



The National Energy Ombudsman is an independent public authority established by the law of 7 December 2006 on the energy sector and as such has full guarantees of independence: financial independence, legal personality, appointment of the mediator by the government for a term of 6 years non-renewable and non-revocable and a code of ethics applicable to the institution and its agents.

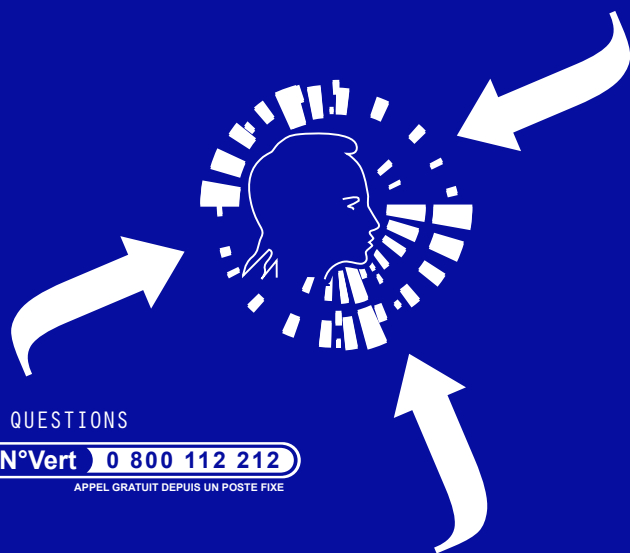
The National Energy Ombudsman has two statutory tasks: to participate in informing consumers about their rights (www.energie-info.fr) and recommending solutions to disputes (www.energie-mediateur.fr). The Ombudsman reports to Parliament.

Jean Gaubert was appointed National Energy Ombudsman by Government decree on 19 November, 2013, as published in the Official Gazette of 22 November 2013.

HOW TO CONTACT THE NATIONAL ENERGY OMBUDSMAN :

BY INTERNET

www.energie-mediateur.fr



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Jean Gaubert, The National Energy Ombudsman

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JEAN
GAUBERT

National Energy
Ombudsman

2014 was a year of discussions in Parliament on the draft energy transition law which will allow us to proceed to new stages for energy consumers.

Without being exhaustive, I will mention the discussion initiated on the reform of the CSPE, or, more immediately, the limitation on the settlement of electricity and gas bills to one year and two months, which is the fulfilment of a long-standing demand of the Ombudsman to the operators. Likewise, the energy cheque is to be created, for all domestic energy sources, thus replacing the current social tariffs for electricity and natural gas, which were seeking last year. All consumers, regardless of their heating modes, shall be entitled to this support in paying their energy costs, if they meet certain income conditions. This would mean that all energy consumers could appeal to us, whereas today we have authority only in electricity and natural gas.

These developments are significant and meet consumer needs while taking account of their situations, which is not always the result of choice.

The National Energy Ombudsman, from 2015, shall adapt to these new powers. Our statutory duties to inform and assist in the resolution of disputes will, for the first time since the creation of the institution in 2007, cover fuel oil, butane, propane, wood energy and heating networks. And we must approach this slightly differently, which means saving money and adapting the institution, which has already happened at various times in the past.

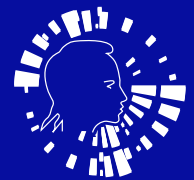
This annual report is part of this change which is reflected first in the format, with a summary version and a full version, available only on the Internet, in order to optimize the cost.

We are also stakeholders in a major change in the landscape of mediation in France, with the transposition of the European mediation directive, launched in 2014 and still ongoing. With my teams, I defend the vision and implementation of a truly independent mediation, at the service, of course, of the consumer but also the operators who can only gain by building trust rather than mistrust with their customers.

This vision of an independent ombudsman who guarantees the interests of the parties led me this year decide to include the energy sector operators in our report, when we address the highlights or concrete cases that were submitted to us. Not providing names when we identify shortcomings can have the effect of unjustly heaping opprobrium on all. Conversely, mentioning the operators involved for greater accountability better for certain practices that, while marginal are still disturbing, can contribute to improvements in the public interest.

Encouraging energy sector operators to approach customer relations as an asset in economic competition is probably the most effective contribution mediation can make to the opening of the energy market, which some believe to be insufficient. This is also our contribution to the vast field of energy transition, whose success will largely depend on investment and consumer confidence.

Opening of the market
to competition:
a fairly positive record

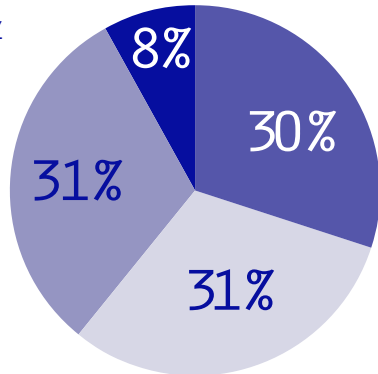


ENERGIE-INFO

BAROMETER 2014

EDF AND GDF SUEZ ARE :

- A SINGLE COMPANY
- SEPARATE AND COMPETING
- SEPARATE BUT NON COMPETING
- NO SRESPONSE



Source: Energie-Info Barometer 2014

SEVEN YEARS AFTER THE ELECTRICITY AND GAS MARKET OPENED UP TO COMPETITION, THE LEVEL OF KNOWLEDGE OF THE FRENCH HAS PROGRESSED. THE RESULTS OF THE 2014 EDITION OF OUR **ENERGIE-INFO BAROMETER** CARRIED OUT EVERY YEAR SINCE 2007 AS PART OF OUR MISSION TO INFORM CONSUMERS ABOUT MEDIATION, SHOW THAT WHILE A SMALL MAJORITY OF FRENCH KNOW THAT IT IS POSSIBLE TO CHANGE SUPPLIER, ONLY 10% OF HOUSEHOLDS HAVE TAKEN THAT STEP.

*SURVEY CONDUCTED BY THE CSA INSTITUTE IN SEPTEMBER 2014 ON A REPRESENTATIVE SAMPLE OF 1501 FRENCH HOMES INTERVIEWED BY TELEPHONE

IS THE SITUATION CHANGING?

The French seem more and more convinced that the opening of the market is positive: 71% compared to 59% 2007. For 26% there are gains in service quality, compared to 22% in 2013. More respondents than last year think that it drives down prices: 20% vs 14%. However, 57% of respondents do not make the link between opening up to competition and lower or higher prices. Households are, however, slightly more engaged: 20% say that they have tried to obtain information on the subject; compared to 17% in 2013.

LACK OF AWARENESS ABOUT HOW THE MARKET WORKS

This opinion, however, masks ongoing confusion about the different energy market players which has been observed in successive barometers. The respective roles of distribution system operator (DSO) and supplier remain somewhat vague in the minds of many French: only 41% identified ERDF as the company responsible for their meter reading, while 33% think that this is the role of EDF. The perceived presence of the incumbents remains significant: 30% of households believe that EDF and GDF SUEZ are a single company and 31% that they are different but not competing.

POORLY MANAGED REGULATED TARIFFS

Despite the media attention, regulated tariffs are known to only 38% of households. While 81% know that they are set by the State and 71% understand the principle of reversibility - the possibility of returning to this tariff after signing up to a market deal - how the device works is unclear to many people: 48%

13%
OF HOUSEHOLDS MENTION "EDF - GDF"

AND

7%
"EDF SUEZ" AS THEIR ELECTRICITY SUPPLIER

KNOWLEDGE OF THE RIGHT TO CHANGE ENERGY SUPPLIER
(IN % FRENCH HOMES INTERVIEWED)



Since 2013, more than half of all French people know they can switch suppliers.

Source : [Baromètre Energie-Info 2014](#)

think that regulated tariffs are offered by all suppliers and 69% believe they are available for electricity and gas from the same professional.

CHANGING SUPPLIER STILL SEEMS COMPLICATED

This is the case for 45% of respondents; 65% are not aware of the procedure. The numbers of those taking this approach are also very limited: 10%. Finally, a majority of households prefer the use of a single supplier for both energies, not because this option would necessarily be less expensive (40% believe that it is the same price as having a single operator), but perhaps for reasons of convenience. Since 2013, more than half of all French people know they can switch energy suppliers.

ENERGY BILLS ARE A MAJOR CONCERN

This is true for almost 80% of French people. 64% say that electricity or gas bills weigh heavily on their budget: for 14% of French people, the proportion allocated to energy bills is even considered to be very significant; 9% were expressing this concern in 2007. Households are not at all optimistic about the evolution of prices: 92% of respondents expect an increase in electricity and gas tariffs in the coming months.

54%
OF HOUSEHOLDS
KNOW THAT
THE MARKET
IS OPEN
FOR GAS

50%
FOR
ELECTRICITY

COMPARED TO
30% AND 35%,
RESPECTIVELY,
IN 2007

OPENING OF THE MARKET TO COMPETITION: A FAIRLY POSITIVE RECORD

SOME YEARS AFTER OPENING UP TO COMPETITION - TEN YEARS FOR BUSINESSES AND SEVEN YEARS FOR INDIVIDUALS - THE ENERGY MARKET IS STILL STRUGGLING TO REACH CRUISING SPEED. THE OMBUDSMAN IS CONDUCTING A CRITICAL REVIEW. WHILE COMPETITION WAS SUPPOSED TO LEAD TO A FALL IN PRICES, IT IS AS YET FAR FROM THE CASE, ESPECIALLY FOR ELECTRICITY: + 33% SINCE 2007 FOR A CUSTOMER WITH ELECTRIC HEATING, 35% FOR A CUSTOMER WITH ANOTHER FORM OF HEATING*. IN A SPEECH TO THE NATIONAL ASSEMBLY ON 1 OCTOBER, JEAN GAUBERT EXPRESSED SCEPTICISM ABOUT SUCH A PROMISE, BY REFERRING TO THE DIFFERENCE BETWEEN GAS AND ELECTRICITY. WHILE GAS IS A PRODUCT THAT IS STORED AND FOR WHICH THE LAW OF SUPPLY AND DEMAND MAY FUNCTION PROPERLY, THIS IS NOT THE CASE FOR ELECTRICITY: "FOR THIS NON-STORABLE ENERGY, VULNERABLE TO FINANCIAL MANIPULATION, STRONG CONTROL IS REQUIRED TO PROTECT CONSUMERS."

*ASSUMPTIONS BASED ON A CUSTOMER WITH ELECTRIC HEATING USING 12 KVA PEAK / OFF-PEAK, 9100 KWH / YEAR; CUSTOMER WITH OTHER FORM OF HEATING: 6 KVA BASE, 4200 KWH / YEAR

LEGAL BATTLE OVER REGULATED PRICES

A large majority of French still pay their electricity and gas at regulated tariffs, set by the State. Since 2009, their evolution has been the subject of several litigation cases before the Council of State, brought by Anode*. This association brings together alternative suppliers competing with the incumbent operators (EDF, GDF SUEZ) and who have problems establishing a foothold and are opposed to regulated tariffs that they consider too low to offer attractive market deals. Cancellation of the initiative involving several decrees, leading to back billing on household bills, merely exacerbated the confusion of consumers.

20%
OF FRENCH
THINK
COMPETITION
DOES LOWER
PRICES

23%
THINK
IT LEADS
TO AN INCREASE

CALCULATION OF TARIFFS

In 2014, the Minister of Ecology therefore objected to a further 5% increase in regulated electricity tariffs on 1 August, recommended by the Energy Regulatory Commission to cover the costs of the incumbent operator, while launching a reform tariff setting method, as had taken place with gas in late 2012.

EDF'S BUSINESS COSTS QUESTIONED

The Ombudsman participated in the discussions and put forward some suggestions. He particularly asked about the "business costs" of EDF, prorated between market prices and regulated prices, while for the latter the company does not spend on advertising or cold-calling new customers. It is for the authorities to redefine the costs to be covered by the tariff and to empower the regulator to better control the information provided by the operators. Jean Gaubert also

*NATIONAL
ASSOCIATION
OF ENERGY
RETAILERS

+33%
 THE INCREASE
 IN REGULATED
 TARIFF
 BILLS FOR
 ELECTRICITY
 FOR A CUSTOMER
 WITH ELECTRIC
 HEATING SINCE
 2007*
 (INCL. TAXES)

stressed the high rate of return on the capital of public transmission, distribution and supply companies at regulated electricity prices - out of proportion compared to current interest rates, which are very low. Can this be justified for a regulated - and therefore low risk - public service activity? This over-payment by consumers, on their invoices, is, at the very least, something to be questioned.

A NEW RECIPE

In late October, another method of calculation of regulated electricity tariffs was set up by the government. This resulted in an increase of 2.5% on 1 November for private customers. This formula, so-called "piling", now fixes tariffs by adding the costs of the different components of the sector, including wholesale market electricity prices. Should we go further? The **report of the Commission of enquiry into electricity pricing**, published on 5 March, 2015, states that the procedure is "at the end of the road" and must be reformed.

+35%
 THE INCREASE
 FOR A CUSTOMER
 WITH
 ANOTHER FORM
 OF HEATING**

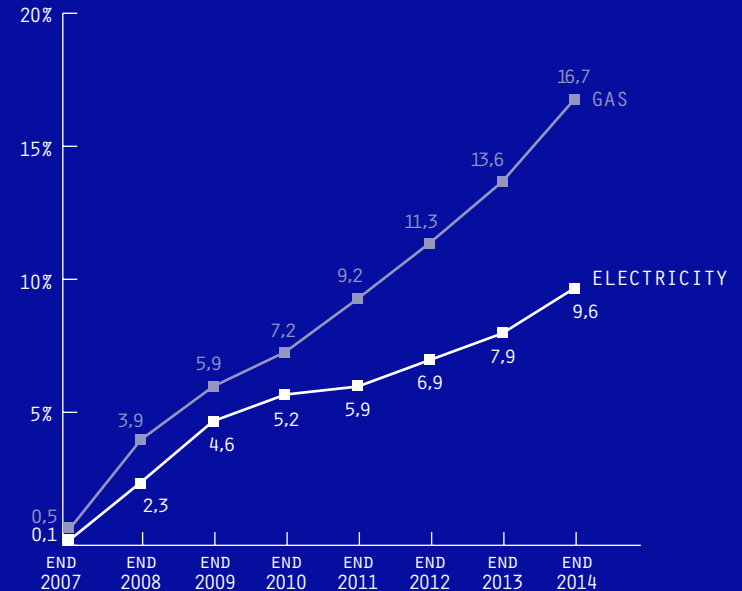
A LOW COST CUSTOMER SERVICE

In this market, dominated by incumbents, alternative suppliers have tried to take their game by offering rates lower than the regulated prices, including deals only available over the Internet. The discount on the price per kWh averaged - 12% for gas and - 8% for electricity in 2014.

*ASSUMPTIONS BASED ON A CUSTOMER WITH ELECTRIC HEATING USING 12 KVA PEAK/OFF-PEAK, 9100 KWH/YEAR

**FOR A CUSTOMER WITH ANOTHER FORM OF HEATING 6 KVA BASE, 4200 KWH/YEAR

EVOLUTION (IN%) OF MARKET SHARES OF ALTERNATIVE SUPPLIERS FOR RESIDENTIAL SITES SINCE 2007



Source: CRE, **Electricity and gas market observatories.**

9,6%
 = the market share of alternative electricity suppliers in 2014

16,7%
 = the market share of new natural gas operators in 2014

+36%
 THE INCREASE
 IN REGULATED
 TARIFF
 INVOICES
 FOR THE SALE
 OF GAS
 TO A CUSTOMER
 USING GAS
 HEATING
 (INC. TAXES)
 SINCE 2007*

*ASSUMPTIONS:
 B1 N2 TARIFF
 17000 KWH/YEAR

For consumers who took the step, satisfaction with quality of service was not always at the desired levels. Indeed, the Ombudsman observed a resurgence of disputes concerning new suppliers, such as Lampiris (see opposite) and ENI [see testimony p. 20 and box p. 21]: difficulty issuing bills, cancelling old contracts, reimbursing overpayments... Although suppliers recognize their mistakes, they are much less inclined to award damages at the level of the damages suffered. Improving the complaint handling of some alternative operators therefore presents itself as a priority for us and a key element of consumer confidence.

CHEAPER GAS , SOME ADDITIONAL CONCERNS

The principle of the campaign “Cheaper gas for all” launched by UFC - What to choose in autumn 2013 to move the market? Grouping of consumers to get the best gas deal from a supplier. Between October 2013 and January 2014, just over 142,000 interested people signed up. It was the Belgian alternative operator, Lampiris, that was chosen, offering a price per kWh 15% lower than the regulated gas tariff in early 2014. Nearly 70 000 subscribers finally opted for this proposal, at a fixed price for a year. A second round started last autumn: by early 2015 the number of subscribers had reached 150,000. Lampiris was once again the winner, with a bid price per kWh 13% lower than January’s regulated gas price. The operation was a success as it enabled tens of thousands of customers to benefit from a gas supply offer with a new and very significant discount. Nevertheless, we found that the supplier, Lampiris, at times had poorly anticipated the impact of the adaptations needed for such an influx of customers. Some customers therefore suffered one or two hiccups: invoices sent several months late, difficulty reaching customer service, unanswered complaints. We were approached for a total of 137 litigations in 2014, which represents, based on the number of customers affected, a rate of 157 disputes per 100,000 contracts, the highest after ENI. It is to be hoped that 2015 will see the end of the surprise effect of the first operation, resulting in less litigation.



TESTIMONY
OF BERNARD H.,
RESIDENT
OF VIVIER-AU-COURT
(ARDENNES)

"We live in a gas heated house. In 2011, following doorstep marketing, I changed provider; with Altergaz, which today is ENI, I was counting on savings on my annual bill. Everything was going well until I realised that ENI had charged my account twice the amount owed, with monthly payments totalling nearly € 200. Because I haven't had bank statements for a long time, it was a long time before I discovered the problem. ENI recognized the error and stopped the double charging, after my initial complaint in December 2013. But for a year, despite many calls, mails and letters, I have been unable to get a refund of the incorrectly taken amounts, a total of € 4,200. The legal department of my insurance company advised me to appeal to the Energy Ombudsman. The Ombudsman took my case into consideration and recommended, in addition to the reimbursement, compensation of € 1,000 for the inconvenience caused. The sum is very important, as it amounts to several months' pension; it is disgraceful that it was not refunded immediately. In its charter, which is available on its website, ENI advocates the principles of loyalty, correctness, transparency and efficiency, whatever the importance of the case. We are a long way from that! Once this dispute is resolved - and if necessary, I will go to court - I will change operator. I will probably go back to one of the traditional suppliers, as I no longer have any desire to try out a lesser-known company."

ENI, THE LEADING SUPPLIER... IN NUMBER OF DISPUTES! (FILED WITH THE OMBUDSMAN)

The gas supplier ENI, which has been operating in France since 2003 through the company ALTERGAZ, was the leading supplier in terms of litigation cases reported to us in 2014. The Group has been present in the gas large consumers sector since 2004, over which we have no jurisdiction, but has serious ambitions in the small consumers market, including private individuals.

Regarding pre-contractual disputes, ENI is already involved in a large number of disputes relating to doorstep selling, a practice which most other vendors have now abandoned given the inevitable excesses of this marketing method.

But this is nothing compared to the number of disputes relating to fulfilment of contract!

In 2014, in all types of disputes, ENI was the supplier with the highest rate of all, with 220 disputes per 100,000 contracts, compared to the average of 50. The supplier explains this explosion by a change in its information system which caused abnormalities in the management and billing of its customers. As a result, for consumers the experience was absence of invoices, failure to refund overpayments, contract terminations ignored, double billing...

This was not the first time that we had seen this type of disorder from a supplier.

But ENI's main problem, from our perspective, is that customer complaints have not been dealt with.

Not to mention the disputes reported to us!

Lack of answers to requests for comment, no follow-up on recommendations...

Concerned consumers have been waiting for overpayment refunds for several months.

We have never witnessed such disorder.

The leaders of ENI met in April 2015 and told us that these difficulties were being taken into account and expressed their intention to make an effort to resolve them. To be continued...

