## THE NATIONAL ENERGY OMBUDSMAN

**ACTIVITY REPORT 2015** 

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The national energy ombudsman is an independent public authority established by the law of 7 December 2006 relating to the energy sector, in view of the opening of the natural gas and electricity markets to competition.

He has two statutory tasks: helping to inform consumers about their rights and proposing solutions to disputes.

The Ombudsman reports to Parliament.

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Jean Gaubert, the ombudsman since 19 November 2013, is a specialist in issues relating to consumption and energy. Member of Parliament for Côtes-d'Armor from 1997 to 2012, he was the rapporteur for the consumption budget in the National Assembly from 2006 to 2012 and vice-chairman of the economic affairs committee from 2007 to 2012.

Former vice-chairman of the National Federation of Local Licensing Authorities (FNCCR), he has been chairman of the Côtes-d'Armor departmental energy association since 1983.

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## **EDITORIAL**



JEAN GAUBERT National energy ombudsman

2015 was a year in which legislation important for mediation and energy and a first reform of en-

ergy taxation came into force; it was also a year of difficulties concerning the application of measures of interest to consumers, particularly those in the most precarious situations.

With regard to mediation, the 2013 European directive was transposed by an Ordinance, introducing an obligation on every consumption sector to set up a mediation system. On the energy front, my position as public ombudsman has been reinforced. My status guarantees total independence and I was among the first to be awarded a label by the evaluation committee set up by the Ministry of the Economy.

The energy transition law has brought about a number of important advances for consumers and has given the ombudsman jurisdiction over all forms of energy. My team and I very quickly went out and met the main organisations representing the suppliers and distribution system operators of domestic fuel, LPG, heating networks and firewood to organise the obligation to provide consumers with information – which was still suffering from shortcomings in early 2016 - and the procedures for resolving disputes, which are relatively few and far between for the moment.

To incorporate these changes we have had to reorganise our departments, which are

now more closely aligned with our legal missions of providing information and resolving disputes. This has enabled us to create new budget margins.

At the end of 2015. Parliament also laid the first stone in the reform of the Contribution to Public Service Charges for Electricity (CSPE). an essential reform that I had called for and which is set to continue in 2017. It creates a major change of paradigm, as all forms of energy are now required to finance the energy transition under Parliamentary control via a dedicated account. At the same time. this cuts the cost of future bills for electricity consumers who, up to now, have been virtually alone in bearing the cost of financing renewable energy. Alongside this, the ombudsman's budget has been incorporated into the overall national budget as part of the Energy Ministry's new "Public Energy Service" programme.

Also for the first time, the scheme for helping vulnerable consumers - social tariffs for electricity and natural gas - is built into the national budget, which is an important step towards improving it with the new energy check system that I have been supporting for several years now. This universal aid scheme for consumers who are financially and socially vulnerable covers all forms of heating energy and should come into effect after an experimental period in 2016. Some operators who benefit from the current system have made great efforts to maintain it, despite the fact that it is expensive for consumers (as it is financed by the CSPE and the CTSSG [Contribution to the Special Solidarity Tariff for Gas] via their bills) and suffers from structural defects that still prevent a million households from benefiting from it.

As the independent ombudsman, I bear a message that is increasingly essential as it is often alone in standing up against powerful economic forces in a capital-intensive sector open to competition in which small consumers - household consumers and small businesses - often feel helpless and have few means of support. My task is to inform and put forward solutions to disputes through consultation and the search for an amicable agreement; it is also to respond to problems posed in collective and macro-economic terms. This is where our generic recommendations come in: their aim is to improve operator practices through mediation and, if there is a lasting log-jam, timely publicity via the public authorities or the media. My total independence from the public and private operators means that I am able to wisely use the "power of influence" that the Council of State acknowledges for certain independent authorities as a fully-fledged means of action for making advances in the law while at the same time relieving pressure on the courts and Parliament.

I sometimes think that some people find my frankness upsetting ... Certain actions, statements and even legislative proposals aimed at removing the independent public authority status from the institution that I represent may be interpreted as efforts to force me to silence. But what would a public ombudsman be if he simply applied bandages without investigating the causes of the problem. This is where my status differs from other types of mediation emanating directly or indirectly from companies.

This activity report offers the most objective possible view of a year's work for the ombudsman that I am and for the whole team, beginning with the Managing Director, Frédérique Coffre, who is very determined to serve "in fairness".

I hope you enjoy reading it.





1.
THE OMBUDSMAN,
A TRUSTED
STAKEHOLDER

## THE OMBUDSMAN, ATRUSTED STAKEHOLDER

In an increasingly competitive energy sector, the national energy ombudsman's status as a public, independent figure means that he plays a key role as an interface and can make a useful contribution to creating a relationship of trust with consumers and providing a form of market regulation.

In preparation for the opening of the electricity and natural gas markets for households on 1st July 2007, the legislator wished to create a public ombudsman endowed with full guarantees of independence from the energy operators and public authorities, in order to protect consumers and provide them with impartial information

An independent public authority (IPA) created by the Law of 7 December 2006 relating to the energy sector, the national energy ombudsman's legal responsibilities are to inform energy consumers of their rights and to recommend solutions to their disputes with the energy sector companies.

His area of jurisdiction and means of intervention are regulated by articles L. 122-1 to L. 122-5 of the Energy Code. Initially limited to electricity and natural gas supply contracts with power and consumption ratings for businesses, they were then applied to all non-professionals (local authorities, non-profit associations, co-ownership properties), micro-enterprises and disputes over connections by the Law of 17 April 2013. The Law of 17 August 2015 relating to energy transition for green growth now allows

the ombudsman to intervene on all forms of energy for domestic consumption (LPG, domestic fuel oil, firewood and all other forms of heating energy).

The ombudsman – Jean Gaubert since 19 November 2013 – is appointed for six years by the Ministers responsible for energy and consumption respectively. The term of office may not be renewed or revoked. The energy ombudsman reports regularly to Parliament on his work. In the past, his budget was decided every year by the Ministers responsible for energy, consumption and the budget but, in 2016, it was incorporated into the national budget as part of the Energy Ministry's responsibilities.

#### WHAT IS AN IAA OR AN IPA?

Independent administrative authorities (IAA) are State institutions responsible, on its behalf, for regulating sectors considered as essential and in which the Government does not wish to intervene directly. They are not answerable to any hierarchical authority. Their independence is guaranteed by an irrevocable, fixed-term mandate for their members and by their own budget resources. Independent public authorities (IPA) are IAAs that benefit from legal personality.

### THE ENERGY OMBUDSMAN IS INCORPORATED INTO THE NATIONAL BUDGET

For the first time since the position was created, the national energy ombudsman's budget has been incorporated into the national budget for 2016. The ombudsman's financing was reformed by the Amending Finance Act for 2015 as part of the reform of energy taxation. Up to now, his budget, half of which came from the Contribution to Public Service Charges for Electricity (CSPE) and the other half from the Contribution to the Special Solidarity Tariff for Gas (CTSSG), came via the "Caisse des dépôts and consignations", having been fixed by interministerial decree. As an independent public authority, the ombudsman only appeared in the Finance Act in relation to his authorised limit on employee numbers (41 FTE). Since the law adopted in December 2015, his budget of 5.7 million euros has now been incorporated into the overall national budget as part of the new "Public Energy Service" programme, under the "Sustainable ecology, development and mobility" heading.

Since 2012, the ombudsman has deliberately reduced his budget (- 10.8 %, i.e. 704.000 €) and given up 5 FTE as a contribution towards the budget effort.





ALAIN BAZOT

Chairman and
publications director,
UFC-Oue Choisir

If mediation has not been UFC-Que Choisir's preferred way of resolving disputes up

to now, it is because it has been developed in France in ways that fail to guarantee quality and therefore relevance for the consumer. The association has always placed the emphasis on bargaining positions and referring cases to a judge. In practice, mediation is a consumer's final chance to resolve a dispute, at least before moving into the realms of the public justice system, a public service that currently offers a number of hazards, including timescales that border on a veritable denial of justice. And yet, the consumer would be deceiving himself if he thought that mediation would defend him better than justice. Fairness is not law! Too often, a consumer who finds himself in front of an ombudsman does not know exactly what he is giving up when he agrees to the proposed solution, which is why, at UFC-Que Choisir, we uphold the idea of having the consumer accompanied by an independent association at every stage in the mediation procedure.

When mediation is high-quality, it is of undeniable interest to the consumer as it is faster than the congested justice system. And the fact that UFC-Que Choisir is now represented on the Consumption Mediation Evaluation and Monitoring Committee means that the committee is a focal point in the system for notifying ombudsmen in their three current guises: public, sector-specific and company mediation. We have to acknowledge that not all ombudsmen offer the consumer exactly the same guarantees in a dispute situation. The national energy ombudsman, for example, appears to be a genuine third party, totally independent of the two disputing

parties. Especially – and this is an exception that needs to be pointed out in the complex environment of French-style mediation – as the consumer can turn to him directly, even after he has failed to find a solution with the energy suppliers' ombudsmen. However, and we say this with regret, the national energy ombudsman has a limited jurisdiction and cannot, for example, at present, be responsible for "energy efficiency", i.e. all those disputes – in increasing numbers – linked to renovation works.

Although the rules now governing the organisation of the consumption mediation activity provide new guarantees, the consumer should not raise false hopes. It sometimes causes him to waste a lot of time due to the bad faith of certain people involved in the process, which remains confidential and isolates the consumer, whereas legal rulings are pronounced in public. It is the opposite of a legal system that sets the example and allows consumers to group together.

## THE OMBUDSMAN FOR ALL FORMS OF ENERGY!

The extension of the national energy ombudsman's jurisdiction since the energy transition law of August 2015 responds to a need to offer all consumers the same rights, regardless of the type of heating energy they use, and particularly by giving them access to the public mediation service.

It also responds to a dual logic: firstly, the logic of energy transition, in which one of the defining points is to control the consumption of all types of energy. Secondly, the logic of not encouraging the creation of a whole host of mediation services, energy by energy, or even company by company, whereas a European directive recommended widening the use of mediation systems to every consumption sector, from 2015 (see chapter 2).

"Our expertise is recognised and we offer consumers a real service. The new areas of responsibility that we have been given by the legislator are a form of recognition of the quality of public mediation, which is clearly independent of the operators", said Jean Gaubert.

