connection must be justified by the economic interests of consumers.

6%

OF THE DISPUTES
ADMISSIBLE BY THE
OMBUDSMAN
ARE RELATED TO
CONNECTION

In this regard, the dispute of Ms. J is cautionary. She wished to move her meter and received within six months three cost estimates, from €2,607 to... €977. She called upon the Ombudsman because the distributor refused to bear the cost of works. Finding that the connection change was not justified by safety or compliance issues, the Ombudsman rejected the request. However, it deemed unacceptable that three cost estimates had to be made to lower the cost of works by 63%. For this reason, a compensation of €200 was recommended for Ms. J. She brought the affair to the Committee for Settling Disputes and Penalties (CoRDIS), which is in charge of settling disputes between users and managers of public electricity and gas networks. It declined jurisdiction to settle issues regarding the liability of bearing the cost of connection works. However, the Committee states in its decision that according to the provisions of the Energy Code, the distributor is obligated to have an overall transparency regarding the connection to the distribution network of natural gas. *“The company GRDF must, without fail and without any user requesting it, provide details regarding the quantities and prices of the services mentioned in the cost estimates it gives to its customers, or risk failing to its duty of transparency.”* For Catherine Lefrançois-Rivière, it is an essential decision *“which aims at setting a general guideline for distributors regarding all the cost estimates they produce.”* [...]

CASE STUDY RECOMMENDATION

A CONNECTION SUSPENDED DUE TO THE COSTLY RENOVATION OF A RISER

“Ms. P bought a former workshop in Thiers (63), for her personal and professional use. Upon granting the building permit, Enedis pointed out that the project would not impact the distribution network. When in 2015 the consumer requested an electrical connection, she was informed that this would not be possible until the riser servicing the whole building was made compliant. The distributor deemed that since the riser was old, it was not part of the concession and that the works, amounting to €37,250 should be borne by the co-owners – who refused to pay for the work.

When the distributor notified the city hall that the connection of the premises would not require any intervention on the public network, Ms. P legitimately believed that this statement implied she would not have to bear any of the associated costs. The Ombudsman has identified here a fault on the part of the distributor, which failed to inform its customer.

Moreover, the network manager cannot simply state that the riser still belongs to the co-owners since it was installed prior to the signing of the concession contract with the city, the date of which remains unspecified. Enedis' own figures show that 514,000 electrical risers were already incorporated into the assets of electricity

distribution before 1992, the year in which almost all concession contracts were signed.

The Ombudsman deemed that a solution of direct connection to the public network was feasible, one which would bypass the riser. The distributor refused to consider this solution, arguing that since Ms. P's premises were part of the co-owners' property, they had to be connected to that riser. The argument has no technical or legal basis, since her property is on the ground floor and separated from the building where the riser is physically located.

The Ombudsman recommended that the distributor estimate the cost of a direct connection to the network to replace the temporary worksite connection, and bear a third of the expenses to compensate Ms. P. for the inconvenience. Since the recommendation was initially ignored, the Ombudsman thought it necessary to send a letter to the chairman of Enedis, with the end result being acceptance or the recommendation, providing Ms. P a resolution to this inextricable situation.”



**FRANÇOIS-XAVIER
BOUTIN**

**Head of the Natural Gas
and Networks Disputes
division**

Recommendation n° D2016-02669,
displayed online at:
energie-mediateur.fr/recommandations

THE RENOVATION OF RISERS IN LIMBO

For many years, disputes related to connections raised a specific question that continues to be the source of a large number of complaints: the renovation of the electrical risers, the wires and conduits that bring energy from the public network on the roadway to all homes in a building. In 2016, the Ombudsman was called upon for 70 disputes related to the maintenance of risers by consumers or co-owners associations – up from 59 in 2015 and 13 in 2013. Often, it is the request for an increase in the power supply of an apartment, or the installation of an additional meter that reveal how old the risers are. Distributors, and Enedis in particular, refuse to undertake these operations when the riser is not compliant with current standards.

The need for renovation is also exposed when an incident occurs on the riser, such as the start of a fire. But who should bear the costs associated with these kind of works, which amount to between €10,000 to €20,000, by riser and by staircase?

70

THE NUMBER OF DISPUTES
RELATED TO RISERS IN 2016

In theory, owners should be liable for the maintenance of the risers. However, the legal puzzle lies in the ownership issue. According to Enedis' figures, there are about 1.5 million risers nationwide, of which 800,000 are out of concession.

In other words, 52% of risers still belong to property owners. A decree of 1946 stated that they would be incorporated into the distribution network, unless owners expressly wished to keep them. In 2016, legal litigation has increased, without bringing any stable legal guidelines. *"Jurisprudence remains divided, but we notice that legal decisions are usually more favourable to network managers than to co-owners."* says Pierre Sablière, consultant in energy law for the Ombudsman. *"As long as the Court of cassation is not referred to, we remain at a stalemate."*

Several elements contribute to the deadlock of the situation, including failures of mediation. Recommendations which suggest that Enedis carry out renovation works are most often rejected, except in a few rare cases where documents can irrefutably certify that the riser belongs to the public network. While Enedis has stated its commitment to carrying out an accurate inventory of the risers incorporated to its concession, no action has so far been taken to this effect. The decree of April 21st 2016 binds the company to proceed with this inventory, but this ruling will only be made compulsory from January 1st 2018. The governmental report on risers – [...]

CASE STUDY RECOMMENDATION

STOLEN CONNECTION BOXES: WHO IS TO BLAME?

"Ms. G. is the head of a company that sets up Christmas markets. At the end of 2015, she requested a connection for two temporary electrical supplies from the network manager, to be installed on a public square in Annecy (74), for the period between December 19th and December 28th. On February 17th 2016, when the distributor came to terminate the connection, it saw that the boxes required for the connection, which Ms. G. had rented, had vanished. A few days later, she sent a complaint letter requesting compensation of €5,217 for the replacement of the stolen boxes, since the distributor was late in removing the connection. The network manager refused to bear this cost, considering it could not be held responsible for the theft since the causal relationship between the disappearance of the boxes and the delay in its action could not be established.

Called upon by Ms. G., the Ombudsman judged on the contrary that the distributor was liable in the matter, since it is the only party that can undertake the removal of temporary connection installations. Being the general contractor for these operations, it had the obligation to carry out the removal at the end date of the agreement signed with the consumer. Beyond that date, installations were under its care and

it must therefore be liable for the consequences of the theft, which delays made inevitably easier.

The Ombudsman recommended that the network manager bear the costs caused by the theft and compensate Ms. G. €100 for the inconvenience caused. The recommendation was rejected, the distributor standing firm on its position of an absence of causal link."



LORRAINE VERRON
Task Officer

Recommandation n° D2016-02258,
displayed online at:
energie-mediateur.fr/recommandations

[...] number of installations to be made compliant, renovation costs, financing solutions – was submitted to Parliament one year after the law of energy transition was adopted, that is in August 2016. It was submitted to the president of the Senate in April 2017 but has not yet been made public.

300,000

**RISERS MUST BE
RENOVATED IN FRANCE**
(Source: Enedis)

The Ombudsman calls for a practical solution under the auspices of Parliament, in order to end the legal and material uncertainty surrounding these matters. Given the poor condition of some risers, the risk of serious hazards cannot be dismissed. The renovation cost of the 300,000 risers that are not up to standard is estimated to be between 5 and 6 billion Euros, and could be financed jointly by co-owners, local authorities and the owners of the structures of electricity distribution, with a repartition of the cost yet to be determined. The Defender of rights, also called upon

by co-owners on this issue, has endorsed this proposition that the Ombudsman first formulated as early as 2014. *“It seems only fair that concessioning authorities share the financial burden, since the rehabilitation will increase the value of their assets”*, says Pierre Sablière.

Nevertheless, a hopeful sign has come in the form of the signing on April 14th 2016 of an agreement between Enedis and the Intercommunal Association of the Paris Periphery for Energies and Communication Networks (SIPPEREC), a concessioning authority grouping 82 cities on the outskirts of Paris, with the aim of extending by 10 years the concessioning contract for the public distribution of electricity in this area. This agreement also sees the distributor committing to several tasks, including the renovation of risers that are not supposed to belong to its concession. The SIPPEREC committed itself to ensuring the compliance of risers installed before 1995, at a rate of 500 per year. The renovation costs are split between the Association and Enedis, as part of its programme of investment in the network. Despite this local achievement, the Ombudsman calls upon the legislator to take swift action regarding the fate of the risers on a national level.

Moreover, research carried out at the start of 2017 by Pierre Sablière in the National Archives revealed the preparatory works of the Decree of 1946, which, in its explanatory statement, supports the presumption that risers belong to the public distribution network. ♦

INTERVIEW



JACQUES J.-P. MARTIN

**President of the Intercommunal Association of the Parisian Periphery
for Energies and Communication Networks (SIPPEREC)**

“In the context of the 12 year contract extension of the concession, an amendment was signed with Enedis and EDF, notably to speed up our mutual action in favour of the energy transition and to ensure a sufficient level of investment in the electricity distribution network. This amendment also allows the Intercommunal Association to renovate up to 500 risers each year without having to determine who owns these structures – this question being an unsettled and recurring one on the national level.

We started working on the topic of risers in the 2000s because we had identified, beyond the fire risk posed by some of them, three major issues: the absence of inventory on their numbers and condition, their bundled management within Enedis’ accounting, which made the follow-up of provisions for renovation a complex issue, and lastly the ever worsening condition of these structures due to the lack of maintenance by the network manager. Since we had ceased any maintenance on the risers, SIPPEREC put this issue at the centre

of amendment negotiations with Enedis, notably for social housing buildings. The number of structures located within our area is indeed significant: about 86,000.

SIPPEREC may intervene on private properties, on jointly owned properties as well as on public ones in the case of social housing buildings. Our primary strategy is to have works carried out on risers where incidents have occurred. In parallel, an action of a larger scale is being undertaken on dilapidated risers, i.e. the ones installed in constructions built before the 1970s. To date no other Intercommunal Association of energy has yet dealt with the matter. Therefore, we had to set up markets and processes for which we had no existing models to follow. Since the signing of the agreement, the Intercommunal Association renovated about 50 risers and our target for 2017 is 300 structures.”

4

AN ESSENTIAL MISSION

♦
INFORMING

THE OMBUDSMAN PROVIDES THE PUBLIC WITH SIMPLE
AND PRACTICAL INFORMATION SO CONSUMERS MAY
BETTER UNDERSTAND AN ENERGY MARKET NOW OPENED
UP TO COMPETITION



INFORMING

AN ESSENTIAL MISSION

With 2.1 million consumers accessing information via its site and its Énergie-Info service, the Ombudsman tirelessly continues its informative mission. From television, which allows mass audiences to watch our informative programme **Consumag**, to social networks, not to mention the essential information points that are the institutions, the Ombudsman is communicating on all fronts.

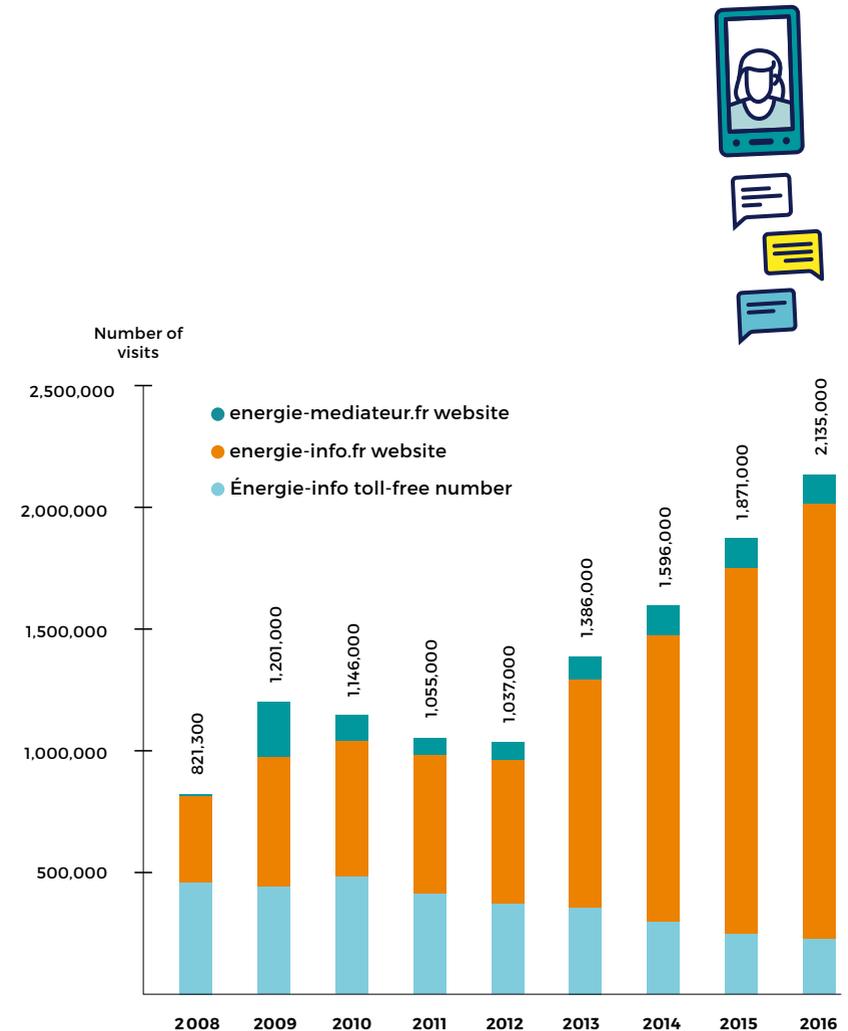
Created in 2007 as the energy market was opening up to consumers, the Énergie-Info service is one of the key element of our mission to support consumers. Made up of a call centre reachable through a toll-free number (0 800 112 212), of an expertise unit dedicated to responding to the more complex requests and of a website (energie-info.fr), this mission of the Ombudsman meets a genuine consumer need. This is demonstrated by the significant increase in the number of consumers informed by our service: in five years, that figure has more than doubled, from one million in 2011 to 2.1 million in 2016. Consumers increasingly prefer consulting the website to telephone contact: calls decreased from 4,600,000 in 2008 to 226,000 in 2016, whereas visits to the Énergie-Info and to the institutional (energie-mediateur.fr) sites increased from 362,000 to 1.9 million.

1,7M

VISITS TO
ENERGIE-INFO.FR
IN 2016

This appetite for information was measured by the 2016 edition of the Énergie-Info Barometer. 23% of households opted to obtain information, up from 20% in 2015, a proportion that has doubled since the barometer was created in 2007. As a consequence, more French citizens consider themselves to be well

informed about the opening up of the market: 62% today against 57% in 2015. However, this observation must be nuanced, since less than one household out of two (48%) states that it is well informed about its rights relative to electricity and gas consumption. If consumers turn in ever greater numbers to the Ombudsman, it is because its visibility has improved: 37% of people surveyed stated [...]



Evolution of the number of people informed since 2008

[...] that they were aware of the Ombudsman, either directly or via its Énergie-Info service, a proportion that grew five points within a year.

PRACTICAL TIPS

89% of requests made to the information service came from individual consumers in 2016. Questions processed through the call centre were mainly about the offers of suppliers (31%), bills (26%), contracts (15%) and connections and/or meters, including Linky (9%). More complex requests, which are processed by the expertise unit on the second level, focused more on complaints in 2016 (36%). Overall, this unit deals with the same issues as the team on the first level, notably with recurring requests about payment problems, the reporting of commercial practices – increasing in the second semester – and unexplained terminations of contracts.

The services of the Ombudsman provide advice to the consumer on which steps to follow to resolve their issue. Mr. and Ms. V called Énergie-Info because they were contacted by an agent pretending to work for one supplier, who in reality worked for a different one. They did not sign anything but gave their meter ID. An answer was given to them by phone, and a letter supplemented the information with the supplier's contact details so that they could make a complaint if they wished to do so, as well as documentation about their rights in the event of solicitation, the address of the Authority for Competition, Consumer Affairs and Prevention of Frauds (DGCCRF) to report the company in the event of unfair business practices, and a list of consumer associations that could assist them in their proceedings.

After a phone call from the distributor stating that it would lower electrical power the next day due to outstanding bills, Ms. G called Énergie-Info. She could not afford to pay an adjustment bill amounting to €800. She made a request for instalments but did not receive any answer from her supplier, and social services could not help her since her revenues were over the threshold. Her son eventually managed to partially pay off the debt, and a clearance plan for the remaining debt was agreed with the supplier. The consumer also complained about her energy-wasting heaters. The services of the Ombudsman advised her to contact the Agency for the Environment and Energy Management (ADEME) which has at its disposal premises in each Department to help the public for free-with energy saving solutions. [...]

LEARNING FROM TELEVISION WITH THE CONSOMAG



Since 2009, the national energy Ombudsman and the INC (national institute of consumption) are campaigning together to inform consumers. The 2016 edition, “*Énergie: a better understanding for better action*”, was developed under the form of five Consomag TV programmes, broadcast on the channels of France Télévisions, between November 14th to November 18th, and between December 5th to December 9th. They dealt with various topics such as settling a dispute with the help of the Ombudsman, changing supplier, comparing energy offers, optimising one’s electricity contract, and meter readings. Consomags were cumulatively watched by 15 million viewers. The replay website of the public television pluzz.fr then allowed the programme to be viewed online.

A new feature in this campaign is the series of ten videos called “*Énergie: the practical minute*”, which was broadcast over 180 different media – local TV channels, Web TV, websites – between December 28th to December 31st. In 60 seconds, and in the form of Q&As, the experts of the Ombudsman provide keys for a better understanding of the topics mentioned, as well as other issues such as choosing the right electrical power for a subscription or understanding smart meters. The Ombudsman also posted these videos on its website energie-info.fr, on social networks and showed them at consumer fairs.