SOUGHT AFTER CUSTOMER FILES

In **September 2014, the Competition Authority**, at the request of the alternative supplier Direct Energie, ordered GDF SUEZ to grant its competitors access to part of the data in its file of customers on regulated rates. What was the reason for this? To enable them to compete on equal terms with the incumbent by sharing the addresses and consumption habits of individual customers, which it inherited from its former monopoly status. Direct Energie's complaint was that GDF SUEZ would use this valuable file to offer deals ... an unfair competitive advantage to maintain its position in the gas market and win new customers in electricity. Not to mention its offer of dual supply deals, combining the regulated tariff for gas and market rates for electricity, a practice which plays on the lack of knowledge of consumers. For the Competition Authority, GDF SUEZ is likely to have taken advantage of its dominant position in the gas market using the infrastructure dedicated to regulated tariffs, which is part of a public service activity, to market deals in gas and electricity, which is a competitive activity. The operator was ordered to make its files accessible no later than 3 November for its business customers and 15 December for individuals. Accordingly, at the end of the year, gas consumers on the regulated tariff received a mail from GDF SUEZ informing them that, unless they objected, their contact information would be shared with other gas suppliers. For the Ombudsman, the decision of the Competition Authority has opened up a dangerous breach which ignores consumer law and the consistent position of the National Commission on Computing and Liberties (CNIL), in which the customer must give express consent. We therefore published a special section on the **Energie-Info website: "GDF SUEZ reply slip: your options"**. We fear a resurgence of sometimes aggressive doorstep canvassing by the competitors of the incumbent. And remember that the Hamon Law of 17 March 2014 requires sellers to inform individuals of their right of withdrawal which they have 14 days to exercise.

YELLOW CARD FOR DISTRIBUTOR LOGOS

33% of French believe that EDF takes their meter reading, a situation that the Energy Regulatory Commission (CRE) does not find to be at all satisfactory: "In the mind of the consumer confusion persists between the public service role of electricity and gas grid operators and commercial activity subject to competition between suppliers that are their parent companies", says Philippe de Ladoucette, President of the CRE. "The regulator expects clarification from the distributors involved, as the current situation does not give a good image of the organization of the energy market in France." In a **report published in early January 2015**, CRE therefore called on ERDF and GrDF to make proposals, by 1 June 2015, for changes to the elements of their brand, which were too similar to those of EDF and GDF SUEZ and therefore undermine consumer understanding. Acronyms, logos and visual identities must change significantly for clear differentiation from parent companies. The CRE considers this a necessary condition for the independence of system operators, which is a cornerstone of openness to competition, to be clearly perceived by users. Whether it was a first response or an accident of the calendar, in April 2015 GDF SUEZ's CEO announced that the group was being renamed "Engie", which should simplify the uncoupling of the identity of GrDF with its parent company.

*THIS REPORT COVERS 2014, SO ONLY THE NAME GDF SUEZ IS USED.

THE CSPE: AN INCREASING FINANCIAL BURDEN FOR ELECTRICITY CONSUMERS

The contribution to public service electricity charges (CSPE) was the subject of much debate in the autumn, especially during the examination of the energy transition draft law. Introduced in 2003 to finance subsidies for renewable energy, cogeneration, tariff equalization in the islands, the social tariff for electricity and a contribution to the National Energy Ombudsman's budget, the CSPE levied on household electricity bills has exploded. The energy ombudsman shared its analysis and proposals with the **Special Committee set up to examine the energy transition draft law** on 10 September, 2014 and later with **Commission of enquiry into electricity prices** on 19 November, 2014, and finally with the **Senate Commission for Economic Affairs** on 3 December 2014.

UNAVOIDABLE INCREASES

For Jean Gaubert, the main drawback of the CSPE is that it is the only source of renewable energy funding, and is therefore based solely on electricity consumption. The share of the CSPE dedicated to renewable energy amounted to 3.8 billion Euros in 2013 (compared to 1.7 billion Euros for island systems and 300 million Euros in assistance for the poor*) and € 4.8 billion in 2014. This exponential increase, which will continue in the coming years, resulting in an increase of 2% to 3% per year on consumer bills, is mainly due to the very high feed-in tariffs for renewable electricity.

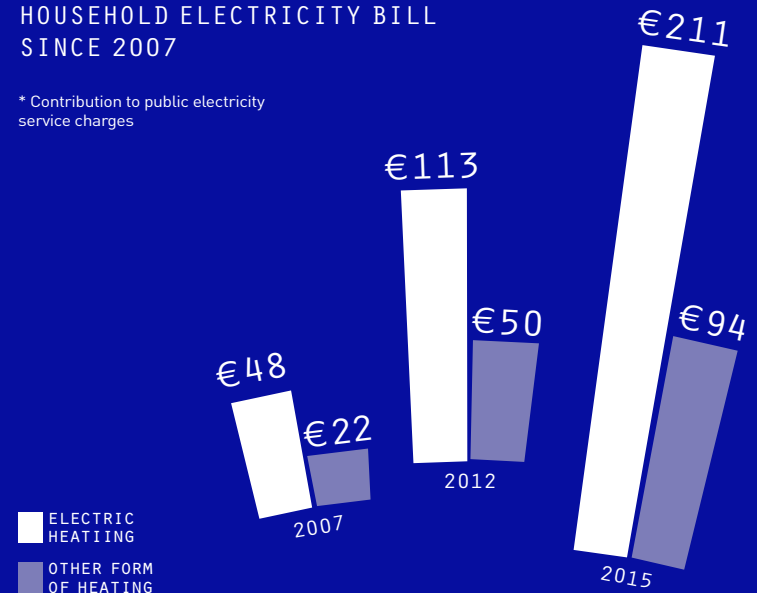
*CSPE SHARE ALLOCATED TO THE BUDGET OF THE NATIONAL ENERGY OMBUDSMAN - LESS THAN A THOUSANDTH OF THE CSPE

The Energy Regulatory Commission has in fact denounced the excessive compensation rates for the relevant investments (photovoltaic and wind in particular). Although feed-in tariffs have been revised downwards for new projects, a project undertaken with an excessive purchase price is funded by the CSPE for the next twenty years. Manufacturers may feel that the past excesses are over, whereas the burden for consumers lies ahead and will last for a long time. New projects, which no longer weigh heavily on the amount to be paid, but which were undertaken at the newly decreed compensation rate, will not fix

€ 1800
THE AVERAGE ANNUAL HOUSEHOLD ENERGY BILL IN 2013 (€ 1500 IN 2011, € 1700 IN 2012)

CSPE AMOUNT* (INCL. TAXES) IN THE AVERAGE ANNUAL HOUSEHOLD ELECTRICITY BILL SINCE 2007

* Contribution to public electricity service charges



100
BILLION EUROS

THE ESTIMATED
VALUE
OF COMMITMENTS
TO FINANCE
RENEWABLE
ENERGY BY 2025
THROUGH
THE CSPE

things: hence, offshore wind turbines will cost electricity consumers more than 35 billion euros at a rate of € 2 billion per year to 2020.

In addition, this expensive system does not uphold the principle of social justice, the Ombudsman points out, because it places the burden of the transition of our energy mix primarily on the shoulders of electricity consumers.

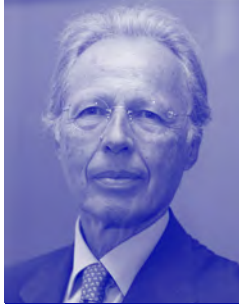
WHO PAYS THE CSPE?

All households but especially those equipped with electric heating. Among users of electric heating, three categories of households are particularly penalized: tenants of private housing where the owners have installed "toasters" to limit investment; social housing tenants in rural and suburban areas where, until recently, this type of installation allowed housing associations to adhere to price ceilings and lower income home owners without the resources to invest in more efficient heating. Far from being privileged, it is these consumers bear the increasing weight of the CSPE, and do so by depriving themselves of heating.

"Between 2000 and 2014, the bill of a consumer with electric heating increased by more than 10% excl. taxes and 34% incl. taxes, unadjusted for inflation. The latter include an ever-increasing CSPE. The CSPE was 13% of the bill in 2014 and is expected to reach nearly 15% in 2015. Because the expenses of these public service initiatives are steadily increasing: they quadrupled between 2003 and 2014, from 1.4 to 6.3 billion Euros. The CRE's prospective analysis estimates that in 2025, they should reach nearly 11 billion Euros. This development is partly a result of past decisions, including the high initial calibration of photovoltaic electricity feed-in prices: what consumers pay, in particular through the CSPE, is the difference between the average price of feed-in contracts, which is € 480, and the current wholesale electricity price which amounts to about € 40. Thus, the photovoltaic sector represents nearly a third of the CSPE and 60% of surcharges related to

renewable energy. The current contracts last several years so photovoltaic funding will continue to weigh significantly in the CSPE. Fixed at €19.5 / MWh in 2014, we believe it will reach €30 / MWh in 2025, given the costs to be covered. It is high time to reform the CSPE not least from the legal point of view."

Interview



PHILIPPE
DE
LADOUCKETTE

President
of the CRE
(Energy
Regulatory
Commission)

POOLED FUNDING

While the development of renewable energy has been devised to lower the use of fossil fuels to reduce greenhouse gases, oil and gas contribute significantly less than electricity to the greening of our energy mix: the former is 200 million Euros for biofuels and the latter for methanation was 4 million Euros in 2014. According to Jean Gaubert, the CSPE as it stands "cannot hold out much longer". He advocates a reform of the system and the idea of pooled funding between the different energy sources to support the development of renewable energy. An amendment [No 551] to the energy transition draft law proposed the creation of a new "CSPE" - Contribution to public service energy - to enforce the contribution of heating fuels, in particular fossil fuels (LPG, fuel oil, etc.) to the energy transition. The amendment was not passed in the vote but the discussion continued during the Senate's deliberations, and in the **Commission of enquiry into electricity tariffs**. The government is committed to introducing a reform of the CSPE in the Finance Law 2016.

"The Commission wanted to work on the formation of electricity tariffs. Since 2007, bills have increased by 30% without users understanding why, as they thought they were protected by regulated tariffs. The legal battle launched by alternative suppliers, resulting in back billing, contributed to confusion and to the public authority being undermined. The opening of the market to competition has not led to the expected reduction in prices. The electricity tariff is supporting a range of things all at the same time! It should cover production and network costs, which it does not. It produces tax revenues for local authorities. It assumes public policy choices, such as ensuring geographical averaging to ensure that everybody in the territory pays the same price, support for the development of renewable energy, processing of fuel poverty, etc. These charges have an impact on the bills of consumers, including the poor. Electricity tariffs should guarantee stable and readable prices over time to

enable operators to invest. It is important to distinguish what should be borne by the price of electricity paid by consumers and what should be the preserve of public policy funded by taxation. This opens the way to a reform of the CSPE, with the idea of expanding the tax to all energy consumption. The energy transition, which promotes auto-consumption and decentralization the production should also be included. Similarly, we propose to open up the debate on the all-in type deals, while ensuring that this billing method does not encourage waste."

Interview



**CLOTILDE
VALTER**

Deputy
for Calvados,
rapporteur
of the National
Assembly
Commission
of Inquiry
on electricity
tariffs

1 JANUARY 2016: APPLAUSE FOR THE END OF CERTAIN REGULATED TARIFFS

This is a turning point for businesses that began in 2014. **The planned expiry of regulated tariffs for gas and electricity**, set by government and offered only by incumbent suppliers (EDF and GDZ SUEZ), forces them to undertake a few adaptations. For gas consumers kick-off took place on 18 June 2014, with sites directly connected to the transmission network. The “Hamon” law of 17 March 2014, on consumption, provided for the disappearance of regulated gas tariffs for businesses consuming more than 30,000 kWh per year, to take place until 31 December 2015. This covers both businesses (shops, offices, craft workers, industries) and public agencies (schools, hospitals, government). It also applies to condominiums if their annual consumption exceeds 150,000 kWh. As part of the “Nome” Law of 7 December 2010, the regulated electricity tariffs for all customers with a contract with power in excess of 36 kVA, will end on 1 January 2016.

MORE INFORMATION FOR THE RELEVANT CONSUMERS

Businesses must therefore take out a contract for a market deal before these deadlines. An additional grace period of six months is granted for those who have not signed a market deal, with guaranteed energy supply, throughout the period, by the incumbent, temporarily, before the cut-off. To help them in their efforts, a special device was developed on the **Energie-Info / Pro** information site, managed by our

teams. It was designed in the “Communication on the end of regulated sale tariffs” working group, set up by the Energy Regulatory Commission and coordinated by our teams. Three consultation meetings brought together various stakeholders between April and October. In addition to enhancing the “News” section of our website, we have developed **handy forms** for replying factually to questions from businesses - reminding us that no prior notice or termination costs applying to current regulated tariff contracts can be demanded by the incumbents, even if the terms and conditions provide otherwise. **Specific forms for condominiums** have also been published, reminding them, in particular, that the choice of a new natural gas supply must be included on the agenda of the general meeting.

TOOLS FOR CUSTOM DEALS

In order to effectively support the customers involved, two online tools - **“Gas deals application”** and **“Electricity deals application”** were made available on 20 March and 25 September, 2014: with some data entered, they quickly provide custom deals for one or more energy sources. Indeed, 46 gas suppliers and 25 electricity suppliers are participating in this scheme. The increase in hits at the **Energie-Info website** by non-resident consumers shows the need for information. Whereas in the final quarter of 2013, they accounted for only 2% of hits, this rose to 6% in the final quarter of 2014. At the end of the year, 373 requests for gas deals and 115 requests for electricity deals were recorded. Note that the majority of these registrations come from condominiums (see p. 32).

+26%
THE INCREASE
IN THE NUMBER
OF VISITS
TO THE
ENERGIE-INFO
INFORMATION
WEBSITE 2014
COMPARED TO
2013

Verbatim

JULIEN ALLIX

Energy unit coordinator for the ARC
(Association of Condominium Managers)

"The end of regulated tariffs poses problems for condominiums that do not have much time to organize themselves, as they only hold one general meeting a year during which decisions are taken. The difficulties focus on those that have contractually delegated their supply of energy to boiler servicing companies (under PL contracts) – mainly Dalkia, a subsidiary of EDF and Cofely, a subsidiary

of GDF Suez. They do not always manage to cancel these contracts which run over several years to benefit from more competitive prices; some have been able to negotiate lower tariffs, but others have only been able to obtain a marginal reduction and for some the answer is that the price cannot change, until the contract is in force".

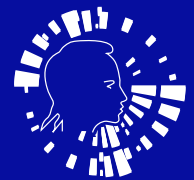


ENERGIE-INFO, A KEY TOOL FOR INFORMING CONSUMERS

The **Energie-Info** website* supports individual and business consumers by providing the necessary references for negotiation of the complexity of the contract. In 2014, we introduced new innovations to add to the existing tools: a **list of suppliers** by municipality, independent **deal comparator**, **calculators** to estimate the impact of price changes and tariff back billing, etc. In addition to the **device providing information on the end of some regulated prices**, our teams developed, in partnership with Powermetrix, **a tool** for households to estimate their electricity consumption based on a dozen simple questions. This is not a substitute for a thorough diagnosis, but it does provide a quick key to some elements of consumption and the appropriate power of the meter for operating electrical equipment. With nearly 30,000 hits, it became the third most used consumer tool after the **deal comparison application** (500, 000 hits in 2014) and the **Suppliers list tool** (250,000 hits). In 2014, **Energie-Info** recorded 1.18 million hits, compared to 934,000 in 2013. A new version of the site was made available in November 2013, in order to optimize navigation on tablets and smartphones and to offer a more logical organization and more accessible content.

* CREATED IN 2007 BY THE ENERGY REGULATION COMMISSION (CRE) IT HAS BEEN ADMINISTERED BY THE NATIONAL ENERGY OMBUDSMAN SINCE 2009 WITH THE SUPPORT OF THE CRE, THE DIRECTORATE GENERAL OF COMPETITION, CONSUMPTION AND PREVENTION OF FRAUD (DGCCRF, MINISTRY OF ECONOMY) AND THE DIRECTORATE-GENERAL FOR ENERGY AND CLIMATE (DGEC, MINISTRY OF ECOLOGY). CO-FINANCED BY THE CRE AND THE OMBUDSMAN UNTIL 2013. THE WEBSITE HAS BEEN FUNDED EXCLUSIVELY BY THE OMBUDSMAN SINCE 1 JANUARY 2014.

An ombudsman
for all energies...
but not for energy
transition




CASE STUDY / RECOMMENDATION

The misfortunes of Graham B., whose heat pump gave up the ghost at the same time as the "partner" company of his energy supplier, illustrate the many pitfalls along the energy savings route. We had already highlighted, in our 2013 annual report, that the operators that certify these businesses cannot be absolved of all responsibility in the event of failure.

Consumer trust is at stake - and this is the foundation of much of the success of the energy transition.

Graham B., a resident of Cormontreuil, Marne, was canvassed by technicians claiming to be EDF partner vendors, to conduct an energy audit of his house. Following this visit, he commissioned some work. But the expected energy savings were not as expected - after four months, the heat pump stopped working due to faulty installation. Meanwhile, the company had ceased trading. Graham B. turned to his supplier for compensation - damages of € 25,000, including reimbursement of the cost of installing the heat pump, its draining, repairs to his house and compensation for the damage suffered.

But the supplier refused to handle his claim on the grounds that it was not liable for the identified shortcomings. It put forward the same argument in rejecting mediation. We found that Graham B. had changed his equipment based on the diagnosis offered by a partner of his supplier and would not have invested in this equipment with an unknown company. So, as indicated by an opinion of the National Consumer Council on 12 June, 2012, "the consumer transfers his or her trust in the supplier to the approved installer".

Moreover, we believe that the supplier is not a mere intermediary: it is also a direct beneficiary of the transaction. Indeed, works performed by approved service providers allow it to collect energy savings certificates. This procedure is based on consumption reduction targets imposed by governments on energy suppliers, who are actively encouraged to promote energy efficiency among their customers, households and businesses.

The operator should therefore handle the consumer complaint when the authorized partner goes bankrupt, since it claims, to the authorities, that it has had a leading role in the decision to carry out the works from which it derives economic benefit. We therefore recommend that the supplier agree compensation of € 15,000 and reimbursement of the removal of the defective heat pump.



RECOMMENDATION No. 2014-1190

DATED 17/09/2014, AVAILABLE ON THE WEBSITE:

www.energie-mediateur.fr/recommandations

AN OMBUDSMAN
FOR ALL ENERGIES...
BUT NOT FOR
THE ENERGY TRANSITION

FRANCE WILL HAVE TO CONTINUE TO WAIT FOR A GREEN DEAL* OMBUDSMAN, AS IN GREAT BRITAIN, WHERE THE SERVICES OF THE OMBUDSMAN DEALING WITH DISPUTES IN THE ENERGY SECTOR HAVE INHERITED THE RESOLUTION OF DISPUTES RELATED TO THERMAL RENOVATION. THE REVIEW OF THE DRAFT ENERGY TRANSITION LAW FOR GREEN GROWTH DID NOT LEAD TO THE CREATION OF A "NATIONAL ENERGY TRANSITION OMBUDSMAN", A ONE-STOP SHOP FOR ALL DISPUTES CONCERNING ENERGY, CONSUMED AND PRODUCED, AND FOR WORK ON ENERGY EFFICIENCY FOR ALL CONSUMERS, WHETHER INDIVIDUALS OR BUSINESSES.

*UK GOVERNMENT ENERGY EFFICIENCY PLAN FOR HOUSEHOLDS

ALL ENERGIES

A first step was taken with the adoption of an amendment [No 2644] extending the powers of the national energy ombudsman, currently responsible for natural gas and electricity, to the consumption of other energy and heat networks: fuel oil, butane gas and propane, wood... For the first time since the creation of the national energy ombudsman, in 2007, consumers will be able to appeal to public service mediation regardless of the energy used.

However, disputes relating to the production of renewable energy, such as those related to the installation of photovoltaic solar panels, or to all energy efficiency work (insulation, installation of energy efficient equipment or heat production equipment) will not be covered by a specific mediation procedure.