So the national energy ombudsman has become a sector-specific ombudsman in the full sense of the term, focusing on the needs of consumers who generally use several forms of energy in their homes.

However, pre-contract disputes concerning prospecting and advertising are still the responsibility of the French trading standards authority, the DGCCRF. There is no public, independent mediation system for disputes linked to renewable energy or energy-related renovation work, so consumers have to turn to a judge or a private ombudsman who may have been put in place by the companies operating in the sector.

Since the Order of 20 August 2015. which transposed the European directive of May 2013 relating to out-ofcourt settlements of consumption disputes into French law, all consumers who are unable to resolve a dispute with a professional have the opportunity to refer the matter, free of charge, to a consumption ombudsman. In this respect, the national energy ombudsman was notified to the **European Commission** on 21 January 2016 as the public ombudsman for consumption in the energy sector.

#### REORGANISATION OF THE NATIONAL ENERGY OMBUDSMAN

In order to carry out its new responsibilities more effectively and work more efficiently at a time when budgets are tight, the ombudsman has carried out a reorganisation of the institution, which has been effective since September 2015.

The work of the 41 employees has been reorganised into three departments, compared to five before, with the aim of creating synergies in the processing of requests concerning the ombudsman's two areas of responsibility, mediation and consumer information.

#### **NATIONAL ENERGY OMBUDSMAN** Jean Gaubert MANAGING DIRECTOR Frédérique Coffre **PUBLIC AND EUROPEAN AFFAIRS Aurore Gillmann INFORMATION AND ADMINISTRATION MEDIATION** Catherine COMMUNICATION AND FINANCE Lefrançois-Rivière Caroline Keller **Béatrice Gaudray** The service manages all The service provides The service manages the the disputes submitted information for consumers human and financial resources to the ombudsman, and the general public and is and the day-to-day affairs from checking their adresponsible for the institution's of the national energy missibility right through external communication. ombudsman. to resolution.

## INFORMATION, DISPUTE RESOLUTION AND INFLUENCE: THE THREE ASPECTS OF MEDIATION SERVING THE GENERAL INTEREST

Since the institution was founded, in addition to providing consumers with information and resolving individual problems (see chapters  $\underline{2}$  and  $\underline{3}$ ), it has acted as an observer of practices and the difficulties encountered by consumers.

Faced with the recurrence of certain practices that are the cause of disputes, prejudicial to consumers and even unlawful on the part of certain operators, the national energy ombudsman puts forward proposals aimed at improving the running of the energy markets for everyone involved and reinforcing consumer protection.

For example, he publishes "generic recommendations", which offer analyses and solutions that are useful to all operators and consumers.

## THE OMBUDSMAN'S INFLUENCE OR ULTIMATE MEANS OF ACTION

The ombudsman's essential power lies in the total independence conferred on him by his status as a public authority independent of the State, energy sector companies and consumer associations.

This independence gives him a freedom which, if used at the right time, is essential in helping to improve the rights of consumers, or what we may call, the "power to speak".

This "power to speak" is the power of influence that the Council of State grants certain independent administrative authorities to exercise their authority effectively. According to the high administrative court <sup>[1]</sup>, the exercise of a real power of influence can allow an independent administrative authority to achieve the same results as if it had sanctioning or restrictive powers which are, by nature, not a part of mediation.

1,900,000
CONSUMERS INFORMED
IN 2015 VIA WEBSITES
AND THE FREEPHONE
NUMBER

12,319

DISPUTES RECORDED: 6,064 by telephone 3,408 by letter 1,879 via SollEn 968 by email

<sup>[1]</sup> Council of State, Public report 2001: case law and opinion of 2000. The independent administrative authorities, STUDIES & DOCUMENTS  $N^\circ$ . 52, French Documentation, Paris 2001.

#### ∢ Practical example: recommendation >

#### AN EXAMPLE OF A GENERIC RECOMMENDATION

In April 2014, Mr. D. asked supplier Y and distribution system operator (DSO) A on several occasions for a metrological check on his electricity meter. He had had doubts for several years about whether it was working properly and had even managed to work out that there was problem after an independent study. Not satisfied with the answers he received from his supplier and distributor, Mr. D. turned to the national energy ombudsman.

Mr. D. put forward several reasons for referring the matter: supplier Y's general terms of sale (GTS) state that a check may be carried out by a jointly-chosen expert. According to Mr. D., he was refused this option, even though the French Accreditation Committee (COFRAC) had sent him a list of accredited organisations. He believes that the meter checking procedure should be amended as it does not correctly estimate the consumption-recording discrepancy for low power ratings. Finally, the consumer considered that the price of the metrological check published in the DSO's services catalogue was too high.

Having examined the matter, the national energy ombudsman proposed a solution to Mr. D's dispute: a consumption correction for the period during which the meter was malfunctioning and a compensation payment of 120 € incl. VAT for the inconvenience suffered as a result of the difficulty in carrying out a check on the meter and the excessive delay in issuing the consumption correction.

As there had been many cases of consumers suspecting a meter malfunction but held back by the cost of the "metrological meter check" service (332€ incl. VAT), the ombudsman a published the following generic recommendation: "The distributor should offer a less expensive service than the metrological check or inspection to provide the consumer with conclusive information to confirm whether or not the meter is recording his consumption correctly." Since the recommendation was published, the DSO is thinking about improving his current visual meter checking service, which is not expensive (37€ incl. VAT) but not extensive enough to be really effective.

Recommendation  $\underline{n^{\circ}2015-1224}$  Available on:

energie-mediateur.fr/recommendations



What form can this power of influence take? For the ombudsman, it means pointing out any recurrent or widespread practices or problems that he encounters, through consultation and information to the public authorities first of all and, if the problem persists, through the publicity given to these bad practices and the recommendations he subsequently makes to rectify them. Like the Defender of Rights, who also has no sanctioning powers, the ombudsman is quick to give media coverage to certain cases or stated positions on issues that fall within his jurisdiction.

A number of reforms have been the subject of legislative or regulatory measures as a result of the ombudsman's recommendations (see chapter 6). Some examples are the compulsory refund of overpayments of less than 15€, the winter truce on energy cut-offs, the energy check, the in-home display for smart meters, the 14-month limitation on back-billing, the report on risers and the reform of the CSPE.

#### HOW THE OMBUDSMAN USES HIS POWER OF INFLUENCE

- By using consultation or his recommendations to persuade operators to change their practices. The parties involved are free to decide whether or not to follow these recommendations; on average, they follow over 75% of them;
- by publishing his generic recommendations on his website (35 published in 2015);
- when he publicly denounces persistent bad practice on the part of operators, at public events, hearings before national representative bodies, in the media or in his annual activity report;
- by offering the public authorities his expertise or suggesting reforms that he considers useful;
- by contributing to the work of a network of European ombudsmen (NEON) in order to promote mediation and consumer interests in the energy sector in Europe.



**JACQUES TOUBON**The Defender of Rights

What means can Defender of Rights use to ensure that his recommendations are applied?

The Defender has various means at his disposal. Firstly - and this is new-, he can set a reply deadline for the organisations concerned by a case and they are under obligation to respond. If they fail to do so, the Defender of Rights may use a power of injunction. If there is no response to this, he draws up a special report and makes it public. The ability to go public gives us real power in ensuring that our recommendations are taken on board. Secondly, the Defender of Rights can give notice to the person to whom he has written to reply within a deadline that he has set. Finally, article 12 of the ordinary law relating to the Defender of Rights has introduced the offence of impeding the work of the Defender. The fact of not responding to the Defender of Rights' summons. not communicating the information and documents required for carrying out his duties or of preventing him from accessing administrative or private premises is punishable by a year's imprisonment and a 15.000 € fine. But the "magistrature of influence" that I mentioned at the start of my article also allows me to refer matters to the media and place certain difficulties in the public eye.

## As an independent administrative authority, do you think that the freedom to take up a public stance on issues within your jurisdiction allows the Defender to do his work more effectively?

The guarantee of independence that the status offers me means that I can talk freely and publicly about issues that fall within my remit. This ability to go public is important in highlighting difficulties that are observed regularly when we examine individual complaints. It also enables me to attract the atten-

tion of the public authorities to suggested reforms that the framework law allows me to put forward.

This power is also helpful in another of my areas of responsibility: promoting rights and equality. The Defender of Rights can help citizens become more aware of how to exercise their rights by playing a direct role in providing better information, which is the first stage in accessing one's rights.

## Do you think that mediation should be accompanied in certain cases by the possible use of sanctions? If so, in what cases?

Mediation is an alternative means of resolving disputes that consists of bringing the parties concerned by the dispute together to find a solution to a conflict. It is therefore operating in the realms of the amicable settlement which, in theory, is in contradiction with the use of sanctions. To build the idea of sanctions into a mediation procedure seems to me to jeopardise the trust that needs to operate between the parties if a solution is to be reached. I therefore strongly support the idea that the ombudsman should be heard as the person who puts forward a "recommendation". But this doesn't prevent him from using different approaches to reach an answer in cases in which difficulties are repeated.

#### AN OMBUDSMAN NETWORK

Since 2011, the national energy ombudsman has been one of the founder members of the network of European energy ombudsmen (National Energy Ombudsman Network - NEON), which is made up of the Belgian, British, Catalan, French and Czech ombudsmen. NEON contributes towards the work of the European Union institutions with the aim of:

- promoting the out-of-court settlement of consumption disputes in compliance with Commission recommendations and Community directives:
- furthering the protection and emancipation of energy consumers:
- representing the members of the organisation and furthering relations with the groups involved in energy and consumer protection at European level;
- facilitating exchanges of information, experience and good practices between members.

In 2014, the ombudsmen members of NEON recorded over 72,000 disputes in the energy sector. This knowledge of the problems faced by energy consumers is extremely useful and enables NEON to put forward proposals to provide more information and protection for European energy consumers.

An example of this was its recommendations for a "consumer code", drawn up at the end of 2015 as a result of feedback from national ombudsmen and presented by NEON in February 2016 to provide proposals for the draft European directives announced in the European Parliament and Council in the summer for negotiation in the autumn and beyond.

Its recommendations highlight the good practices to be used more widely in Europe to better protect the rights of consumer, help them take better advantage of the energy markets and be better protected.