15M

VIEWERS FOR
THE CONSOMAG
PROGRAMMES

Ms. L., 90 years old, was hospitalised and her electricity contract was terminated while she was away. A person who takes care of her, Ms. P., called the supplier to understand the issue, and was told that Ms. L. had probably “switched to a competitor”. This is the most common explanation given by suppliers to justify a termination if the customer does not have an outstanding balance. In this case, the rationale is unlikely since the consumer could not be reached because of her stay in the hospital. The services of the Ombudsman explained to Ms. P. the steps to follow: she should send a registered letter to the supplier to contest the termination, and the complaint would then be transmitted to the network manager. The manager is the only one able to identify where the issue comes from, and identify the supplier, which holds, unbeknownst to the consumer, the ID number of the meter, sometimes wrongly attributed to someone else.

INTERACTIVE AND INFORMATIVE TUTORIALS

The energie-info.fr website, which provides the public with several tools and factsheets – including the offer comparison tool – adds to its content every year. In 2016, two informative and interactive tutorials were put online, allowing consumers a faster access to the information they seek. The first one, designed jointly with the national institute for consumption (INC), is a presentation of the institution’s missions called “*What is the national energy Ombudsman doing for you, the consumer?*”. The second one deals with the topic “*How to read the data on my electricity / gas meter?*”.

A factsheet called “*Liquefied petroleum gas (LPG) in a tank. Things to know before subscribing to a propane gas contract*” was also put online. Given current events and the number of referrals dealing with this, a new factsheet called “*Renovating risers, what are the right questions to ask*” was written to inform consumers about this situation, in which no one wants to be held liable for the cost of works. Finally, the comparison tool for gas and electricity offers was upgraded with new features, so it could, for instance, better identify the offers of sustainable energy, or the ones with a customer service that is exclusively online (See Chapter 5 – COMPARING). [...]

INTERVIEW



JEAN-YVES MANO

President of the consumer association CLCV

“Amongst consumers, the level of information is relatively low. Many of them have been solicited by commercial tactics from suppliers, and they saw the operators’ adverts. However, the proportion of them switching suppliers remains low.

There is undoubtedly a sort of routine or habit that explains why they do not allow themselves to consider switching. But there is also an issue of distrust, caused by a lack of awareness. Comparing offers is certainly not a simple task: when dealing with price differences, what do they refer to? This remains obscure for consumers, for whom state-set tariffs are more reassuring than a variable offer. Furthermore, they do not necessarily know which steps must be taken to change supplier, or if they may switch back to regulated tariffs at any time, in the event that they are not satisfied by market offers. Admittedly, the opening-up to competition of the market in 2007, which did not allow consumers

to switch back, was not made on the right foundation regarding this issue. Being entitled to switch back is a true improvement, and the gas market notably has become reasonably competitive.

To facilitate their choice, consumers increasingly use price comparison websites. They are attractive information tools, provided they remain neutral. The Decree of April 2016 brings order to the way in which they operate, notably by obliging them to highlight any financial relationships with companies. Despite all this, we screened about ten comparison tools since that date and found a lack of regulatory data. We will continue our monitoring mission and will initiate legal action if necessary.”

THE OMBUDSMAN IS ACTIVE ON SOCIAL NETWORKS

The Ombudsman complements this strategy of informing consumers by being present in newspapers and on the air. In 2016 alone, it appeared 474 times in the media: 63% of these appearances were in online articles, 22% in newspapers articles, 9% in TV broadcasts and 6% in radio broadcasts. Communication over social networks

is growing: on Twitter, the Ombudsman has 2,132 followers and published 218 tweets; on Facebook, it gathered 585 likes and published 91 posts. It has been active on LinkedIn since the end of 2016, with 124 subscribers.

2,132

THE NUMBER OF
SUBSCRIBERS
ON THE OMBUDSMAN'S
TWITTER ACCOUNT IN
DECEMBER 2016

The institution also communicates through classic and digital newsletters, so its action and its position on current events may be better known by the opinion shapers of the energy sector. In 2016, three letters were sent to more than 3,000 representatives of businesses and institutions, 14 newsletters were published for 757 subscribers, some of which were sent to journalists. These newsletters are part of efforts

to develop relationships with various institutional actors – some of them being made formal through partnerships – and represent an excellent means of reaching consumers differently (See Chapter 9 – Mobilising). Within this framework, the Ombudsman was present at several consumer fairs: the renovation fair (January 2016), the senior citizens fair (April) and the independent fair for co-owners (in October). During these events, the Ombudsman's teams discussed the institution with a view to increasing public awareness, answered visitors' questions and passed out practical information. ♦



ON OCTOBER 18TH 2016, RESULTS FROM THE YEARLY ÉNERGIE-INFO BAROMETER WERE RELAYED BY MEDIA, INCLUDING THE NEWSPAPER LES ECHOS: "ENERGY: A TRUE AREA OF CONCERN"

ON JUNE 7TH 2016, THE PUBLICATION OF THE OMBUDSMAN'S ANNUAL REPORT LED TO A NUMBER OF STORIES IN THE PRESS, AMONGST THEM THE PARISIEN NEWSPAPER WITH THE TITLE: "ELECTRICITY: THE OMBUDSMAN SINGLES OUT ENEDIS PRACTICES"



"HOW TO READ THE DATA ON MY METER"

THE MOST VIEWED
FACTSHEET ON
ÉNERGIE-INFO
IN 2016
(88,000 VIEWS)



THE MOST READ
TWEET
IN 2016 (NOVEMBER) WITH
6,157 IMPRESSIONS:

"The opening of the Observatory on fuel poverty with the minister @emmacosse and the president of @ademe
#ONPE #ENERGIE "



638 FACEBOOK USERS
SAW THE POST

"What are the steps to be taken to change gas or electricity supplier? The answer is to be found in the Practical Minute" with its attached video,
on Facebook.

5

FOR INDIVIDUAL CONSUMERS,
THE MARKET IS GRADUALLY
OPENING UP

♦
COMPARING

COMPARING OFFERS MEANS BEING ABLE TO ACCESS
FAIR AND NEUTRAL INFORMATION ABOUT ENERGY
SUPPLIERS. THE OMBUDSMAN PROVIDES CONSUMERS
WITH AN EFFICIENT AND UP-TO-DATE TOOL, TO HELP
THEM MAKE AN INFORMED CHOICE.



FOR INDIVIDUAL CONSUMERS, THE MARKET IS GRADUALLY OPENING UP

Almost ten years after the energy market opened up for consumers, competition is slowly building. 2016 was a milestone year that saw the arrival of several new electricity suppliers on the market. Consumer solicitation resumed with renewed vigour, along with its malpractices. A decree now obliges price comparison websites to apply more transparency.

In 2016, the opening up of energy markets for consumers progressed even further. According to the observatory of retail markets of the Energy regulatory commission (CRE), by December 31st 2016, out of 32 million electricity consumers, 4.5 million had subscribed to market offers, as had a 2.5 million out of 10.6 million gas consumers. The Énergie-Info Barometer for 2016, published by the national energy Ombudsman, indicated that 13% of households say they had switched supplier: a steady result in comparison with 2015.

The market share of alternative suppliers now stands at 14% of the household electricity market, and 23% of the natural gas market: an increase of about 20% compared to 2015. For non-residential consumers (such as businesses, local bodies, co-owners), including some that can no longer benefit from the regulated tariffs of the historical operators after January 1st 2016, the year 2016 was a pivotal one (See Chapter 7 – DIVERSIFYING).

The year saw new suppliers enter the market, with about twenty of them now servicing individual consumers. Furthermore, some of the local distribution companies (ELD) decided to stop limiting themselves to their historical area of business, and provide offers nationwide. However, ten years after the opening up to [...]

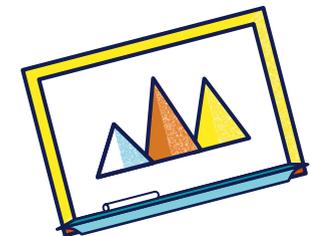


A LOOK BACK AT THE OMBUDSMAN'S FIRST TEN YEARS

The opening-up of the market in 2007 provided French people with the option to subscribe to electricity and gas contracts at market prices, with historical suppliers or with alternative ones. This freedom of choice came with a constraint, however: consumers who switched could not subsequently switch back to regulated tariffs. **As soon as it was created, the national energy Ombudsman advocated the principle of being able to switch back to regulated tariffs, an essential measure to improve the trust of citizens in the mechanisms of a complex and obscure market.**

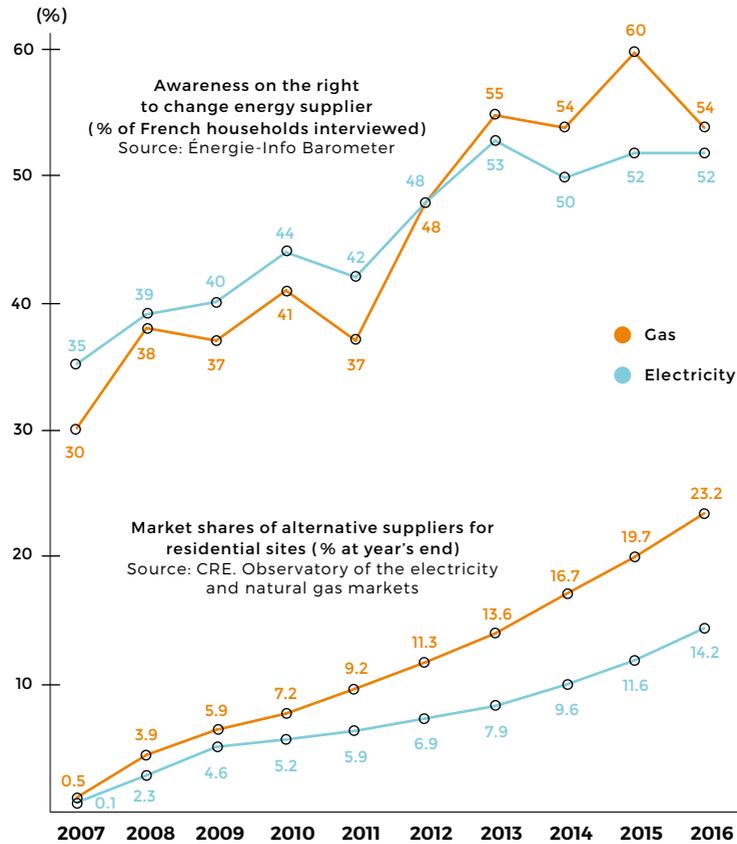
The legislator took repeated action on this matter. Firstly, the law of January 21st 2008 allowed consumers who had subscribed to an offer with unregulated prices for more than 6 months to come back to regulated ones. Then, the NOME law (New organisation of the electricity market) of December 7th 2010 removed the waiting period for switching back, for both gas and electricity.

This option of being able to come back to regulated tariffs was an essential guarantee for consumers hesitating to change supplier, trust being a key element of their decision.



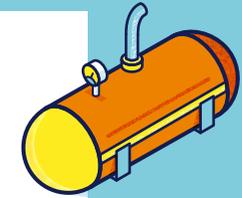
1. 2016 Énergie-Info Barometer. Representative sample of 1,500 people surveyed in September 2016 by Institut Market Audit.

[...] competition, the energy market remains relatively quiet. Even if competition is viewed as being positive by two thirds of consumers, 76% of people interviewed for the Énergie-Info Barometer said they do not intend to change supplier.



Year on year comparison of the Awareness on the right to change energy supplier and of Market shares of alternative suppliers

Even so, awareness regarding the opening-up of the market is improving. Over half of French citizens know they can change supplier, compared to just a third in 2007. 39% know what steps to [...]



BETTER COMPARING THE PRICES OF CONTRACTS FOR TANK GAS

Changes in propane gas prices can be confusing. Mr. B., owner of a LPG tank, observed that the prices of his supplier rose in line with oil prices more generally, but did not decrease when oil prices fell. Since prices are not subject to regulation, the Ombudsman has no grounds to take a stand on this issue. However, Mr. B.'s referral exposed a lack of information. The Ombudsman recommended that the supplier comply with regulations, by sharing its pricing model or explaining how it calculates price updates, so that everyone can understand how the prices of propane may change. (recommendation n° 2016-0844 on the energie-mediateur.fr website).

The information on prices displayed in LPG contracts was the purpose of a meeting held at the National Consumer Council (CNC) in March 2016, where the Ombudsman and the Authority for Competition, Consumer Affairs and Prevention of Frauds (DGCCRF) discussed this issue. Indeed, these contracts have costs attached to their termination (for early cancellation, to pump remaining fuel, to remove the tank, etc.) that are often unclear for consumers. The work done by the DGCCRF focuses on the way in which prices must be displayed when signing a contract, and in particular on how exit costs should be highlighted. It considers requesting suppliers to put a standardised sheet in place, similar to the one made for the contracts of electricity and natural gas, that shows an annual breakdown of service costs, or at least over the entire duration of the contract.

[...] take to do so, doubled the number in 2011. 62% of people surveyed felt they were well informed about the opening-up to competition, against 57% in 2015. About one person out of four sought information about the opening-up, a relatively low proportion, but one that is nonetheless three points higher than in 2015. However, and despite these improvements, the understanding of market mechanisms remains limited. Even though historical suppliers, EDF and ENGIE (formerly GDF Suez) have been competing for ten years, 72% still think they are a single company, or two non-competing companies – the same proportion as in 2007.

52%

think that the steps to follow to change supplier are simple

72%

are aware that changing supplier will not result in a power outage

26%

feel that the opening-up of the market led to a decrease in prices

22%

feel that the opening-up of the market led to a decrease in prices

French people and the energy suppliers
(Source: 2016 Énergie-Info Barometer)

Almost ten years after the energy sector was liberalised, all French people may freely choose their supplier – with a few exceptions. On 5% of the territory, local distribution companies (ELD) hold the monopoly of public service regarding the management of the distribution network, taking on what Enedis (formerly ERDF) does on the rest of the territory. They continue supplying energy at regulated tariffs of sale. In these areas, offers from alternative suppliers to consumers are extremely rare, or even nonexistent. They disregard these offers because they deem the entry cost – notably the cost of adapting their IT system to the one used by the 170 ELD – is too high compared to what they could obtain from individual customers. For the Ombudsman, it is up to the suppliers to push forward so that the 3 million citizens serviced by the ELD may benefit from the same competitive market as the other French households. Similarly, competition is absent from Corsica and Overseas Departments. These are non-interconnected territories (ZNI: areas which are not connected to the French mainland electrical network). Due to their isolation, their production costs are higher. To guarantee tariff equalisation, i.e. allowing citizens to benefit from the same prices no matter where they live, a financial compensation system has been implemented. [...]

CASE STUDY RECOMMENDATION

A CONFUSING INFORMATION ABOUT PRICES

“Mr. L., who lives in Calais (62), subscribed to a market offer for his supply of gas with supplier X. The tariff grid stated items such as *“fixed prices are guaranteed for a year”* or *“prices are guaranteed to always be lower than the ones of regulated tariffs”*. Between January 1st 2016 and July 2nd 2016, regulated tariffs for natural gas decreased steadily, up to the point where they became lower than the price paid by consumers. After several complaints to his supplier, Mr. L. sought the assistance of the Ombudsman, since he failed to understand why this decrease in tariff had no impact on his bill. In the observations that were sent to us by the supplier, it was specified that the price is guaranteed to be always lower than the regulated tariff, but at the date at which the contract is signed or renewed. Since the consumer subscribed to an offer with a price set for a year, nothing can justify changes in his tariffs beyond that date.

If the explanation may seem fair, the Ombudsman believes that the details of the offer, and the way they were worded, are contradictory and may bring confusion, notably because it targets laypersons for whom the promise of low prices may be a trigger to change supplier. The information provided by X does not satisfy the requirements of a clear and unambiguous information, according to the Code of consumption. In order to prevent further

disputes, the Ombudsman recommended that the supplier change the information on its gas offer, so consumers would not be led to believe that guaranteed prices would always be lower than the regulated tariffs. X followed the recommendation, and compensated Mr. L. with €30, half of what the Ombudsman advised after considering the inconvenience resulting from a confusing information.”



ALIX HARLE
Task Officer

Recommendation n° D2016-01401,
displayed at:
energie-mediateur.fr/recommandations

SOLICITATIONS DO NOT DECREASE

If consumers who changed supplier did so because of the price for 73% of them, a significant number made the change after being solicited: 18% against 11% in 2015. The Énergie-Info Barometer shows that commercial solicitation remained at a high level in 2016: 39% of people surveyed state they were contacted to subscribe to a gas and/or electricity offer, and 44% to carry out insulation works in their house. Phone calls is the most used method of household solicitation, as high as 82% for works of energy retrofitting and 61% for energy contracts. But gas and electricity suppliers also heavily use door-to-door solicitation (26%) and mail (23%).

"The Énergie-Info service is frequently called by consumers who inform us of predatory practices, which boomed once again in 2016", says Caroline Keller, head of the Information and Communication department. In 2016, the Ombudsman filed 1,140 disputes related to the business practices of companies in the energy sector. Almost one out of five dealt with the issue of consumers contesting subscriptions. Statements collected through phone calls or e-mails sent to the Énergie-Info website provide an instructive picture of some solicitors' bad practices. Thus, Mr. B. asks "Is it normal that salespeople from the ENI company are doing door-to-door solicitations, and introduce themselves as being sent by GRDF to proceed to a meter reading? Once the reading was done, the salesperson asked to review our bills and offered us to subscribe to a contract, showing documents that displayed ENI and GRDF logos".

18%

**OF CONSUMERS
CHANGED SUPPLIER AFTER
BEING SOLICITED**

(Source: Énergie-Info Barometer)

Ms. J. also received the visit of a salesperson, pretending to be there to verify the meters recently installed by EDF. "When I stated that I wanted to take some time to ponder this, and make a subscription on the internet, he replied that it would be more costly because I would have to pay for an insurance." To put pressure on consumers, some salespeople use a range of false information (upcoming termination of regulated tariffs, impending increase of 30% of tariffs...) or purposefully confuse consumers about the different suppliers, saying that EDF merged with ENGIE and that they are now a single company. Ms.