ARTICLE L.212-1 OF THE ENERGY CODE AS MODIFIED* BY ARTICLE 54 BIS-A OF THE ENERGY TRANSITION DRAFT LAW

"The national energy ombudsman is responsible for recommending solutions to disputes between **individuals or legal entities and energy sector companies** and for participating in informing energy consumers about their rights. It can only be approached in disputes arising from the execution of contracts entered into by a non-professional consumer or a professional consumer belonging to the category of micro enterprises mentioned in Article 51 of Law No. 2008-776 of 4 August 2008 on modernization of the economy. These contracts must have been the subject of a prior written complaint filed by the consumer with the supplier or distribution system operator concerned, and which has not led to the resolution of the dispute within a period fixed by regulation. The Ombudsman is approached directly and free of charge by the consumer or his/her agent. He makes his recommendation within a period set by regulation and justifies his answer. The referral suspends the statute of limitations in civil and criminal matters during this period. **The companies affected by the litigation referred to in the first paragraph are required to inform their customers of the existence and terms of the referral to the National Energy Ombudsman, especially their responses to complaints they receive.**"

*BOLD IN THE ORIGINAL TEXT

"Citizen buy-in is essential to the success of the energy transition. This involves a change of behaviour: the consumer becomes more of an actor, by making choices to control its energy consumption by leveraging the potential of smart meters and connected objects. This learning period requires support. This is why I defended an amendment to extend the powers of the National Energy Ombudsman. Independent mediation is a vital tool for guaranteeing the security of households. Ahead of a long court phase, which often radicalizes positions, it enables flexible solutions to be found for disputes and scams, errors, professional competence. The stakes are high since the amounts invested by individuals represent thousands of Euros. The pioneers of the energy transition, if they find a solution to their dispute with the energy ombudsman, may continue to promote it. If the expected

energy savings do not materialize, they will attract bad publicity, thus frustrating the reproduction of the model. On the other hand, we also wanted the Ombudsman to have authority in this field because of its ability to identify generic problems and to trace any difficulties in interpreting texts. It would have been possible for the legislator or government to remedy the situation faster. So that it could ultimately protect all consumers better."

Interview



DENIS
BAUPIN

Paris deputy
and vice chairman
of the National
Assembly

THE KEY OBJECTIVES OF THE ENERGY TRANSITION

- Reduce emissions of greenhouse gases by 40% by 2030.
- Reduce total energy consumption by 50% by 2050.
- Lower the consumption of fossil fuels by 30% by 2030.
- Raise the share of renewable energy to 32% of consumption in 2030.
- Reduce the share of nuclear power to 50% of generation by 2025.
- Improve the energy performance of all dwellings by 2050.
- Energy renovation for 500,000 homes a year, of which at least half are occupied by low-income households.
- Establish the right to universal access to energy at reasonable cost in terms of household resources.

1120

CASES RELATED TO BUSINESS PRACTICES, OUTSIDE THE SCOPE OF ACTION OF THE OMBUDSMAN, WERE RECORDED IN 2014

SCAMS

Several elements argue for a greater expansion to support consumers in the energy transition. This period of change is witnessing a proliferation of actors in the niche area of thermal renovation, equipment to produce renewable energy or energy services.

In the absence of a point of contact, consumers turn to us when they come face with unscrupulous door-step sellers who sell them unnecessary, defective or redundant equipment and promise them an el dorado of energy savings... that never materializes. Although there are many honest operators, there is also no lack of corrupt practices.

According to the **Energie-Info Barometer**, 82% of French people recognize the value of information and assistance in the resolution of disputes by the National Energy Ombudsman, and they deem it useful that its powers are extended to all energies (81%), renewable energy (84%) and even energy efficiency work (84%).

For Jean Gaubert, “in the field of energy, competition is increasingly about the deals on energy efficiency operations and less and less about deals in energy sales. This reinforces the need to support households, which must be able to obtain support in the event of a dispute in every sector of energy transition, as is the case today for gas and electricity”.

45%
OF HOUSEHOLDS STATE THAT THEY HAVE BEEN CANVASSED TO CARRY OUT THERMAL INSULATION WORKS

43%
FOR RENEWABLE ENERGIES

(SOURCE ENERGIE-INFO BAROMETER 2014)

A POORLY UNDERSTOOD TRANSITION

The energy transition is largely unknown or misunderstood. According to our **2014 Energie-Info Barometer**, 40% of French say they have heard of the energy transition, but only 18% know what it is. This level of knowledge may not be surprising given the news. Informed households mainly emphasize what energy transition will bring to the community as a whole: 86% believe it will contribute to environmental protection and 73% that it will lead to job creation. The individual benefits they might expect are more nuanced: 61% of French believe that the energy transition will enable them to achieve energy savings, but 57% fear a rise in prices.

Interview



JOËL
MERCY

President
of GPPEP
(Group
of individual
photovoltaic
electricity
producers)

"Our association, founded five years ago, has nearly 4,200 members, of which 850 have taken out legal proceedings against eco-offenders. This shows the significance of photovoltaic scams, the majority of which follow the same pattern: malicious companies hoodwink consumers by making them believe that the future installation of photovoltaic panels will be free or will even earn them money, as the electricity generated and bought back by EDF at a higher price than the market in a contract guaranteed by the State will cover the initial investment. When households realize that the equipment does not function properly or that the yield does not match up to the promises, because the generation was overstated, the disappointment is brutal. Especially for those who have got into debt. Their only recourse is the courts. But the procedures are long and if, in the meantime, the offending company goes bankrupt, even

if it is convicted by the trial court, the consumer will not recover anything. We regret that the National Energy Ombudsman, with its legal and technical resources, has no jurisdiction over these matters. This would allow rapid appeals to be made to a public authority to enable more effective action while there is still time to resolve the dispute. To avoid these scams, information is key - but it is clear that it is insufficient at the moment. We expect a more dynamic network from the government. The challenge is all the more important, as auto-consumption is growing and this will, without doubt be fertile ground for the work of eco-offenders."

AN APPEAL TO THE OMBUDSMAN IS DECISIVE

Investing in energy efficiency represents a substantial budget for individuals. If the work is of poor quality or if the equipment is improperly installed, use of independent and free mediation could be decisive, both for finding an amicable solution to the dispute and for establishing a climate of trust that benefits the whole economy. Companies in this expanding sector would be wrong to see an additional constraint: the existence of a national energy transition Ombudsman, an independent public authority, could encourage households to invest in energy transition and help improve the practices of serious businesses.

A MISSED OPPORTUNITY?

There was a wonderful opportunity, however, when the European directive on mediation, which requires the creation of out-of-court settlement schemes for disputes in all consumption sector, was to be transposed into French law [\[see Chapter An ombudsman available to all consumers\]](#), to extend the remit of an existing Ombudsman, to meet the quality standards required by the Directive and capitalize on the experience gained and would have been completely logical, particularly in terms of the benefits / costs to the community.

Parliamentarians of all stripes who proposed amendments to that effect were confronted with the principle of financial inadmissibility. Parliament is not in fact able to table amendments that would be a burden on public expenditure: only the government has that right and it did not want to do it beyond the exten-

270
THE NUMBER
OF COURT
DISPUTES
RELATING
TO PV
INSTALLATIONS
WHICH HAVE BEEN
BROUGHT BEFORE
THE ENERGY OM-
BUDSMAN
SINCE 2012
WITHOUT BEING
ABLE TO ADDRESS
THE CASES
(MANY OF THESE
PROCEEDINGS
DO NOT REACH US
BECAUSE
CONSUMERS
ARE NOT
AWARE
OF OUR POWERS)

Interview



**FRÉDÉRIC
PLAN**

Director General
of FF3C
(French
Federation
of Fuels
and Heating)

"The distribution of heating oil is a special activity because a quarter of deliveries are made when the customer is absent and without a purchase order. Because there is a relationship of trust between consumer and company, disputes are few; they occur when the quantity delivered does not match the order, when the bill does not match the amount delivered or if the delivered product is not compatible with the heating equipment. Disputes are more common for heating with propane, an expensive energy sold by long contracts under which the consumer can feel trapped. Finally, wood fuel is undergoing expansion; the development of more efficient equipment that does not tolerate poor quality wood could lead to future disagreements. We support mediation. Nearly 250 fuel outlets have a label that includes a mediation system. This is an advantage for the companies involved. So we are now in the field of the

jurisdiction of the National Energy Ombudsman: a third party independent of the parties in dispute bringing external clarity to find a solution seems sensible to us. We feel that it is an element of trust for customers and we will have no reluctance in informing people about this possible recourse. However, it will require the Ombudsman to take stock of the actual uses and practices that have developed in our sector, in the absence of regulation. In this context, we do not see the need to maintain mediation within the label, which might maintain unnecessary confusion for consumers."

sion of the area of competence of the Ombudsman to all energies. We will also take on our new roles with no increase in resources.

There will therefore be no "after-sales" of the energy transition. If a problem occurs, consumers shall turn to the judge or to a possible private mediator that businesses from these sectors may create, if they so wish.



REMIT

As a recognized and independent administrative authority, the powers of the Energy Ombudsman are limited to the consumption of electricity and gas, but should see its remit extended to all energy: butane, propane, oil, wood, heating networks. The latter are not covered by any free mediation device. This remit would put an end to the unequal treatment of consumers depending on the energy they use to heat their homes.

CERTIFICATES (WITHOUT) ENERGY SAVINGS

Amendment **(No 1963)** to improve the system of energy saving certificates, led by the rapporteur Sabine Buis, was not adopted. It provided, as proposed by the Ombudsman, to include in the energy code that the supplier benefiting from energy saving certificates is responsible for the proper completion of any work by partner companies. As things stand, in effect, the energy supplier retains the economic benefit of the certificates obtained even if the work is poorly executed and generates no energy saving. We have repeatedly observed this situation in the context of heat pump installations: the supplier (electricity) benefits from energy savings certificates while the consumption of electricity, far from diminishing, increases. One can understand why energy suppliers, who are subject to increasingly ambitious objectives in terms of certificate collection, are satisfied with the status quo.

Several arguments were put forward objecting to this proposal during the parliamentary debates. Such a transfer of responsibility could dissuade the companies involved from supporting certain energy-saving actions. Failures occurring after the end of the work can be handled within the general framework of the ten-year guarantee or professional liability insurance. Finally, obtaining energy savings certificates will require operators, during 2015, to make use of companies holding the RGE quality label (Recognized Guarantor of the Environment), created by the government.

Will this RGE label be enough to secure trade relations between consumers and businesses in the energy transition? The Ombudsman feels that a quality label should limit certain abuses but that it provides no protection in the event of litigation or corporate failure.


Measures
to roll back
fuel poverty




 **CASE STUDIES / RECOMMENDATIONS**

Social tariffs are assigned automatically. It is the health insurers and tax services that identify the potential beneficiaries. The information is sent to suppliers who then apply the social tariff, unless the consumer objects. Some cases handled by the Ombudsman show that the automated procedure leaves some recipients aside.

Emmanuelle K., a resident of the Paris region, has benefited from the social tariff for basic needs for electricity (TPN) since 2012. Following her marriage she moved to the Lower Rhine with her husband and signed an electricity contract with ES Energies Strasbourg in July 2013. But it was not until late January 2014 that the social tariff was introduced. The operator rejected a retroactive application, claiming that it had no information on the rights of Emmanuelle K. before that date. However, the consumer took steps. But before receiving a correct statement from the TPN service, the consumer received a preliminary one mentioning her former supplier EDF and a second one with the right operator but in her maiden name. The delay in implementing the TPN was explained by the time taken by the operators to handle these changes. We managed to achieve an amicable agreement between the parties on the basis of compensation equivalent to the retroactive application of the TPN.

 **RECOMMENDATION No. 2014-1103**
 DATED 02/09/2014, AVAILABLE ON THE WEBSITE:
www.energie-mediateur.fr/recommandations

Nelly C., a resident of the Manche, believed she was entitled to TPN. After submitting her tax return to the service, she received no news. She appealed to us for the award of the social tariff. We analysed her tax assessment and confirmed to her that her reference taxable income was higher than the thresholds so she was not eligible for TPN. However a second condition determines eligibility for those who are entitled to supplementary universal health cover (CMU-C) or supplementary health assistance (ACS). Nelly C. did not have supplementary health insurance so her income could be considered eligible for ACS. We supported her in making a request to her health insurance agency. Because the consumer had not enacted this process, social security was unable to determine if she was eligible and report her details to the provider managing the TPN. The allocation of social tariffs is not as automatic as the procedure suggests...

 **RECOMMENDATION No. 2014-1772**
 DATED 17/12/2014, AVAILABLE ON THE WEBSITE:
www.energie-mediateur.fr/recommandations

MEASURES TO ROLL BACK FUEL POVERTY

BECAUSE WE RECEIVE THEIR APPEALS AND SUPPORT THEM IN THEIR ACTIONS, WE FULLY UNDERSTAND THE DIFFICULTIES FACED BY HOUSEHOLDS AFFECTED BY FUEL POVERTY, A PHENOMENON THAT THE INSTITUTION HAS BEEN HIGHLIGHTING FOR SOME YEARS. THE REVIEW OF THE DRAFT ENERGY TRANSITION LAW WAS AN OPPORTUNITY TO PUT FORWARD PROPOSALS THAT WE HAVE BEEN ADVOCATING FOR A LONG TIME, FOR A SINGLE PURPOSE: MAKING THE “RIGHT TO ENERGY” A REALITY FOR EVERY FRENCH PERSON.

FOR A “RIGHT TO ENERGY”

This right involves a key need: to simplify and expand assistance for the payment of bills. Social tariffs do not operate well, even though the automation of their allocation has meant they have reached a larger number of poor households. They covered 2.6 million homes by the end of 2014, while it is estimated that the number of potential beneficiaries is nearly 4 million. Cross-referencing the data collected by social security agencies and tax administrations remains difficult.

Furthermore, social tariffs do not offset the rise in energy prices: for example, households heated by electricity and eligible for the social tariff benefit from a € 94 discount, while the CSPE (which funds social tariffs and the development of renewable energies, among other things) costs it € 211, and this is on top of an increase of more than € 350 since 2007. A form of injustice persists for consumers who heat with fuel oil and wood, which are not eligible. While some homes combine the social tariff for electricity and gas prices. That is why the Ombudsman has defended the principle of an energy voucher.

The proposals of the Ombudsman, either acting to establish a supplier of last resort, to limit back billing to one year, to align leasehold winter truces and energy or to equip households with a remote display to help them manage their energy consumption, all received a good response from parliamentarians. Many of them were subject to amendments, whether or not they were adopted. Alongside consumer associations, the institution has been able to influence a text on technical measures, aimed at achieving the broad

64%
OF FRENCH
CONSIDER
THEIR
ENERGY BILLS
TO BE
AN IMPORTANT
PART OF
THEIR TOTAL
HOUSEHOLD
EXPENDITURE

42%
OF FRENCH
RESTRICTED
THEIR HEATING
DURING WINTER
2013/2014

€94

AVERAGE
DISCOUNT RATE
THROUGH
SOCIAL
ELECTRICITY
TARIFF (TPN)
ON THE
ANNUAL FUEL
BILL FOR EACH
BENEFICIARY

objectives posed for the energy transition, which did not talk specifically to citizens, especially the most vulnerable. Article 1 of the draft law makes the fight against fuel poverty a goal. A universal right of access to energy was affirmed. Consumers, who will be one of the pillars of the success of the energy transition, are better taken into account.

THE ACHIEVEMENTS OF THE DRAFT LAW

► France has set itself the objective of implementing the energy renovation of 500,000 homes a year from 2017, of which at least half are occupied by low-income households with the aim of a 15% reduction in fuel poverty by 2020. Energy performance will therefore become one of the criteria of decent housing.

► An energy voucher would be created. A key measure in the draft law, this would be aimed at low-income households to help them resolve the energy costs of their housing, whatever the energy used - electricity, gas, oil, wood, heating networks - to finance energy efficiency operations or the purchase of energy-efficient electrical appliances. Its implementation will be gradual, following the Government's decision to proceed with an experiment in certain regions from 2016, before being rolled out to all interested parties at the latest on 1 January 2018 and is not a substitute for the current social tariffs for basic needs for energy (gas and electricity). It would put an end to the inequality in state benefits according to heating mode. Paid under a means test, this payment security could be used by people living in collective dwellings (nursing homes, shelters, residences) where heating is paid in the rental charges. The practical arrangements will be determined by decree.



Several issues remain unresolved. What will be the amount of the voucher? We advocate a consequent appreciation in relation to social tariffs. A budget of one billion Euros would be required for the assistance to households to be significant, around € 250 per household. Who will be involved? The fairness of a support scheme for the payment of all household energy bills assumes that all energies are involved in its funding because it is a form of solidarity financed by consumers. Is the solution adopted by the government sustainable? The CSPE (Contribution to the public electricity service) and the CTSS (Contribution to the special solidarity rate) for gas will contribute in proportion to the consumption of these energies by individuals; the state budget should complement the funds required for other energies. Given the pressure on public finances, some concerns remain on securing funding of the energy voucher.

Experimentation with the energy voucher in certain areas in 2016 and 2017 will give a proportionate push to the expiry of the current social tariffs, whose inef-

€109

AVERAGE
REDUCTION
GRANTED
BY THE SOCIAL
GAS TARIFF
(TSS)
ON THE ANNUAL
FUEL BILL
FOR EACH
BENEFICIARY

300 MILLION EUROS

CSPE SHARE (CONTRIBUTION
TO THE PUBLIC ELECTRICITY SERVICE)
PAID BY ALL HOUSEHOLDS
ON THEIR ELECTRICITY BILL ASSIGNED
TO THE FUNDING OF SOCIAL TARIFFS
AGAINST ALMOST 4 MILLION
FOR DEVELOPMENT
OF RENEWABLE ENERGIES

€354
THE AVERAGE
INCREASE
IN THE
ELECTRICITY
BILL SINCE
2007

fectiveness and significant management costs, borne by the bill of all consumers, we have highlighted. This “coexistence” of the energy voucher and social tariffs, together with the postponement of the expiry of social tariffs, was one of the claims of EDF and GDF SUEZ, who asked for the energy voucher to be limited to energy other than electricity and gas. The hope remains that experimentation in these conditions shall not be used as a pretext for maintaining the current system, which continues to exclude 1.1 million eligible consumers. The introduction of the energy cheque in place of social tariffs shall help save precisely the excessive management costs of the latter group, by simplifying the distribution of the assistance. It is not

certain that the juxtaposition of two support systems won't make this distribution even more complex and therefore more expensive.

► The winter truce in energy disconnections will expire at the same time as rented sector evictions. The “ALUR” law of 24 March 2014 put back the end of the winter truce in tenant evictions to 31 March each year. The harmonization of the start and end dates of each truce brings clarity for the consumer, and eases difficulties in paying rent and energy bills, which are closely linked.

► The settlement of electricity and gas bills is limited to one year [\[see section on Limitation of bill back payments to one year\]](#).

► A remote display [\[see p. 84\]](#) will be offered free to consumers benefiting from the energy voucher, to support the installation of a smart meter (Linky, Gazpar). The Ombudsman regrets, however, that this tool, which allows better control of energy consumption, does not benefit all households who all have equal need of it to change their behaviour. As highlighted in the 2014 Energie-Info Barometer, nearly 75% of French believe that smart meters will enable them to track their consumption better, but only 40% believe it will bring savings...

€211

THE AMOUNT OF
THE CSPE ON
THE AVERAGE
BILL
OF A HOUSE
HEATED WITH
ELECTRICITY
(ESTIMATE
FOR 2015)

2400 EUROS

AVERAGE DEBT OF CONSUMERS APPEALING TO THE OMBUDSMAN IN 2014 DUE TO DIFFICULTIES PAYING THE ELECTRICITY AND GAS OPERATORS

REGRETS

► The supplier of last resort, the guarantor of the right of access to energy, has not seen the light of day. This system, implemented in some countries of the EU, such as Belgium and Portugal, seeks to avoid energy deprivation. Given rising prices, in many households payment difficulties are worsening and their payment defaults result in contract terminations at the supplier's initiative, before a possible failure. If, under the law, an operator cannot refuse a contract, in reality it does not rush to recover a customer considered a bad payer.