MARINE CORNELIS
General Secretary
of NEON

Our aim - and intention - could be summarised as harmonising the good

practices introduced to protect energy consumers in every country in the European Union. This obviously involves a sharing of experience and ongoing consultation with our members, including the French national energy ombudsman, and also a respect for certain values such as independence, openness, respect for citizens... and, of course, efficacy! The NEON network has campaigned since 2015 in favour of drafting a consumer code at European Union level that would protect and also involve consumers. The code would also involve the different players in the energy sector, such as the national ombudsmen, the regulators, the suppliers and the distribution system operators. This code of good practices would cover all the issues that are raised when we talk about domestic energy, including and this does not pretend to be a comprehensive list - the right to access and use energy, the security of supply and the quality of the offer, the protection

of personal information, the transparency of prices, the understanding of bills, the quality of customer services and the "smart meters" of the future that will give all consumers greater control over their energy expenditure. The code would also apply to consumers looking to become actively involved in the demand side, i.e. self-producers, or households looking to join cooperative production models, which we expect to see in larger numbers over the next few years. It could also extend to small and very small firms and freelance workers, who are faced with the same problems as residential consumers but do not often have the same legal protection and may therefore find themselves in particularly difficult situations. To carry out this huge task, the NEON network's recommendations are based on the experience of its Member States, whose domestic energy markets may have special features but also have certain similarities.

#### A DYNAMIC NETWORK

In 2015, NEON's work was particularly focused on:

- organising a European conference in January 2015 on reinforcing alternative ways of resolving disputes in the energy sector;
- carrying out a study of alternative ways of settling disputes in the energy sector, in partnership with researchers from Oxford University;
- publishing 11 articles and press releases;
- taking part in nearly 40 workshops, working parties, discussions and conferences organised on the initiative of the European Commission, particularly on e-billing, the management of personal information and the protection of vulnerable consumers;
- drawing up recommendations for a "consumer code" prior to the European energy package announced for the end of 2016.

## TWO QUESTIONS TO FRÉDÉRIQUE COFFRE, MANAGING DIRECTOR OF THE NATIONAL ENERGY OMBUDSMAN SERVICES



What is the keyword for your work in charge of the national energy ombudsman services?

In the various jobs I have done for the national energy

ombudsman until I became the Managing Director in September 2015, I have always been driven by a desire to become more effective and demonstrate how useful our work is. We work in the general interest and for all our stakeholders: the consumers who refer their problems to us, of course, through the quality of the information and solutions we offer them and the speed with which we react; the energy sector companies, for whom I am keen to demonstrate that we can help them improve their practices and help the market run more smoothly: and finally, the public authorities, who see us as an authority that plays an increasingly useful role in protecting energy consumers and do not hesitate to involve us in their discussions concerning the evolution of public policies.

The results that we are achieving today are down to the efforts of a team of competent, demanding, committed employees. We are aware that, in a context in which government budgets are severely restricted, we have to do our utmost to manage the resources that are allocated to us effectively and efficiently. We rely on pragmatism, innovation and operating flexibility day after day to achieve this.

The national energy ombudsman now has Independent Public Authority status. What does this mean to you?

This offers an essential guarantee in terms of independence with regard to everyone involved: ministries, operators, of course, and I would even add consumers! We're not here to defend them when they're wrong. Our independence allows us to take up the stance that what we think is the fairest, without any pressure being put on us to change it, on practices which, taken together, can have a very significant financial and economic impact.

But this status also has a strong symbolic and political value that we should not under-estimate. It gives us weight and legitimacy in our dealings with the operators, some of whom are very powerful in economic terms and also in terms of influence. The ombudsman is also very attached to his freedom of speech, which he uses wisely to support changes in practices or the current regulations. Our experience allows us to offer analyses, suggestions or criticisms that none of the other stakeholders may be offering. And we may sometimes say things that challenge or question certain vested interests! This may upset some people, but we're convinced that this freedom of speech is one of the weapons we can use to in our work to serve the general interest.

# 2. MEDIATION, AN EFFECTIVE SOLUTION

## MEDIATION, AN EFFECTIVE SOLUTION

Mediation? An alternative way of resolving disputes that helps to avoid delays and legal costs and makes it easier to search for an amicable agreement between consumers and operators keen to bring the dispute to a rapid conclusion.

Resolving disputes through mediation is governed on a day-today basis by four key principles: simplicity, fairness, respect for the law and efficacy.

With this in mind, the national energy ombudsman's priority is to facilitate the conclusion of an amicable agreement that has the support of all the parties.

### A STEP BY STEP GUIDE TO RESOLVING DISPUTES THROUGH MEDIATION

Each case for which there has been a formal request for mediation (by post or online) is analysed soon as it is received to decide whether or not it is admissible.

If the petitioner's case is not admissible, he is informed by the ombudsman's staff, who advise and guide him in the steps that he may take. If the case is admissible, the national energy ombudsman examines it and puts forward a solution to the parties involved in the mediation.

The ombudsman's staff may ask the operators to submit an initial analysis of the dispute with a proposed solution. If it is considered to be reasonable and fair, and is accepted by all parties, the ombudsman records that the dispute has been resolved by formalising an "amicable agreement" type solution.

However, in more complex cases, or if the first stage in the search for a solution has not been successful, the ombudsman's staff carry out an in-depth analysis of the dispute, which may require them to ask the parties for further information.

Following an examination and discussions with the parties, the national energy ombudsman issues a recommended solution. This is not mandatory, but the operators are bound by law to state within a maximum of two months how they intend to proceed.

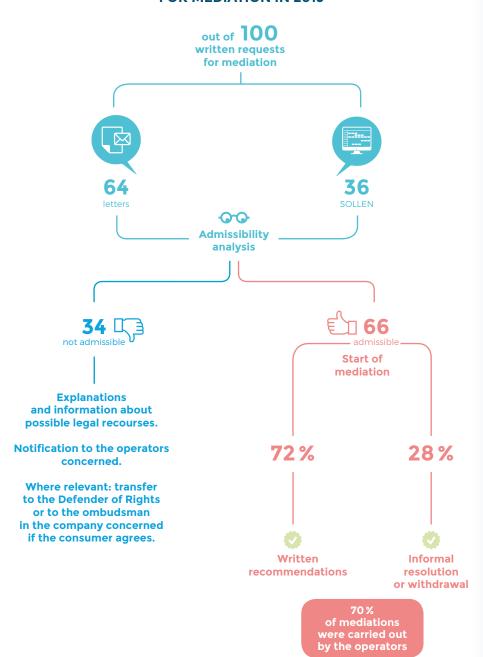
The consumers are automatically informed in writing of the legal remedies available to them if they are not satisfied with the outcome of the mediation.

2,910
WRITTEN
RECOMMENDATIONS
ISSUED IN 2015,
30% IN THE FORM
OF AN AMICABLE
AGREEMENT

5,287
DISPUTES WERE THE SUBJECT OF WRITTEN REQUESTS FOR MEDIATION IN 2015

3,497 OF WHICH WERE DECLARED TO BE ADMISSIBLE

## **EXAMINATION OF REQUESTS FOR MEDIATION IN 2015**



In carrying out their work, the national energy ombudsman's employees are bound to comply with the ethical guidelines and rules defined by the institution, particularly independence, neutrality, probity, honesty, detachment and impartiality. The Ethics Charter applied to the institution and its officials is available on energie-mediateur.fr.

In addition to resolving the individual disputes that are submitted to him, the ombudsman also aims to prevent disputes for the benefit of all consumers. For example, when a type of dispute is the result of bad practice, the ombudsman recommends that the operators concerned correct them. The aim is to prevent these disputes from re-occurring. The list of his general recommendations is published on his website, along with the cases from which they arose (see appendix).

#### **FEWER DISPUTES IN 2015**

In 2015, the total number of disputes recorded by the ombudsman (12,319) and the number of admissible disputes fell by 15% compared to 2014. For the ombudsman, this reduction is partly explained by the fact that the operators are dealing better with complaints, having been encouraged year after year to take his recommendations on board in order to improve. However, the last two winters have also been very mild and this has reduced heating bills and therefore reduced the number of disputes concerning the amount or the difficulty in paying.

On the other hand, 2,910 written recommendations were issued in 2015, 27% up on 2014. This is the consequence of greater efficiency, which has also cut the average time taken to examine a case from 68 days in 2014 to 61 days in 2015.

Until the decree of 30 October 2015 relating to the mediation of consumption disputes came into force, the regulatory deadline for issuing recommendations from the ombudsman was fixed at two months from the date of acknowledging receipt of the case. Article R. 152-5 of the consumer code extends this deadline to 90 days from the date of notification of receipt of the full case.

35

GENERIC RECOMMEN-DATIONS PUBLISHED IN 2015, 273 SINCE THE INTRODUCTION OF THE OMBUDSMAN

AN AVERAGE OF

61 DAYS
TAKEN TO CLOSE
AN ADMISSIBLE CASE
IN 2015

#### **SOLLEN, THE ONLINE DISPUTE RESOLUTION** PLATFORM. CONTINUES TO DEVELOP

SOLLEN AUX LITIGES D'ÉNERGIE

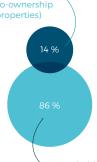
The ombudsman is continuing to digitise his activity. More and more consumers are entering their complaints online via SOLLEN.

In 2015, 1,879 consumers used the tool, nearly double the number in 2014

#### WHO TURNS TO THE OMBUDSMAN?

**CASES ARE** REFERRED TO THE **OMBUDSMAN BY:** 

Businesses and non-professionals co-ownership properties)



Third parties (family, elected representatives...) 81 %

Consumers

directly

While most of the cases dealt with concern household consumers, the proportion of disputes involving businesses and non-professionals (including co-ownership properties) is increasing: they represented 14% of cases in 2015 (compared to 11% in 2014).

Referral to the ombudsman via third parties is also progressing (19% compared to 14% in 2014).

#### A HIGH LEVEL OF SATISFACTION

Since 2012, the national energy ombudsman has measured the satisfaction of consumers who have called on his services.

In 2015[1], 80% of consumers surveyed by telephone said they were satisfied with how their dispute was dealt with and 93% would recommend the services of the national energy ombudsman to friends and family.

92% said they were satisfied with the time taken to deal with their case, a strong upward trend (+ 9 points compared to 2014).

[1] Satisfaction survey carried out in February 2016 by Market Audit on a sample

#### THE MAIN REASONS FOR DISPUTES IN 2015

Disagreements over bills remain the leading reason for the disputes that the ombudsman had to examine in 2015 (50% of admissible disputes). They mostly concern consumption estimates over long periods which then give rise to a high level of back-billing and errors in meter-reading, readings taken but not used, meter malfunctions etc.