R. tells that a salesman required of her to sign an attestation of inspection, when in reality the document was a contract! ENGIE is the supplier that is most concerned by these disputes (almost half of them), followed by ENI and Direct Énergie, which no longer does door-to-door solicitations, but is active on the phone and on [...]

**NATIONAL SUPPLIERS
OF ELECTRICITY AND NATURAL
GAS HAVING OFFERS FOR INDIVIDUAL
CONSUMERS AT THE END
OF 2016:**

**Alterna, Antargaz, Direct Énergie, EDF,
ekWateur, Enercoop, Énergie d'ici,
Énergies du Santerre, ENGIE, Eni,
GEG Sources d'Énergies, ilek,
Lampiris, Lucia, Planète OUI,
Plüm Énergie, Proxelia,
Sélia, Sowee**



SALESPEOPLE STEAL THE OMBUDSMAN'S IDENTITY

Dishonest acts were observed, and in particular at the end of 2016. Salespeople pretending to be part of the national energy Ombudsman's teams called some consumers. Some of them pretended they had to visit all French homes in order to estimate electrical consumption, because of an alleged European regulation passed right after the COP21 (the Paris Climate Change Conference). Others wanted to offer energy savings and claimed they required to see bills and tax sheets.

These fraudulent practices have the objective of obtaining an appointment at consumers' homes. The Ombudsman has firmly denounced these practices, warning consumers with a message on the energie-mediateur.fr and energie-info.fr websites. As an independent public authority, the Ombudsman is never associated with any commercial practices.

[...] the internet. To respond to consumer requests dealing with this issue, the Ombudsman's teams provide them with information regarding their rights: they are only contractually committed upon signing (on paper, or digitally by double-clicking if online) and are entitled to a period of 14 days to withdraw. If they want to withdraw beyond that delay, they may change supplier again, and, should they wish to do so, the reversibility principle allows them to switch back to regulated tariffs freely and immediately (See: A look back on the ten years).

39%

OF CONSUMERS
WERE SOLICITED
BY SUPPLIERS OF
ELECTRICITY
OR GAS

Given the bad practices observed, a new factsheet summarising what steps to take to slow down commercial telephone harassment and spamming is now available online on the energie-info.fr website, in addition to the one already there to advise on door-to-door solicitations and distance selling.

MORE TRANSPARENCY FOR PRICE COMPARISON WEBSITES

Rules changed for price comparison tools since July 1st 2016, regardless of their line of business. They were regularly called to order by the Authority for Competition, Consumer Affairs and Prevention of Frauds (DGCCRF), which, in a report published in 2016, deemed that information from such websites was incomplete, or even inaccurate. The Decree of April 22nd 2016, which enforces a provision of the law on consumption of 2014, compels them to more transparency.

They are now obligated to specify the nature of their contractual and capital relationship with the businesses they mention. The site manager is required to highlight the advertising nature of an offer referenced for a fee, resulting in a ranking that depends on remuneration. Price comparison websites must also signal if the offers of goods or services that are compared are comprehensive, the number of sites or companies referenced, as well as the frequency and updating method of the offers compared. Finally, consumers must be informed about the essential characteristics of the offers, and the composition of the price that is displayed.

In charge of the energie-info.fr website and of its price comparison tool, the Ombudsman is proud of the protective consumer measures it has implemented. The tool was redesigned to be up to standard and now displays all the mentions required to inform [...]

BULK PURCHASING TO SPUR COMPETITION

For the third year, the UFC-Que Choisir association launched an operation of bulk purchasing called "Cheaper energy", with the objective of proposing competitive offers to consumers. While the two previous operations only focused on gas, the 2016 edition was extended to electricity. The association believes that "the significant decrease in price obtained from wholesale markets allows alternative suppliers to compete in the longer-term with EDF's regulated tariffs, which increased on average by 27% since 2011". For the third year in a row, Lampiris won the pot, this time for both energies, since it proposed the cheapest offers.

Bulk purchasing, a method used to lower consumer bills, is on the rise. For the Ombudsman, this is an attractive practice, because it contributes to raising consumer awareness regarding the energy market and its opening-up, by increasing the notoriety of new entrants. However, the Ombudsman advises consumers to remain watchful on the prices offered and on their evolutions over time. It also thinks that what is financially asked from consumers should be reasonable and clearly displayed.

11%

OF FRENCH PEOPLE
WHO CHANGED
SUPPLIER DID SO VIA
A BULK PURCHASING
OFFER

45%

OF FRENCH PEOPLE
WHO CONSIDER
CHANGING WOULD
DO SO VIA A BULK
PURCHASING OFFER

+ 100,000

PEOPLE
SUBSCRIBED TO THE
"CHEAPER ENERGY
TOGETHER" OFFER OF
UFC-QUE CHOISIR

[...] consumers. An independent public authority, the Ombudsman shares no contractual or ownership relationship with any of the energy suppliers and receives no remuneration whatsoever from any of them. Having complete financial and contractual independence from energy suppliers is what fundamentally differentiates the Ombudsman from commercial price comparators. Similarly, information provided by its call centre (toll-free n° 0 800 112 212) about suppliers and offers is impartial and do not encourage consumers to choose one supplier over another.

Furthermore, technical improvements that added features and enhanced usability were brought to the Énergie-Info website. The way offers are displayed has been changed so consumers can read them more easily, in particular the green energy offers or the ones existing solely online (without any customer services or call centres). Amongst these new added features, consumers can now compare offers with their current one, no matter which one it is, even in the case of specific offers of regulated tariffs of electricity, such as Tempo and peak-day load reduction. With the Linky smart meter, suppliers of electricity will be in a position to provide offers with more complex tariff grids, having prices that may vary within an hour. The price comparison tool already evolved in order to integrate the first specific Linky offers "Off-peak hours, evenings and week-end". ♦

620,000

CONSUMERS
ALREADY USED ÉNERGIE-
INFO'S PRICE COMPARISON
TOOL IN 2016

NO REGULATED TARIFFS IN A CITY RECENTLY SERVICED IN GAS

Unlike electricity, not all cities are serviced by a gas distribution network, but new areas of service are developing each year. In 2016, the Ombudsman was called upon for an unprecedented legal issue. In some of the new natural gas concessions, consumers cannot benefit from the regulated tariffs: only market offers are available.

For the Ombudsman, having all consumers being able to benefit from these tariffs is legitimate, and that is precisely what the Code of energy stipulates (article L. 445-4, subparagraph 2) for any area of consumption. According to it, these tariffs do not hinder competition, but, quite the opposite, they are a safeguard and a reference for operators. The possible removal of these tariffs in the future cannot provide grounds today to justify their absence. This issue constitutes a generic recommendation (n° D2016-02537).



33%

OF HOUSEHOLDS THAT CHANGED
SUPPLIERS USED A PRICE
COMPARISON TOOL

54%

OF PEOPLE WHO CONSIDER
CHANGING SUPPLIER INTEND TO USE
A PRICE COMPARISON TOOL

INTERVIEW



JULIEN TCHERNIA

President of ekWateur

"It is far from easy to enter the energy market, one that is dominated by historical actors that are no longer in the public service. Individual consumers are rather unconvinced because the promises of lower prices were not met, or only sparsely. Expecting reduced bills is what encourages the consumer to change operator: supplying energy from fully sustainable sources is not enough. Therefore, it is more by belief, rather than by strategy, that ekWateur chose sustainable sources after September 2016 for both electricity and gas.

Our target is to have 100,000 customers within two years, and 500,000 within 5, taking into account that there is a glass ceiling when reaching 40,000 meters, which small suppliers can hardly overcome. Direct Énergie and Lampiris are already positioned on the "low prices" segment, which leaves us little room for manoeuvre to lower kWh prices. Our concept is to propose reduced expenses to consumers, through reduced consumption. Two reasons make this feasible. Firstly we are solely an energy supplier, unlike operators that also produce energy, and

earn more revenues with sales than with savings. Then, the digital revolution opens the door to new solutions for a better management of consumption.

We stand out from our competitors because our model is a collaborative one, which we think may greatly improve the relationship between customers and their supplier. We have selected amongst our very first customers a few people that we trained: when they have time to spare they connect to a platform and answer questions from consumers who are searching information about ekWateur. Their fees are based on contacts made, not on sales. For now, our "ambassadors" only manage prospects, but in the future they will handle our customers as well. Settling firmly on the energy market means breaking several codes: ekWateur is as much a supplier than an actor of the energy transition."

INTERVIEW



DIDIER REBISCHUNG

President of the National union of local companies of electricity and gas (UNELEG)

"Local distribution companies (ELD), some them older than a hundred years, have a particular position in the energy landscape: a local one. Carrying out a dual mission of public service – one of network management and one of energy supply at regulated tariffs – they always adapted to ever changing conditions, notably by guaranteeing the separation of their distribution and supply missions.

Today, within their role of network managers, ELD as well as their representative bodies strive to guarantee this role of market facilitator, with a view to improve competition. The entry of alternative suppliers on the areas serviced by ELD, when regulated tariffs were removed for businesses in 2015, revealed that the mechanisms in place were adequate for the market to properly function: GRD-F¹ contracts were signed with all electricity suppliers that requested it. On some areas serviced, we observed up to 15 suppliers starting their activity! Nonetheless, our field observations show that offers developed for consumers by alternative suppliers are still limited on certain areas. However, even

if ELD-GRD must guarantee an indiscriminate entry to the network for all suppliers, it is up to the suppliers themselves to define what are their business strategies and to choose whether or not to be present on areas serviced by our companies.

At all events, ongoing works with all network managers regarding the normalising of data transmission, undertaken under the auspices of the Energy regulatory commission (CRE), should bring more consistency and simplify the relationships between stakeholders. Furthermore, the arrival of smart meters will be a major milestone, and will contribute to the streamlining of market processes. UNELEG is committed to be a driving force in this momentum."

1. Manager of Distribution Network – Supplier, allowing suppliers that signed it to propose offers of electricity supply on the distributor's area of service

6

**FIGHTING FUEL
POVERTY
♦
PROTECTING**

BEING ABLE TO LIVE IN HEATED AND LIT HOMES IS
ESSENTIAL. BECAUSE THE ACCESS TO ENERGY FOR ALL
IS AN UNIVERSAL RIGHT, THE OMBUDSMAN ENSURES
THAT NO CONSUMER IS LEFT BEHIND



FIGHTING FUEL POVERTY

Fuel poverty has been one of the main area of focus of the Ombudsman since it was created. Almost six million households have difficulties paying their energy bill, and meeting the essential requirements of thermal comfort. Within this context, the new cheque energy that is currently being experimented in four department is very much awaited.

The most recent figures disclosed by the National observatory on fuel poverty (ONPE) during its November 22nd 2016 conference show a situation that is worsening. 5.6 million households, discounting students, are facing budgetary difficulties when paying the energy bills, or state they feel cold because of a lack of heating. More than one French person out of five is thus considered as suffering from fuel poverty. The 2016 edition of the Énergie-Info Barometer, published each year by the Ombudsman, shows that a third of French citizens lowered heating to avoid paying too heavy bills. This act of deprivation is more frequently observed in modest households (39% amongst households with monthly revenues lower than €2,000) and by younger people (39% of the 18-35 years old).

71%

OF FRENCH
HOUSEHOLDS
CONSIDER ENERGY
CONSUMPTION AS BEING
A MAJOR AREA
OF CONCERN

(Source: 2016 Énergie-Info
Barometer)

According to the previous report from ONPE, fuel poverty hit 4.8 million households in 2006. It is an increase of 17% over seven years. The rise of energy prices is one of the reasons why the situation worsened. The estimation is that a increase of 10% may push 450,000 into fuel poverty. Between 2007 and 2016, the bill of people with electricity heaters surged by 40%, and the bill of people with gas heaters by 20%. Poorly insulated houses and the precariousness of households with low incomes contribute to the exacerbation of this phenomenon. Tenants are the most concerned category (35%), along with people living in old homes built before 1975 or equipped with collective heating. [...]



A LOOK BACK AT THE OMBUDSMAN'S FIRST TEN YEARS

How the Ombudsman watches over the most vulnerable households and commits to promoting strong measures against fuel poverty has opened doors to true progress.

During the 2013/2014 winter, French households that no longer could pay their bills were not deprived of electricity or gas. This was the first time this situation happened. The winter truce for electricity cuts, set by the law on energy of April 15th 2013, started on November 1st 2013 and ended on March 15th 2014. The law of energy transition for green growth of August 2015 extended that truce to March 31st, matching the one relative to evictions from rented homes, a provision that was applied for the first time during the winter of 2015/2016.

The support to the payment of bills benefitted to a growing number of poor households. In January 2012, the attribution procedure for social tariffs was automated: most of its consumers are now granted the Tariff of Basic Necessity (TPN) that was created in 2005 for electricity, or the Special Tariff of Solidarity (TSS) created in 2008 for gas, without any administrative procedures. A million more households are concerned. The Decree of December 2012 expands social tariffs to 400,000 additional households benefitting from the ACS (Supplemental Health Insurance) if their revenues is 35% above the CMU-C (Supplementary Universal health care coverage).

The law of April 2013 allows all suppliers to offer the TNP for electricity, which was previously the sole privilege of historical operators. This law also adds a fiscal criteria of revenues for the attribution of tariffs. In addition of social security bodies, the tax administration must transmit to operators the list of people entitled to these benefits, i.e., the ones with tax revenues below €2,175 annually per taxed person in the household.

The law of energy transition for green growth of August 2015 set a limit to back-billings to 14 months and introduces the cheque energy, in replacement of social tariffs.

[...] As soon as 2009, the Ombudsman has set up support schemes for consumer experiencing fuel poverty. Depending on years, requests related to difficulties of payment amounted to between 10% to 20% of cases registered, which is a variation that can be directly correlated to winter temperatures. In the last Énergie-Info Barometer, 8% of surveyed households stated they could hardly pay for their gas and/or electricity bills – this is the lowest rate observed since 2012

56%

OF HOUSEHOLDS
VIEW GAS & ELECTRICITY
BILLS AS HEAVY BURDENS
TO THEIR BUDGETS

(Source: 2016 Énergie-Info
Barometer)

and it can be explained by the relatively warm winter of 2015/2016. In particular, the Ombudsman's teams are contacted via the Énergie-Info information service, and offer advice and solutions. They explain to consumers what are their rights, which financial aids are available (through, for instance, the Housing solidarity fund, and the Community centres for social action), and how important it is to subscribe to a contract with another supplier when their contract is terminated. *"We take action with the suppliers if a request to restore energy is justified in the event of a cut, or to convince them to plan payments by instalments."*, states Caroline Keller, head of the Information and Communication department.

RISING INTERVENTIONS FOR UNPAID BILLS

According to the 2016 Énergie-Info Barometer, 2% of interviewed people stated they underwent power cuts or reductions because of unpaid bills. Poor households (16% of people with net monthly earnings under €1,200) and young people (4% of the 18-35 years old) are the most hit populations.

Since 2014, energy suppliers are obliged to transmit data relative to the measures they took for unpaid bills to the national energy Ombudsman and to the Energy regulatory commission. In 2016, 604,000 actions (cuts, power reductions, contracts terminated by the supplier) were initiated. While this figure does not reach the one of 2014, it is nonetheless 5% more than in 2015, a year that recorded 577,000 actions. Even if near stabilisation is observed for electricity, gas actions have significantly grown (25%), reaching back their level of 2014.

During the winter truce, between November 1st and March 31st, suppliers of gas and electricity cannot initiate cuts on the energy supply of their customers' homes when they have not paid [...]

ACT II FOR THE OBSERVATORY OF FUEL POVERTY

Created in 2011, the National observatory of fuel poverty (ONPE), is considered by the Ombudsman as being an essential instrument of knowledge. This is why the Ombudsman takes part in its financing and tasks, and shares information at its disposal such as figures on actions caused by unpaid bills or the background of consumers having difficulties of payment. In June 2016, the ministers in charge of energy and housing announced that the missions of the observatory would be reinforced. This will entail the increased commitment of public, private and association actors, from the energy, housing and solidarity sectors, allowing the entry of new partners, notably suppliers and distributors of energy.

If the first stage of works resulted in the creation of a composite indicator that allows to better understand the fuel poverty situation, the Observatory must now push further ahead. Its role of gatherer of statistical data, collected from the economical, social and health sectors, is essential to provide reliable, consistent and comparable data over time. To this mission can be added the analysis of public policies implemented to fight fuel poverty, and notably the cheque energy that is currently being experimented. All this will lead to a path of progress.

ONPE
Observatoire national de la précarité énergétique

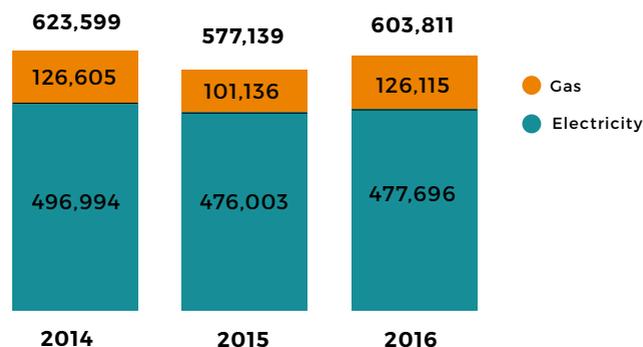
12,1

MILLION FRENCH PEOPLE
EXPERIENCE FUEL POVERTY
(ONPE study, 2016)

€1,681

THE AVERAGE AMOUNT SPENT
BY HOUSEHOLDS FOR HOME
ENERGIES
(Department of Observation and Statistics of
the energy ministry)

[...] their bills. However, suppliers of electricity may request a reduction in power, unless the customer benefits from social tariffs or from the cheque energy. The comparison with the 2012 figures, before the truce was implemented and during which at least 580,000 actions were initiated because of unpaid bills, shows that implementing the truce did not result in a boom of unpaid bills – which is a situation suppliers suggested would happen. However, while there is a mechanical increase of these actions in the second quarter, at the end of the truce, the differences observed from year to year are mainly due to variations in winter temperatures and in energy prices.