We recommend that universal service of last resort be primarily developed for electricity. As a public service of general interest, the task could be entrusted to network operators, ERDF and local distribution companies. The latter now play this role in spite of themselves, when disconnection has been requested but cannot be carried out (risks to worker safety, public order disturbances) and assume it financially via "non-technical losses" charged to TURPE*, covering unpaid consumption. It was proposed that the depart-

mental commissions of the FSL**, local stakeholders with the required experience, monitor the files of beneficiaries and decide once a year whether to maintain or exclude the consumers from the device.

The proposed amendment was also defended by the Economic, social and environmental council, but was not adopted on the grounds that the subject merits further discussion to find solutions that do not increase consumer bills.

► The funding of the Solidarity Housing Fund (FSL) remains unchanged. A tool to complement social tariffs, FSLs managed by local authorities paid almost € 60 million, mainly to EDF and GDF SUEZ to help pay electricity and gas bills for families in difficulty in 2012. Electricity suppliers contribute to this fund through voluntary payments, which are then reimbursed by the CSPE paid by consumers. EDF prides itself with the general public and elected representative on its status as the number one contributor to the FSL (€ 23 million in 2013), omitting to mention that this gift is fully offset by the CSPE. To avoid companies freely using this device for their "social" brand image, the Ombudsman suggested establishing direct funding for the FSL by the CSPE during the implementation of the energy voucher. To our regret, this proposal was not accepted.

► An non-binding obligation to renovate housing for landlords. Noting that landlords are not strongly pushed to renovate housing for their tenants, the Energy Ombudsman proposed a mechanism in addition to the incentives provided by the draft law, to engage owners who are unwilling to disburse monies on renovation, particularly in areas where the housing sector is under pressure, to take action. The principle is simple: if they have not carried out long-term

AT THE END
OF 2014
SOCIAL
TARIFFS
COVERED
2.6 MILLION
HOUSEHOLDS,
ALTHOUGH IT
IS ESTIMATED
THAT ABOUT
4 MILLION
HOUSEHOLDS
SHOULD BE
RECEIVING
THE BENEFIT

(SOURCE:
OPERATORS)

*RATE OF USE OF
PUBLIC ELECTRICITY
NETWORKS
**SOLIDARITY FUND
FOR HOUSING

thermal renovation work in their most energy consuming houses, the owners would be forced to take over a part of the heating bill of their tenants, up to 25% for example. The legislator opted for a voluntary obligation: all dwellings whose primary energy consumption exceeds 330 kilowatt hours of primary energy per square metre per year must undertake an energy renovation by 2025. Meanwhile, from 2030 to 2050, all dwellings will require an energy renovation during a transfer, if funding tools allow.

"Going beyond the economic and environmental issue, the draft law on the energy transition to green growth includes the social issue. One can only rejoice, as this dimension is essential to the success of the energy transition. The fight against fuel poverty is progressing on two fronts, the remedial component and the preventive component. The creation of an energy voucher, to meet urgent social need, is a step forward as it will help the French poor, whatever form of heating they use. The ONPE* estimates that there are 5 million households who find it difficult to light and heat their homes. This help in paying the bills is really only meaningful if the amount is sufficient. We have quantified the financial needs at one billion, i.e. aid of € 200 to 250 per household, the equivalent of the amount received by those who are eligible for both gas and electricity social tariffs - which have not been upgraded since their inception, while energy prices have risen sharply. This support cannot

be devised without a preventive measure for rehabilitation of the dwelling. Targeting those at greatest risk of fuel poverty living in energy guzzlers is an important provision. To support the goal of thermal renovation of 500,000 homes a year from 2017, half occupied by low-income households, the text proposes some innovative financing tools. In particular it enshrines the principle of allocating a share of the energy saving certificates to the fight against fuel poverty This would strengthen, for example, the financing of the Anah** "Habiter mieux" (*Live better*) programme. However, the proportion must be sufficient, at one third, as pledged by the Government for a real implementation."

*NATIONAL FUEL POVERTY OBSERVATORY
**NATIONAL HOUSING AGENCY

Interview



**BRUNO
LECHEVIN**

President
of ADEME
(Environment
and Energy
Management
Agency)

WINTER TRUCE IN DISCONNECTIONS UNDENIABLE SOCIAL PROGRESS

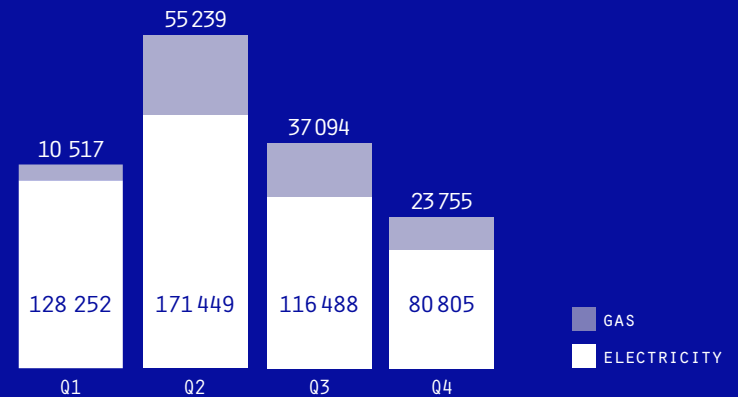
The winter break in energy disconnections was a former recommendation of the Ombudsman. Energy is an essential commodity that no one can do without, so it is unacceptable to disconnect the electricity and gas of consumers who have difficulty paying their bills during the winter when it's cold and the nights are longer. The measure that came into force on 1 November 2013 was not welcomed by suppliers, who feared a rise in non-payments. Some imagined that consumers would take advantage of this wind-fall and decide not to pay their debts. Towards the end of this first winter energy truce, alarming figures have been circulating in the media: some union sources announced that 600,000 disconnections were scheduled after 15 March, the end date of the truce; distribution system operators, for their part, indicated that 300,000 disconnections were requested by suppliers.

THE END OF PARANOIA

A first assessment conducted after the first quarter of 2014 put things into perspective. From 15 to 31 March 2014, 60,000 electricity and gas disconnections were enacted, a figure far from the peak announced. In addition, 87,000 limitations of electrical power to 3000W took place during the winter. Before The Brottes law, this provision had fallen into disuse, with operators opting for disconnection or power reduction to 1000W in the event of absence of the consumer. Given that the truce was not immediately followed by a worrying rise in cuts, Jean Gaubert believes: "That there has

been no slippage, no more than bad payers. Experience shows that the vast majority of consumers seek a solution to pay their debt, without always finding a receptive and flexible response from the suppliers". While the truce was extended until 31 March, 2014 for beneficiaries of social tariffs, this measure proved its social usefulness in relieving households that, even if they did not belong to the most vulnerable categories, were struggling to pay their energy bills.

ACTION ON NON-PAYMENT IMPLEMENTED IN 2014 BY QUARTER



For electricity: reductions in power, disconnections for non-payment and terminations at the initiative of the operator not preceded by a disconnection for non-payment. For natural gas, disconnections for non-payment and terminations at the initiative of the supplier not preceded by a disconnection for non-payment.

Source National Energy Ombudsman from information provided by suppliers. The so-called Brottes law of 15 April, 2013 provides more transparency on disconnections. Operators must inform the Energy Regulatory Commission and the National Energy Ombudsman about operations implemented against non-payers each quarter since 1 May 2014.

THE NEW CONTOURS OF FUEL POVERTY

Two recent studies redraw the perimeter of fuel poverty.

The first **report of the National Fuel Poverty Observatory (ONPE)**, released in October 2014, estimated that there are 5.1 million households that are victims of fuel poverty.

Until then, the phenomenon was measured with “energy affordability rate”, which measures the number of households spending more than 10% of their income on energy expenditure. On this basis, 3.8 million households (8 million people) are affected. By retaining other indicators, such as feeling the cold, ONPE arrives at this estimate which represents 20% of the French population, or 11.5 million people.

A **study by the INSEE, published in January 2015**, creates a new concept of “energy vulnerability” which affects 5.9 million households, forced to devote a significant proportion of their income to heating their home or their car travel. 700,000 homes are struggling to meet these two expenditure items: “Some households are facing a difficult choice: give up other expenses so that they can heat themselves properly or move or, conversely, resign themselves to the cold or move less,” notes INSEE. People living alone (33%) and those under 30 (43%) are particularly affected, but the most numerous households suffering these difficulties are retirees: 1.8 million people. Among the active population, it is the workers that are the most vulnerable: 1.2 million are affected.

These studies, however, are still primarily based on INSEE survey data from 2006 and 2008, before the crisis. We await more recent data for the end of 2014... but they had still not appeared in April 2015.

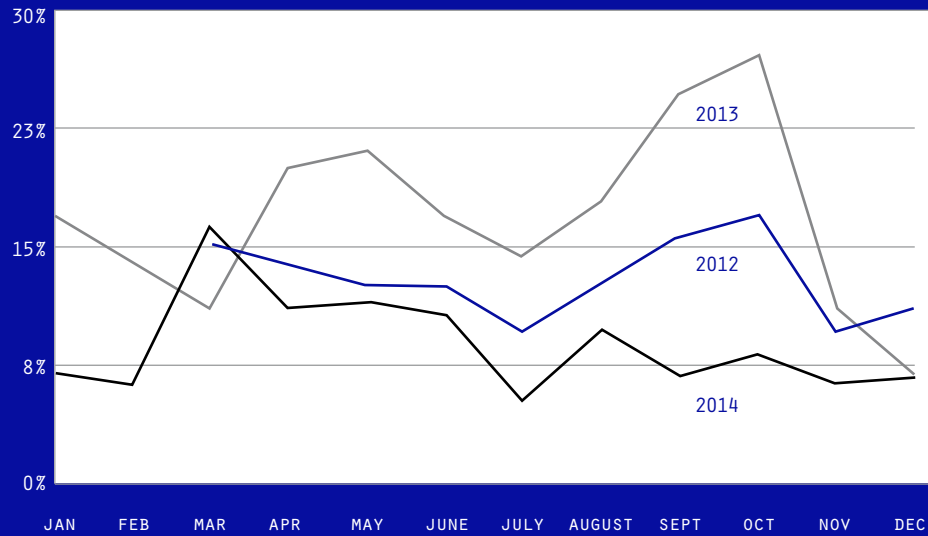
MORE FUEL POVERTY

The truce did not intend to reduce the payment difficulties of poor French but to ensure a “minimum right to energy” during the winter. The absence of disconnections for nearly five months resulted in a carryover to the following months.

In 2014, 623,000 actions for non-payments were carried out by operators: 497,000 disconnections, power reductions and contract terminations at the initiative of the electricity supplier and 126,000 energy suspensions and gas terminations. In 2012, total operations had risen to about 580,000. Note that almost half of the disconnections requested by suppliers are not carried out, as consumers settle their debts before the action. For mediation, the increased number of actions over two years, reflecting the increase in non-payments, is much more the result of increased fuel poverty than unwillingness of consumers.

The phenomenon of “postponement” of actions against non-payers until after the winter was accompanied, in the area of requests from consumers for assistance with payment difficulties, managed by Energie-Info partners, by a similar shift: whereas in 2012 and 2013, the bulk of requests for assistance came in September-October, it took place after the first winter truce 2013-2014, in March 2014.

EVOLUTION OF REQUESTS FOR ASSISTANCE
FOR PAYMENT PROBLEMS
MADE TO ENERGIE-INFO FROM 2012 TO 2014



IN % OF REQUESTS FOR ASSISTANCE,
MADE TO THE ENERGIE-INFO SERVICE
OF THE NATIONAL ENERGY OMBUDSMAN

Limitation of back billing to one year



 **CASE STUDY / RECOMMENDATION**

Ricardo E. turned to mediation, following a very high annual electricity bill. Although his meter had been properly read, the supplier had underestimated his billing for 2 years.

This is far from an isolated case: bills settling several years of consumption are a leading cause of disputes that are reported to us. A problem that should be mitigated with one of the achievements of the Law on energy transition.

Ricardo E., who lives in Herault, challenged his annual electricity settlement bill, which was € 2,456. With no proposed payment schedule, it was difficult for him to pay his debt. The consumer has lived in a house heated by electricity since January 2012. This property, whose meter is accessible from the street, was previously unoccupied. When he moved in with his family, Ricardo E. informed his supplier, EDF, which then calculated the monthly payments at € 35 on the basis of annual consumption... this was a considerable underestimation.

Several repeated EDF omissions lead to this important back billing amount. The meter was read every six months but EDF did not include these indexes in its January 2013 invoice... instead it used its own underestimated rates of its own invention. Ricardo E. was credited with an overpayment of € 72 and his monthly payments were reduced to € 26.

Unbilled consumption, amounting to € 1,040 at that date, appeared later on his January 2014 invoice, a year later. Now, let us recall that the operators are required to bill their customers once a year on the basis of actual consumption. The supplier failed to do this.

We highlighted another anomaly: EDF's terms and conditions of sale provide that the monthly payment amounts may be revised if a significant gap is detected between estimated and actual consumption, following a reading by the network manager, ERDF. From July 2012, EDF should have been alerted to the underestimated monthly instalment amounts based on the reading sent by ERDF, and should have acted accordingly. But it did not do so.

Because of these errors, Ricardo E. was unable to benefit from the advantage of monthly payments, which seek to smooth out the curve to prevent the annual settlement of excessive bills. Moreover, the underestimation lasted two years, so it was difficult for him to be aware of his level of electricity use and to change his behaviour. Quite the opposite, as the bill for January 2013, a small amount, probably did not encourage him to reduce his consumption.

Moreover, the consumer's complaint was not handled optimally, given the size of the sum to be paid. Indeed, EDF triggered a disconnection procedure in April 2014 and it took the intervention of a social worker for it to agree a payment schedule.

Considering these inconveniences, we estimated that the compensation of € 275 offered by EDF during the mediation was insufficient. We recommend a more equitable compensation of € 1,040, equivalent to the amount of the invoiced consumption in January 2014, which should have been in January 2013, if the supplier had complied with its obligations.



RECOMMENDATION No. D2014-00345
DATED 23/07/2014 AVAILABLE ON THE WEBSITE:
www.energie-mediateur.fr/recommandations



FROM THE OMBUDSMAN TO THE JUDGE, TESTIMONY OF RICARDO E. (HÉRAULT)

"This regularization bill of more than € 2,400, due to errors committed by EDF, really put us into trouble. I could not get assistance from the Solidarity fund for housing, as our income was above the ceiling. The social worker, after negotiating a first payment schedule over 12 months, advised me to speak to the Ombudsman. But EDF did not follow its recommendation and wanted to stick to compensation of 275 €. Now, if we had known how much we were spending, we would have managed our electricity consumption better, as we do today, using more wood heating. We are willing and we have always paid our bills on time. This decision of my supplier, given the arguments highlighted by the Ombudsman, seemed unfair. That is why I decided to go to court to enforce my rights. The court of first instance of Montpellier handed down its verdict last December and ordered EDF to pay me € 1,040. The full case that I had put together for the management of my case by the Ombudsman was very helpful. I explained its outline in court. It confirmed the analysis of the Ombudsman, alluding to the negligence of the supplier and its lack of vigilance. The ruling indicates that we were deprived of the opportunity to understand and reduce our energy consumption and that, following the back billing, we had to increase our efforts to find a solution. Without the recommendation of the Ombudsman, which specializes in energy disputes and knows the law, I do not know if I would have won. In the absence of a good lawyer".



JPROX MONTPELLIER
DATED 16/12/2014, AVAILABLE ON THE WEBSITE:
www.energie-mediateur.fr/jurisprudence

LIMITATION OF BACK BILLING TO ONE YEAR

THIS WILL BE A MAJOR ADVANCE OF THE ENERGY TRANSITION LAW FOR CONSUMERS *. THE LIMITATION OF BILL BACK PAYMENTS TO 14 MONTHS, AN ACTION BROUGHT BY PARLIAMENTARY AMENDMENTS TO THE DRAFT LAW IN ITS REVIEW IN THE NATIONAL ASSEMBLY AT THE END OF 2014 IS AN EFFECTIVE MEASURE FOR STOPPING THE PHENOMENON OF NON-PAYMENT AND PREVENTING PEOPLE FALLING INTO ENERGY INSECURITY.

EACH YEAR, MANY CONSUMERS ARE ACTUALLY BILLED FROM ONE DAY TO THE NEXT FOR CONSUMPTION THAT MAY GO BACK SEVERAL YEARS AND MAY AMOUNT TO SEVERAL THOUSAND EUROS.

BILLS THAT THEY DO NOT UNDERSTAND AND WHICH, FOR LOW INCOME HOUSEHOLDS, UNDERMINE THEIR BUDGET BALANCE FOR SEVERAL YEARS.

ALSO, EVEN IF SOMETIMES SUPPLIERS AGREE PAYMENT MECHANISMS OVER SEVERAL MONTHS, REPAYMENT OF SUCH DEBT QUICKLY BECOMES UNSUSTAINABLE AS IT IS ADDED TO CURRENT EXPENSES.

* **HEALTHY GROWTH AND ENERGY TRANSITION FOR GREEN GROWTH** WHOSE DISCUSSION IN PARLIAMENT BEGAN IN SEPTEMBER 2014 IN THE NATIONAL ASSEMBLY, HAD NOT YET BEEN VOTED FINALLY AT THE TIME OF WRITING THIS REPORT

FAILURES OF THE OPERATORS

The phenomenon does not appear to be marginal since these disputes account for nearly 30% of our recommendations: when late settlements are due to lack of rigour of the distribution manager or supplier, it is not the consumer who should bear the consequences. In many cases, the responsibility of operators is indisputable: reading errors that are not detected quickly, meter malfunctions that are not identified for several years, index transmitted by the network manager but not taken into account by the supplier, blockages in billing systems that prevent a bill being edited.

ECONOMIC CHOICES FOR METER READINGS

Back billing over several years may also result from the lack of meter reading. Operators believe that consumers are responsible because they do not allow access to their meter. If we do not underestimate certain behaviours, we believe that the responsibility of distribution system operators (DSO), such as ERDF and GrDF, is involved. Indeed, failure to read the meter relates first of all to the economic choice of the DSOs, who are in a constant search for cost reductions, sometimes to the detriment of the reliability of the metering data: no travel during commissioning, outsourcing of meter reading, failure to send registered letters in the event of repeated absences, to save on postage costs...

2/3
OF BILLING
LITIGATION
SUBJECT TO
RECOMMEN-
DATION
RELATES TO
SETTLEMENT
BILLS MORE
THAN ONE
YEAR OLD

27 MONTHS

average duration
of back billing
for individuals
and businesses

€2200
AVERAGE
AMOUNT
OF BACK
BILLING FOR
INDIVIDUALS

DOUBLY PENALIZED CONSUMERS

To protect consumers of good faith who bear the brunt of the malfunctions or economic choices of the operators, we have long defended the idea of limiting back billing to one year. Excessive adjustments not only plunge households into financial difficulties. Underestimated bills penalize even further by distorting perception of their actual energy expenditure. This lack of visibility makes it difficult to control consumption and may become an obstacle to engagement with energy transition by individuals. As suppliers are legally obliged to charge at least once a year on the basis of actual consumption, limiting settlement to one year is a virtuous measure which should encourage them to improve their practices.

FAILURE OF CONSULTATION AND INTERVENTION OF THE LEGISLATURE

This proposal was raised in consultation meetings with operators. Without success, as they wished to use the legal limitation period of two years. This is why Jean Gaubert, during his hearing at the National Assembly by the Special Committee charged with considering the draft law on energy transition, asked Parliament to intervene and decide on the invoice settlement period. An amendment [No 2268] with a limitation of one year, put forward by deputy Barbara Romagnan, was adopted by the National Assembly; its drafting was improved by Senate Amendment No. 768 and it provides for a maximum period of 14 months for back billing of unpaid consumption. This additional period of two months was introduced in order to allow the operators time to collect a meter reading, if they have not done so for a year.