When he examines these cases, the ombudsman seeks first of all to make a distinction between any actual increases in consumption and any increases that are only apparent because they have been caused by back billing. To reduce the number of these disputes, a number of generic recommendations have been issued to remind parties of the need to take the meter readings into account in order to correct the bills drawn up on the basis of estimates as soon as possible or recalculate an unsuitable monthly payment schedule. They also suggest that distribution system operators (DSO) should routinely send a letter by recorded delivery in order to have a genuine meter reading at least once a year and thus make the bill more reliable (see chapter 6).

In cases of disagreements over what are considered to be excessive consumption adjustments following a meter malfunction. the ombudsman checks the validity of the complaint against the uses and supporting documents that have been sent. He also checks that the DSO, who is responsible for maintaining metering devices, has not sought late in the day to conceal what was an obvious metering fault. When this is the case, the ombudsman recommends significantly reducing the adjustment.

In second position, bill payments accounted for 11% of admissible disputes in 2015: most of these cases concerned overpayments not refunded and payments not taken into account. The number of such disputes, which are often simple, is indicative of the lack of efficacy of the complaints processing department of the operator concerned.

8% of admissible disputes arose from billing problems (lack of billing, incomprehensible billing, suspicion of double-billing...) and 8% from disagreements over the prices or tariffs applied (prices applied different from those subscribed to, failure to apply social tariffs, level of taxes, etc.), often the consequence of computer problems. The ombudsman then recommends that suppliers compensate consumers in proportion to the inconvenience they have suffered.

#### 6% of admissible disputes concerned delays in starting up or terminating a contract.

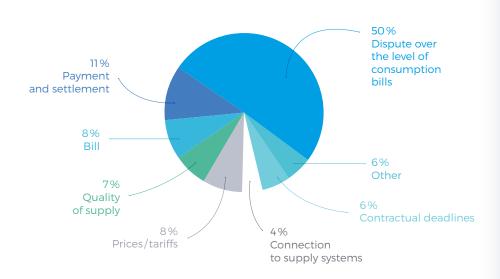
These failures led to the issue of generic recommendations in 2015, encouraging the suppliers concerned to improve the information they give to consumers about the time required to react to a termination.

Disputes relating to the quality of the electricity supply (voltage dips, power surges, accidental power cuts, micro-breaks, etc.) accounted for 7% of admissible disputes in 2015. Their outcome mainly depends on the petitioner's ability to provide evidence of the reality of the damage suffered and its link of cause and effect with a grid failure that the distribution system operator has still not acknowledged. The ombudsman prefers to take a pragmatic approach and relies on a series of corroborating factors in the case in order to propose a solution (cf. practical example after legal action, below).

4% of disputes concerned a connection at a cost considered to be excessive or the chosen. technical solution for which is disputed. Concerning estimates based on an unpublished "technical checklist" and for which the ombudsman has noted a number of anomalies, several generic recommendations have been issued with a view to improving sition to check the validity.

Finally, the cases in the "Other" category include unusual disputes relating to special tariffs such as the sale of distributed gas, the cooking package or particular problems such as delivery point reference number errors and tariff signal problems (change from peak to off-peak hours). Disputes arising as a result of works on the public supply grid (3%) are also part of this category. They are complex issues that require individual analysis, as can be seen in the practical example below.

transparency so that the consumer is in a po-



**ADMISSIBLE DISPUTES** 

**BY TYPE IN 2015** 

∢ Practical example: recommendation >

#### A TYPICAL CASE: NOT TAKING INTO ACCOUNT A READING SUPPLIED BY THE DISTRIBUTION SYSTEM OPERATOR

On 14 October 2014, Mrs. G. and Mr. R. received a bill for 4.027.83€ incl. VAT. This high bill was due to an adjustment based on a meter reading.

An examination of the case showed that supplier X had not taken into account the readings sent by the system operator since 16 July 2013 but had used his own estimated readings. These readings were underestimated and led the supplier to reduce Mrs. G. and Mr. R.'s monthly payments.

The ombudsman recommended that the supplier grant compensation of 1,500 € for the inconvenience caused by the lack of billing based on actual consumption for nearly 2 years, and draw up a payment schedule.

Recommendation n°2015-00310 Available on:

energie-mediateur.fr/recommendations

∢ Practical example: recommendation >

#### AN UNUSUAL CASE: WORKS AT THE DISTRIBUTION SYSTEM OPERATOR'S EXPENSE. WRONGLY BILLED

Mrs. B. disputed an estimate for a total of 4.445.63€ incl. VAT sent by distribution system operator (DSO) X for disconnecting an unclaimed transformer station of which she had remained the owner as a former market gardener.

An analysis of the dispute confirmed that it was legitimate to disconnect the potentially dangerous transformer station and that the cost of this is, in theory, borne by the owner. However, the ombudsman considered that not all the procedures had been followed to provide the owner with prior information.

He also questioned the amount of the estimate on the grounds that the costs relating to the dismantling of the public system had been wrongly charged to the consumer, in addition to the disconnection of the installation

To resolve the dispute, the ombudsman recommended that the DSO limit his bill to 1.200€ incl. VAT and refund 3.245.63€ incl. VAT to Mrs B

Recommendation n°2016-0030 Available on:

energie-mediateur.fr/recommendations

#### ∢ Perspective >



#### MARTINE PINVILLE

Secretary of State for Trade, Small Businesses, Consumption and the Social and Solidarity Economy

Mediation offers the possibility of resolving a dispute "amicably" between a consumer and a professional. In 2015, we adopted legislation to extend the system to every consumption sector. This has involved setting up the Mediation Evaluation and Monitoring Committee at the start of this year, which is responsible for ensuring that the ombudsmen are of high quality.

This supervision is required as we have chosen in France to use professionals, who are responsible for setting up the mediation systems. We will therefore have either sector-specific ombudsmen or company ombudsmen.

By leaving this flexibility to the professionals, we are able to rationalise the overall structure of mediation in France and provide consumers with a clearer view.

This flexibility is of course monitored by the Consumption Mediation Evaluation and Monitoring Committee that I set up at the start of the year. The Committee ensures that very precise criteria are met in terms of the ombudsmen's independence, competence and loyalty during an initial then three-yearly evaluation. It is also responsible for organising the ombudsmen's accreditation with the European Commission.

We have also chosen in France to offer free mediation for consumers, unlike other European Union member states, which have opted to levy a small charge on the consumer.

The public ombudsmen already offer the guarantees required by law in terms of quality and independence. They were naturally among the first to be notified to the European Commission.

The energy sector is "historically" covered by high-quality mediation systems: we have made sure that the responsibilities of the national energy ombudsman and the ENGIE and EDF ombudsmen are defined and interconnected in a perfectly clear and operational way for the benefit of the consumer.

As a public ombudsman, the national energy ombudsman plays a particular role as a consumer can refer a dispute to him directly and can even do so if he is not satisfied with the decision given on his dispute by the ENGIE or EDF ombudsman. The ENGIE and EDF ombudsmen fully support this cooperative system by informing consumers that they can take their case to the energy ombudsman rather than to themselves and that, in this case, they are renouncing company mediation in favour of the public ombudsman.

We can only welcome the reinforcement of the system offered to consumers in an energy sector that requires a level of expenditure on the part of our citizens that is both inevitable and sensitive in terms of buying power.

## EXTENDING WHAT IS STILL A LITTLE-KNOWN AREA OF JURISDICTION

Since August 2015 and the energy transition law, the national energy ombudsman's jurisdiction has been extended to every form of domestic energy (cf. chapter 6).

The ombudsman still receives very few cases of disputes outside the electricity and natural gas sectors, as the suppliers concerned have delayed informing their customers of his existence. And yet their obligation to inform has been reinforced by the consumer code.

#### MEDIATION IN EVERY CONSUMPTION SECTOR

Since the Ordinance of 20 August 2015, which transposed the European directive of May 2013 relating to out-of-court settlements of consumption disputes into French law, all consumers who are unable to resolve a dispute with a professional have the opportunity to refer the matter, free of charge, to an ombudsman.

#### The key points in the legislation:

- companies are under obligation to inform consumers of the existence of mediation systems, for example, on their order forms, websites or contracts;
- where public and private mediation systems cohabit, the company ombudsman's intervention is conditional on the signature of an agreement with the existing public ombudsman;
- the national energy ombudsman will always have the possibility of examining a dispute previously dealt with by a company ombudsman if the consumer so wishes:
- all ombudsmen must submit to an Evaluation and Monitoring Authority chaired by an honorary Court of Cassation judge, who will issue his accreditation to those who meet the quality criteria fixed by the order.

The national energy ombudsman has been designated as the public ombudsman for consumption in the energy sector and was one of the first seven French ombudsmen to be accredited by the Consumption Mediation Evaluation and Monitoring Committee in early 2016.

#### **MORE LEGAL ACTIONS IN 2015**

In 2015, 13 consumers who took legal action after a mediation not followed up by the operator informed the ombudsman of the ruling that was given. This brings the number of legal rulings brought to the ombudsman's attention after he had issued a recommendation to 33 since 2008. 9 out of 10 rulings are favourable to the consumers.

In most cases, these rulings confirm the validity of the national energy ombudsman's analyses, as is shown in the case summarised below concerning a supply quality problem.

∢ Practical example: legal action >

#### THE CONSUMER OBTAINS THE COMPENSATION RECOMMENDED BY THE OMBUDSMAN

In 2013, Mr. M. contacted the ombudsman over a dispute with distribution system operator (DSO) X concerning damaged equipment following a power cut and its subsequent return.

Following an examination of the case, the ombudsman considered that the DSO could be held liable and recommended that he pay the consumer compensation of 762.05€ incl. VAT.

As the DSO did not follow the ombudsman's recommendation, the consumer took the case to court. In his ruling of 16 March 2015, the judge held the DSO liable, considering that there was enough evidence to establish a link of cause and effect between the incident on the grid and the damage to the equipment.

He reminded the DSO of his obligation of performance in supplying current and the need to prove that the power cut was linked to an outside cause in order to free himself from this obligation. The argument invoked by the distributor by which the incident should have affected several customers was considered ineffective.

The distributor was sentenced to pay compensation for the material loss of  $534.81 \in$  incl. VAT,  $50 \in$  for moral prejudice and payment of full costs.