Number of actions related to unpaid bills undertaken for residential sites, by energy type and year

604,000

ACTIONS FOR UNPAID BILLS IN 2016

When processing cases related to energy cuts, the Ombudsman strives to ensure that the procedure is carefully followed – timings, mailings – in order to warn the consumer and inform him/her of the provisions relative to the aids attributed by the Housing Solidarity Fund: *“We have also issued a few generic recommendations urging suppliers to implement means of collecting bills that are proportionate, so consumers with unpaid bills of low amounts may avoid cuts.”*, explains Catherine Lefrançois-Rivière, head of the Mediation Department.

Moreover, in the discussion groups of the Energy regulatory commission (CRE), the Ombudsman advocates a management of actions for unpaid bills that reconciles the rights of both the consumers and the suppliers. Prior to any energy cut, what matters is to encourage the network manager to move to the home and collect

CASE STUDY RECOMMENDATION

A GAS CUT NOTIFIED... BY TEXT MESSAGING

“At the beginning of 2016, Ms. H., who lives in Souvigny (03) and benefits from social tariffs, had financial difficulties to pay her €528 gas bill. Therefore, she called her customer service and requested her payment to be installed. On March 16th, she received a text message stating that her gas and electricity were about to be discontinued. Despite another letter requesting to find a solution to clear her debt, her contracts were terminated and the supply of gas was cut in her home in May. Ms. H.’s dispute reveals several issues. Her supplier did not abide by the informative procedure to be applied to cases of unpaid bills: the Ombudsman stresses that SMS may not be considered as valid reminders. Besides, the letter sent to consumers to warn them about an energy cut must mention the possibility of requesting financial aid from the Housing Solidarity Fund.

In addition, while the unpaid bill did only concern the gas bill, X also terminated Ms. H.’s electricity contract, claiming she had subscribed to a “DUO” commercial offer that bundles both energies. The Ombudsman emphasises that such an offer does not equal a single contract. The general terms and conditions of sale of the supplier state that the supply of electricity and the supply of gas are managed by two different contracts and that one unpaid energy bill does not provide ground to cut the other one.

Furthermore, Ms. H. has observed that the Tariff of Basic Necessity (TPN) was not applied on her electricity bills between December 2014 and December 2015. When asked about this issue, her supplier answered Ms. H that the mistake came from the company that manages the TPN. However, during the same period of time, she benefitted from the Special Tariff of Solidarity (TSS) for her gas bills. Since the criteria to obtain these tariffs is identical, it is obvious that she should not have been excluded from the TPN scheme.

The supplier followed almost all of the Ombudsman’s recommendation. The TPN was applied retroactively and X refunded Ms. H the expenses associated with the reactivation of gas. After this, it proposed instalments and granted her €75 as compensation for the bad processing of her file.”



PAULINE CARLIER
Task Officer

Recommendation n°D2016-01226, displayed online at: energie-mediateur.fr/recommandations

payment, to systematically set plans of power reduction before cutting the electricity and to raise the awareness of consumers on [...] [...] how they can switch suppliers when their current one proceeds to a contract termination.

THE CHEQUE ENERGY: A FAIRER AND MORE SIMPLER AID

The rise in fuel poverty, despite the gradual improvement of support solutions for precarious households, led to the creation of the cheque energy, which will replace the social tariffs of electricity and gas in 2018. Extended to all energies (electricity, gas, heating fuel, heating wood, LPG, heating networks), it is a true help for the payment of bills, or for households needing to carry out energy renovation works in their homes. It is being experimented in four Departments – Ardèche, Aveyron, Côtes d’Armor and Pas-de-Calais – until the end of 2017. On average, it amounts to €150, against €140 for social tariffs. It ranges from €48 to €227, depending on revenues and on household size. 173,000 households entitled to this cheque received it, and 78% used it, that is: 135,000 people. This last figure is higher than the one of people benefitting from social tariffs last year: 124,000.

73 %

**OF FRENCH PEOPLE
SAY THEY ARE IN FAVOUR
OF THE CHEQUE ENERGY**

(Source: 2016 Énergie-Info
Barometer)

This measure, a long-standing fight of the Ombudsman, is one of fairness: *“It is great news for consumers who no longer could benefit from aids for home heating.”*, believes Jean Gaubert. *“The cheque energy benefits to the most precarious households. It is also fairer, since we expect all energies to finance this mechanism.”* The cheque energy is financed by the state budget, in a new programme called “Public service of energy”, created by the finance act of 2016.

With a single list of eligible households and a public body in charge of management – the Agency for services and payment – this support solution is a simpler, clearer and more efficient one. This is the opposite of social tariffs, which undergo regular failures, such as the ones observed in cases processed by the Ombudsman: unexplained blocking during the transmission of data between social security bodies, tax departments, the IT company in charge of cross-referencing files and the suppliers; interrupted payments when changing supplier or moving homes; refusal of attribution when the energy contract beneficiary does not share the same name than the one [...]

LIMITATION OF BACKBILLINGS TO 14 MONTHS

On August 17th 2015, an essential measure of the law of energy transition for green growth was passed. It took effect in August 2016 and now sets a limit to the back-billing of electricity or natural gas bills to 14 months. It is a true relief for the budget of modest households, since in 2015, in the disputes processed by the Ombudsman, the average amount of these back-billings, which could go back several years, was €3,600. “Preventing back-billings from extending beyond 14 months is a balanced and efficient measure in our fight against the fall into fuel poverty.”, stresses Jean Gaubert. Implemented during the second half of the year, it is still too soon to assess the impact of this provision. (See Chapter 2 – CLARIFYING)



WHO WANTS TO KILL THE CHEQUE ENERGIE?

The cheque energy lies on a single attribution criteria (taxable income of the household). Because of this simplification, it should benefit to 38 % more households than current social tariffs. It is not “granted” by suppliers but is directly sent by the Agency of services and payments to beneficiaries, who may use it whenever they want. Currently, some suppliers purposefully maintain confusion, suggesting that they were behind the application of social tariffs. When the Ombudsman observed that the cheque energy came under a deluge of criticisms by suppliers as soon as it was born, it wished, at the end of 2016, to bring light on the misinformation accompanying this vehement campaign. *“Some of them are juggling the figures, confusing everything, highlighting who will lose from it while forgetting to talk about the silent majority that will gain from it.”* says Jean Gaubert. *“It is a reform that brings deep changes to a system that was set up to help to pay for bills, and the precise purpose of the experimentation is to find improvements.”*

[...] of the taxable household; etc. By the end of 2014, a potential beneficiary of social tariffs out of three did not receive the aid, and by the end of 2016 a million household were still excluded from this aid.

The cheque energy should be generalised from January 1st 2018 onwards, and will help about 4 million French households. However, the Ombudsman believes that the mechanisms of the cheque energy should be improved over time. More specifically, its amount should be set higher to provide a more significant help. Rights related to the payment of bills must be guaranteed: whether the ones obtained to remove cuts during the winter truce (where no reduction in electrical power is possible) or other benefits, such as reductions on the expenses associated with suppliers collecting unpaid bills. Landlords should also have the opportunity to cash the cheque energy so people living in buildings with collective heating may benefit from this scheme. The experimentation stage provides opportunities to identify which adjustments will be required in terms of means and organisation, so the cheque energy may reach its full potential to assist households hit by fuel poverty. [...]

CASE STUDY RECOMMENDATION

WHEN SOCIAL TARIFFS ARE NOT ALWAYS AUTOMATICALLY APPLIED

“Between 2013 and 2016, Ms. B., who lives in Saint Gilles Croix de Vie (85), received information each year about her entitlement to the Special Tariff of Solidarity (TSS) for natural gas. This mail is sent to her by the company in charge of cross-referencing files from social bodies and the tax administration, which mission is to determine who can benefit from social tariffs. Ms. B. lives in a building with collective gas heating, and she pays for her bill through rental expenses. The gas supplier of the collective boiler is liable for the application of her social tariffs, by sending her an individual cheque.

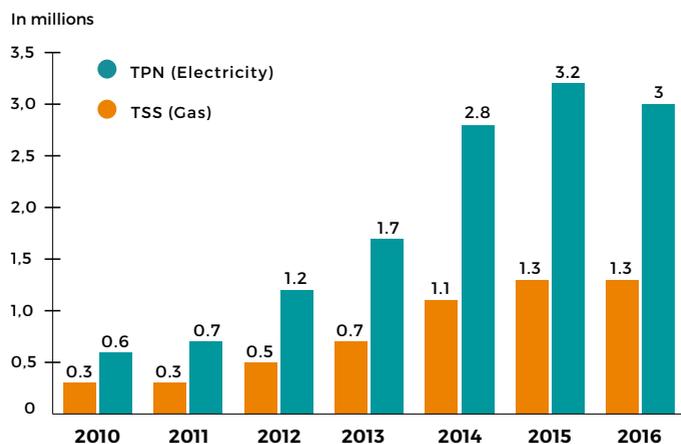
Every year, she fills the entitlement form for TSS, which is attached with her letter along with additional information such as the supplier’s name, customer reference and PCE (Gas Meter ID number). But she had difficulties obtaining the TSS. Despite making several complaints, she received only a single cheque in 2015. The Ombudsman’s action, which resulted in an amicable agreement, allowed finding a resolution to Ms. B.’s situation. It turned out that the IT company did not properly transmit the data sent by the consumer to suppliers. Supplier X issued two cheques, amounting to €100 each. The previous supplier, Z, sent a €108 cheque and granted her €30 as compensation for the inconvenience and the delays.

Despite the automation of social tariffs, issues persist for people living in collective housing, notably because the entitlement process requires obtaining data about the collective gas contract, which are known only by the landlord, and therefore are hard to collect.”



LUDIVINE VOLPATO
Task Officer

Recommendation n°2016-03231,
displayed at:
energie-mediateur.fr/recommandations



Number of household benefitting from energy social tariffs from 2010 to 2016 (millions).
Source: Ministry in charge of energy

[...] To resolve these issues, the Ombudsman advocated, and still does so, actions to help and support consumers (winter truce, cheque energy, last resort supplier). But obviously, it is also adamant that long-term solutions will necessitate building renovations, which will require encouraging, or even compelling, owners to eliminate energy sinks. ♦



INTERVIEW



JOËLLE MARTINAUX

President of the National Union
of Social Action Community Centres (UNCCAS)

“Obtaining assistance to their energy supply is the second reason for which people request financial aid from the CCAS (Social Action Community Centres). 8 CCAS out of ten grant such aids, for a global amount close to 17 million Euros in 2016. They do have weight in this field! Most often, these aids help financing unpaid bills. However, other actions are implemented, such as local partnerships, campaigns to raise awareness to ecofriendly behaviours, providing global assistance to budgets, housing support, etc. During the winter truce, we feared that people with unpaid bills would not attempt to clear their debts over that period. But overall, this is not the case. On the opposite, 15% of the CCAS that grant financial aids state that the truce opens doors to collaborate with suppliers on the mediation of unpaid bills and to assist people requesting such aids over the longer term.

More practically, when most CCAS receive such requests, they systematically verify if people may benefit from social tariffs. They can also provide assistance during the eligibility process. More than 40% of

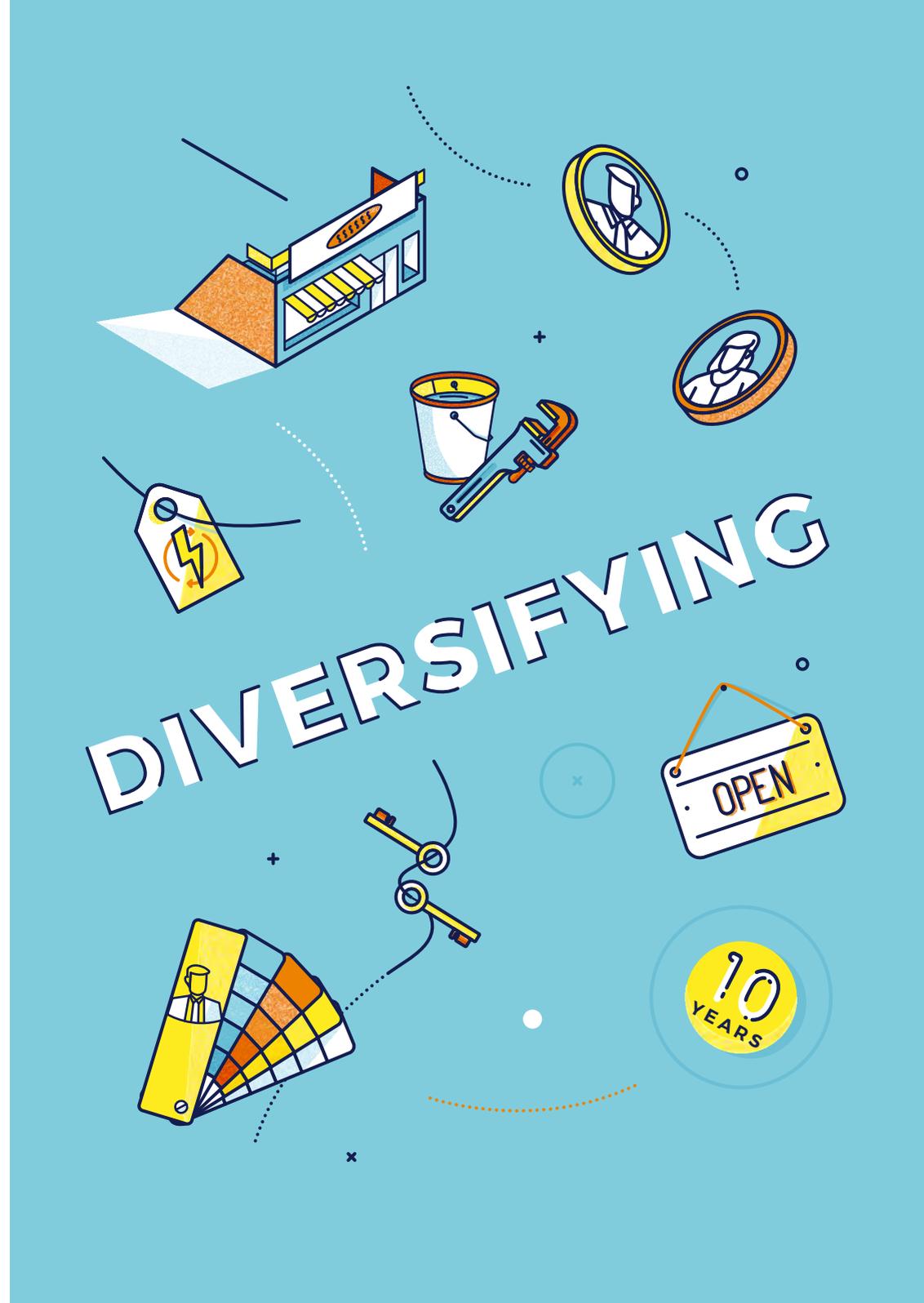
them pre-examines files of FSL requests, and even 28% expand it! On the suppliers side, at least with the two historical ones, mediation very often reaches an agreement to have instalments to clear debts. We also set up postponements of energy cuts/reductions for households with late bills. However, communication may go even further, with common actions of information or awareness, training of CCAS staff, etc. Having the duty to inform people about their rights, and having a mediation role towards suppliers, the CCAS, at their level, share the Ombudsman’s concerns.

The true difficulty of the fight against fuel poverty lies into how we may act, collectively and with coordination, both in urgency and over the longer-term, in a remedial and preventive fashion, to help providing access to this essential service and on the environment of people – structures, housing, etc. This multifactor and multiactor approach is an issue for the CCAS, which, I would like to remind, is a public service and must meet the needs of people while optimising public spending.”

7

**AN OPENING-UP TO
NON-RESIDENTIAL CONSUMERS
♦
DIVERSIFYING**

SMALL BUSINESSES, ASSOCIATIONS, CO-OWNERS
ASSOCIATIONS MAY NOT ALWAYS HAVE THE RESOURCES
REQUIRED TO GRASP THE COMPLEXITY OF THE ENERGY
MARKET. THE OMBUDSMAN BRINGS ITS SKILLS AND
PROTECTION TO THEM.



OPEN AN OPENING-UP TO NON-RESIDENTIAL CONSUMERS

Most of the regulated tariffs for small businesses and co-owners were gradually removed, with a final deadline on December 31st 2015. This forced transition to market offers resulted in various disputes. It created a situation where suppliers did not always live up to their advising mission.

Since January 1st 2016, end credits have rolled for regulated tariffs regarding sites that have subscribed to an electricity contract with power above 36 kVA, regarding non-residential sites consuming more than 30,000 kWh of gas annually, and housing buildings consuming more than 150,000 kWh per year. To help them take a step further and choose a market offer, an assistance and information scheme was set up as soon as 2014, with two tools – “request of electricity offers” and “request of gas offers” – as well as factsheets

for small businesses and co-owners. Co-owners in particular faced specific issues related to their operating mode—compulsory voting sessions in general meetings, organisation delays of these meetings that are little compatible with the validity periods of commercial offers, the requirement of mandating the council or the co-owners association. After an increase in visits to the “Business” section of the energie-info.fr website in 2014 and 2015 amounting to 9% of total visits, the trend reversed in 2016 (5%). The end of regulated tariffs was planned for by the most cautious ones, which sought information before January 1st.