€9400
AVERAGE AMOUNT
OF BACK BILLING
FOR BUSINESSES

“When operators continue to refuse to take account of our recommendations, the final solution is to appeal to the legislature. Consumers shall henceforth no longer have this sword of Damocles over their heads where they are ordered to pay huge sums months after settling their bills, often because the operators have failed to fulfil their obligations,” says Jean Gaubert.

AMENDMENT 768 TO THE DRAFT LAW ON THE ENERGY TRANSITION PASSED BY THE SENATE COMMITTEE ON ECONOMIC AFFAIRS ON 27 JANUARY 2015 LIMIT ON BILLING FOR ELECTRICITY AND GAS TO THE 14 MONTHS PRIOR TO THE LAST METER READING OR SUBMISSION BY THE CONSUMER OF THEIR OWN METER READING.

- ▶ It therefore sets a clear and verifiable starting point for the back billing period. This period gives the operators room for manoeuvre to try and obtain a new reading, if the one scheduled 12 months after the last reading could not be conducted.
- ▶ It clarifies the legal position by aligning the ban on settling on more than a year and the annual obligation to perform meter reading, which is sometimes ignored in the absence of concrete consequence for operators who do not comply with it. Businesses will also be pushed to be more proactive about meter readings or collection of the consumer's own meter readings.
- ▶ Some unscrupulous consumers might be tempted to block access to their metering data to benefit from deletion of their bill beyond one year. To avoid this drift, safeguards are envisaged: limiting back billing to 14 months shall not apply in cases of fraud or if the network manager cannot access the meter, after having communicated its visit by registered letter with acknowledgement of receipt.
- ▶ The operators shall have one year to prepare for this new rule. Related procedures can be defined as part of the work of focus groups under the auspices of the Energy regulation commission.

"Many consumers are charged bills for consumption of up to two years back billing. For the poorest households, this means the risk of falling into fuel poverty. This common practice of energy suppliers is an important part of the disputes that come before the National Energy Ombudsman, while the law requires a meter reading and an invoice based on actual consumption once a year. It was not easy to get the amendment passed to limit back billing to fourteen months after the last reading, the period selected in the final version. Which I found surprising, as it is a measure that is at no cost to the state budget, but which forces operators to meet their legal obligations and represents a form of relief for vulnerable people. Those who were against it alluded to the difficulty experienced by staff responsible for taking the readings in accessing the meters. But operators have resources that consumers do not have; so it is up to them to find the resources to

complete the readings by the deadlines. It is not the job of poor households to support their cost reduction strategy, preventing them correctly performing the tasks for which they are responsible. On the other hand, it was explained that this was not necessary since smart meters, which allow remote transmission of consumption, are being deployed. But they will not be in service for all households for several years; meanwhile, limiting invoice back billing is essential to prevent the poorest sinking deeper into fuel poverty."

Interview



BARBARA
ROMAGNAN

Deputy
of Doubs

74% OF FRENCH

believe that smart meters will enable them to better monitor their consumption, but only 39% believe they will make energy savings*.

SMART METERS ARE NOT MIRACLE WORKERS

This advance for consumers, which should come into force one year after the enactment of the law, is part of a general roll-out of smart meter use from the end of 2015. Smart meters, while they bring real advances with remote meter reading and billing based on actual consumption, will not solve everything. Indeed, they may break down, with the fault not always detected rapidly; This is indicated by several disputes handled by the Ombudsman in relation to defective smart meters that have not been replaced for several months. Moreover, failures in the operators' billing system cannot be discounted and there are cases where they do not take account of the index transmitted by the distribution system operator (DSO). The maximum back billing duration should therefore force DSOs to be vigilant in the maintenance of these appliances and suppliers to better manage the evolution of their information systems.

*ENERGIE-INFO
BAROMETER
2014 OF THE
NATIONAL ENERGY
OMBUDSMAN

IN GREAT BRITAIN BACK BILLING LIMITED TO ONE YEAR FROM 2006

In Great Britain, from 2006 the association of energy suppliers adopted a "code of conduct" limiting back-billing to one year, if it is recognized that the consumer is not at fault. The rule applies when operators have not read the meter for more than a year, have not taken account of readings sent by their customers or they issue invoices not specifying that they are calculated on the basis of estimates.

STILL A LONG WAY TO GO TO LINKY AND GAZPAR

What is the status of the projects for these new types of meter, which are supposed to help individuals better manage their consumption and make energy savings?

GAZPAR

In September 2014, the Minister of Ecology, Sustainable Development and Energy and the Minister of Economy, Industry and Digital definitively approved the deployment by GrDF of natural gas smart meters, Gazpar. This began with a pilot phase to set up 150,000 meters in 2015-2016 which will enable the overall operation of the system to be monitored. The 11 million meters will then be installed in 2017-2022. Consumption data will be made freely available to

97,6%

PROPORTION
OF ELECTRIC
METERS READ
ANNUALLY BY
ERDF
I.E.
840000 METERS
THAT ARE NOT
READ

customers by GrDF on a website. From this site, each individual has the opportunity to build their own alert system, compared to developments in consumption, and to receive information by email or sms.

LINKY

The deployment of Linky is a major project which includes the replacement of 35 million electricity meters by 2021. In September, the Minister of Energy announced that the first three million meters would be installed in the second half of 2015. Besides billing on actual consumption, individuals can expect several benefits: easier changes to their contract with the supplier, new offers tailored to their consumption profile or subscribe to deals to bring down the invoice. Accurate data on consumption history will be accessible on the DSO's website, with an alert system. The information should allow comparison of individual consumption profiles with those of similar homes.

REMOTE DISPLAY

Considering that this system of information on the Internet was not enough to encourage households to reduce their consumption, we advocate a common position with ADEME (Agency for Environment and Energy Management) for equipping Linky with a wireless communication module that can send data to the dwelling and offer all consumers a real-time information solution in kWh and Euros. This remote display would be offered at no additional cost: the small screen to be installed in living areas enables all members of the household to follow electricity consumption "live" - including variations when a

washing machine is running or a radiator is on - and to view the history of consumption by the day, week, and month.

A SMALL ADVANCE

A **sub-amendment** adopted at the initiative of François Brottes, President of the special commission during the discussion of the energy transition draft law goes partly in this direction. It provides that a remote display system be offered free of charge by suppliers to the most vulnerable consumers, those in receipt of the social electricity tariff benefit (TPN). The costs will be offset by the Contribution to the Public Electricity Service (CSPE). This is an advance, certainly. But we believe this should be rolled out to all: because to change their behaviour, most consumers need continuous, easily accessible and simple to understand information. This is what happens in Britain, where the deployment of smart meters must be accompanied by an "In-Home Display", providing cumulative consumption by day, week and month, not only in kilowatt hours but also in GBP and indicating if consumption is low, medium or high.

THE OWNER OF AN APARTMENT IN PARIS, TÉNIN O., AN OLDER PERSON, WITH A DISABILITY, DECIDED IN 2007 TO USE GAS TO HEAT HOT WATER AND COOK. ONCE THE BOILER WAS INSTALLED AND COMMISSIONED SHE CONTACTED GDF SUEZ TO TAKE OUT A CONTRACT. HOWEVER MONTHS PASSED AND SHE RECEIVED NO INVOICES DESPITE HER CALLS AND EMAILS. AT THE END OF 2013, SHE FINALLY MANAGED TO OPEN A CONTRACT. THE GAS TECHNICIAN OF THE NETWORK MANAGER, GRDF, WHO WAS ASSIGNED TO THE JOB, PROCEEDED TO CUT OFF THE GAS SUPPLY CLAIMING THAT SHE DIDN'T HAVE THE ORIGINAL OF THE COMPLIANCE CERTIFICATE FROM HER HEATING ENGINEER. SHE HAD GIVEN IT TO THE TECHNICIAN WHO CAME TO COMMISSION THE BOILER SIX YEARS BEFORE! THE GAS WAS RECONNECTED FIVE DAYS LATER, AFTER TENIN O. HAD ARRANGED FOR A NEW CERTIFICATE OF COMPLIANCE FOR A FEE OF € 250. SHE THEN RECEIVED A GRDF INVOICE OF € 3,058, RELATING TO AN ASSESSMENT OF THE COST OF GAS CONSUMPTION FOR SIX YEARS WITHOUT A SUPPLIER.

Several shortcomings of the operators explain this absurd situation. What was the first mistake? The commissioning in 2007 was not recorded by GrDF, which led to the removal of the technical reference of Ténin O.'s meter. For our services, contract activation requests relayed by the gas supplier should have obtained a more rapid response from GrDF. Similarly, GDF SUEZ should have made more efforts to alert her, as it knew that the gas supply in Ténin O.'s apartment worked. During the mediation phase, the gas DSO offered to take account of only half of the duration of consumption without supplier, i.e. three years, thus reducing the consumption debt to € 1 500.

This particular case of power consumption without a contract with a supplier is a stumbling block between mediation and operators. Because of the lack of contract, the operators consider that the two-year limitation, provided in the law of 17 June 2008 for individuals*, does not apply and that they are entitled to recover up to twenty years of consumption! Yet, and this is what we emphasize, the distribution system operators do not make every effort to avoid this type of problem. The regulations in force require them to monitor the network assigned to them; if a delivery point is not assigned, operators have a period of eight weeks to disconnect electricity and twelve for gas. Now, to cut down on the movements of officers in the field, these deadlines are sometimes exceeded. We believe that when consumption without a supplier lasts for years because of the negligence of the professional, this should not be turned against the consumer.

*LAW No. 2008-561 OF 17 JUNE 2008 ON THE REFORM OF THE LIMITATION PERIOD IN CIVIL MATTERS (ARTICLE L. 137-2 OF THE CONSUMER CODE)
LIMITS PROFESSIONAL ACTIONS TOWARDS A CONSUMER TO TWO YEARS FROM THE PREVIOUS FIVE YEARS.

Bone of contention around risers



 **CASE STUDY / RECOMMENDATION****A "bodge job" to ensure the right to electricity.**

Floriane R. invested in an apartment in Saint-Omer-de-Blain, aiming to rent it out. During the refurbishment of the accommodation, the electricity meter was removed from the wall. When contacted to request an electrical meter, ERDF, the electricity distribution system operator, refused. The operator estimates that the riser, which carries electricity from the grid to apartments in buildings, was too old to withstand an additional connection or increased power, and that these two actions could cause a "major electrical incident with a fire risk" So Floriane R's apartment had no electricity and was therefore impossible to rent. ERDF demanded the renovation of the riser at the expense of the condominium before it would install a new meter.

In our recommendation, we judged that the refusal of ERDF was unjustified because the consumer had only requested that an existing meter be exchanged and not an increase in power. The issue of arranging for work on the riser was therefore irrelevant. Our recommendation was not followed, so the matter was decided by the judge of Nantes on 4 September, 2014. Without ruling on the ownership of the riser, he bases his finding on the right to electricity. He instructed the distribution system operator to proceed, within three months, to install a new meter for the restoration of the electricity supply. Like a bad sport, ERDF waited until the final day before the three-month deadline to put in a provisional connection with a parallel connection by an overhead cable separate from the riser of the building.



RECOMMENDATION No. 2013-1801

DATED 05/12/2013, AVAILABLE ON THE WEBSITE:

www.energie-mediateur.fr/recommandations

TGI Nantes, 04/09/2014 AVAILABLE ON THE WEBSITE:

www.energie-mediateur.fr/jurisprudence

BONE OF CONTENTION AROUND RISERS

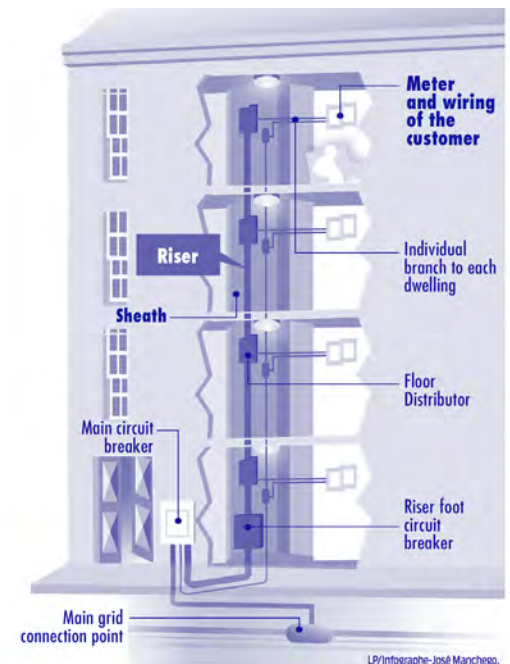
WHO SHOULD PAY FOR THE RENOVATION OF RISERS?

LEGAL UNCERTAINTY ON OWNERSHIP OF THESE ELECTRICAL SHEATHS LEADS TO A GROWING NUMBER OF DISPUTES BETWEEN CONDOMINIUM TRUSTEES AND ELECTRICITY'S DISTRIBUTION SYSTEM OPERATORS FOR WHICH WE ARE APPROACHED, OWNERS REALISE THAT THE COLUMNS ARE DILAPIDATED, BECAUSE THEY DO NOT BEAR THE COST OF THE INSTALLATION OF A NEW METER OR AN INCREASE IN POWER WITHOUT WORK; OR THEY ARE INFORMED BY THE OPERATOR WHO FINDS A FAILURE OF COMPLIANCE AND REQUIRES ADAPTATION TO THE STANDARDS TO CONTINUE ROUTING ELECTRICITY. BOTH PARTIES HIT THE BALL BACK TO OTHER, AS THEY DO NOT WANT TO TAKE ON THE COSTS OF RENOVATION, WHICH COULD AMOUNT TO TENS OF THOUSANDS OF EUROS.

THE OMBUDSMAN WARNS ABOUT A SITUATION OF RISK

In older condominiums, where the risers were built during the interwar period, or in the fifties, the safety problem is real. Insulators may have aged badly. Risers are designed like chimneys, any outbreak of fire poses a serious danger of fire throughout the building. We believe that the status quo cannot continue because precedents exist. The deterioration of grey cast iron gas pipes, which supplied some buildings until the 2000s, has caused several human disasters – in Dijon in 1999, there was an explosion caused by a break in a gas pipe which swept through a building

CRISERS - HOW ELECTRICITY ARRIVES AT YOUR HOUSE



300 000

RISERS ARE NOT UP
TO STANDARDS

6

BILLION EUROS
WOULD BE NEEDED
TO RENOVATE THEM

A simple adjustment to make them safe would involve a lower cost. ERDF lists 1.5 million risers, of which 52% would be "out of concession". The network operator believes that 500 000 of these 800 000 columns would be compliant with the standards and could be included in the concession, if owners request it.

killing eleven people; the same scenario led to the deaths of 19 people in 2004 in Mulhouse. The gas system operator had to answer a charge of "involuntary homicide and injuries and destruction of property of others in breach of a duty of safety" before a court. And quickly proceeded to replace 11,000 kms of hazardous pipelines.

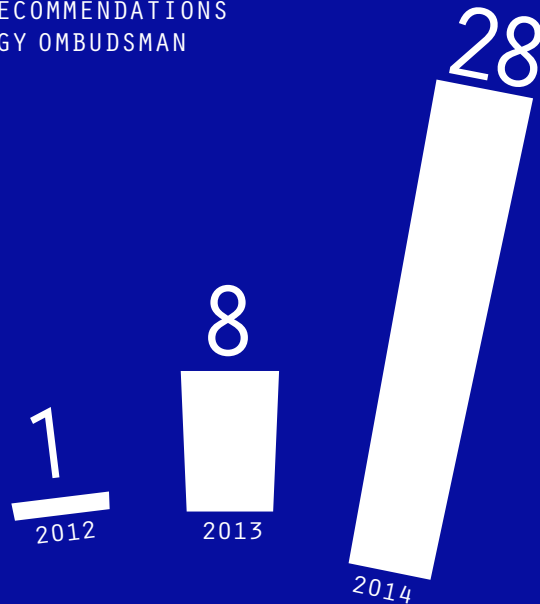
BATTLE OF ARGUMENTS

For us, several legal elements show that the network, owned by local authorities and granted to the network operator, works well up to individual meters, risers included. Since 1946, risers have been part of the public electricity distribution grid, managed and maintained by the dealer (ERDF or local distribution company), unless the building's owners wanted to

keep them. But at any time, they can give up their rights to the dealer who will provide maintenance. For ERDF, this transfer is conditioned on prior restoration to good condition and the operator uses a concession specification for gas distribution which states: "The dealer will take over the risers transferred freely by the homeowners and shall include them in the concession assets once they have been brought into conformity with the technical regulations". But gas and electricity do not have the same status or the same legal history. Because electricity is a basic, indispensable necessity, the distribution system operator's responsibility is to ensure complete network maintenance: this is the spirit of the 1946 decree on risers. The system operator has a safety obligation for the facilities that it operates, which include risers.

If in doubt, we believe that a condominium has the opportunity to confirm the abandonment of its rights over the riser, after a decision of its General Meeting reported to the operator by registered letter, in accordance with Article 15 of the concession specifications for public electricity distribution developed by the National Federation of the licensing and governed authorities (FNCCR) and the ERDF networks manager. This is the "dealer who will then ensure their maintenance and renewal". This approach will consolidate the reality of a previous abandonment. This can only be pure and simple, like any neglect or waiver, and no condition of restoration to a compliant condition may be imposed; only those in force at the time of creation of the column may be required, as stated in Article 5 of the 1955 decree on costs of reinforcing risers.

NUMBER OF RECOMMENDATIONS BY THE ENERGY OMBUDSMAN ON RISERS



WHAT IS TO BE DONE WITH THIS LEGAL “UFO”?

In 2014, legal disputes multiplied. Given that the costs of renovation work are sometimes difficult for many condominiums to assume, the Ombudsman took the issue into the political arena, by asking Parliament to address it on the occasion of the proposed energy transition law. To break the deadlock, Jean Gaubert suggested creating a renovation fund, in the manner of the fund set up after the war to develop the electrification of rural areas. The fund would be

replenished by the network operators, the licensing authorities (local authorities, electricity unions), and condominiums. The licensing authorities receive taxes from electricity bills, so it would not be unusual for them to participate. This fund would spread the financial burden of the upgrading work over several years, primarily targeting the most dilapidated structures, identified as hazardous to public safety. Under the draft energy transition law, deputy Sabine Buis proposed an amendment, which was passed (see below), for a government report to Parliament on the status of risers. It will therefore be necessary to wait several months to see the extent of the technical and legal problems and the proposed solutions.

10
COURT
DECISIONS
CONCERNING
RISERS
BROUGHT
TO OUR
ATTENTION:
IN 2014:
3 BY COURTS
OF APPEAL,
5 BY TRIAL
COURTS,
2 BY CIVIL
COURTS

THE FATE OF RISERS SUSPENDED PENDING A REPORT

Amendment No 1941 to the draft energy transition law, adopted 25 September, 2014 in a Special Committee of the National Assembly, is the first step in bringing risers out of the current legal imbroglio. The report that the government must submit to Parliament within one year of the enactment of the law aims to estimate the number of columns requiring renovation work and to quantify the cost. Solutions to ensure their funding also needs to be put forward. On the other hand, the legal arrangements for these works should be clarified, following the relevant legislative and legal changes.

BUDGET OF € 105 000

That's the nasty surprise for the trustees of a condominium consisting of three buildings in Grenoble. The distribution system operator (DSO) of the city carried out a diagnosis of risers, which were built in 1962. The verdict, which cannot be appealed, concluded that the electric sheaths were dilapidated and that some components could present a risk. How much is needed to repair them? Just over € 105,000. Given that they belong to the condominium, the DSO refuses to take on this cost. In this case, it is not ERDF but Gaz Électricité de Grenoble (GEG) which manages the distribution and supply of energy. Whether it is ERDF or local distribution companies, dealers are clearly on the same wavelength...

THE GOVERNANCE OF THE ELECTRICAL SYSTEM

Are the difficulties faced by the funding of the renovation of the risers emblematic of a broader problem of governance of ERDF, the distribution system operator in a situation of near monopoly in France? Jean Gaubert's hearing with the special commission of the National Assembly charged with reviewing the draft law on energy transition provided an opportunity to highlight this. Noting that the Public Electricity Networks Usage Tariff (see box) is designed to meet the quality needs of electricity distribution networks, the Ombudsman is surprised that the money paid by consumers for that purpose only is not always devoted to the networks. The situation is that the parent company EDF weighs heavily on the decisions of its subsidiary, ERDF.