Ruling of 16 March 2015 by the local court in Périgueux.

Available on:

energie-mediateur.fr/jurisprudences

## TWO QUESTIONS TO CATHERINE LEFRANÇOIS-RIVIÈRE,

HEAD OF THE MEDIATION DEPARTMENT



Can you describe how you go about examining cases in mediation?

We follow a clear framework to identify the levels of responsibility of the different

parties to the dispute and separate out those incumbent on the supplier, the distribution system operator and the consumer. We then do our utmost to reach a balanced solution that will put an end to the dispute. In terms of the substance, we base our analysis on a set of requirements that consumers have the right to expect of their energy operator; these may result from the regulations, procedures defined by the consultation authorities under the aegis of the Energy Regulatory Commission or from a concern for fairness.

Following these guidelines, we personalise our proposed solutions by taking individual situations into account (insecurity, company in difficulty, excess debt, etc.) and the impact of the dispute on the consumer's personal life (long, difficult procedures, difficulty in balancing the family budget, etc.) but also taking into account the seriousness of the failures for which the operator is blamed.

But regardless of the causes of a dispute, mediation aims to reach a "win-win" solution that reconciles the supplier's interest in being paid for the energy he has delivered and that of the consumer in seeing his rights recognised and being compensated if damage has been caused by malfunctions.

We should acknowledge that, on a certain number of issues, the operators have changed in a constructive way over the last few years. For example, they are quicker to acknowledge their liability in different situations such as the late detection of a problem, an error in evaluating estimated consumption or an unsuitable monthly schedule.

On the other hand, mediation remains difficult when back-billing continues as a result of an inability to access the meter or a failure to take estimated readings into account instead of an actual consumption reading. These cases will become easier to resolve when legislation comes into force in August 2016, limiting back-billing to 14 months of consumption.

### How has your work been affected by the new legal provisions relating to consumption mediation?

We have made a few adjustments required to improve our procedures. In particular, in our correspondence and on our website, we have provided consumers with more information about their rights when they take a case to mediation, we have adapted our procedures to comply with the formalities required in the event of an amicable agreement and we are now asking consumers for their opinion on the proposed solution at the end of the mediation process.

The Order has also clarified the mediation offer in the energy sector. The ombudsman has been given the status of a public consumption ombudsman and the legislation reinforces his jurisdiction, which is already recognised by the law.

3.
STAY WELL
INFORMED,
CONSUME
BETTER

## STAY WELL INFORMED, CONSUME BETTER

The energy sector is a complex area for consumers. They therefore have to be provided with information and simple tools to help them find their way around. This is one of the national energy ombudsman's lesser-known tasks.

1,9
MILLION
CONSUMERS
INFORMED IN 2015

Preliminary to and complementary to mediation, consumer information is the national energy ombudsman's other legal responsibility, and one that distinguishes him from other mediation systems.

It demonstrates the legislator's intention of seeing a public structure guaranteeing a supply of neutral, reliable information for energy consumers, who have been faced with major changes since the market was opened up to competition.

The ombudsman provides consumers with information through the "Energie-info" service, which consists of a website (www.energie-info.fr) and a call centre (Freephone: 0 800 112 212). The service was introduced in 2007 by the Energy Regulatory Commission (CRE) and has been run by the ombudsman since 2009 and financed by him since 2014. The Energie-info information system has been notified to the European Commission as a "one-stop shop" for energy information in France, in application

of the European directives of 2009.

Consumers looking for information may consult the website <u>energie-info.fr</u>, which provides them with a wide range of tools and factsheets. They may also ask questions by telephone, email or letter in order to obtain personalised answers.

## TWO COMPLEMENTARY WEBSITES TO INFORM AND COMMUNICATE

The national energy ombudsman has decided to use two separate websites to communicate on each of his areas of responsibility.

Concerning information, consumers – household consumers or businesses – can find out what to do in certain situations on energie-info.fr: a house move, change of supplier, payment difficulties, a complaint, the abolition of certain regulated tariffs. etc.

The information and tools available to businesses and co-ownership properties concerned by the disappearance of certain regulated tariffs have generated a lot of traffic with over 130,000 visits in 2015. 7 times more than in 2013.

Consumers can also obtain information to help them understand their bill, the meter reading, the role of the various energy companies, etc.

The tool most used is the electricity and natural gas price comparison tool. Quick and easy to use, it compares the deals offered by the various suppliers, any associated services and their price. All the national electricity and natural gas suppliers are currently represented in the comparison tool, which was visited over 550,000 times in 2015. The suppliers agree to update their offers as soon as they change, under the ombudsman's supervision.

The energie-mediateur.fr website presents the institution and its news, the procedure to follow to take a case to the ombudsman and the arrangements for examining disputes in a mediation situation. It also lists its generic recommendations for improving the running of the market and an energy sector case law database.

INFORM:

WARN, BRIEF

COMMUNICATE:
PASS ON AND SHARE
INFORMATION

I,5
MILLION VISITS
ON ENERGIE-INFO.FR
IN 2015

554,000

USERS

OF THE PRICE

COMPARISON TOOL

245,000 CALLS TO 0 800 112 212

120,000 VISITS ON ENERGIE-MEDIATEUR.FR



#### **VERY VARIED REQUESTS** FROM CONSUMERS

14%

OF REOUESTS CAME

FROM BUSINESSES.

PARTICULARLY

WITH REGARD

TO THE ABOLITION OF

**CERTAIN REGULATED** 

**TARIFFS** 

The questions posed mainly via the Internet and on the telephone vary considerably between the simple and the highly complex.

They may be simple requests for suppliers' contact details, offer comparisons, questions about tax, site meters, questions or complaints following cold calling, questions relating to the abolition of regulated tariffs, complaints about an excessive bill... and, more recently, questions about Linky meters.

But the questions that are the hardest to deal with are from people who need individual help in following a procedure. This is especially the case for consumers who have difficulty in paying, have had their energy cut off or are threatened with energy cuts because they have not paid; or those who are victims of "unexplained" contract termination, generally in error, where the ombudsman's staff intervene with their supplier and systems operator to help them get out of sometimes inextricable situations.

While the huge majority of questions are about electricity or natural gas, they are also beginning to concern the other forms of energy for which the ombudsman now has jurisdiction, including LPG and domestic fuel oil (3% of requests in 2015).

More than 9 out of 10 consumers are satisfied with the response time (93% for complex questions on the telephone and 96 % for questions via the Internet), which is less than 2 days[1].

[1] Source: Satisfaction survey carried out by the Cegma-Topo agency in May 2015.

#### In addition to the "Energie-info" system, the ombudsman has chosen to use a wide range of information and communication channels adapted to different audiences. His services use the social networks and send out newsletters in paper and electronic form to opinion formers. MPs and Government departments. The ombudsman's staff have also attended a number of trade fairs to inform the general public and publicise their work: the "Maison et Travaux" show, the "Renovation" show and

A WIDE RANGE OF COMMUNICATION

**CHANNELS** 

#### PARTNERSHIPS AND INFORMATION NETWORKS TO INFORM MORE EFFECTIVELY

the "Co-ownership Property" trade fair.

Always keen to reach out to the widest possible audience, the national energy ombudsman works in partnership with the National Union of Social Action Community or Inter-community Centres (UNCCAS). For example, in a four-page supplement in the "Actes, actions & territoires du social" magazine, the ombudsman talked about his work, argued in favour of the energy check as a means of achieving a "right to energy for all" and gave practical examples of his responses to consumers in difficulty.

Last December, the institution renewed its agreement with the National Federation of Local Licensing Authorities (FNCCR) to improve the protection of energy consumers as part of their respective missions relating to mediation and the monitoring of local public services. Within this partnership, the ombudsman attends meetings of the Local Public Services Consultative Committees (CCSPL) organised by the energy associations in different departments.

The consumer associations are also major stakeholders with whom constructive discussions of common issues are regularly held. The national energy ombudsman has met them, as every year. Teams have also taken part in a number of presentations to these associations or other stakeholders ("Espaces Info Energie", social workers, etc.) of the role of the ombudsman and the energy market.

**SUBSCRIBERS ON TWITTER** 

**MESSAGES POSTED** ON FACEBOOK

**NEWSLETTERS** IN PAPER OR **ELECTRONIC FORM** 



15 MILLION TV VIEWERS

MILLION
LISTENERS FOR
THE RADIO
SLOTS

#### CONSOMAG ENERGY: AN ANNUAL EVENT

At the start of winter every year since 2010, the national energy ombudsman has run a TV campaign of five "Consomag" programmes in partnership with the National Consumer Institute (INC) to improve consumer information. The themes of these programmes in 2015 were:

- How to go about changing your supplier?
- How to get the best out your energy contract?
- How to avoid nasty surprises on your bill?
- Moving house: what do I have to do with my energy supplier?
- Dealing with disputes in the energy sector.

These programmes are incorporated into factsheets on the "Energie-info" website and on a dedicated page on the energie-mediateur.fr website.

The TV campaign is supplemented by a radio campaign.

#### WHAT'S NEW ON ENERGIE-INFO.FR?

The energie-info.fr website is constantly changing to adapt to a market that is also constantly changing and also to respond to an audience that is making increasing use of digital media.

In 2015, the website was enriched with information about smart meters and the abolition of certain regulated tariffs; the tools (price comparison tool, list of suppliers, calculators, glossary, etc.) were also improved.

In 2016, a factsheet for liquid petroleum gas (LPG) consumers was put online and the price comparison tool is being developed to integrate the first electricity offers proposed with the new Linky meters, particularly the "weekend off-peak hours" offers. It will soon also be possible to compare the Basic or Peak / Off-peak Hours offers with Tempo or EJP regulated tariffs.



AGNÈS-CHRISTINE TOMAS-LACOSTE Managing Director of the INC

Since 2009, the national energy ombudsman and the

National Consumer Institute (INC) have resumed a long-term partnership aimed at providing consumers with the information they need to understand the new energy market.

Initiated by the joint production of a guide explaining the "new" electricity and gas market and the changes for consumers, the partnership also involves annual information campaigns based mainly on the Consomag programmes broadcast on the public TV channels.

These programmes have already played a major role in publicising the ombudsman's work, explaining how the newly-opened electricity and gas markets are organised and encouraging an increasing number of consumers to make comparisons between

suppliers: they thus offer the possibility of becoming a "smart consumer"!