A set up is planned for late entrants. If priced at regulated tariffs, their gas or electricity contracts automatically switch to a transitory offer from the historical supplier, with prices increased by 5% during 6 months. [...]

468,000

SITES ARE CONCERNED
BY THE END OF THE
REGULATED TARIFFS OF
ELECTRICITY SALE

&

108,000

BY THE END OF THE
REGULATED TARIFFS OF
GAS SALE

(Source: CRE)

A LOOK BACK AT THE OMBUDSMAN'S FIRST TEN YEARS

Because small businesses have hardly more means than individual consumers when they need to defend themselves against their supplier during a dispute, the legislator took the decision to expand the remit of the national energy Ombudsman. Its scope of action was then limited to professionals and non-professionals with an electricity contract subscribed for a power above 36 kVA and/or consuming less than 30,000 kWh of gas per year.

The law of April 15th 2013 that sets up the transition to a temperate energy system, called “Brottes law”, opens up the public service of mediation to very small businesses (including retailers, craftsmen, liberal professions) with less than ten employees and a turnover below two million Euros. The Ombudsman may now also provide solutions to disputes for associations, local bodies, co-owners associations.



[...] The issue became more complex on July 1st 2016, since at this date 31,000 electricity customers and 8,000 gas customers were still without any subscription to a market offer. They were automatically assigned to a supplier, appointed by the Energy regulatory commission (CRE) following a public tender and depending on geographical areas. To this new contract of transition were attached tariffs increased by 30% to encourage the last stragglers to choose a supplier and sign a new contract.

6,300

**SITES STILL HAD
A SUBSCRIPTION TO
TRANSITORY OFFERS
OF GAS OR ELECTRICITY
ON DECEMBER 31ST 2016**

(Source: CRE)

However, and according to the Ombudsman's observation, all cases cannot be summarised by the purposeful negligence of small businesses. Several companies facing difficulties of payments requested its assistance because they could not manage to find any suppliers of electricity, since these companies are unwilling to propose offers unless they are paid with a security deposit of an absurd amount. For these small businesses, this means being punished twice: to cash flow difficulties is added the issue of exiting a transitory contract with high costs. For the

Ombudsman, the solution of a last resort supplier would be an efficient response to these issues, which it also advocated for precarious households. Furthermore, certain geographical areas, notably the ones serviced by a local distribution company, did not have any supplier appointed for the transition. Therefore, local businesses had to remain customers of the historical operator. The new public tender launched by the CRE was unsuccessful: it resulted in only a single supplier appointed for about forty concerned sites. By the end of 2016, the number of sites still with subscriptions to transitory offers was 2,700 for electricity and 3,600 for gas.

OVERESTIMATED CONSUMPTION IS SOMETIMES BADLY REFUNDED

The end of regulated tariffs resulted in numerous disputes. Distributors had to manage several thousand customers exiting transition offers within a short lapse of time. The index of supplier change is computed by the network manager, and may take into account the index that is self-read upon subscribing. Several professional consumers called upon the Ombudsman for the refunding of consumptions because the index factored in the termination was overestimated. These consumptions were billed at the transitory [...]

CASE STUDY RECOMMENDATION

A LACK OF WARNING ON POWER EXCESSES

"Mr. S. is a farmer in the Haut-Rhin Department, and he had to pay for power excesses – of respectively €2,488 in July and €3,055 in August 2015. He believes that his supplier X gave him bad information when he subscribed to his contract. Mr. S. had stated that he had to operate a pumping station with a power of 45 kW. What the supplier supposedly advised him was to set the subscribed power to 48 kVA, which proved insufficient. He also blames X for not taking appropriate measures to increase power, when he contacted it on July 22nd after receiving his first bill. On this last point, the supplier acknowledges a lack of diligence and therefore refunded €600 to the consumer.

Regarding the lack of proper advice about the subscribed power, it proved impossible to find tangible elements that would establish the liability of the company. Indeed, the cost estimate made by the distributor to connect the pumping station showed a required power of 48 kVA. The fact that the supplier used this power, upon the request of Mr. S., convinced us that it was hardly disputable. It is also possible that the farmer, when asked about power in kVA, gave an erroneous answer in kW, thinking they were equivalent. kVA and kW are both units of power of alternative current. The first one, called apparent power, is the trigonometric sum of the active and reactive powers. Its value is therefore larger than the second one, called active power,

which is more frequently used by equipment manufacturers.

In the event of an excess of the subscribed power, the Ombudsman believes that customers should be warned with a letter attached to their bill. Excesses in power cannot always be deciphered by an un-informed public, and they must be warned about the measures to take so they can avoid reoccurrences. In this particular case, the Ombudsman thinks there should have been such a warning. Since Mr. S. received his bill on July 22nd, and the consumption record stopped on July 11th, the consumer had no opportunity to change his power usage during that period. This explains the excesses recorder on the August bill. The Ombudsman recommended that the supplier grant Mr. S. an additional compensation and plan for debt clearance."



STÉPHANIE CAVEL
Task Officer

Recommendation n° D2016-02000,
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[...] offer price, but the new supplier refunded them using the price of their new contract, which is more competitive. The Ombudsman believes that logic would dictate that professionals should be refunded at the price applied during the transition offer.

Furthermore, certain market offers lacked transparency. Their presentation did not indicate clearly the TURPE (Tariff of Utilisation of Public Networks of Electricity) amount, and excluded it from the final price. However, TURPE represents a third of the bill. Professionals did not have the opportunity to objectively compare the offers, which had different presentations depending on suppliers. Some of these professionals were misled, and contacted the Ombudsman. The institution issued a generic recommendation instructing all electricity suppliers to clearly state the TURPE amounts to be added to the price of electricity supply in all their offers and contracts. This recommendation was transmitted to the Authority for Competition, Consumer Affairs and Prevention of Frauds (DGCCRF) and to the Energy regulatory commission (CRE) (See Chapter 9 – MOBILISING).

A LACK OF ADVICE AND WARNINGS

Different changes occurred with the switch to a market offer. For some professionals, which were holding specific regulated contracts, powers previously expressed in kW were translated into kVA with the market switch. In some cases, excesses in power had to be accounted for with different calculation bases. Occasionally, these changes led to an increase in the bill, which was a cause of disputes. Finally, the new smart meters, called PME-PMI, specifically designed for companies with a higher accuracy than the previous ones, managed to record excesses that were previously left unnoticed. *“The disputes we processed revealed that suppliers did not always provide appropriate advice on the adaptations required by a subscription to new offers.”* states Catherine Lefrançois-Rivière, head of the Mediation department. *“This is an issue that we must consider because professionals do not always understand all the technical parameters of their contract, notably when they change drastically.”* This is not about ignoring the responsibility of businesses regarding the way they manage their contract. Quite the opposite. When their own use is the determining factor of excesses in power, the Ombudsman reminds them that it is inherently up to the source of excesses to pay for them. Nevertheless, being informed professionals, suppliers on their part must state the rules of the game, and support their customers when unusual events occur. [...]

CASE STUDY RECOMMENDATION

WHEN THE END OF REGULATED TARIFFS TURNS INTO A NIGHTMARE

“This complex dispute opposes a local irrigation union to its supplier X., and concerns the billing of penalties due to excesses of power from three pumping stations. Following the end of regulated tariffs for sites above 36 kVA, the union subscribed to a market offer, which took effect on January 31st 2016. For two of the pumps, the switch to a market offer resulted in a conversion of power from kW (until then) into kVA. The power of the third pump saw no changes and remained in kVA. Since the situations differ, the Ombudsman undertook two separate analyses, in function of this determining factor.

After extensive investigations, it discovered that the power subscribed in kVA did not match the one previously subscribed to in kW. The method used by the supplier was not fitting the consumption of the two pumps, characterised by a high ratio of reactive energy. If consumption data had been examined more cautiously by X, it would have led the supplier to apply another conversion rate, one factoring in the reactive power. Thus, a 66 kVA power, instead of a 48 kVA one, should have been advised for the pumping station of site A, and a 108 kVA power, instead of a 84 kVA one, for site B. Besides, since the supplier knew how high was the ratio of reactive energy used by these equipments, it should have warned the union that they

risked excesses in power. It could have also advised them on the technical and economical opportunities of equipping themselves with devices such as condensers, in order to prevent losses of reactive energy.

This analysis shows that the supplier did not adequately fulfil its role of advisor, and did not help facilitating the transition of its customer’s contract to market offers. Subscribing to a power offer lower than the required one led to excessive bills, which could have been avoided if the subscribed power had been subject to the right assessment. Billing showed amounts of €23,730 for the pump of site A and €7,839 for the one of site B. Furthermore, the supplier did not warn its customer when the first excesses were observed. The Ombudsman recommended in this case that the irrigation union be compensated of an amount matching the penalties for excess of power.”



SARAH COHEN
Chargée de mission

Recommendation n° D2016-03449,
displayed at:
energie-mediateur.fr/recommandations

[...] For instance, the Ombudsman believes that it is up to the supplier to warn its customers as soon as the first excesses of power are observed with a specific warning message that encourages the customer to take appropriate impeding measures. *“When no action is taken, bills may become enormous in a matter of months, and compromise the financial health of weakened companies, because an excess is usually followed by another one.”* states Christian Souletie, head of the Electricity Disputes division in the Mediation department.

SPECIFIC DISPUTES

Disputes that concern associations, co-owners associations and customers of professionals do not differ much from the ones of individual consumers, except on two points. Household more frequently face payment difficulties than non-residential consumers: 10% of admissible disputes for the former against 3% for the latter.

In contrast, issues related to connection are more frequent for non-residential consumers, with 12% of cases processed, against only 3% for individual consumers. This may be explained by the large number of co-owners associations that refer to the Ombudsman for issues related to the bearing of the costs associated with the renovation of risers (See Chapter 3 – ROUTING). *“Disputes are not necessarily more complex, but mediation proves more difficult because the financial stakes are far greater”*, says François-Xavier Boutin, head of the Natural Gas and Networks Disputes division in the Mediation department. ♦

12%

OF DISPUTES PROCESSED
BY THE OMBUDSMAN
ORIGINATE FROM
PROFESSIONALS
OR NON-PROFESSIONALS

THE COST OF WHITE CERTIFICATES IMPACTS THE BILL

The White Certificates scheme (CEE, energy savings certificate) lies on the obligation to make energy savings, and was imposed to energy suppliers by public authorities. The former must actively promote energy efficiency to households, local or professional bodies. The law of energy transition brought a new CEE obligation for households undergoing fuel poverty, enforced on January 1 2016.

The Ombudsman was called upon by a co-owners association, which was surprised by an additional item on its bill called “Addition to CEE prices: €11”. The law does not prevent a supplier from setting energy prices with the inclusion of CEE costs. If the contract between the co-owners association and the supplier states in sufficiently clear and accurate terms that variations may occur in objectives because of CEE costs, then the law of the contract prevails. In this particular case, the same contract stated that if the law changed, the supplier had to contact the co-owners association. However, that supplier did not view the new obligation regarding fuel poverty CEE as being a change of law, but as another objective to be reached. The Ombudsman considered this interpretation as being questionable and requested the supplier to clarify its terms and conditions of sales on these issues. In an ever more complex energy market, it is essential that the information provided by suppliers shows no ambiguity.





WHEN THE DISTRIBUTOR IS ENTANGLED IN ITS CONVERSIONS

Several disputes shed light on errors made in the calculation of natural gas, which were erroneous because they were factored in with a conversion ratio appropriate to a 21 millibars pressure, whereas delivery pressure was set to 300 mbar. What resulted from this error were underestimated bills, sometimes during several months, followed by large back-billings. However, it is the responsibility of the distributor to set reliable conversion ratios so the consumption of natural gas, measured in m³, is properly translated into energy (kWh). The information relative to the delivered pressure is usually accessible and should not be the cause of so many errors: most of the time, it is mentioned on the meter installed, on a plate or on a sticker indicating the pressure in millibars. Furthermore, the distributor has at its disposal in its database the technical characteristics of the delivery box. On that matter, the dispute of the car body shop G. is edifying: for about eight years, the selected delivery pressure was 21 mbar, whereas its installation clearly indicated 300 mbar. During this period, the meter was replaced four times without any changes brought to the ratio.



INTERVIEW



FRANÇOIS MOUTOT

**Director general of the Permanent Assembly
of the Chambers of Trades and Craft (APCMA)**

"The end of the regulated tariffs of sale, starting in January 2016, has been yet another concern for craftsmen, and has brought difficulties to a few companies, even though we organised information meetings displayed our messages on the energie-info.fr website. A few professionals did not take the necessary steps, and switched to an overpriced transition offer without being aware of it.

The diversity of market offers, and their lack of readability, made comparing them a difficult exercise. A few did not include the costs of transportation and distribution in their advertised prices. Others mentioned prices varying with off-peak hours during the day, but spotting them proved almost impossible. These offers, formed of disparate items, did not always allow craftsmen to make an informed choice. It is essential that commercial offers from suppliers highlight the true cost to be borne by users. In order to avoid penalties, some

craftsmen signed contracts with powers far greater than their needs, and ended up with very high subscription costs. Inversely, some others did not subscribe to sufficient power and we believe the price of excesses specified in the contracts to be extreme.

Overall, craftsmen must pay more attention to their annual energy bill. We consider raising their awareness on these serious matters."

8

THE FUTURE LIES
IN SMART METERS

CONNECTING

BECAUSE CONSUMERS MUST NOT ENDURE
TECHNICAL ADVANCES, THE OMBUDSMAN PROVIDES
THEM WITH COMPREHENSION KEYS ABOUT SMART
METERS, AND KEEPS A WATCHFUL EYE
ON THEIR DEPLOYMENT.



CONNECTING

THE FUTURE LIES IN SMART METERS

Smart meters have entered a generalised deployment stage. For the Ombudsman, they provide benefits to the consumer, but only under certain conditions. Paying great attention to this large-scale project, the Ombudsman stresses the issues that need improvement.

In April 2017, almost 4 million Linkys, the French electricity smart meters, were already installed. Launched in December 2015, the project of replacement of the old devices is taking speed, with an objective set at 8.1 million meters installed at the end of the year. The following year, close to 35,000 meters will be replaced every day. This operation implies an investment of five billion Euros for Enedis.

The beginning of the deployment stage raised questions for many French citizens. Two points were the focus of controversy: the protection of data, on which the National Commission on Informatics and Liberty (CNIL) issued recommendations, and the potential health hazards caused by the electromagnetic emissions of the meter.

Cities even passed motions or issued administrative orders forbidding these devices to be installed on their territory—without these having any legal value. In the 2016 Énergie-Info Barometer, amongst the 32% French citizens stating they were opposed to the project, 9% did so because they feared the emissions (against 0.2% in 2015) and 10% because they perceived a risk related to data protection (against 6% in 2015).

In 2016, tens of consumers asked the Ombudsman whether refusing the installation of a Linky smart meter at their home was a possible option. Since meters are not owned by consumers, and since distributors of electricity have a legal obligation to install smart meters, the answer is no. The Ombudsman cannot take action should they wish to refuse this meter. However, it watches over the duty of information. For instance, after being alarmed by several studies – with various conclusions – about the effects of [...]

49%

**OF FRENCH PEOPLE
HAVE HEARD ABOUT THE
SMART METERS**

(Source: 2016 Énergie-Info
Barometer)

A DISPLAY UNIT TO MANAGE CONSUMPTION

The law of energy transition provides for an in-home display device for consumptions, along with the deployment of the electricity and natural gas smart meters Linky and Gazpar. Starting January 1st 2018, a box displaying the gas and electricity consumption (in real time) in kWh and in Euros will be supplied for free by suppliers to consumers benefitting from the cheque energy. In the Énergie-Info Barometer, 58% of people surveyed were in favour of a unit displaying their electricity consumption in real time. For many households, this is a major social issue: 56% of people 70 years old or older do not have internet at home, and two third of non-graduate people do not own a smart phone. 12% of households have no access whatsoever to the internet, whether through a landline or a mobile phone. (Source: Digital sector barometer, conducted by the CREDOC)

58%

**OF PEOPLE SURVEYED
WERE IN FAVOUR OF A UNIT
DISPLAYING THEIR ELECTRICITY
CONSUMPTION IN REAL TIME.**

(Source: 2016 Énergie-Info Barometer)

[...] emissions on health, Mr. M. turned to the Ombudsman because his letters to the supplier and to the distributor remained unanswered. His complaint could have warranted a written and reasoned answer from Enedis. On this issue, the Ombudsman stresses that the National agency of radio frequencies (ANFR) published in 2016

63%

**OF FRENCH PEOPLE
DO NOT KNOW
THAT REPLACING
THE METER IS
COMPULSORY**

(Source: 2016 Énergie-Info
Barometer)

two measurement reports about the levels of magnetic fields created by Linky. These reports conclude that the emissions are similar to the ones of current meters, and within the same range than the ones from a TV set.

PROGRESSES ARE YET TO MATERIALISE

Smart meters offer true progress to consumers. Remote readings of meters will in particular allow establishing bills on the basis of true consumption, not on an estimated consumption then followed by adjustments. It should set a limit to the number and amount of back-billings. Since they no longer require a technician to come to the delivery point,

some services will be far cheaper: the rate for zero-days emergency servicing will be lowered from €128 to €51, while the price for a change of power will go from €37 to €3,60. And even if distant operations are possible, in the event where a supplier decides to cut power because of unpaid bills, a technician from the network manager will still have to come to the location.

But one of the major advances of the smart meters is the possibility to better monitor how the consumption of electricity evolves over time: households will benefit from a secure and personalised access to a website set up by Enedis, where they will be able to check their consumption, with daily updates.

However, the Ombudsman observes that since there is a lack of communication about the existence of this website, only 1.5% of households equipped with a Linky meter have made the step to register to monitor their consumption. Registration may take weeks or even months before becoming active, because it requires not only that the meter is installed, but also that it is connected. This does not make things easy for consumers! Furthermore, after the Ombudsman and the Agency for the Environment and Energy Management (ADEME) requested it, the CNIL eventually authorised storing the load curve (i.e., the hourly electrical consumption) [...]