ERDF, EDF'S CASH MACHINE AT THE EXPENSE OF CONSUMERS?

The Ombudsman highlights the difference in status between RTE (Electricity Transmission Network) and ERDF, two subsidiaries of EDF, which is not without significance for the way investments are managed. The Energy Regulatory Commission and RTE together define the future programs for investment and monitoring of their implementation. If the margin generated by RTE is higher than forecast, the regulator may decide to redistribute it. In May 2014, the CRE therefore ordered the repayment of half of 160 million Euros to consumers and half to electro-intensive industries, not the parent company. This is not the same logic that prevails at ERDF

FOCUS ON THE TURPE

The TURPE, the Public Electricity Networks Usage Tariff, is paid by all consumers on their electricity bill. Since its creation in 2000, this tariff has been set annually by the State, on the advice of the Energy Regulation Commission and is intended to pay for the electricity transmission services on networks which are in a monopoly. It is therefore paid back in full, directly to the managers of the public networks, for which it constitutes the bulk of their revenue: RTE for the electricity transmission network, ERDF and local distribution companies (LDCs) for the electricity distribution network.

**THE QUESTION THAT SHOULD NOT BE ASKED:
WHY DOES ERDF REFUSE TO TAKE ON WORK
THAT WILL IN ANY CASE BE REFUNDED
BY THE TURPE?**

A GOVERNANCE UPGRADE REFUSED

An amendment inspired by the analysis of the Ombudsman was discussed in Parliament as part of the draft energy transition law. To ensure the independence of ERDF, so investments paid by consumers via TURPE are actually assigned by the DSO to the planned activities, it proposes several changes: the appointment of the President of ERDF to the Cabinet and enhanced supervisory powers for the Energy Regulatory Commission and licensing authorities. The regulator could, if the planned investment programme is not realized, deduct the amounts concerned from the following TURPE budget.

This amendment (No 843), discussed in the Senate was not adopted on the ground that the provisions governing the separation of ERDF, the DSO, from its parent company, comply with European directives.

where investments, if approved by the regulator, are not controlled at execution level. ERDF has repeatedly chosen to save on necessary investments, thereby increasing the dividends accruing to the parent company.

For the Ombudsman, TURPE should be used to finance the maintenance and modernization of power grids and not to funnel cash back to the parent company, unless all investment needs have been met. He therefore believes that the governance of ERDF should be aligned with that of RTE to ensure the independence of the DSO.

"The weakness of the medium voltage network is regularly mentioned by elected officials, whatever their region of origin. For two years since ERDF start to make an exemplary effort to bridge the delay in the early 2000s, we have had another drop in investment. It is understandable that investments will be delayed in a department when the network of neighbouring territories, ravaged by a storm, needs to be consolidated as a priority. However, to date we have not received plausible explanations. Some blame the lack of work on the parent company EDF, which would require payments for its shareholders at too high a level; this is their interpretation. Legally, ERDF is an independent company, in accordance with the requirements of the European Commission. To improve the situation, departmental conferences were set up to bring together, once a year, convened by the prefect, ERDF and electricity unions to take stock of the objectives, whether or not they are

achieved, and to decide on any adjustments for the following year. The energy transition draft law extends this idea, by creating the public electricity distribution system committee, tasked with giving an opinion on ERDF's investment policy and centralizing, at national level, the decisions of the departmental conferences. This will provide us with better visibility of the work; the network operator will no longer be able to justify low investment in one area by transferring it to another territory, if that is not true. Furthermore, a representative of the electricity unions will be appointed to the ERDF Supervisory Board. These measures should help the electrical system function much better."

Interview



LADISLAV
PONIATOWSKI

Senator
of the Eure,
rapporteur
of the draft
law on energy
transition
for green growth

Interview



**JULIEN
ALLIX**

Coordinator
of the Energy
unit
for the ARC
(Association
of condominium
managers)

"Risers have become a hot topic, as shown by numerous testimonies of members of the ARC. The cost to renovate them, tens of thousands of Euros, depending on the size of the buildings, is very consistent. ERDF now rejects ownership of buildings constructed before 1992, refuses to take over the work and threatens co-owners with disconnection of their supply if they do not change a riser that they deem to be dangerous. The co-owners have no other solutions than to do the work at their own expense or go to court. However, the matter of risers was unproblematic for decades, with ERDF managing renovations or improvements at its own expense. Another problem is that neither ERDF nor the licensing authorities are able to put a value on the assets involved. The National Energy Ombudsman has been approached about the problem and has brought it to public attention through its recommendations. But

as they are not followed by ERDF, which has hardened its position since a legal precedent in 2009, there is a great need for legislative clarification. The law on energy transition could have provided this, but it merely asked the Government to produce a report on the matter. We wish to make the voice of co-owners heard in this report, which must estimate the number of risers to be renovated, clarify the issue of ownership of the risers and put forward proposals for financing the necessary investments."

"In 2014, ten court decisions were handed down regarding risers, almost all in supporting ERDF. The co-owners were outgunned and were fighting piecemeal, while the network operator clearly developed a national litigation strategy. However, these decisions do not definitively settle the question of ownership of the risers. Indeed, these risers are often assimilated, mistakenly, with the water risers owned by the condominiums - an assimilation that is generally upheld by the condominium regulations, which is why this confusion persists. Clearly, since a 1946 decree, unless the owners concerned refuse, electricity risers had to be integrated into public networks operated by ERDF. But how can this be proved, as required by the courts despite the application of the decree, given that it is the condominiums that assign ERDF for the maintenance and renovation of these risers, which are often old? However, ERDF has not disputed the right of condominiums, to abandon the

risers, although the right to abandon is also a result of the decree of 1946. It is also necessary for this abandonment actually to be decided by the condominiums involved as they are often unaware of this right. But even in this case, ERDF seeks to subordinate this abandonment not only to the condition that the condominiums undertake the prior upgrading of these facilities but also to the application of the standards applicable to public networks while they are not yet formally integrated. Faced with such a blockage, only action by the legislature may put an end to a situation of growing concern to public safety by deciding on a fair distribution, between the various stakeholders, of the cost of this renovation."

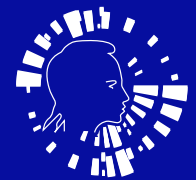
Interview



**PIERRE
SABLIÈRE**

Expert
in electricity
law
and author
of "Energy Law",
published
in 2013
by Éditions
Dalloz

An ombudsman
available to all consumers



 **CASE STUDY / RECOMMENDATION**

It was only after a thorough investigation that the dispute of Benoît D. was resolved. We highlighted overbilling of more than € 80,000 for this farmer from the Pyrenees-Atlantiques region, due to errors for which the distribution system operator GrDF and the supplier GDF SUEZ are equally responsible. While neither party acted in bad faith, it is the technical competence and quality of analysis of the services of the Ombudsman that helped unravel this tangled web. A case that demonstrates the relevance of high level independent mediation in technical matters...

Benoît D., a farmer in Pyrénées-Atlantiques, came to us because he was challenging a € 120,000 settlement bill that he judged to be excessive. He uses gas to dry maize from his own fields and also maize from other farmers. His meter was changed in June 2008, five years before his claim.

To establish the validity of the consumption recorded by the old and new meter, it was necessary to conduct research on corn drying practices and the amount of energy used on average for this activity. Based on a study by the chamber of agriculture of Dordogne, we estimated that Benoit D's gas consumption was high but plausible given the uses.

A first failure of the DSO was detected in that it had not registered the new meter in its information system. It sent GDF SUEZ readings allegedly taken from the old meter and did not correct this error until January 2013. This oversight led to a back-billing, which was mired in the utmost confusion. We felt that we did not have all the required elements to hand to identify the origin of the discrepancies between the data recorded by the DSO and the consumption billed by the supplier. Only one thing is certain: the consumer was being required to pay for 100,000 m³ of gas too much! Given that Benoit D. had already settled, the remainder to be recovered could not have been more than € 37,000, rather than the € 120,000 being claimed. Our investigations cast light in this overbilling - none of the Supplier's services tasked with claims were able to detect this anomaly.

We recommended that GrDF and GDF SUEZ agree on responsibility for their inconsistencies which had led to an unjustified recovery. And we required that they apply the proposed compensation, to repair errors in Benoît D's invoice. The mediation action has helped remedy a serious injury, which could have significantly destabilized the accounts and professional activity of this farmer.



RECOMMENDATION No. D2014-0634

DATED 16/05/2014, AVAILABLE ON THE WEBSITE:

www.energie-mediateur.fr/recommandations

AN OMBUDSMAN AVAILABLE TO ALL CONSUMERS

THE IMPLEMENTATION OF THE EUROPEAN DIRECTIVE ON AMICABLE AGREEMENT OF DISPUTES HAS BEEN THE SUBJECT OF INTENSE DEBATES. UNDER PRESSURE FROM THE FRENCH GOVERNMENT, THE TEXT VOTED BY MEPS IN FACT PROVIDED THAT A MEMBER STATE COULD EXCEPTIONALLY CONSIDER THE OMBUDSMEN AS A VALID ALTERNATIVE DISPUTE SETTLEMENT SYSTEM. WAS FRANCE GOING TO PRESERVE THIS “CULTURAL EXCEPTION” AT ANY PRICE? THIS WAS THE MAIN ISSUE OF THE TRANSPOSITION.

ACT I

Between November 2013 and March 2014, a working group chaired by Emmanuel Constant, the Ombudsman of the economic and financial ministries, with representatives of consumer associations and professional organizations, undertook numerous hearings. His report made thirteen recommendations for implementation and was published in June 2014. To facilitate a lower cost roll-out, it recommends in particular that mediation be opened to various procedures - industry sector mediations, business mediation, conventional mediation, left to the free choice of the businesses.

ANOTHER LAP OF THE TRACK

In Autumn 2014, Parliament authorized the Government to implement the Directive by ordinance. However, the rapporteur of the Enabling Act, deputy Christophe Caresche [\[see interview\]](#), bemoaned the lack of debate on such an important issue for consumers and businesses. The government also set up a transposition steering committee, consisting of parliamentarians, consumer associations, businesses from various sectors and government representatives. This committee is tasked with defining the conditions for the appointment of mediators and the operating modes of the monitoring and evaluation authority.

A MEDIATION DIRECTIVE

The [EU directive on out-of-court dispute resolution](#) was adopted in May 2013. It seeks to develop, in the Member States, free or low cost mediation systems in all sectors of consumption.

A COMPROMISE

The committee works to outline mediation in France for the next decade *. Company mediators are not being sidelined but both businesses and consumers are encouraged to turn primarily to industrial sector and/or public mediators, where they exist. In the energy sector, the issue of maintenance of EDF and GDF SUEZ mediators has been addressed. Given that the National Energy Ombudsman was not able, without more resources, to absorb the complaints handled every year by the internal bodies of the incumbents, the option to dispense with them was discarded. However, their work will be stipulated in an agreement, to be published, to link them to the energy ombudsman. The choice of this organization, asserting the primacy of public sector ombudsmen and sector mediators, is likely to clarify the fragmented landscape of mediation in France.

*DRAFTED WITH KNOWN ELEMENTS IN MID-MAY 2015.

WELCOME TO THE CLUB

At the end of 2014, the National Energy Ombudsman joined the **Club of Public Service Mediators**, created in 2002 to bring together the mediators of different organizations serving the public (local authorities, businesses). Twenty very different structures are members: the Financial Market Authority Ombudsman (created as part of an independent authority), the Electronic Communications Ombudsman (sectoral mediation), the France 2 ombudsman (business mediation), etc.

MEDIATION MAY BE INDEPENDENT OR “UNDER CONTROL”

Every two years mediators must report several types of information to the monitoring and evaluation Authority: number of cases handled, type of complaints, time to resolve disputes, follow-up rate of the recommended solutions, etc. The Authority will approve the mediators and only those whose details are forwarded to the European Commission will be recognised. The businesses are required to inform consumers about the existence of an amicable agreement procedure and for providing them with the of the relevant mediators for handling their dispute.

A DETAILED RECOMMENDATION

The **formalization of our recommendations** responds to a few key ideas that reflect the design of the mediation of the institution: they must be legible and understandable by all and must uphold the respect adversarial principle. They were, therefore, drafted following a particular procedure. Factual explanation in plain language of the consumer referral process, followed by analysis of comments provided by the operators concerned. We used this information to establish a legal and technical analysis to clarify responsibilities. We draw a conclusion and recommend a solution to the dispute, with due justification. It is the quality of this argument that is the basis of the fairness of the decision.

The recommendation sent to the consumer includes an annex of all the comments made by operators, so that the consumer has all the elements needed to understand the proposed solution. It is also accompanied by a letter explaining the terms and conditions of a legal remedy, if the consumer is not satisfied with the resolution of the dispute or if the supplier or DSO fails to implement the recommendation. This information helps to clarify the institution's position, which does not set mediation in opposition to justice and does not fear court assessment of the quality of its argument.

Interview



**ALAIN
BAZOT**

President
of
UFC -
Que choisir

"To become a credible alternative to court remedy, which does not violate the rights of consumers, mediation must be a simple, transparent and trustworthy dispute resolution method. For us, one of the issues of the transposition of the Directive was to achieve a prioritization system for the different layers of mediation that coexist in France, so that consumers know which to turn to. When the Law created an Ombudsman, it had to be given priority, i.e. the other potential mediators had to take a back seat; if the legislator has not provided for a public mechanism and if the businesses are not organized by sector, the company mediator acts by default. The text should uphold this principle. The existence of company mediators is inconceivable unless accompanied by strict rules of independence. The directive laid some rules down, including appointment by a collegial body consisting of equal numbers of representatives of consumers and businesses. We wanted this body tasked with appointing

company mediators and sector mediators to be cross-cutting, not specific to each company or sector, so that the appointments are made based on common requirements to provide a guarantee of consistency. We remain vigilant on this point, which is decisive. The evaluation and monitoring authority is the cornerstone of the system, as it notifies the European Commission of the mediators meeting the quality criteria and can punish them by withdrawing this approval. Its composition is also of major importance. The qualified individuals who will be its members, alongside judges and representatives of consumers and professional, will occupy an essential place. We hope that it will not become a way of recycling former business mediators!"

"We have found a point of balance for the most effective implementation of the EU directive on amicable dispute resolution in consumption, whose effects should not be underestimated. Because many sectors - wholesale, housing, transportation - are not yet covered by free mediation devices for consumers. The text provides a clear direction for structuring mediation in France, characterized by the coexistence of public ombudsmen, sectoral mediators and company mediators, with the Directive recognizing the existence of the latter. We prioritised readability and simplicity for consumers and upheld the primacy of the first two. The provisions encourage businesses to resort to sector mediation where it exists; it is more independent than companies and also ensures harmonization of practices. Businesses with several mediators are invited to make combinations and provide a single system

to the consumer. Where a public ombudsman and company mediators coexist, the former is prioritized: it is responsible for organizing mediation in the sector, under an agreement setting out the rules of cooperation with the latter in order to achieve amicable resolutions in litigations. The evaluation and monitoring authority play an important role in instilling positive momentum, by granting mediator approval only to those who meet the required quality assurances criteria. Its action shall encourage companies to commit themselves to systems of shared mediation. If they do not understand its relevance, the text, which is a first step, will need to be improved."

Interview



**CHRISTOPHE
CARESCHÉ**

Deputy
of Paris,
Chairman
of the mediation
steering
committee

Interview



JACQUES
TOUBON

Defender
of Rights

"When the Defender of Rights deals with a dispute through mediation, its approach is not actually different from that of other mediators: it prioritizes listening to both parties, educational reconstruction of the arguments to achieve the formulation of an impartial recommendation. In exceptional circumstances, it can make use of the notion of equity, which is this delicate marriage of justice and law. But, in my opinion, the term mediator should be given the sense of "intermediary" in that it allows users of the widest variety of public services to find the right point of contact for the resolution of the challenges they face. In this regard, nearly half of the cases that my delegates handle are on issues of information and guidance for claimants. In the same vein, it seems necessary to facilitate understanding of the individual decisions and it is appropriate to give, as we do, an important place to education and plain and understandable language. Regarding the independence of the Defender of Rights, the

Organic Law provides many legal safeguards such as the non-renewable and irrevocable nature of its mandate, criminal immunity for the rights holder during the performance of its duties, the strict system of incompatibilities imposed on the Defender and its assistants, or even, especially, the freedom to evaluate and make use of my involvement. I will add, in addition, a budgetary aspect, since the institution enjoys autonomy in this matter, which translates in practice into the Defender of Rights being granted the role of authorizing officer. Finally, beyond the texts, there is practice and ethics. While I am granted independence through the status of constitutional authority, impartiality is, by contrast, a virtue which must be attained by investigating the complaints I receive. It is the combination of these elements seems decisive to me. Being independent means neither withdrawal into oneself nor sterile confrontation. This does not mean giving up defending a pre-defined position but rather

defending rights and freedoms and make them a real lever of action for better access to rights. Regarding our territorial network, in the past there was a network of delegates in 3 of the 4 institutions whose missions were combined to become the Defender of Rights. But this network remains fully inspired by the network set up by the Ombudsman of the Republic. Today there are almost 400 volunteers manning hotlines in nearly 600 places, such as varied prefectures, court houses and legal centres, local authority premises and also almost all prisons ... The first strength is therefore this local aspect, including in sensitive urban areas. Our delegates therefore handle nearly 80% of the institution's cases. The other strength is their competence and their ability to listen. They are now recognized as "Intermediaries", whose role is not only guidance but also clarification and resolution of the difficulties of the users. They work in a network and are regularly trained on the various issues. I have decided

to increase their number to 500 by 1 year from now, first to ensure that the whole country is covered, but also so that these delegates can become promoters of access to rights."

Interview



MARIELLE
COHEN-
BRANCHE

Ombudsman
of the Financial
Markets
Authority
(AMF)

"The financial regulator has put this free public service in place to promote amicable resolution in disputes between financial businesses and savers and investors. For mediation to be a genuine justice alternative, it is important for the Ombudsman to be independent, easily accessible, to have the confidence of both parties and to prove his or her effectiveness. The implementation of his/her recommendations is one of these elements. The number of referrals is increasing every year and, for the first time in 2014, I issued general recommendations on the matter of employee savings, which were taken up by COPIESAS*, tasked with making proposals for reform to the government. In 2014 I also created a Logbook on my website to give greater visibility to the AMF Ombudsman and to show how the role works in practice. Each month, a case study is presented, to provide an illustration of the kind of issues that are referred to me. This educational effort contributes to building consumer confidence

in the mediation system. The independence of the Ombudsman in relation to the litigants is the key to the procedure. We share the same values and the same goals as the Energy Ombudsman. We are both institutional mediators, which differentiates us from sectoral mediators but, more importantly, company mediators. A company mediator, whatever the person's competence, because it is paid by one party to the dispute, may be suspected by some consumers of insufficient independence if its opinion finds in favour of the company. This is the challenge of the transposition of the EU directive: to develop high quality mediation, the public authorities are required to implement rigorous and transparent evaluation and control procedures for a variety of existing mediation systems."

*COUNCIL FOR GUIDANCE OF PARTICIPATION, PROFIT, EMPLOYEE SAVINGS AND SHARE OWNERSHIP

JUDGES RECOGNIZE THE OPINIONS OF THE OMBUDSMAN

Many consumers have gone to court after appealing to us. With just one exception, all have taken this step because our recommendation was not followed by the operator. Their disputes were in relation to a range of topics - the problem of supply quality, meter malfunction resulting in repayment of consumption, reading errors, challenges to charges of fraud, etc.

The local court or the district court overwhelmingly uphold the finding of mediation, whose recommendations are confirmed, either in full or in part. In just one case, that of Mr L., challenging consumption recorded by a meter that he considered to be flawed, a judge of St-Brieuc did not share our findings, which recommended compensation of € 745: the judge felt that it was for the individual to provide evidence of the inaccuracy of the consumption.