With the ombudsman, in 2012, the INC also ran a quantitative and qualitative study of consumer acceptance of the Linky meter.

Finally, new information tools are currently being developed to widen the impact of this work to everyone: radio ads and animated tutorials, which are both entertaining and educational.

We are proud of this "exemplary" partnership which aims to provide objective information and forms part of our public service mission of reaching out to all audiences so that everyone has the opportunity of making "enlightened" consumption choices.

The support and expertise of the ombudsman's staff enable us to produce exemplary campaigns that remain fresh in the mind and prepare the future.

## A COMMUNICATION AND INFORMATION TOOL: THE ANNUAL "ENERGIE-INFO" BAROMETER

The national energy ombudsman publishes his barometer every autumn. The barometer is supplied with information by the 1,500 households contacted by telephone and provides a clearer understanding of the consumer's relationship with the electricity and gas markets and the changes that occur within them.

The results of the barometer are presented in chapter 5 on the opening of the electricity and gas markets for household consumers. It is important to remember here that only 1 in 5 consumers have searched for information and only 57% consider themselves to be well-informed about the opening of the markets.

Another factor concerning the ombudsman's mission to provide information: only 23% of consumers who have changed supplier or are considering doing so have compared the different offers on a comparison tool.

More globally, the barometer helps the ombudsman measure any changes in consumer perceptions of the opening of the market to competition and find out more about consumers' information requirements and concerns in order to better inform them.

Communication about the results of the barometer is an opportunity for an annual assessment of knowledge of the electricity and natural gas markets. The ombudsman also uses this opportunity to provide consumers with information.



## TWO QUESTIONS TO CAROLINE KELLER, HEAD OF THE INFORMATION AND COMMUNICATION DEPARTMENT



What are the missions of the Information and Communication Department, which was set up last September?

The new department has

two very different but complementary missions: consumer information, including the "Energie-info" system via the Internet and telephone, and external communication.

The national energy ombudsman's aim in grouping together two activities that were previously separate was twofold: firstly, to become more efficient and, secondly, to give greater consistency to the messages we send out to the general public, elected representatives and the press.

Our mission is easy to explain but sometimes difficult to carry out: explaining the constant changes in the energy markets, clearly and concisely, to all types of audience, and supporting the improvements we consider to be necessary.

Consumers have always been quite poorly informed about the energy markets. How do intend to give them better information?

The ombudsman's staff have been helping to improve consumer information since the institution was

set up. The priority is still to make the institution and its "Energie-info" information service better-known; fewer than a third of French people are currently aware of it. It is essential to inform more consumers and help them in the event of a dispute.

It is a difficult aim, bearing in mind the budget cuts the ombudsman is determined to achieve; we have to be creative and place the emphasis on developing partnerships and information relays.

We try very hard to educate consumers with all the means available to us: Internet, call center, documentation, Consomag programmes, newsletters, social networks, partnerships, etc.

By using a range of information channels we are able to reach out to the widest possible audience and provide personalised answers for consumers who approach us directly.

The institution changed its graphics style at the end of 2015 with the aim of achieving greater clarity. Moving closer to the "Energie-info" style, it creates more consistency between the institutional and general public websites.



4.
THE ABOLITION
OF CERTAIN
REGULATED TARIFFS

## THE ABOLITION OF CERTAIN REGULATED TARIFFS

Begun in 1999, the opening of the electricity and natural gas markets to competition has reached a new stage with the abolition of certain regulated tariffs.

To put an end to the infringement procedure initiated by the European Commission since 2006, France had to abolish the regulated tariffs for the sale of electricity and natural gas to non-residential consumers.

The abolition of regulated tariffs for electricity contracts for a power rating greater than 36 kilovoltamperes (kVA) was therefore written into the law of December 2010 relating to the new organisation of the electricity market ("Nome" Law), while the abolition of regulated natural gas tariffs was written into the law of March 2014 relating to consumption for all non-domestic sites consuming more than 30,000 kilowatt-hours (kWh) per year.

The consumers concerned by the abolition of regulated tariffs should, in theory, have received three successive information letters encouraging them to take steps to subscribe to a market offer with the supplier of their choice.

Meanwhile, to ensure the continuity of energy supply on the date of the abolition of regulated tariffs, consumers who had not subscribed to a market offer were switched automatically to a "transition contract" for a six-month period –which could be terminated at any time without penalty– at a higher price than the regulated tariffs.

### ABOLITION OF REGULATED NATURAL GAS TARIFFS FOR NON-DOMESTIC CONSUMERS IN 3 STAGES:

- 18 June 2014: for sites directly connected to the supply grid;
- 31 December 2014: for sites consuming more than 200 MWh per year;
- 31 December 2015: for sites consuming more than 30,000 kWh (limit raised to 150,000 kWh for apartment buildings).

ABOLITION OF REGULATED ELECTRICITY TARIFFS FOR CONTRACTS WITH A POWER RATING GREATER THAN 36 KVA: 31 DECEMBER 2015

For consumers concerned by the abolition of gas regulated tariffs on 31 December 2014 and who had not subscribed to a market offer at the end of historic supplier's transition contract on 30 June 2015, the system operator supplied the "no supplier" gas at an increased price (2nd transition period).

## THE NATIONAL ENERGY OMBUDSMAN STANDING WITH THE CONSUMERS

To help consumers prepare for this major change, the national energy ombudsman placed a series of factsheets for the businesses and co-ownership properties concerned on his information website energie-info.fr.

Two electricity and natural gas "offer request" tools were also put online to enable consumers looking for an energy supply offer at the market price to send their request to all the suppliers. The content was put in place in collaboration with the Energy Regulatory Commission, the Trading Standards Department and the Department for Energy and Climate.

The ombudsman's staff also attended the Co-ownership Property Show in Paris in early November 2015 to give co-owners information about the key dates concerning the abolition of certain regulated tariffs.

NUMBER OF
"PROFESSIONAL"
VISITS TO
ENERGIE-INFO.FR::

19,000 VISITS IN 2013

94,000 VISITS IN 2014

135,000 VISITS IN 2015



As a result of the end of these tariffs, a much higher number of businesses consulted the energie-info.fr website in 2015: 135,000 visits, i.e. 7 times higher than in 2013, representing 9% of the total number of visits.

A large number also contacted the "Energie-info" service (14% of information requests). The practical example presented below is an illustration.

∢ Practical example: Information request >

#### THE DIFFICULTY IN COMPARING PRICES

Mr. M., who runs a body shop, had a contract with a power rating of 54 kVA and was concerned by the end of regulated electricity tariffs. He was looking to subscribe to a market offer contract and received sales proposals from three suppliers. He found it difficult to compare the prices in these offers and contacted the Energie-info service for help.

One of the offers appeared to be cheaper than the others but, on a closer look, did not include the transmission cost. Mr. M. was unable to persuade the supplier concerned to send him the transmission cost. The Energie-info service directed him to the tool available on the Energy Regulatory Commission website for working out the transmission cost. Mr. M. had also asked for offers for a power rating of 54 kVA and for a power rating of 72 kVA, higher than in his current contract. Only

one of the three suppliers sent him an offer for a power rating of 72 kVA; the other two told him it was not possible to change the power rating. The Energie-info service explained to him that, with the approach of the 1st January 2016 deadline, the system operator ERDF had asked suppliers to propose contracts with no change to the power rating, as it did not want to run the risk of being unable to cope with an excessive number of technical visits.



CLAUDE POUEY
Association
of co-ownership
property managers (ARC)

As a result of the working parties led by the Energy

Regulatory Commission (CRE), property management companies and co-owners have been involved well in advance in the natural gas and electricity tariff deregulation process. This has enabled our association to warn our members, property management committees and volunteer property managers very early on that they would be under obligation to move away from regulated tariffs if their consumption exceeded the limits prescribed by the consumption law of 17 March 2014.

To enable the co-ownership properties to achieve the best possible conditions for putting the operators in competition with each other, we set up a tender invitation platform known as COPRO-GAS, in which we listed twelve gas suppliers. Our members were

then able to launch proper invitations to tender and were offered a 15 to 20% discount on the market offer tariffs compared to the regulated tariffs in force until then.

From our point of view, the main problem encountered by the co-ownership properties faced with the end of regulated tariffs has been the lack of reactivity of certain management companies who have not passed on the various warning letters sent out by the institutional services to the co-ownership properties, either because they dealt with the operation without consulting the co-ownership property or because they did not do anything within the deadlines prescribed by the consumption law. And in both cases the co-ownership properties have borne the consequences, which have mainly involved an increase in tariffs compared to the regulated tariffs, instead of a possible discount resulting from a genuine competitive process.

## A MARKET OFFER AT AN INCREASED PRICE FOR STRAGGLERS

36,000 STRAGGLER SITES OUT OF 468,000 FOR ELECTRICITY AT 05/10/2016

10,500 STRAGGLER SITES OUT OF 108,000 FOR GAS AT 05/10/2016 The transition system for consumers concerned by the end of regulated tariffs and who have not subscribed to a market offer on 30 June 2016 is due to end. Another system has been created to prevent energy supplies from being suspended and to encourage these consumers to take out a contract with the supplier of their choice. A Government ordinance, published in the Official Journal on 11 February 2016, organises their allocation from 1st July 2016 to suppliers chosen via a competitive procedure, organised by the Energy Regulatory Commission (CRE), the result of which was published in its decisions of 4 May 2016. The specifications set out the terms of the contract and determine the price billed to consumers. To encourage customers to subscribe themselves to a market offer of their choice, this price will be approximately 30% higher than the transition offer currently in force. It will be possible to terminate this offer without notice or termination costs.





President
of the Energy Regulatory
Commission

PHILIPPE DE LADOUCETTE

2015 was marked by the staged abolition of the

regulated natural gas tariffs for businesses whose consumption exceeds 30 MWh per year. After the deadline of 1st January 2016, a whole series of public gas tariffs and "yellow" and "green" electricity tariffs will disappear in order to put an end to the infringement procedures initiated against France by the European Commission. In this context, the Energy Regulatory Commission (CRE) has led a number of initiatives in recent months to ensure that consumers are well informed of the end of the tariffs. We have set up working parties with the national energy ombudsman and the various stakeholders to produce practical guides, organised debates and designed a website to help consumers through the procedures (http://www.tarifsreglementes-cre.fr). We have also been in contact with the CCIs, the professional federations for small companies and trades and the local authorities, and have taken part in a large number of information seminars.