CASE STUDY RECOMMENDATION

WHEN LINKY IS INSTALLED WITHOUT PRIOR NOTICE

"Ms. R., who lives in Mercuriol (26), went on a vacation in March 2016. While she was away, the new Linky meter was installed. When she came back three days later, she realised that her circuit breaker had tripped and that she had lost the contents of both her fridge and freezer. She sent a complaint letter to her supplier because she was never notified of an appointment for the installation of the new Linky meter. Her supplier replied that it saw no relation between the issue met and the installation of Linky, since the general circuit breaker was working properly when the technician left. It refused compensating Ms. R. for her food losses.

She called upon the Ombudsman, which, after analysis, pointed out faults from the supplier and its technical supplier. The network manager had committed to send an information letter to its customers within a delay of 30 to 45 days prior to any installation. It acknowledged that it had sent a late letter, ten days before installing the meter. Furthermore, the service supplier

that was mandated did not reach the customer to plan for an appointment, as set in the terms and conditions found on the distributor's website. These shortcomings prevented Ms. R from being able to be present the day of installation of the meter. She wanted to be there, which would have allowed avoiding the damages suffered thereafter.

The Ombudsman recommended that Enedis grant Ms. R. €150 as a compensation for the loss of her food products. Enedis partially followed this recommendation, granting €100."



**ALEXANDRE
RODRIGUES**
Task Officer

Recommendation n° D2016-02280,
displayed online at:
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CASE STUDY RECOMMENDATION

WHEN LINKY BLOWS FUSES

“Ms. C., who lives in Villeurbanne (69), turned to the Ombudsman to find a solution to her dispute with Enedis, after undergoing inconveniences caused by the installation of her Linky meter in June 2016. Equipped with a three-phase electrical installation, she observed that the circuit breaker shut electricity down when using certain devices, which was not the case beforehand. After discussing this with the customers services of her distributor and supplier, she appointed an electrician to carry out renovation works on her electrical panel, as well as a rebalancing of phases, for a total amount of €2,578.

Believing that her electrical installation was impaired by Linky, she requested the assistance of the Ombudsman to obtain a partial reimbursement of the technician's fees, totalling €1,000. The observed malfunction was caused by the three-phase installation, which had poorly balanced phases. In this case, circuit breakers may trip because the Linky meter is more sensitive than the older meters. For the Ombudsman, having older devices with less accurate characteristics that have a greater tolerance to excesses in power does not provide ground to maintain the prior situation. Besides, the consumer had planned for these renovation works during the coming years. Linky merely exposed how inadequate was her installation and how necessary it was to make it compliant.

However, the network manager failed to process Ms. C.'s complaint swiftly, even though she contacted the distributor as soon as anomalies occurred. Yet, it referred her to the supplier. For the Ombudsman, Enedis should have taken an appointment with its customer after the first call. Installing a smart meter may result in technical issues. It is up to the distributor, which is fully competent on this matter, to provide assistance to customers when they need to identify issues, and to take the appropriate measures to find resolutions. The Ombudsman recommended that Enedis grant Ms. C. with a €150 compensation, because the lack of a fast reply made her endure inconveniences. Enedis agreed to this.”



ALINE MEYER
Task Officer

Recommendation n° D2016-03603,
displayed online at:
energie-mediateur.fr/recommandations

[...] in the meter itself. In order to protect this data of a personal nature, the information may only be collected by the distributor if the consumer explicitly consents to it. However, this recording is not yet operational. According to Enedis, it is because no decree relative to data access has been issued yet. For the Ombudsman, it is urgent that consumers begin to understand how useful these meters are and gain access to more accurate consumption data, which will allow them choosing offers of electricity supply that better suit their consumption use.

The Énergie-Info Barometer gives another hint about this: if 70% of French people surveyed acknowledge smart meters as being beneficial in terms of the follow-up of consumption, only 42% identify them as having energy-saving properties.

SOME DISPUTES REVEAL DISPARATE ISSUES

In 2016, the Ombudsman processed about ten disputes related to Linky, revealing heterogeneous issues, albeit not recurring ones. A consumer was not warned in due course of the visit of a technician appointed to install Linky; a service supplier forgot to reset the circuit breaker after Linky was installed, etc. These incidents caused food losses.

Mr. L. called upon the Ombudsman because he wanted Linky to be installed on an exterior wall, replacing his old meter. However, and because of specific technical constraints, the technical company told him it would be installed inside his home, close to the circuit breaker. Enedis stated that, because of that change of connection, any transfer outside his home would result in expenses borne by him and amounting to €1,500. In this case, the Ombudsman reminded Mr. L. that regulations dictated the replacement of old meters and that the works associated with the installation of Linky were free of charge. However, there is no provision stating that additional works should be borne by the distributor, which may charge consumers for these costs.

The arrival of Linky was the source of strange phenomenons in households equipped with touch lamps, which started turning off and on “on their own”. These products, in particular the low end ones, seemingly do not comply with the frequency ranges normally set for their use and overlap with the ones of smart meters. “*The malfunction is acknowledged by Enedis, which identified a series [...]*

[...] of non-compliant items, and do not intend to reimburse.”, says Christian Souletie, head of the Electricity division in the Mediation department. “However, a consumer who contacted us was granted the reimbursement of his lamps, for €138, as well as a compensation of €30, because he managed to prove that his lamps complied with standards.”

Linky also brings changes to the homes of individual consumers equipped with old meters with two connections: one to control heating and the other one to control the water boiler. This control allows triggering the devices at the right time, when special tariffs are chosen, such as TEMPO or EJP (peak-days load reduction). Since Linky features a single port for control, similarly to the most recent meters, consumers must equip themselves with an energy management unit to connect heating and the water boiler. The Ombudsman, requested on the question whether the distributor should reimburse this small device, deemed that consumers must adapt to technological advances. As it was the case for digital terrestrial television (TNT), which replaced analogue television, consumers who did not own a TV set suited for digital reception bought a decoder. ♦

THE ARRIVAL OF GAZPAR



The large-scale deployment of Gazpar, the smart meter of gas, started at the beginning of May 2017. The experimentation, conducted in four pilot areas (Le Havre, Saint-Brieuc, Lyon, Nanterre/Puteaux), allowed deploying 130,000 devices. As for electricity, remote meter readings will be more frequent and will open doors to more accurate bills. As for Linky, its electrical cousin, Gazpar allows households to better monitor their consumption using a web portal that displays their data. However, for safety reasons, it will not be possible to carry out distant changes. Starting the gas supply service or interrupting it will necessarily require the presence of a technician from the distributor. In 2017, close to 600,000 meters will be deployed in about thirty cities. The project will gradually gain momentum, with a million installations planned for 2018, then 2 million a year, until all 11 million gas meters are replaced in 2023.

INTERVIEW



SOPHIE BRETON

President of the Industries of Digital, Energy and Security Engineering (IGNES)



“IGNES started working a long time ago on the proper functioning of the new meter with equipments inside homes. The main progress brought by Linky is to be able to communicate upwards, and undertake distant operations such as remote readings.

Energy management lies on the level before the meter. Solutions that allow saving energy already exist. If we want Linky to contribute to improving the way consumers control their consumption, it is critical to advance on several issues. We are notably very watchful on the fact that the interoperability of systems is ensured, so competition is preserved and consumers are not locked in a technical solution. If we already made progress on the issue of radio emitters, an issue raised by consumers associations, the national energy Ombudsman and the ADEME, this is only a first step forward.

With tariff indexes being now multiplied, we are facing true troubles with the way products operate. If today it is easy to implement a “peak hours/off-peak hours”

function in the products, it may not be so easy with about ten different tariffs structures, a figure made even larger by the number of suppliers. It must not become a headache for the consumer, who could end up with a product working with a supplier but not with another one. The issue of tariff information is therefore critical.

Finally, bringing home automated solutions must not be considered only through the prism of returns on investments made from energy savings. The other benefits are equally important, because they meet various needs and uses: autonomy, comfort, security, etc. These are equipments for tomorrow’s households: connected homes for a better comfort.”

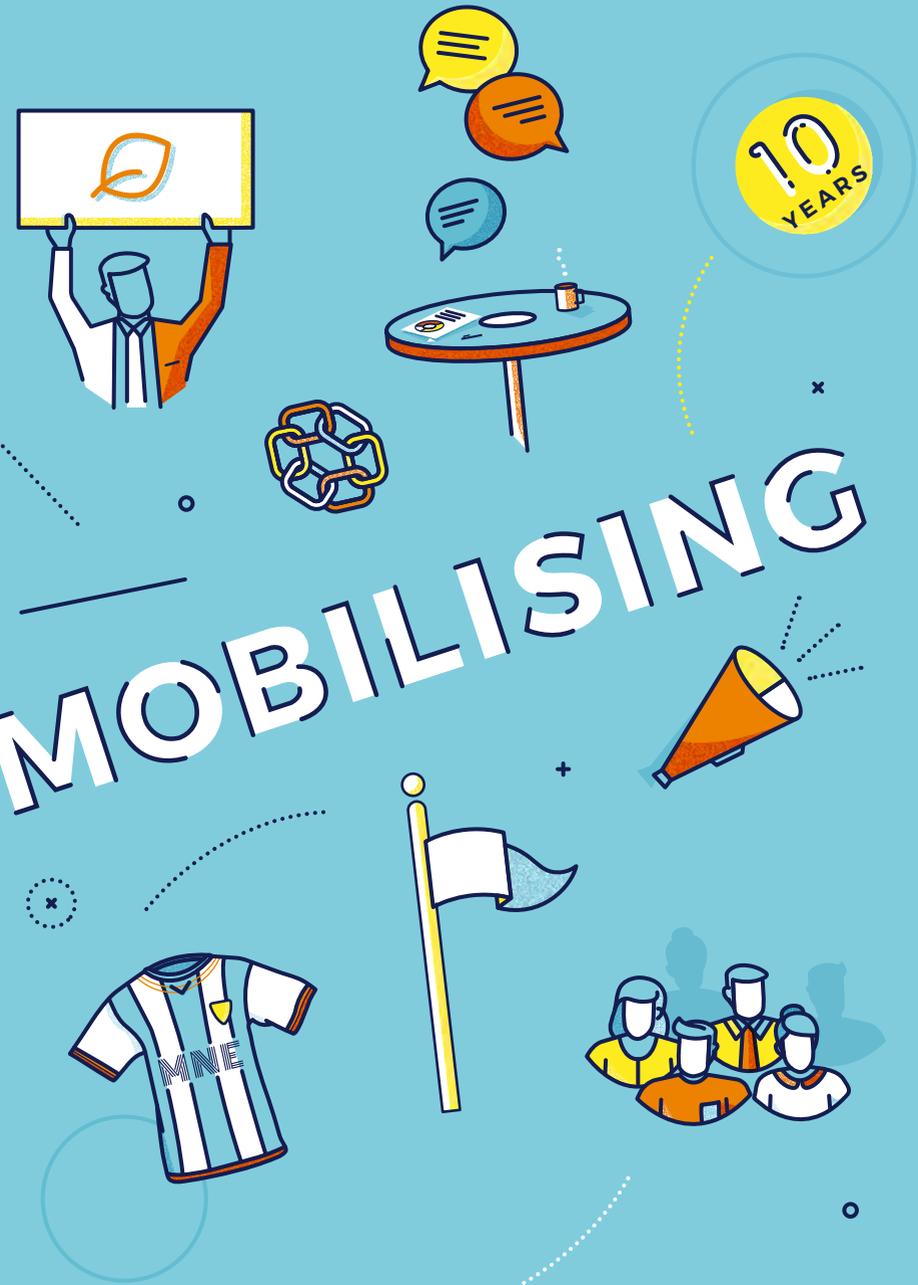
9

COOPERATING WITH
THE STAKEHOLDERS IS ESSENTIAL

♦
MOBILISING

MOBILISING IS KEY IN BEING INFLUENTIAL
AND EFFICIENT. THE ENERGY OMBUDSMAN
INTERACTS WITH ALL STAKEHOLDERS.
IT WORKS TIRELESSLY TO IMPROVE
THE PRACTICES OF COMPANIES
IN THE ENERGY SECTOR

MOBILISING



COOPERATING WITH THE STAKEHOLDERS IS ESSENTIAL

The year 2016 saw the gradual making of the law relative to the status of administrative or public independent authorities. The law of January 20th 2017 strengthens the influence of the Ombudsman. Its constant communication with the stakeholders allows making progress for the consumers.

The legislator took action to bring clarity to the landscape of administrative or public independent authorities. About forty of these institutions with various powers are counted up. After debates lasting several months, the law of January 20th 2017 establishes a list of 26 independent authorities, with the national energy Ombudsman amongst them. The criterion used to conduct the inventory of independent authorities that would keep their status is their “*true normative, regulatory or sanctioning power*”, with a view to “*simplify the administrative framework, so that actions from the State are clearer and control from Parliament’s is more efficient*”. The text articulates the rules of ethics, which focus on the principles of “*dignity, probity and integrity*”. It guarantees independence, a true distinctive feature: “*While exercising their powers, members of the administrative authorities and of the public independent authorities shall not receive nor request instructions from any other authority.*”

By (re)affirming the national energy Ombudsman’s status as an independent public authority, the parliament acknowledged its influence and power. Like does the Defender of rights, its proposals of changes in regulations feed the corpus of “soft law”, which the Council of State acknowledges as being an efficient and legitimate process, as well as being useful to regulate a highly competitive [...]

26

THE NUMBER OF ADMINISTRATIVE OR PUBLIC INDEPENDENT AUTHORITIES SET BY THE LAW OF JANUARY 2017



MULTIPLE COOPERATION

The Ombudsman does not work in its own corner. It regularly debates with associations of consumers, which it meets twice a year. In 2009, it formed a partnership with the National institute on consumption (INC). It maintains a relationship with the National Union of Social Action Community Centres (UNCCAS) and the National Fund for Family Allowances (CNAF), which are precious information sources. Finally, for the past two years, a lawyer from our team participated to lectures for the “Energy Law” Master’s Degree in the Sorbonne University.

The institution shares its mediating experience, notably with its participation to a conference about the diversity of mediation techniques, organised in 2016 by the High Court of Bobigny, or to the Oxford conference about the alternative modes of dispute solving in April. The Ombudsman frequently communicated about market issues, like in the Enerpresse Forum in Dauville in June, or in the conference of the National Observatory of Fuel Poverty, organised by the ADEME, with which the Ombudsman has been a partner since 2011. This opening to the world is also reflected by meetings, notably with the Hungarian and English Ombudsmen, to which the institution presented its work models and the tools of the mediation department, as well as with stakeholders of the sector, such as the French Union of Electricity (UFE). Within the framework of its partnership with the National Federation of Local Authorities for Water, Energy and Environment (FNCCR), which was renewed in December 2015, and in order to enhance the protection of energy consumers, Jean Gaubert or one of our representatives repeatedly participated to meetings organised by local energy unions in Drôme, Isère, Marne and Aube.

[...] sector. "Our independence is strengthened," stresses Jean Gaubert. "It is the foundation of our capacity to convince and break down walls." For Frédérique Coffre, Managing Director, "This status guarantees public legitimacy, and if it had been removed, that would have been perceived as purposefully weakening us." As a reminder, since the Amending finance law 2015 was passed, the institution is no longer directly financed by the Contribution to the public service of electricity (CSPE) nor by the Contribution to the solidarity social tariff of gas (CTSSG). It is now part of the budget of the ministry of Environment, Energy and Sea. This measure reinforces the control of parliament over its budget and the carrying out of its missions. The mandate of the energy Ombudsman may not be revoked, but from now on it is renewable once.

SEVERAL ACHIEVEMENTS IN THE PAST TEN YEARS

The authority of the Ombudsman and its influence converted into several achievements for households: from the reversibility principle, acquired in 2010 for consumers who chose a market offer but who wished to switch back to regulated tariffs, to the introduction in 2013 of the winter truce for energy cuts, and the limitation of back-billings to 14 months, which was enforced in 2016. Let us also mention the expansion of the number of people benefitting from social tariffs since these were automated (decree of December 2012), or the creation of the cheque energy (law of energy transition of August 2015).

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**THE NUMBER
OF MEETINGS
HELD IN THE INSTANCES
OF DIALOGUE OF CRE
TO WHICH TEAMS
OF THE OMBUDSMAN
PARTICIPATED**

Several of these were obtained using regulatory or legal constraints, such as allowing self-readings to produce bills with a more accurate recorded consumption, or the systematic refunding of overpayments (decree on bills of April 2012). But others were the result of communication and dialogue with the operators, notably in the workgroups organised under the auspices of the Energy regulatory commission (CRE), which set the rules of the game. With the objective of obtaining fairer bills for consumers, the Ombudsman always advocated for a more widespread use of self-readings.

As an example, indexes may be wrong because of self-readings, service starts, termination or change of suppliers, and being able to correct these was progressively integrated within the processes of operators after they debated about it in workgroups. [...]

NEON, THE EUROPEAN NETWORK OF OMBUDSMEN, IS EXPANDING

The European network of public and independent Ombudsmen of the energy sector welcomed an additional member in September 2016. The Italian service of mediation joined NEON (National Energy Ombudsmen Network) and met with its British, Belgian, Catalan and French colleagues. This circle expanded again in 2017 with the arrival of the Walloon and Irish mediation bodies.

An international non-profit association, NEON filed its new statutes in Brussels in September 2016, so it could authorise associated members to join, and thus participate to debates and works without having to share all of its position statements. This provision opened the door to the mediation bodies specialised in European energy that meet the criteria of the mediation directive of 2013, by including the mediation services of national energy regulatory bodies of Member states. Independent Ombudsmen outside the European Union may also be associated with it.