Legal action, when supported by the argument of mediation, often leads to larger compensation for consumers. Before the local court near Puteaux, Mr A. thus obtained nearly € 2000 for a failure in quality of supply, while we suggested compensation of about € 1000. The district court of Avignon also doubled the amount of compensation recommended by mediation, to € 4,000, for Mr B, who had had to make a repayment following a meter problem. At Abbeville, the judge awarded € 155 to Mr C., who was challenging a final reading, while the recommendation was requesting € 25. This survey of judicial decisions should give the businesses pause for thought - when they do not follow the recommendations of mediation, the courts impose heavier penalties on them, not to mention legal fees. And consumers should be encouraged to seek legal redress when the Ombudsman's opinion is not heeded by the professional, which they do not do often today...

There is a selection of court decisions on the Ombudsman's website.

NEON : 30% OF LITIGATION HANDLED BY THE ENERGY OMBUDSMAN

According to a [study published 22 October, 2014](#), the National Energy Ombudsman dealt with 30% of disputes listed by the NEON network in 2013 (a total of 48,866 disputes). NEON is the European network of independent energy mediation services. It was created in 2011 at the initiative of French, British and Belgian Ombudsmen. Since then, Irish and Catalan Ombudsmen have joined. The network relies on strong values - independence, transparency and efficiency - and aims to promote and improve non-court conciliation of disputes in the energy sector and their representation at European level. It promotes out-of-court settlements of disputes through amicable agreements, recommendations and opinions for the government.

MANY UNFAIR CLAUSES IN ENERGY CONTRACTS

On 16 October 2014, the [unfair clauses committee published a recommendation](#), which highlights 31 unfair clauses in electricity and gas supply contracts which confer an excessive advantage on the business to the detriment of the consumer. Since its creation in 1978, the commission had never examined the energy sector, which nevertheless accounts for over 40 million contracts. This deficiency needed addressing, as the list of failures is one of the longest provided by the Commission.

SUBJECTS RAISED BY THE OMBUDSMAN

The list is not a major surprise for mediation which, since 2012, has been advancing proposals to improve the terms and conditions of sale of the operators. The consultation was unfortunately cut short, due to lack of cooperation by the suppliers. Associated with the work of the Commission, which has screened around twenty contracts, we have been sharing our observations on certain contractual practices challenged in our recommendations for several years. The Commission agreed with our analysis: in fact, of the 31

ILLEGAL, RATHER THAN UNFAIR CLAUSES

The “black list” of the Commission features certain clauses that not only upset the balance of the contract between professional and consumer but contravene the legal and regulatory provisions. The Directorate General of Consumption, Competition and Prevention of Fraud (DGCCRF) investigated the illegal clauses. According to a [report published in early 2015](#), most providers have now started to comply. However, shortcomings persist. Some operators do not offer consumers the option to submit their own reading or to reimburse overpayments, contrary to their obligations. Also there are still clauses enabling suppliers to use annual billing based on estimates, in the absence of meter readings, even if the consumer is not responsible. This practice contravenes the consumer code and is responsible for back-billing, which has been denounced by the Ombudsman for several years. This should tail off as a result of the provision adopted in the energy transition draft law, which limits settlements to fourteen months [\[see chapter Limitation on back-billing to one year\]](#).

OUT OF **31**
 CLAUSES
 DECLARED
 UNFAIR BY
 THE
 COMMISSION,
26
 HAVE
 CONFIRMED
 THE RECOM-
 MENDATIONS
 OF MEDIATION
 SINCE 2008
 ON THESE
 ISSUES

clauses identified as unfair or illegal, 26 confirm our recommendations. The suppliers therefore find that most of the mediation proposals, rejected three years previously, rebound on them. While the opinions of the Commission are not binding, operators should, however, be strongly encouraged to change many aspects of their terms and conditions.

DETAILED REVIEW

The consumer does not have to ensure that the tariff is suitable to its needs; tariff advice - often avoided in Terms and Conditions - emphasize the supplier's liability. The consumption back-billing calculation methods used in the event of meter malfunction have been questioned: the Ombudsman criticized their lack of transparency and the Commission condemned the single payment reimbursements of consumption unilaterally imposed by the business. It also criticized clauses requiring the consumer to make an automatic withdrawal as its only payment method, which discriminates against households with no bank account and those requiring an additional fee for sending invoices on paper. Similarly, the unilateral change in the amount of monthly payments imposed on the consumer without explanation is not acceptable. While many clauses provide for penalties if the bill is paid late, it is unfair to run the payment period from the issue date of the invoice, which is not the date of receipt, because this does not allow the consumer to benefit from the contractual period. Finally, we believe it is insufficient to announce a scheduled power cut merely by public display; the Commission is unhappy with this procedure as it means that individuals are not properly informed.

The future is SoLLEn



A POSITIVE EVALUATION OF THE OMBUDSMAN'S SERVICES

THE SATISFACTION SURVEY CONDUCTED AMONG INDIVIDUALS AND SMALL BUSINESSES WHO HAVE USED OUR SERVICES* SHOWS THAT 80% OF CONSUMERS WHO HAVE USED OUR SERVICES IN 2014 WERE SATISFIED - HALF OF WHICH WERE "VERY SATISFIED".

*TELEPHONE SURVEY CONDUCTED BY MARKET AUDIT ON A SAMPLE OF 359 CONSUMERS FROM 2 TO 6 FEBRUARY 2015.

Several factors contributed to this: a satisfactory solution was found to disputes in 65% of cases, and consumers for whom the dispute is inadmissible understand why better (77% compared to 71% in 2014). For disputes that resulted in a recommendation, 84% of people believe that it is a satisfactory solution to their problem.

The quality of telephone contact is considered excellent, and our teams are considered accessible and relevant to over 90%.

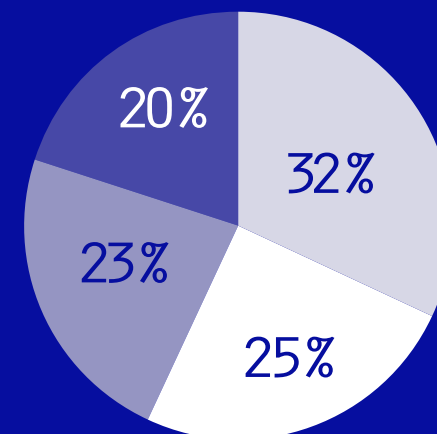
However, the fact that the dispute was not been resolved or that it was not proven, in our opinion, explains the dissatisfaction of 14% of consumers. The increase in admissible cases to be handled in 2014, which extended the deadlines, is also noted by consumers: 83% satisfied against 89% in 2014.

Finally, 2 people out of 5 believe that the National Energy Ombudsman helps to improve their confidence in the energy market and 9 out of 10 people would recommend us to a friend.

**1,6
MILLION**
CONSUMERS
WERE INFORMED
BY THE
OMBUDSMAN
IN 2014

KEY REASONS FOR APPEALS TO THE OMBUDSMAN

- ADVICE
- INDEPENDENCE
- EFFICACY
- FREE SERVICE



BRUSSELS SETS UP CROSS-BORDER ONLINE MEDIATION

On 13 March 2013 the European Parliament adopted a law providing for the creation of a European consumer dispute resolution online platform (ODR). The tool is designed to facilitate mediation in cross-border e-commerce disputes. For example, a French tourist booking and paying for a room on the website of a hotel in Slovakia and who has a dispute with the owner, can make a complaint on the website, which will be available on the EU Commission website by the end of 2015. It's a contact and connection platform, centralizing all mediation devices recognized in Member States (see chapter [An ombudsman available to all consumers](#)). Electronic merchants will indicate the possible use of online dispute resolution on their websites. The consumer's complaint is then forwarded to the professional concerned, who informs the consumer of the mediators who handle the case. The site, designed with several groups of experts appointed by each Member State, including a representative of the National Ombudsman Energy, is available free in all the official languages of the European Union so that the consumer can file the dispute in its original language.

FOCUS ON THE ENERGIE-INFO SERVICE

Our expertise unit handles consumer inquiries, supports them in their efforts and deals with the operators in order to take over their claim. According to the survey conducted in May 2014 *, telephone reception is considered excellent, the time to process the requests was satisfactory (88%), and the quality of the response is emphasized by 7 in 10.

*TELEPHONE SURVEY CONDUCTED BY CEGMA TOPO ON A SAMPLE OF 350 CONSUMERS (300 INDIVIDUALS AND 50 BUSINESSES) FROM 13 - 24 MAY 2014

Two caveats, however: 58% of businesses are not fully satisfied; their demands are indeed more complex than those of individuals, which requires development of the expertise of the Energie-Info service. Also, nearly 25% of respondents say they are unhappy, because no solution as found. This is a trend: consumers expect advisors to solve their dispute rather than advice on what steps to take. Their expectations sometimes go beyond surpass the response capabilities of Energy-Info.

1.2
MILLION
VISITS TO THE
ENERGIE-INFO.FR
WEBSITE

LESS WORK FOR THE BELGIAN OMBUDSMAN

In 2014, the number of referrals received by the Federal Energy Ombudsman in Belgium decreased from 6657 complaints in 2013 to 4819. Several factors explain this drop: a mild winter that reduced energy consumption, better price regulation, a reduction in VAT on electricity bills and the effects of the new agreement "Consumers in the liberalized electricity and gas market" came into force on 1 January 2014. All suppliers must now inform their customers, once a year, of the best tariff plan according to their consumption. They must also offer, on their website, a price simulator that meets the criteria of the regulator and can be used to compare each supplier's different gas and electricity prices. Finally, operators pay penalties for delay if a refund is not made on time. Those measures are designed to improve practices and have helped reduce litigation... and reduce the activity of the Ombudsman.

SoLLEN,

AN INNOVATIVE TOOL



MEDIATION HAS CONTINUED TO INNOVATE SINCE ITS INCEPTION TO MEET THE GROWING NUMBER OF REFERRALS, WITH THE "SECOND CHANCE" DEVICE, AMICABLE AGREEMENTS AND THE ONLINE LITIGATION RESOLUTION PLATFORM. THE YEAR 2014 WAS DEDICATED TO OPTIMIZING THESE PROCESSES WHILE THE NUMBER OF ADMISSIBLE DISPUTES INCREASED BY 14%. KEEPING TO SCHEDULE IS A DAILY CHALLENGE, AS BUDGET CONSTRAINTS MEAN THAT HUMAN RESOURCES CANNOT BE REINFORCED. OTHER WAYS TO IMPROVE THE ORGANIZATION ARE BEING CONSIDERED.

SoLLEN REACHES CRUISER SPEED
 Launched in late September 2013, this **interactive dispute resolution platform, called SoLLEN***, lived up to its promises in 2014. We expected much of this tool, which is innovative in France and also in Europe: improve the service provided to consumers and operators through exchanges between the parties to the mediation, reduce case processing times thanks to the responsiveness of the web and achieve greater productivity by reducing the administrative tasks devoted to referrals. These three objectives have been achieved.

OVER 80% OF CONSUMERS ARE SATISFIED

Of the 2,301 recommendations issued in 2014, a fifth cases were resolved via the online platform. Over 40% are by amicable agreement, a flexible and pragmatic procedure that favours conciliation under the aegis of an employee of the Ombudsman to find a solution to the dispute. The time it takes to process the case is shorter: a month and a half on average compared to about two months for referrals processed in the conventional way. Over 80% of consumers using **SoLLEN** say they are satisfied or very satisfied with the resolution of their dispute, according to an online satisfaction survey sent at the outcome of any disputes. Note also that this tool allows consumers to better identify the admissibility of their dispute and to avoid a "non-admissible" approach: the admissibility rate of disputes on **SoLLEN** has risen to 75%, compared to less than 30 % for cases handled by mail.

295 800

PEOPLE CALLED THE ENERGIE-INFO SERVICE ON FREEPHONE 0 800 112 212

*ACRONYM OF THE ONLINE ENERGY LITIGATION TOOL

14 412

CLAIM SETTLEMENT DEMANDS
WERE REFERRED TO THE OMBUDSMAN
OF WHICH

1 093 via SoLLEn,
the online platform

5 360 by post

7 959 via the Energie-Info service: 1068 applications
were received by post and 6891 by telephone

4 159
ADMISSIBLE
DISPUTES
(UP 14%
ON 2013)

A TOOL FOR PROMOTION

While the online platform bedded itself in by first handling simple disputes, complex cases such as those relating to quality of supply or those coming from small businesses are now being integrated. We therefore want to promote this online solution. The Energie-Info service directs consumers to SoLLEn. Under the heading "How to refer to the Energy Ombudsman" on the energy-mediateur.fr website, a video tutorial highlights this means of referral. This commitment represents a change in the behaviour of consumer who increasingly use the web in their exchanges with the various services of the institution: the number of calls to the Freephone No. has

dropped by 20% from 2013, while applications using the Internet contact form to Energie-Info have increase (1,086 in 2014 compared to 772 in 2013). The Internet is the main vehicle that allows consumers to find and use mediation.

DEALING WITH THE RISE IN DISPUTES

These actions are merely the start of a reorganization project to streamline our information system, to reduce processing and hosting costs. All cases, including referrals received by mail, will ultimately be integrated into the [SoLLEn platform](#). This project is accompanied by discussion on the procedures and tasks of the employees responsible for the analysis of admissibility; with the expected development of SoLLEn, they should develop too. The challenge is to cope with the increased demands that will result in the extension of the scope of our skills to all domestic energies in 2015, following the proposed energy transition draft law [\[see Chapter An ombudsman available to all consumers\]](#).

2 301

WRITTEN
RECOMMENDATIONS
WERE ISSUED
IN 2014



TESTIMONY OF DIEGO E.,
A RESIDENT OF FOIX
(ARIÈGE)

"For a year, I did not manage to obtain a refund of an EDF electricity bill charged to my mother even though she was dead and could not have used the electricity she was being told to pay for. By searching forums I found the website of the National Energy Ombudsman. As a frequent Internet user, I chose to make an appeal via the online platform, SoLLEn. I quickly received a reply informing me that my file was admissible. The application is interesting, with a private part for exchanges between the Ombudsman and me and an open part for contact with the operator. Everything is transparent and quick: my refund request, the supplier's replies, the scanned documents that were attached to the file, requests for further clarification. An employee of the Ombudsman then suggested an amicable agreement and enacted the repayment of the amounts owed and compensation of € 50. I agreed, and this proposal has been posted online. I have formally responded favourably. A month later, I received the cheque as expected. SoLLEn is a brilliant system, highly effective!".



TESTIMONY
OF MARIE-FRANÇOISE A.,
A RESIDENT
OF NEAUPHLE-LE-CHÂTEAU
(YVELINES)

"My parents were no longer occupying over their home, so they were no longer consuming gas. However, they continued to receive bills based on estimates. I tried to settle the problem with their provider ENI but I found myself up against a wall: the contact person was always different, I never had an opportunity to speak with a manager, registered letters went unanswered. By visiting forums, I found the website of the Energy Ombudsman. I chose to enter it online to facilitate communication because the letters, including a threat to disconnect, kept being sent to my parents' address. After the confirmation of the processing of my dispute, I scanned all the documents in my possession, which were a history of the problem, and I sent them. To be able to monitor my case in real time, with ENI's response and the observations of the distribution system operator, did me a world of good: finally, my request was taken into consideration, where for two years, nothing had moved! That everything is set down in black and white gives a guarantee of seriousness. In addition, the platform is not an impersonal tool, it facilitates digital exchanges but you can also have telephone contact with an Ombudsman employee".

Key figures 2014

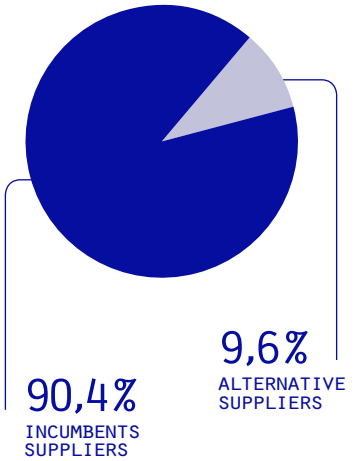


ELECTRICITY



THE NUMBER OF RESIDENTIAL CUSTOMERS WHO HAVE LEFT REGULATED ELECTRICITY PRICES

MARKET SHARE IN ELECTRICITY AS AT 31/12/2014

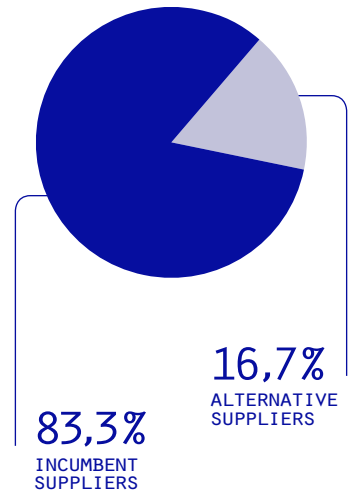


GAS



THE NUMBER OF RESIDENTIAL CUSTOMERS WHO HAVE LEFT REGULATED TARIFFS FOR THE SALE OF NATURAL GAS

MARKET SHARE IN GAS AS AT 31/12/2014



THE ENERGY MARKET IN BRIEF

<p>3,8 MILLION</p> <p>households in fuel poverty in 2011, according to INSEE (based on the National Housing Survey 2006). They spend more than 10% of their income on energy for their homes.</p>	<p>5,1 MILLION</p> <p>households in fuel poverty according to the Observatory of fuel poverty (2006 Housing Survey). An income test and a criterion of cold felt in the housing are added.</p>	<p>5,9 MILLION</p> <p>households in a situation of energy vulnerability, according to INSEE. Household income spent on energy in the home is extended to forced movements and the vulnerability threshold is defined in relation to the median income/ expenditure ratio.</p>
<p>+33%</p> <p>the increase in electricity bills at regulated tariffs for a customer with electric heating (incl. taxes) since 2007;</p> <p>+35%</p> <p>for a customer with another form of heating*.</p>	<p>+36%</p> <p>the increase in regulated tariff invoices (incl. taxes) for gas for a customer using gas heating since 2007**.</p>	<p>€ 3 200</p> <p>average budget spent in 2013 by a French household on energy: € 1 850 for home energy, € 1 350 for fuels (compared to, respectively, € 1 550 and € 1 400 in 2011)***.</p>

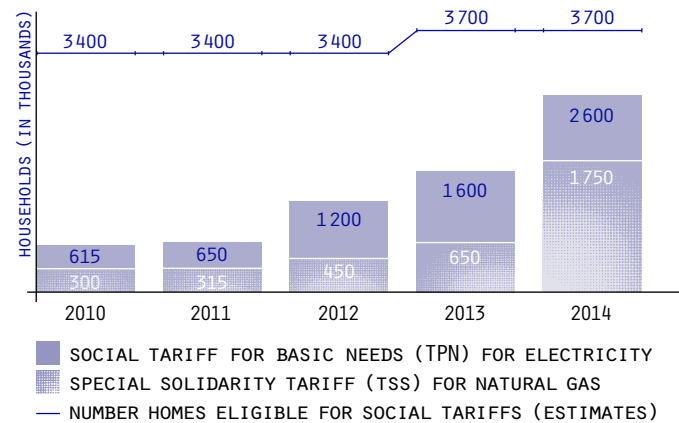
* Assumptions for customer with electric heating: 12 kVA HP/HC, 9100 kWh/year, a customer with another form of heating 6 kVA Base, 4200 kWh/year.

** Assuming : tariff B1, N2, 17 000 kWh/year.

*** Source: Energy balance of France, General Commission for Sustainable Development.

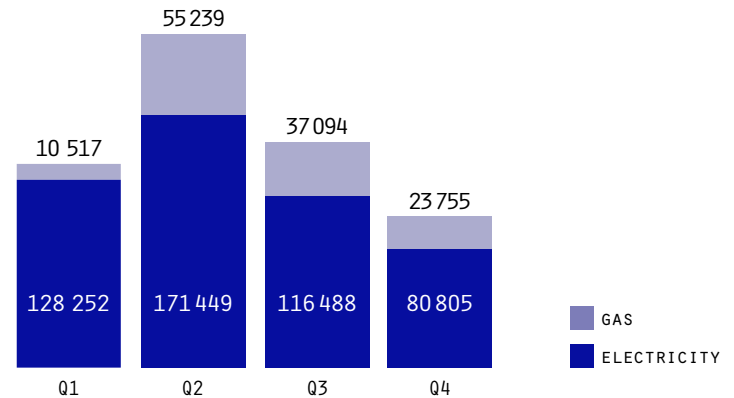
NUMBER OF HOUSEHOLDS (IN THOUSANDS) RECEIVING SOCIAL ENERGY TARIFF BENEFIT 2010 - 2014

Source: Ministry of Ecology, operators data.