We have been heavily involved in this matter, as you can see; we even wrote in June to the 10,300 "straggler" consumers concerned by the abolition of regulated gas tariffs from 1st January 2015. As communication is the art of repetition, we have obviously passed on all this information to journalists with the aim of reaching as many consumers as possible con-

cerned by the measure and encouraging them to take out a new contract.

And yet, due to a lack of more aggressive institutional communication by the public authorities, a large proportion of the customers concerned had not been made aware by the deadline and had therefore not taken out a market offer contract with the supplier of their choice within the deadline. This very simple procedure would have enabled them to substantially reduce their energy bill.

It is unfortunately highly likely that several tens of thousands of business sites and co-ownership properties will still not have chosen a market offer on 30 June. These "straggler" consumers will be allocated a compulsory supplier at price that may be up to 30% higher, the result of an invitation to tender run by us<sup>[1]</sup>. It would be preferable if as many consumers as possible avoided a nasty surprise and chose a market offer to suit them before it is imposed on them.

[1] Interview carried out in April 2016

FOCUS ON
THE OPENING OF
THE MARKETS
FOR HOUSEHOLD
CONSUMERS

# FOCUS ON THE OPENING OF THE MARKETS FOR HOUSEHOLD CONSUMERS

While the opening up to competition of the electricity and natural gas markets for household consumers is no longer a novelty, consumer misunderstandings remain common.

MORE THAN ONE OUT OF TWO FRENCH PEOPLE INFORMED

More than one out of two French people know that they can change supplier, a trend that began in 2013. The latest "Energie-info" barometer<sup>[1]</sup> shows a progression in this knowledge for both natural gas (60% in 2015 compared to 54% in 2014 and 30% in 2007) and electricity (52% in 2015 compared to 35% in 2007).

While more people questioned are aware of their right to change their energy supplier, only 57% feel well-informed about the opening of the market to competition. The percentage is stable and clearly needs to be improved as far as the national energy ombudsman is concerned. Especially as the same survey showed that households were still confused about the structure of the electricity and natural gas markets.

For example, people are unclear of the role played by each of the companies involved. In the electricity sector, 35% of those questioned stated correctly that ERDF was responsible for

[1] Survey carried out by the Market Audit Research Agency from 4 to 24 September 2015 on a representative sample of 1 497 households.

reading the meters, but 31% stated that it was EDF, the main energy supplier.

In addition, the images of the historic suppliers, GDF SUEZ (now ENGIE since April 2015) and EDF, are still closely linked. While the two companies are different and compete with each other, only 28% of consumers were aware of this and 27% of them think that they are two different companies but they are not in competition with each other!

In April 2015, GDF SUEZ changed its name to become ENGIE. There is now no possible confusion between the distributor GRDF and its mother company.

In June 2015, the distributor ERDF changed its corporate graphic identity. However, the Energy Regulatory Commission considered that the change did not remove the risk of confusion between the ERDF and EDF trademarks and referred the matter to the Dispute Settlement and Sanctions Committee (Cordis). In early 2016, ERDF announced that it would be changing its name before the summer.

NATIONAL
SUPPLIERS PROPOSE
ELECTRICITY
OR NATURAL GAS
OFFERS TO HOUSEHOLD
CONSUMERS
(ON 31 DECEMBER 2015):

'/

suppliers offer both forms of energy

5 offer only electricity

offer only natural gas



#### PROGRESSION IN TAKING ACTION

Although the proportion has been significantly higher since 2011, only one consumer in three says that he knows what to do to change energy supplier (35% compared to 20% in 2011). And yet the procedure is simple: simply take out a contract with a new supplier and the contract with the former supplier is terminated automatically. Indeed, 77% of the consumers who say they know what to do to change energy supplier find it simple. What is a little less known is that the change of energy supplier is free: 62% in 2015 compared to 53% in 2011.

Result: in 2015, 13% of households said that they had already changed electricity or natural gas supplier. The change was essentially for financial reasons (80% of statements).

#### PRICE: THE MAIN FACTOR IN THE CHOICE

There are significant differences in the prices shown in the different suppliers' offers and differences may also exist in the same supplier's prices depending on the type of offer (fixed-price or index-linked offer, "green" offer, etc.). So it is possible to save up to 10% on the regulated tariffs. But it is also possible to pay more...

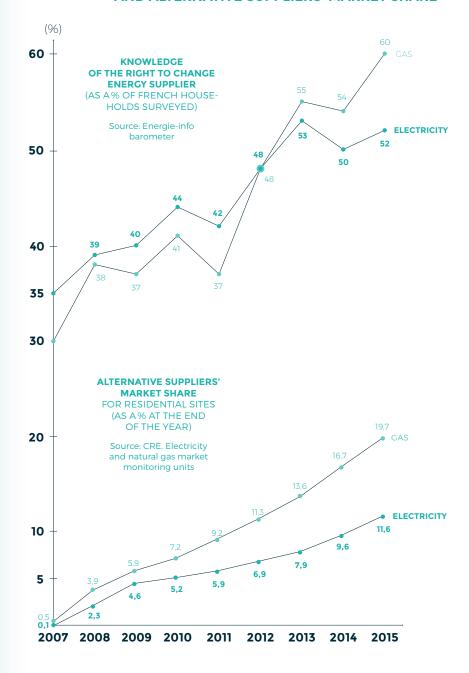
Between 2014 and 2015, the VAT-inclusive bill increased by 4% for consumers on regulated tariffs and using electricity for heating; for those heated by natural gas, it fell by  $8\,\%$ .

Since 2007, the cumulative VAT-inclusive bill has increased by 39% for electricity and 26% for natural gas.

70%
OF FRENCH PEOPLE
ARE IN FAVOUR OF
OPENING UP THE MARKETS TO COMPETITION

13 %
OF HOUSEHOLDS
SAY THAT THEY HAVE
ALREADY CHANGED
ENERGY SUPPLIER

## EVOLUTION IN THE KNOWLEDGE OF THE RIGHT TO CHANGE SUPPLIERS AND ALTERNATIVE SUPPLIERS' MARKET SHARE



#### COLD CALLING. DOORSTEP SELLING AND OTHER BAD PRACTICES CONTINUE

The opening of the market to competition has been accompanied by an increase in sales operations aimed at consumers. Cold calling is one of the means most commonly used by companies. In 2015, 40% of the consumers surveyed for the barometer said that they had been approached to subscribe to an electricity or natural gas offer. This is comparable to cold calling for insulation works (46%) or for renewable energy production (38%).

The national energy ombudsman is regularly alerted by consumers who are victims of unfair commercial practices or who are looking to report aggressive or misleading practices (e.g. the direct seller pretends to be a technician who has come to read the meters). As doorstep and cold calling concerns the formation of the contract, the ombudsman cannot intervene in the settlement of this type of dispute. He can only inform consumers and guide them through the procedures: reminding them of the 14-day cooling-off period, transfer to the supplier in certain cases, invitation to contact a consumer association. reminding them of the possibility of changing supplier again immediately and at no cost, etc.

Where consumers are victims of unfair commercial practices. the ombudsman advises reporting them to the General Direction for Competition Policy, Consumers Affairs and Fraud Control (DGCCRF).

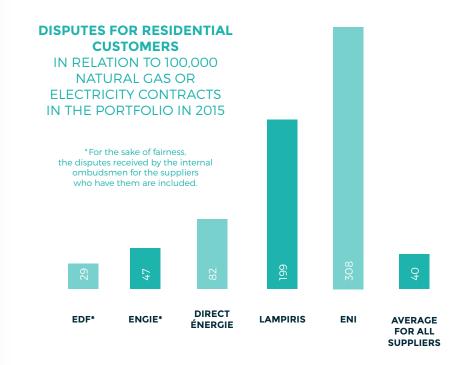
And in all cases, even if the proposed offer looks interesting, the ombudsman encourages consumers to compare offers and give themselves time to think. Still according to the barometer, less than a quarter of consumers who had changed supplier or had the intention of doing so compared the energy offers on a price comparison tool before signing a contract.

40% **OF HOUSEHOLDS** WERE APPROACHED TO SUBSCRIBE TO AN ELECTRICITY OR NATURAL GAS SUPPLY OFFER: 60% by telephone 28% by letter 25% at home

23% **OF THOSE** WHO CHANGED SUPPLIER USED A PRICE COMPARISON TOOL

#### A RELATIVELY HIGHER LEVEL OF DISPUTES WITH THE ALTERNATIVE SUPPLIERS

The level of disputes is higher for the alternative suppliers, which is partly explained by the fact that consumers who make the effort to change supplier are more attentive than others to respect for the contract and their bills. The differences between suppliers are also explained by the quality of billing and customer service and the way in which any complaints are dealt with. The ombudsman has noted a higher proportion of simple disputes that could easily have been dealt with by the alternative suppliers' customer service department, as is shown in the examples presented below.



#### THE END OF A DIFFICULT YEAR 2015 WITH ENI

In his 2014 activity report, the national energy ombudsman had pointed to a very significant increase in the number of disputes involving the supplier ENI and to the unsatisfactory way in which they were dealt with.

The number of disputes involving the supplier ENI virtually doubled between 2014 and 2015, due to various different problems in its billing system, which was the cause of recurring complaints that its customer service department was not able to handle. In 2015, the number of disputes recorded by the ombudsman reached the highest level of all the suppliers.

These disputes were, however, easy enough to resolve: for example, a failure to refund overpayments, failure to record contract terminations or errors in the prices applied. The average value of each dispute was around 200 euros.

In the first quarter of 2015 the ombudsman alerted ENI to the significant rise in the number of disputes concerning the company, many of which had received no answer from its customer service department. At the time, overwhelmed by the exponential increase in the number of complaints that it had to deal with, ENI did not respond to the ombudsman's appeals either.

As a result, discussions with the national energy ombudsman's staff were lively but effective: the supplier eventually introduced the appropriate actions and means to recover the situation. Since the end of 2015, the ombudsman has noted that the number of disputes has begun to fall and that mediation dialogue has been restored. In the end, 42% of the disputes examined in mediation in 2015 ended in an amicable agreement or a confirmation of the solution proposed by the supplier.



DANIEL FAVA
Managing Director
of ENI France

We belong to a group that specialises in energy, a multinational established in

90 countries and employing nearly 90,000 people worldwide. Our rapid growth and recent arrival in the domestic customers market in France, since 2012 for gas and this year for electricity, has led to difficulties for some of our customers, and we are aware of this. These difficulties should be put into perspective – we have some five hundred thousand consumers – but they remain a priority for corrective action, which is why we are working with the national energy ombudsman and have set up a team dedicated to resolving the complaints that he submits to us.