National Energy Ombudsmen Network



[...] The Ombudsman's actions also contributed to not ignore the interests of consumers in the plans to deploy smart meters, which were initially designed for networks managers. As a result, consumers were able to better monitor their consumption. They also encouraged suppliers to improve the processing of complaints from their customers, which played a role in the 20% decrease of cases between 2011 and 2016. Let us remind though that over the same period the number of recommendations and the number of consumers receiving information more than doubled (respectively from 1,205 to 3 138 issued recommendations, and from 1 million to 2.1 million informed consumers).

Calling upon the Ombudsman to find resolutions to individual disputes was a contributing factor in the improvement of practices. How the institution interpreted the implementation of the limitation period, decreased from five to two years by the law of June 2008, allowed many consumers to avoid having debts claimed beyond this point. Assuming that the reading – or the date at which the reading had to be made – was the objective and practical starting point of the limitation period (which is a legal analysis shared by the CRE), and that professionals have the means to identify their debt obligations, the Ombudsman convinced the suppliers to apply this period of two years. Its action also allowed the cleaning up of "kitchen packages", i.e., collective contracts of natural gas consumption, now obsolete, but still possibly being used by 140,000 households. Not only was the reference consumption used to calculate the package overestimated, but these contracts no longer complied with regulations, which stipulate that energy must be billed once a year on the basis of true consumption. This issue was resolved in 2012 when the decision was taken to install meters in about 6,000 buildings, resulting in the bills of the concerned households to be calculated on the basis of annual consumption readings.

PRIORITY IS GIVEN TO DIALOGUE

A path of dialogue and communication is emphasised by the Ombudsman, so "soft law", which defines regulations in the energy market, may see changes. Some generic recommendations are sent as signals to the CRE and/or the Authority for Competition, Consumer Affairs and Prevention of Frauds (DGCCRF) to bring issues at the forefront. It was the case in 2016, with a recommendation that urged suppliers to clearly display the TURPE amount (Tariff of Utilisation of Public Networks of Electricity) in their offers [...]

OBJECTIVE "CLEAN ENERGY" IN EUROPE

On November 30th 2016, the European Commission presented a series of legislative proposals called the "Clean energy" package, in order to achieve ambitious environmental objectives by 2030. Consumers will be at the centre of this future energy market. Several measures both reinforce and broaden their rights: regulations with an aim to establish clearer bills; obligation to provide them with at least one approved price comparison tool in each member state; right to self-produce and self-consume electricity; the option to demand a smart meter with basic features only, etc. Furthermore, the package includes provisions to protect consumers in precarious situations: the Commission intends to encourage state members to implement programmes of thermal renovation for the buildings of citizens undergoing poverty.

The national energy Ombudsman examines these proposals with great attention. As of now, the NEON network presented in February 2016 a "consumer code" that includes thirteen key recommendations based on solidarity and responsibility principles, and aiming at protecting the "new consumers", who may be impacted by the rapid changes of the energy market. We must ensure that the achievements of the "Clean energy" package benefit to all consumers, including the most vulnerable one, so no one is left behind during the energy transition.



[...] and contracts (See the adjacent Case study). The DGCCRF also received a recommendation advising a supplier to bring corrections to the information shown in its market offer, so that consumers would not be led to believe that guaranteed prices would always be lower than the ones of regulated tariffs – which only proves true when the contract is subscribed to or renewed (See Chapter 2 – COMPARING). The Ombudsman also recommended that the network managers join the dialogue groups of the CRE and study how termination procedures could change, so that contracts can be terminated at the date chosen by consumers, even when a request for service is ongoing . (See Chapter 1 – RECONCILING).

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GENERIC
RECOMMENDATIONS
WERE ISSUED IN 2016

However, the Ombudsman does not hesitate to reach the legislator when no solution is found to critical issues, or to use its ability to speak to the media. Even if operators themselves advocate dialogue to limit “regulatory inflation”, it must be pointed out that they do not always play along. As a consequence, it is unsurprising that most of achievements for consumers were obtained and enforced through law-making. This is why the Ombudsman occupies a rightful place amongst the public authorities that were acknowledged by the law of January 2017.

A RIGOROUS MANAGEMENT OF PERFORMANCE

Taking public funding seriously, the institution strives for budgetary discipline. This is what it demonstrates each year by decreasing its budget, and, since 2010, by sharing premises, IT support and site management with the CRE. The mutualisation of the building is managed by an accommodation agreement between both institutions: rental and expenses costs are shared on the basis of the proportion of the surface occupied by each body, as well as expenses relative to reception, cleaning and security services.

A specific agreement defined by the provisions of the collaboration between CRE and the Ombudsman was implemented to mutualise IT and site management services. Therefore, the costs of wages of the concerned employees are shared on the basis of total personnel of each organisation. This solution allows the Ombudsman to save 1.5 full-time equivalent salary on a total of 41, and 108.000 Euros on total wages. Likewise, public procurements for the reception, [...]

CASE STUDY RECOMMENDATION

A MISLEADING OFFER AT MARKET PRICES

“Ms. N owns a Laundromat in Paris. In July 2015, anticipating the end of regulated tariffs of electricity sale for sites above 36 kVA about to be take effect on January 1st 2016, she subscribed to an offer at market prices with supplier X. When she received her first bills, she was surprised to see several items described as the Tariff of Utilisation of Public Networks of Electricity (TURPE). Ms. N. opposes the validity of these items, because she was not informed by the supplier about this when she signed her contract, and believes it led to an increase in her bills. Left without any satisfying answer to her complaints, she called upon the Ombudsman, which recalculated prices and included TURPE amounts.

Given the electrical consumption of the Laundromat, it concluded that the new offer is slightly more competitive than the previous one: even if the subscription price is higher, the price of kWh is cheaper than the one of regulated tariffs. However the Ombudsman believes that the way the supplier displayed prices lacked transparency, and that Ms. was not in a position to get a clear picture of the final price. Routing costs were not included and the contract provided no information about their amount, since the reference “BT>36 kVA MU” made no sense for people not specialised in energy, such as most small businesses. This incomplete presentation

misled Ms. N., who honestly believed that the offer was more attractive than the ones of competitors.

The Ombudsman recommended that supplier X grant its customer a €100 compensation and to avoid charging her with penalties in the event she would wish to terminate her contract prematurely. With a view to prevent disputes, the Ombudsman also recommended that all electricity suppliers clearly and accurately state TURPE amounts to be added to the price of energy supply in their contracts and offers.

Ms. N.’s unfortunate experience being not a one-off, which is confirmed by several similar cases, the Ombudsman transmitted the information to the Energy regulatory commission (CRE) and to the Authority for Competition, Consumer Affairs and Prevention of Frauds (DGCCRF), along with its recommendations.”



**CHRISTIAN
SOULETIE**

**Head of the Electricity
Disputes division**

Recommendation n° D2016-01760,
displayed online at:
energie-mediateur.fr/recommandations

[...] cleaning and security services, as well as press review and internet watch, are shared with the CRE.

|
-26%
 THE REDUCTION
 OF THE OMBUDSMAN'S
 BUDGET
 BETWEEN 2009
 AND 2016
 &
€5,8M
 THE OMBUDSMAN'S
 BUDGET
 IN 2016
 |

Through the Central Public Purchasing Office (UGAP), we also mutualise landline and mobile phone services, as well as their associated services. This also allows us benefitting from the state's purchasing service for the rental of photocopy machines.

Since 2010, the Ombudsman complied with one of the obligations that independent authorities must now follow: mutualising a part of their activities with the ones of their counterparts or ministries. Furthermore, states Béatrice Gaudray, head of the Finance & Administration department, "*through a network of independent authorities, we regularly communicate with other similar bodies such as the Commission on Informatics and Liberty (CNIL), the Superior Council on Audiovisual (CSA), the National Authority for Health (HAS), the Defender of rights etc., about the way regulations can change, about the possible improvement of our management practices and about our respective experience feed-backs on, for instance, hiring, teleworking, internal rules or ethics.*" ♦



INTERVIEW



CHRISTINE GOUBET-MILHAUD

President of the French Union of Electricity (UFE)

"The energy transition is a major issue for the operators united within the EFE. This shift brings the consumer right at the centre of the electrical system, with a decentralised development of energy production, with new consumption modes such as self-consumption, with the management of the consumption of electricity now enabled by digital technologies – from the Linky meter to connected devices, as well as a range of customised services offered by suppliers.

As an independent authority, and a source of reference information, the national energy Ombudsman helps consumers understand the energy sector and its changes, which is also a benefit to operators. The Ombudsman helps clarify topics such as the Linky meters and reminds consumers that real time consumption measurements will contribute to the reduction of disputes related to bills. Because its mission brings the Ombudsman close to consumers, it provides opportunities for operators to better

understand their expectations, and therefore to gradually improve the quality of their services and the relationship they have with their customers.

The Ombudsman's influence may also bring changes to public policies, notably by pointing out costs and how they may impact consumers, in particular the most vulnerable ones. It is the case of the white certificates: while they were initially a good idea, their targeting proved insufficient and they gradually became a financial burden for all consumers, including the ones in precarious situations. In terms of the financing of the energy transition and the taxation of energies, the strong position of the Ombudsman on maintaining fairness must also be acclaimed. Today, there are still too many discrepancies in the taxations of energies, when these are correlated to their environmental impact."

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KEY FIGURES
•
ASSESSING

BECAUSE TRANSPARENCY IS A KEY VALUE
FOR THE OMBUDSMAN, IT MAKES AVAILABLE TO ALL
THE RESULTS IN NUMBERS OF ITS MEDIATION
AND INFORMATION MISSIONS,
AS WELL AS THE ONES RELATED
TO ITS OPERATIONS

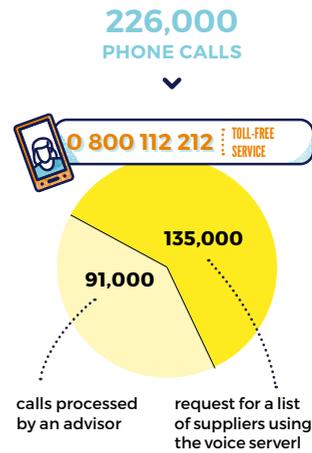
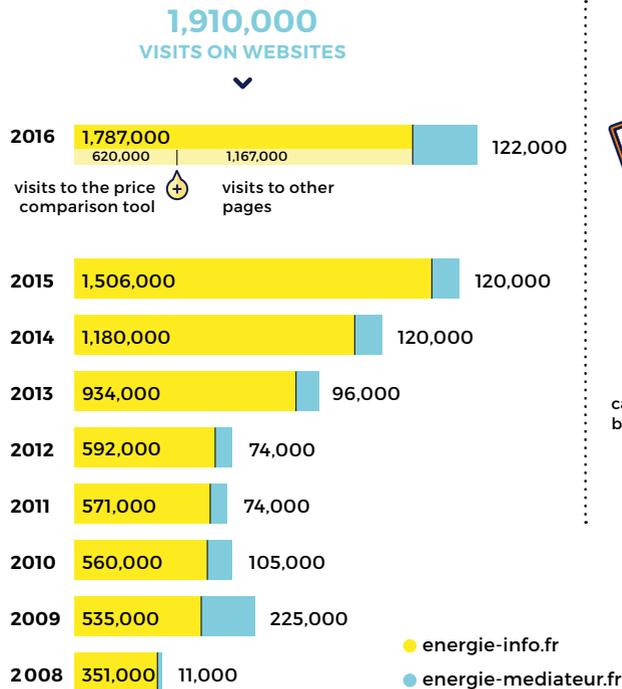
ASSESSING



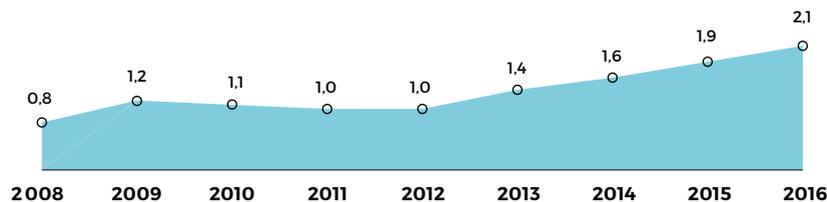
INFORMATION & COMMUNICATION

2,136,000

CONSUMERS RECEIVED INFORMATION FROM THE NATIONAL ENERGY OMBUDSMAN IN 2016



NUMBER OF CONSUMERS INFORMED EACH YEAR (IN MILLIONS)



INFORMATION & COMMUNICATION

37%

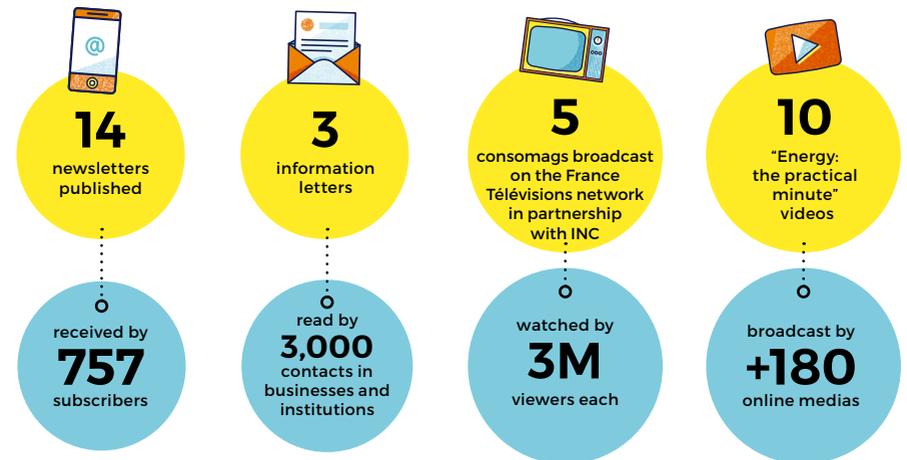
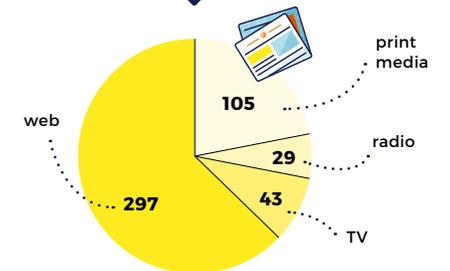
37% OF FRENCH PEOPLE HAVE ALREADY HEARD ABOUT THE OMBUDSMAN OR THE ÉNERGIE-INFO WEBSITE

(2016 Énergie-Info Barometer)

3 SOCIAL NETWORKS



474 CITATIONS PRESSE



PARTICIPATION TO

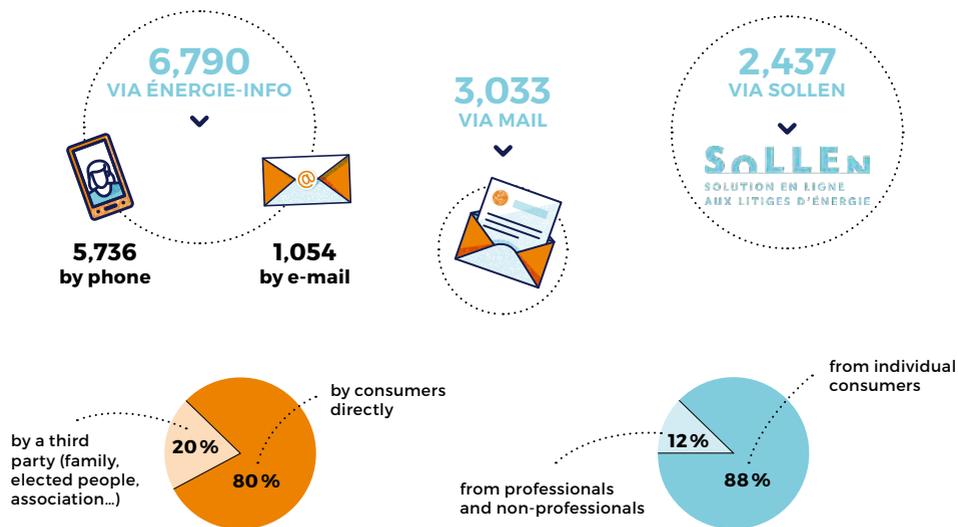
3 Parisian consumer fairs (Renovation, Co-owners, Elder Citizens)
+50 conferences, symposiums, round tables...