DISCONNECTIONS, TERMINATIONS AND POWER REDUCTIONS IN 2014

ACTIONS TAKEN AGAINST NON-PAYERS IN 2014, BY QUARTER



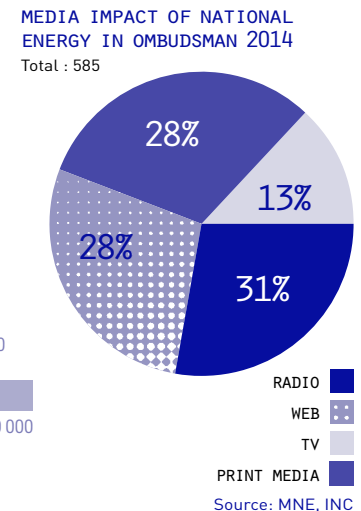
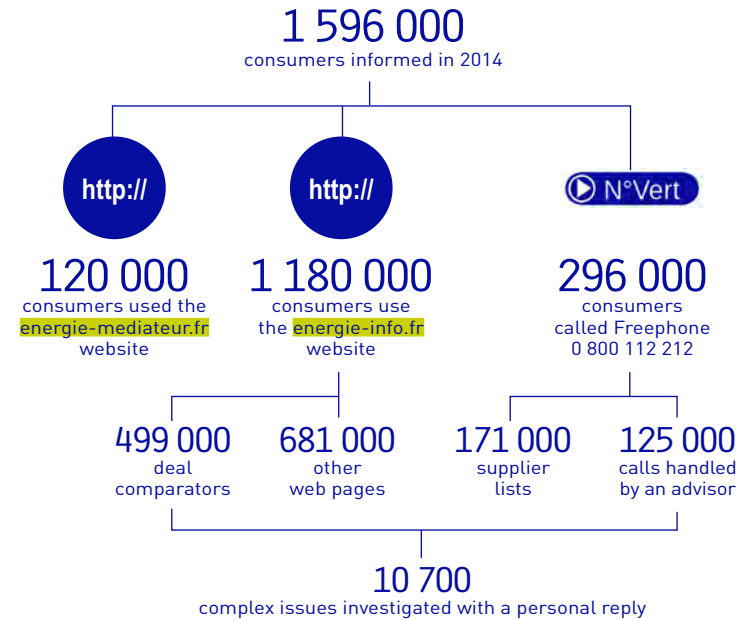
For electricity: reductions in power, disconnections for non-payment and terminations at the initiative of the operator not preceded by a disconnection for non-payment. For natural gas, disconnections for non-payment and terminations at the initiative of the supplier not preceded by a disconnection for non-payment.

Source: National Energy Ombudsman from information provided by suppliers. The so-called Brottes law of 15 April, 2013 provides more transparency on disconnections. Operators must inform the Energy Regulatory Commission and the National Energy Ombudsman about operations implemented against non-payers, each quarter since 1 May 2014.

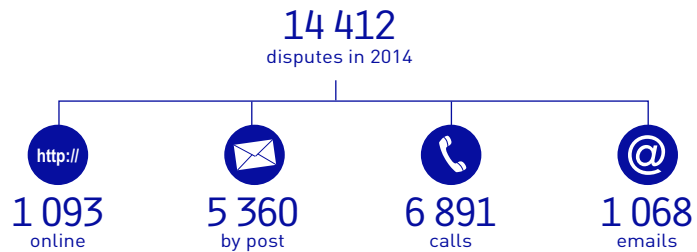
ENERGIE-INFO BAROMETER*
ON THE OPENING OF MARKETS

<p>64%</p> <p>of French believe that their energy bills are a significant share of total household expenses.</p>	<p>13%</p> <p>of French have had difficulties paying electricity or natural gas bills.</p>	<p>42%</p> <p>of French people deprived themselves of heating during winter 2013/2014 to avoid excessive bills.</p>
<p>50%</p> <p>of French know that they can exchange electricity supplier.</p>	<p>69%</p> <p>think that can be regulated tariffs therefore obtained for gas and electricity with the same supplier.</p>	<p>69%</p> <p>do not know that EDF and GDF SUEZ are two different and competing companies.</p>
<p>54%</p> <p>for natural gas.</p>		
<p>33%</p> <p>of French know the procedure to change supplier.</p>	<p>20%</p> <p>of French have tried to obtain information regarding the opening of the market to competition.</p>	<p>10%</p> <p>of French say they were involved in litigation or made a complaint to their supplier in 2014.</p>
<p>60%</p> <p>of French feel that independence is one of the main qualities expected of a mediator.</p>	<p>21%</p> <p>of French know about the National Energy Ombudsman.</p>	<p>* Survey conducted by the CSA in September 2014 on a representative sample of 1,501 French households by telephone.</p>

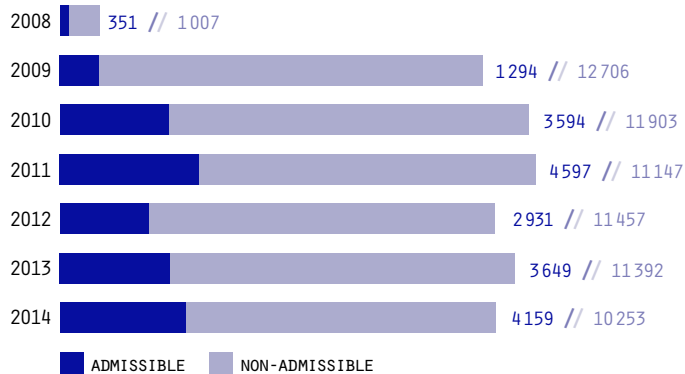
CONSUMER INFORMATION



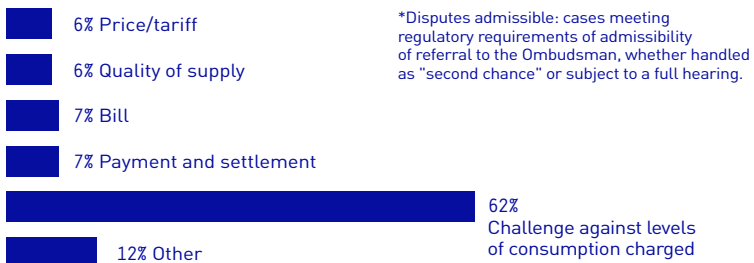
DISPUTES RECEIVED



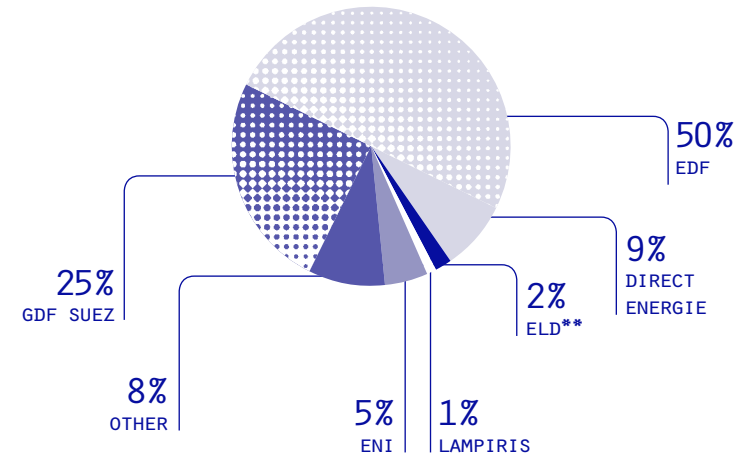
DISPUTES RECEIVED PER YEAR



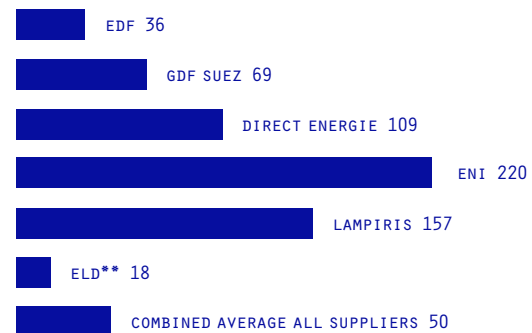
TYPE OF ADMISSIBLE DISPUTES*



DISPUTES BY OPERATOR



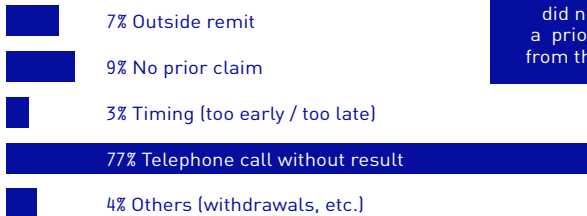
DISPUTES* FOR RESIDENTIAL CUSTOMER RELATED TO 100,000 GAS OR ELECTRICITY CONTRACTS IN PORTFOLIO IN 2014



*For consistency includes those disputes received by internal mediators where suppliers have them.

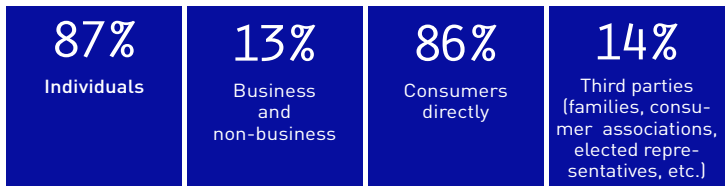
**ELD: Local distribution companies.

REASONS FOR REJECTION OF NON-ADMISSIBLE DISPUTES

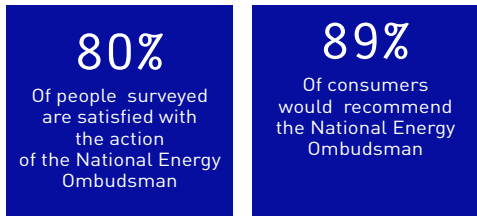


35%
of disputes did not receive a prior response from the operator.

ORIGIN OF RECEIVED DISPUTES



SATISFACTION*

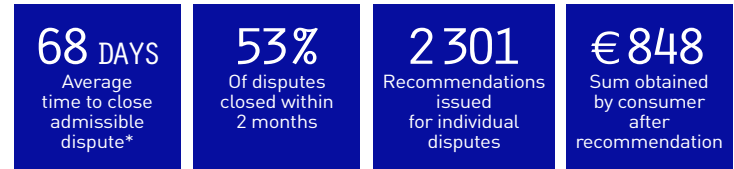
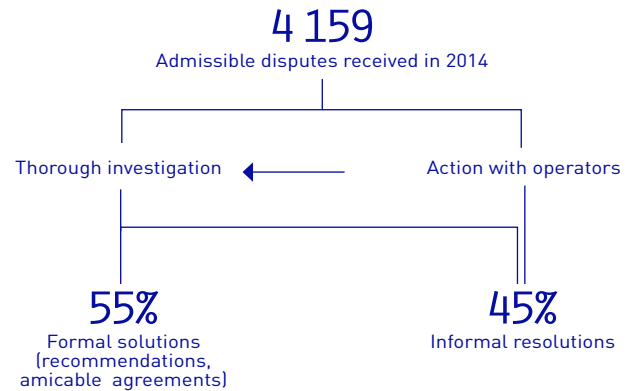


EVOLUTION OF OVERALL SATISFACTION*



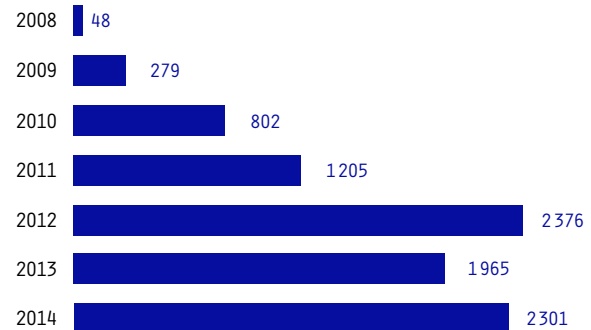
* Satisfaction survey conducted by Market Audit among a random sample of 359 consumers who have used the service. Details at www.energie-mediateur.fr

HANDLING OF DISPUTES

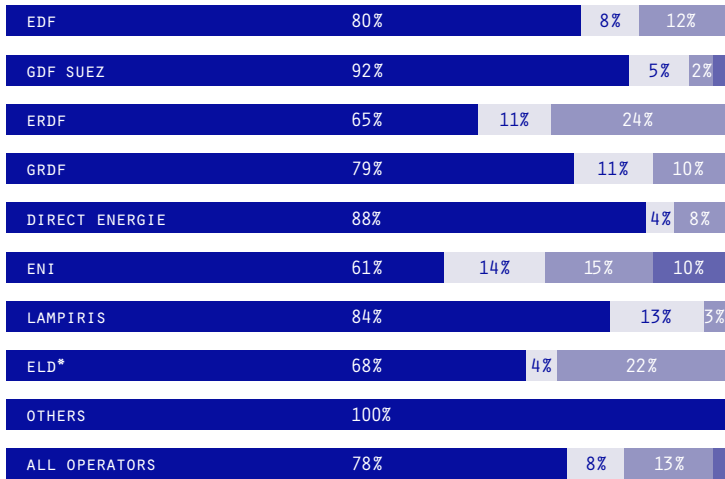


*in 2014; stable vs 2013.

RECOMMENDATIONS ISSUED FOR INDIVIDUAL DISPUTES



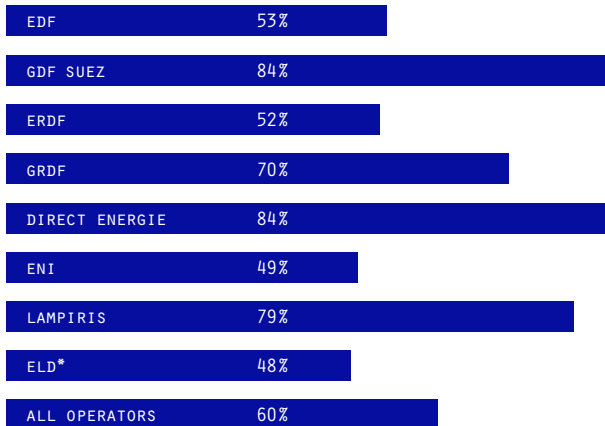
OVERALL FOLLOW-UP OF RECOMMENDATIONS FOR INDIVIDUAL DISPUTES



*ELD: Local distribution companies

■ In full ■ In part ■ Not followed up ■ No information

IMPLEMENTATION OF FINANCIAL RECOMMENDATIONS

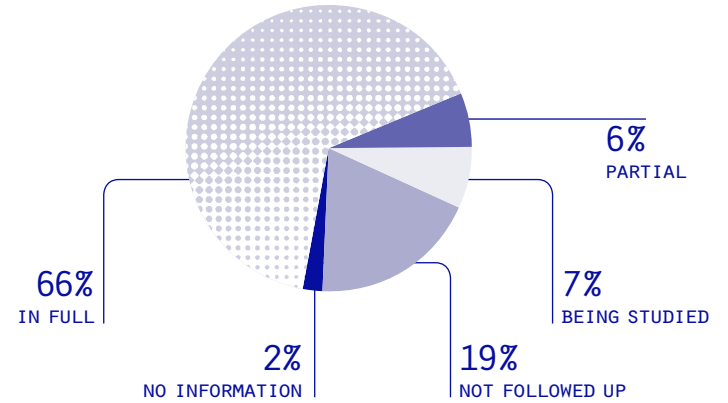


*ELD: Local distribution companies

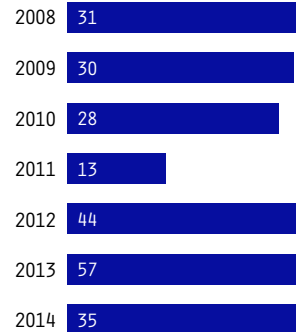
■ % agreed, on average

GENERAL RECOMMENDATIONS

FOLLOW-UP OF GENERAL RECOMMENDATIONS (2008-2014)



GENERAL RECOMMENDATIONS ISSUED*



*NB - in 2014 we changed the way general recommendations were attached to their reference year. Now every recommendation is attached only to the year it was first issued, even if it is renewed thereafter, which explains the differences in counting compared to previous annual reports.

COURT ACTION

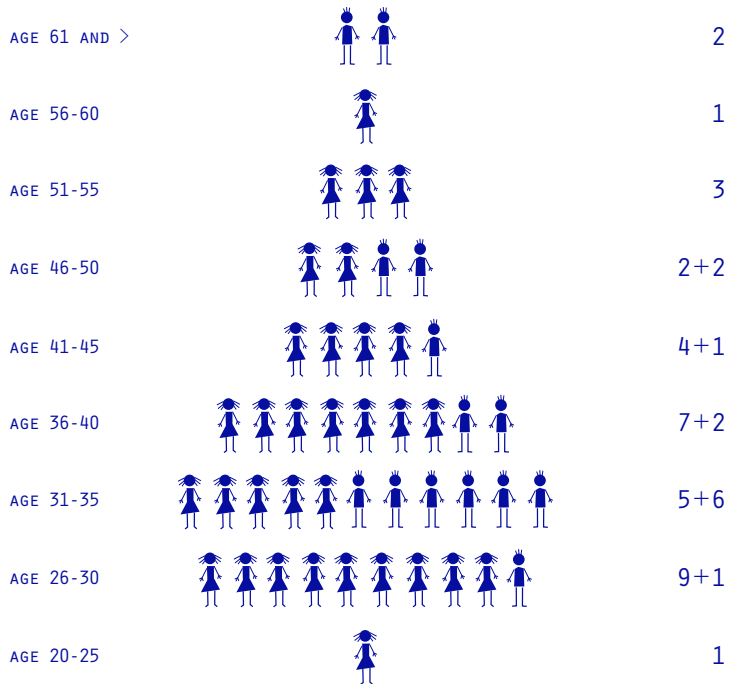
20 law suits filed by consumers following a recommendation that operators failed to implement*.

95% of known court decisions favourable to consumers. Court findings published on www.energie-mediateur.fr

*Since 2008, to the knowledge of the services of the Ombudsman.

WORKFORCE

AGE PYRAMID OF OMBUDSMAN'S OFFICERS AS AT 31/12/2014



*By decree of 20/12/2013

DISTRIBUTION OF STAFF BY MISSION



FINANCES

Budget 2014

In 2014, as in 2013 and 2012, the Ombudsman contributed to the public expenditure reduction effort; - 9.9% compared to 2013.

BY PROGRAMME	PROVISIONAL BUDGET IN EUROS	ACTUAL EXPENDITURE IN EUROS	% EXECUTION
TOTAL	5 855 000	5 707 059	97 %
Investigation of disputes	2 093 000	1 906 297	91 %
Information for consumers	1 581 000	1 282 371	81 %
Overheads*	1 957 000	2 299 826	118 %
Depreciation	224 000	218 565	98 %

*Including management and support

BY PROGRAMME	PROVISIONAL BUDGET IN EUROS	ACTUAL EXPENDITURE IN EUROS	% EXECUTION
TOTAL	5 855 000	5 707 059	97 %
Staff	2 849 000	2 830 147	99 %
Operations (excl. staff)	2 754 000	2 583 457	94 %

WHERE

Rents and costs	938 000	916 730	98 %
General public information campaign	526 000	630 459	120 %
Other communication expenses	103 000	139 621	136 %
External services for informing Energie-Info consumers	585 000	524 133	90 %
Other operating expenses	208 000	28 351	14 %
Training	60 000	35 689	59 %
Logistics and IT support	110 000	89 909	82 %
Depreciation	224 000	218 565	98 %
Investment	252 000	293 456	116 %

CREDITS

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June 2015



Le médiateur
national
de l'énergie

Informer, conseiller, protéger