MEDIATION

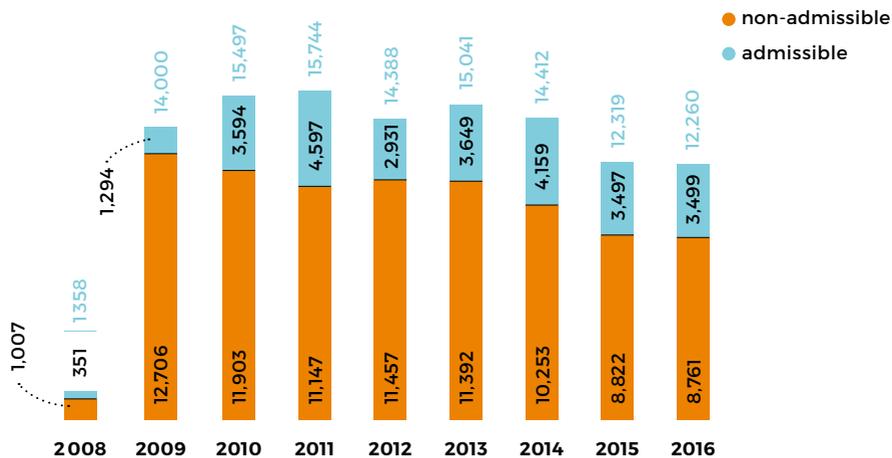
ANALYSIS OF DISPUTES RECEIVED

12,260

DISPUTES WERE FILED IN 2016



EVOLUTION OF THE NUMBER OF DISPUTES RECEIVED

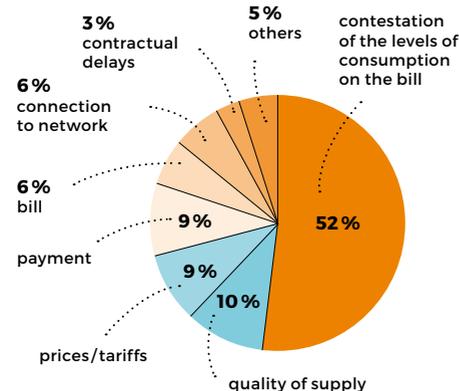


MEDIATION

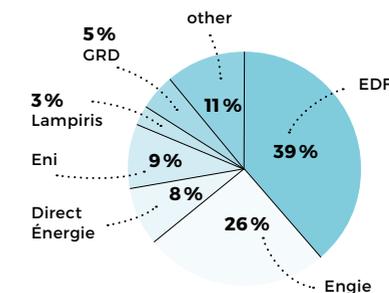
3,499

ADMISSIBLE DISPUTES

TYPOLOGY OF ADMISSIBLE DISPUTES IN 2016

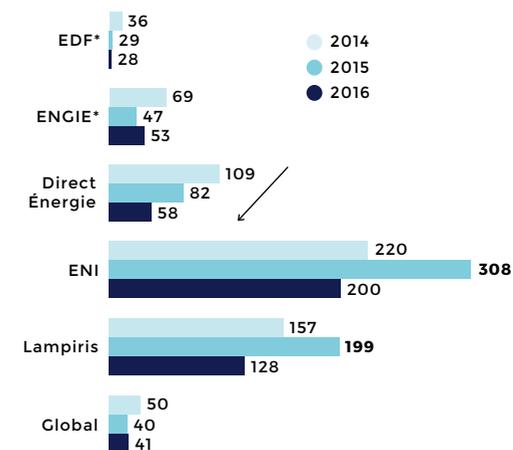


BREAKDOWN BY SUPPLIER



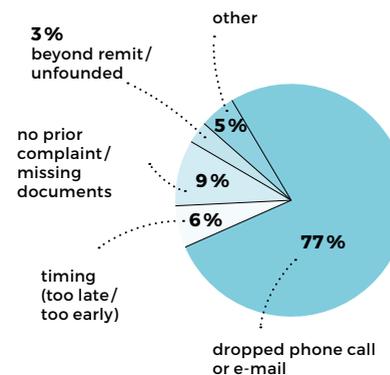
RATE OF DISPUTES BY SUPPLIER

In units of 100,000 contracts of natural gas or electricity



* For reasons of fairness, only disputes received by suppliers having an internal ombudsman are counted up

TYPOLOGY OF NON-ADMISSIBLE DISPUTES IN 2016



MEDIATION

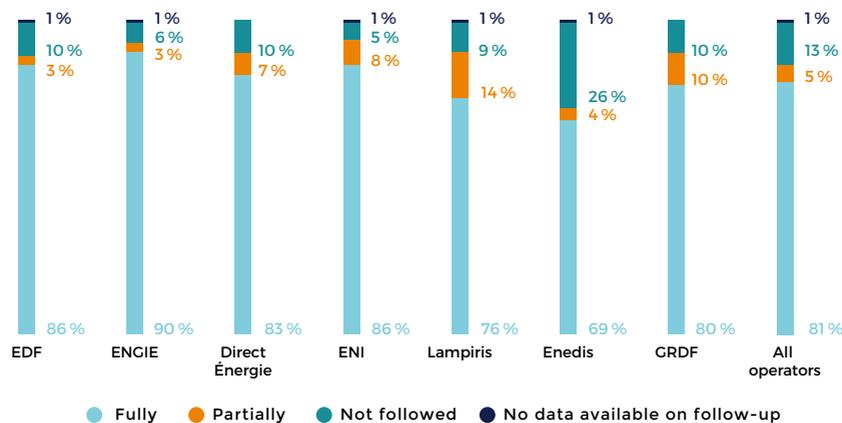
PROCESSING OF DISPUTES AND RECOMMENDATIONS

3,183

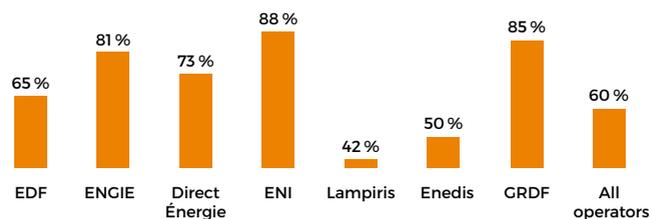
RECOMMENDATIONS ISSUED IN 2016



OVERALL FOLLOW-UP OF RECOMMENDATIONS RELATIVE TO INDIVIDUAL DISPUTES (IN %) IN 2016



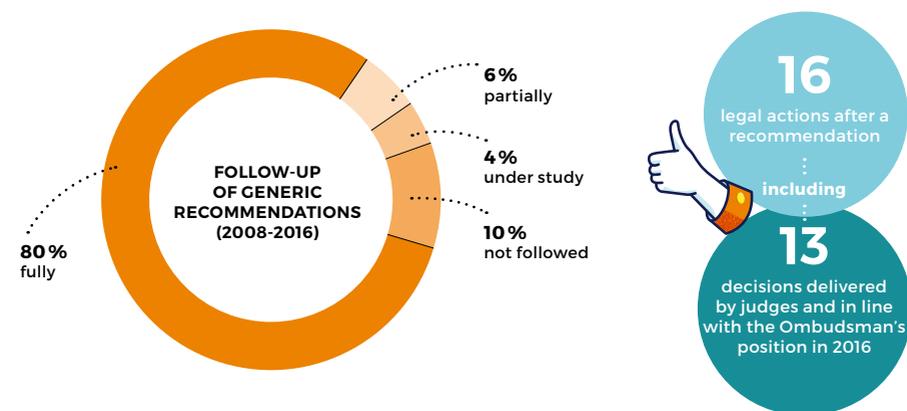
FOLLOW-UP OF FINANCIAL COMPENSATIONS (% GRANTED ON AVERAGE)



MEDIATION

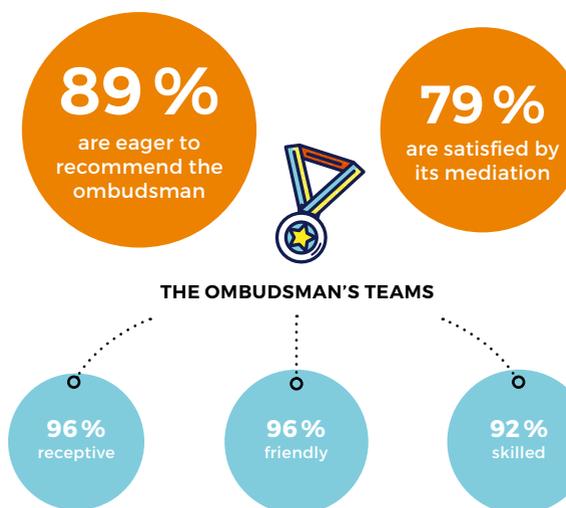
28

GENERIC RECOMMENDATIONS ISSUED IN 2016, A TOTAL OF 301 SINCE THE OMBUDSMAN WAS CREATED



CONSUMERS' SATISFACTION AND RECOMMENDATIONS

Source : satisfaction survey carried out by Institut Market Audit in February 2017 on a sample of 350 consumers who had referred to the national energy ombudsman



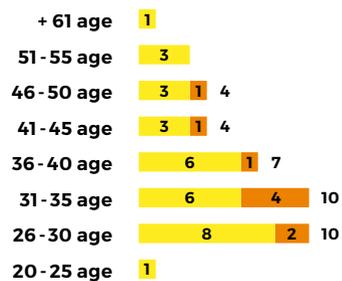
ORGANISATION

ORGANISATION CHART

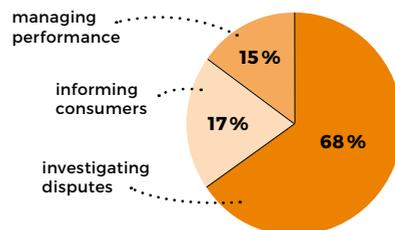


TEAMS (AS OF 12/31/2016)

AGE PYRAMID



BREAKDOWN OF PERSONNEL BY MISSION



*Full-time equivalent

FINANCES

In 2016, the Ombudsman contributed to the effort made to reduce in public spending: **-26%** compared to 2009.

BUDGET BY MISSION

MISSIONS	ESTIMATED BUDGET	COMPLETED BUDGET	COMPLETION %
Investigating disputes	€1,855,000	€1,589,200	86%
Informing consumers	€1,428,900	€1,272,400	89%
Managing performance	€2,475,100	€2,785,950	113%
TOTAL	€5,759,000	€5,647,550	98%

BUDGET COMPLETED BY TYPE OF EXPENSE

BREAKDOWN OF COMPLETED BUDGET BY CATEGORY	AMOUNT IN €	%
PERSONNEL	€2,642,000	47%
OPERATIONS EXCLUDING PERSONNEL:	€2,738,550	48%
Rent and rental expenses	€934,400	17%
Information actions for the general public	€363,500	6%
Other communication expenses	€79,500	1%
External services for the Énergie-Info information scheme for consumers	€331,300	6%
Other operating expenses	€118,400	2%
Training	€37,400	0.5%
Logistics and IT support	€92,800	1.5%
Amortisation charge and risk provision	€781,250	14%
INVESTMENT	€267,000	5%
TOTAL	€5,647,550	100%

ESTIMATED BUDGET BY YEAR

YEAR	AMOUNT IN €
2008	€2,015,000
2009	€7,781,000
2010	€6,725,000
2011	€6,620,000
2012	€6,515,000
2013	€6,497,000
2014	€5,855,000
2015	€5,811,000
2016	€5,759,000

APPENDIX

28

GENERIC RECOMMENDATIONS ISSUED IN 2016



Beyond finding resolutions to individual disputes that require its expertise, the Ombudsman acts for the prevention of disputes to the benefit of all consumers. Thus, when a dispute is caused by a faulty practice, the Ombudsman recommends that the concerned operators fix it, and then issues a generic recommendation. A summary of its general purpose advice, published in 2016, is summarised below.

Issue	Recipient	Energy	Content	Recommendation
Information & Advice	Supplier	Electricity	In the event of excesses above the subscribed power, to systematically warn customers, and as soon as possible, send an explanatory letter	D2015-01371
Unpaid bills	Supplier & ELD*	Electricity	To avoid using interruptions of supply when unpaid bills are of low amounts, and use gradual recovery measures	2016-0256 2016-0378
Unpaid bills	Supplier	Electricity	Once debts are recovered, to cancel as soon as possible actions planned by the distributor for unpaid bills, such as power cuts or reductions	2016-0256
Billing	Supplier	Electricity	To apply controls of consistency to self-read indexes sent by customers	2016-0377
Distributor's service	ELD*	Électricité	To apply the tariff grid set by the CRE for the costs associated with actions for unpaid bills, pursuant to article L 341-3 of the Energy code	2016-0378
Regulations	ELD*	Electricity	To have general terms and conditions of sale comply with the provisions of the Consumer code relative to contracts of supply of electricity or natural gas	2016-0378
Regulations	Supplier	Natural Gas	To have adjustment bills comply with the decree of April 18 2012 relative to bills of supply of electricity or natural gas, to their terms of payment, and to conditions of deferral or refunding of overpayments	2016-0125

* Local distribution company

Issue	Recipient	Energy	Content	Recommendation
Billing	Supplier	Natural Gas	Prior to the start of any gas supply contract, to check that the information system of the supplier is consistent with consumer use and PCE (meter ID) characteristics	D2015-01600
General Terms & Conditions of Sale	ELD*	Electricity	To have the general terms and conditions of sale be published on the website	2016-0378
Distributor's service	Distributor	Electricity	The recording ranges of self-readings should be extended, in particular for consumers whose meters have not been read for twelve months	2016-0483
Metering Malfunction & Fraud	ELD*	Electricity	As soon as a malfunction is identified on the metering device, billing adjustments should be calculated and processed without delays	D2016-00311
Metering Malfunction & Fraud	ELD*	Electricity	Processes for adjustments must be published on the website, as is described in the "Procedure in the event of fraud and metering error (customers ≤ 36 kVA)", established under the auspices of the CRE	D2016-00311
Unpaid bills	Supplier	Electricity	When sending reminders for an unpaid bill, a minimum period of fifteen days should be set between these letters and the cuts or reductions in power mentioned in the reminders, (modified decree n° 2008-780 Of August 13 2008 relative to the applicable procedure in the event of unpaid bills of electricity, gas, heating and water)	D2016-00420
Unpaid bills	Supplier	Electricity Natural Gas	Not to apply contractual penalties set in the contract of supply of electricity when the unpaid bill concerns the supply of natural gas	D2016-01227
Unpaid bills	Supplier	Electricity Natural Gas	To mention in the general terms and conditions of sale, as well as in reminder letters in case of unpaid bills, the provisions of article L 115-3 of the Social action and families code relative to financial aid allocated by the Housing solidarity fund	D2016-01226
Information & Advice	ELD*	Electricity	To have cost estimates templates comply with the principles of billing set by the connection contract, so that the consumer may obtain information on the price to be paid	D2016-01142
Information & Advice	ELD*	Electricity	To provide better information about the prices of flat-rate services	D2016-01142
Information & Advice	ELD*	Electricity	To ensure an easy access, in French, to the provisions of the concession contract for the public distribution of natural gas that are opposable to users, notably by publishing them on its website	D2016-01142

Issue	Recipient	Energy	Content	Recommendation
Start & Termination of Service	Distributor	Electricity	To have procedures set under the auspices of the Energy regulatory commission (CRE) change, so when a consumer decides to terminate his/her contract at a precise date, no failure occurs because there is an ongoing service start on the delivery point	D2016-00693 D2016-01165
General Terms & Conditions of Sale	Supplier	LPG	To transmit to consumers a scale or an update formula that allows understanding the price variations of a ton of propane	2016-0844
General Terms & Conditions of Sale	Supplier	LPG	To inform on the possibility to refer to the national energy Ombudsman on all appropriate documents, notably letters sent after a complaint, general terms and conditions of sales and the website	2016-0844
Distributor's service & Connection	ELD *	Electricity	To not establish a cost estimate for a connection to the public distribution network when the calculation is based on a scale that has not yet taken effect, because no notification was sent to the Energy regulatory commission (CRE)	2016-0743
Risers	Distributor	Electricity	When the renovation of an electrical riser is required on the territory of the SIPPAREC concession, to contact the concession authority in order to jointly review how the costs associated with this renovation will be borne, in application of the agreement set on April 14th 2016	2016-0895
General Terms & Conditions of Sale	Supplier	LPG	To specify in the contractual documents the fact that measures from gauges have an indicative value only, as well as their margin of error	2016-0581
Customer Service	Supplier	Natural Gas	When a gas cut resulting from a PCE error is suspected, to systematically call the number dedicated to the distributor's urgent matters	D2016-01795
Information & Advice	Supplier	Electricity	To mention in the offers of contracts of electricity supply for powers above 36 kV all TURPE amounts to be added to the subscription price, so an offer can easily be compared to the ones of competitors	D2016-01760
Information & Advice	Supplier	Electricity Natural Gas	In adverts, to not lead consumers to believe that prices may be decreased during the course of the contract and will remain always lower than the ones of regulated tariffs, if this guarantee only exists when subscribing to the contract or when renewing it.	D2016-01401
Billing	Supplier	Electricity Natural Gas	To separately display any adjustment on consumption bills, and specify details, in compliance with the decree of April 18th 2012 relative to bills of supply of electricity or natural gas, of their terms of payment and the conditions of deferral or refunding of overpayments	2016-0610 2016-0705

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Amicable agreement p.15, p.87

API = Independent public authority p.4, p.5, p.10, p.11, p.69, p.72, p.114

Display unit (at home) p.7, p.105

CEE = White certificate p.99

Cheque energy p.3, p.5, p.6, p.7, p.32, p.78, p.79, p.81, p.82, p.84, p.86, p.88, p.105, p.116

Risers p.38, p.39, p.44, p.45, p.46, p.48, p.49, p.56, p.98, p.136

Co-owners p.19, p.45, p.46, p.48, p.49, p.58, p.62, p.90, p.92, p.93, p.98, p.99, p.127

Cuts / actions for unpaid bills

p.16, p.38, p.40, p.66, p.79, p.80, p.81, p.82, p.83, p.84, p.88, p.89, p.106, p.116, p.134, p.135, p.136

Solicitation p.54, p.62, p.68, p.70

Distributor / Manager of the Distribution Network

(GRD) p.6, p.11, p.21, p.28, p.31, p.40, p.41, p.42, p.43, p.45, p.46, p.47, p.49, p.56, p.75, p.84, p.94, p.106, p.107, p.109

ELD = Local Distribution Company

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Smart meters:

- **GAZPAR** p.105, p.110

- **LINKY** p.54, p.72, p.104, p.105, p.106, p.107, p.108, p.109, p.110, p.111, p.123

LPG= Liquefied Petroleum Gas

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Consumer Mediation p.10, p.12

NEON = National Energy Ombudsmen Network p.117, p.119

NOME (law) = Law on the New Organisation of the Electricity Market p.27, p.63

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Social tariffs:

- **TPN = Tariff of Basic Necessity**

- **TSS = Special Tariff of Solidarity** p.79, p.83, p.87, p.88

Taxes:

- **CSPE = Contribution to the Public Service of Electricity** p.30, p.32, p.116

- **TICFE = Domestic Tax on the Final Consumption of Electricity** p.30

- **TICGN = Domestic Tax on the Consumption of Natural Gas** p.32

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TURPE = Tariff of Utilisation of Public Networks of Electricity p.96, p.120, p.121, p.136



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