In broad outline we went through two periods in 2015. From January to September, our information system (mainly billing and customer monitoring) had to be adapted to accompany our growth. In addition, 80% of our customers pay on a monthly basis, which explains the number of complaints we

received about overpayments, due to a very mild winter and the fact that bills were established on an estimated consumption basis using the winter temperatures for the last twenty years.

In the last quarter of 2015, actions that had been introduced internally began to produce results. We saw a 30 % drop in complaints, and these complaints were dealt with more effectively. Our continuing improvement process goes on: we are trying to be proactive when adjustment bills are high, we have organised a large number of information campaigns to encourage our customers to send us their meter readings so that we can bill them as accurately as possible and we are offering more accompaniment, particularly for customers in difficulty.

## EXAMPLES OF DISPUTES INVOLVING ALTERNATIVE SUPPLIERS

∢ Practical example: recommendation >

#### The need to properly inform your customers

With the idea of selling her house in mind. Mrs. C. contacted her natural gas supplier A to find out the arrangements for terminating her contract. The supplier advised her to call again on the day of sale to terminate the contract.. Which is what she did on 25 February. And, as a sign of her good faith. Mrs. C. took a photograph of her meter. However, the supplier A sent her the termination invoice three months later with the date of termination set as 5 March (the date on which the distributor visited to start up the successor's contract and the meter was read) and with a higher termination reading than the one she had taken and photographed. The consumer therefore contacted the national energy ombudsman who decided that:

- the supplier should have informed Mrs. C., at the time of her first phone call, of the need to organise the distributor's contract termination visit and, at the same time, should have arranged the visit with her so that it coincided with the date of her house sale:
- supplier A's termination invoice was issued on 30 May 2015, nearly three months after the customer's contract termination request. According to article L. 121-89 of the consumer code, closing invoices must be issued within four weeks of contract termination.

In this dispute, the national energy ombudsman therefore recommended that the distributor proceed with their proposal to pay Mrs. C. compensation of 50 euros. He also recommended that supplier A should pay Mrs. C. compensation of 75 euros for the inconvenience caused by the lack of advice and information and also for sending the termination invoice late.

Finally, with the aim of avoiding further problems, the national energy ombudsman recommended that in the supplier A should inform customers who contact them about gas supply contract termination that they need to organise a distributor visit to take a final reading at the end of the contract.

Recommendation <u>n°D2015-1184</u> Available on :

energie-mediateur.fr/recommendations

#### ∢ Practical example: recommendation >

#### Persevere... and keep persevering!

Despite repeated calls from the customer, supplier Y refused to refund her the six months' standing charges offered as part of a special offer, as stated in the signed agreement. And yet the case was clear on paper: in August 2013, Mrs. B. took out a gas supply contract with an attractive offer stipulating that at the end of a year's subscription, the first six months would be completely refunded. A total of 109.57 euros, calculated by supplier Y, who also specified the date on which Mrs. B. should have received this sum: 28 September 2014. But in July 2015, Mrs. B. had still not received it, even though she had

called the supplier and sent emails on 7 October and 17 December 2014, and on 14 January and 9, 20, 24 and 29 March 2015.

The matter was referred to the national energy ombudsman, who recommended, in July 2015, that the supplier should meet his commitments and pay an additional 75€ in compensation to Mrs. B.

Recommendation <u>n°D2015-00649</u> Available on:

energie-mediateur.fr/recommendations

∢ Practical example: recommendation >

#### Termination not taken into account

On 17 March 2014. Mrs. B. wrote an email to Y. her natural gas supplier, to inform him that she was moving house and therefore wished to terminate her contract as of 31 March 2014. On the same day, supplier Y acknowledged receipt of the email and told her to do the necessary with the distributor, to whom he would pass on the reading taken by Mrs. B. After 31 March 2014, supplier Y did not provide the termination invoice within the legal four weeks, and also continued to send her bills for the standing charge and consumption after 17 March (152.99 euros and 129.05 euros). Faced with this ridiculous situation Mrs B's various complaints fell on deaf ears. Her father called in the national energy ombudsman. When contacted, supplier Y gave "internet problems" as the reason for the surcharges levied and assured that a payment of 349 euros would be made in Mrs. B's favour. The legal deadline for a refund for over-charging is two weeks. Supplier Y should therefore have paid this amount by 12 May 2014 at the latest. Despite declarations of intent the supplier was still sending his former

customer letters - a whole year later! - asking her to send her meter readings and continues to present his direct debits which are refused by the consumer's bank. The national energy ombudsman recomended that the supplier:

- terminate Mrs. B's contract as of 31 March 2014:
- correct its billing accordingly and cancel all standing charges and consumption billed after this date, sending the termination bill and refunding all over-charged amounts:
- pay Mrs. B. 100 euros in compensation for the inconvenience caused

Recommendation <u>n°D2015-00032</u> Available on:

energie-mediateur.fr/recommendations

67

6.
2015,
ENERGY
TRANSITION YEAR

# 2015, ENERGY TRANSITION YEAR

Several proposals supported by the national energy ombudsman were adopted by the legislator in 2015: the limitation of back-billing, an energy check for the most vulnerable and the extension of the public mediation service to all forms of heating energy... we take a brief look at these new legal provisions.

The law of 17 August 2015 relating to energy transition for green growth was promulgated after nearly a year of parliamentary debate. The national energy ombudsman had audiences with the competent National Assembly and Senate committees and supported several reforms favourable to consumers, some of which became amendments then articles in the draft bill. The reform of the Contribution to Public Service Charges for Electricity (CSPE), which is charged on electricity consumers' bills, supported by the ombudsman, was begun at the end of the year as part of the amended finance law for 2015, on the Government's initiative

50 %
THE ENERGY
CONSUMPTION
REDUCTION TARGET
FOR 2050 FIXED
BY THE ENERGY
TRANSITION LAW

20%
THE INTERMEDIATE
TARGET
FOR 2030

# THE ADVANCES SUPPORTED BY THE NATIONAL ENERGY OMBUDSMAN

- · Limitation of back-billing to 14 months,
- Creation of an energy check to replace the social tariffs from 2018,
- Study of the thorny question concerning the renovation of risers in apartment buildings,
- Extension of the national ombudsman's jurisdiction to all forms of heating energy consumption,
- In-home display of energy consumption for beneficiaries of social tariffs equipped with smart meters.

#### LIMITING BACK-BILLING: WHERE ARE WE?

This is one of the most concrete and important advances in the energy transition law for electricity and natural gas consumers, who may find themselves on the receiving end of retroactive bills from their supplier for several thousands of euros, equivalent to several years' consumption, even when they have sometimes made efforts to control their consumption. Even if the operators agree to grant them payment facilities, these bills are added to current charges and may place consumers in great difficulty. These situations represent a third of the recommendations issued by the national energy ombudsman.

3,600€

THE AVERAGE

BACK-BILLING TOTAL



∢ Insight >



JACQUES GÉRARD
Customer Relations
Director, GRDF

The limitation of back-billing to 14 months means that GRDF has an obligation of

means, towards suppliers, of course, to provide them with readings every year that will enable them to send out accurate bills, but also towards its 11 million customers to save them from being faced with bill adjustments over long periods that are always difficult to pay off. GRDF has introduced a system in which it sends out letters by recorded delivery to customers who are absent for two annual meter readings and who do not send us their own readings. If two of these letters remain unanswered, GRDF analyses each customer's situation on an individual basis (second home, house move, etc.) before embarking on a possible cut-off procedure. To fully understand the issue, I should explain that, of GRDF's 11 million customers, 50,000 households had not provided a meter reading for two consecutive years at the end of 2014.

From our point of view, the recorded delivery letter system should help to settle nearly 90% of cases where there has been no meter reading. It has already been tested on 3,600 customers absent for seven consecutive readings. Following the first letter sent by recorded delivery, over 60% of customers sent us a self-reading (paper, online or by telephone) or gave us access to their meter. The second letter and the accompanying formal demand resulted in another 20% of readings. Everyone is involved in introducing this measure, including the suppliers, who need to send us any changes in customer addresses to ensure that we, the distribution system operator, avoid any errors.



PATRICK BAYLE
Director of External
Relations, Consumers
and Solidarity EDF
- Commerce

EDF will obviously be intro-

ducing the limitation of back-billing to fourteen months as specified in the energy transition law for green growth. For many years we have used our bills and communication materials to inform our customers of the dates on which our distributor system operators are due to read the meters. And we also regularly encourage them to send us their self-readings via our contact channels: customer space on fixed and mobile websites, EDF & MOI application, telephone, etc. The key to controlling consumption is to know exactly what that consumption is, which is why EDF has a commitment to its customers through one of the nine EDF & MOI commitments:

"To make sure your bill is as accurate as possible". This is also the aim of the new legal provision of limiting back-billing to fourteen months.

We will have to adapt to take this maximum fourteen-month period into account. The distributor system operators will also have to align themselves with the law in very practical terms, by sending out letters by recorded delivery if they are unable to carry out meter readings every year. For its part, EDF will help them ensure that their customer addresses are upto-date. In addition, our 5,000 advisors are on hand to answer consumers' questions and offer solutions that satisfy nine out of ten customers.

Finally, smart meter readings will be with us within the next five years, which means that we will have actual readings more often and therefore be able to bill our customers more accurately.

Back-billing for large amounts is caused by the fact that the suppliers do not take account of consumption readings taken by distributors or consumers (self-readings), or even a total absence of readings, until late in the day, with the consequence that bills are drawn up on the basis of simple estimates over long periods (see practical example chapter 2).

However, the regulations already oblige suppliers to bill their customers for their actual consumption at least once a year. Having tried in vain to persuade suppliers and distributors to voluntarily limit back-billing to a year, the ombudsman suggested that MPs should legislate. The parliamentary debate led to the adoption of a limitation of back-billing to fourteen months. A one-year period has been set aside for bringing the measure into force, on 18 August 2016, to give operators time to change their processes and their information systems.

#### **ARTICLE L. 121-91 OF THE CONSUMER CODE**

"All electricity or natural gas supply offers must include billing for the energy consumed at least once a year. Electricity or natural gas consumption over a period more than fourteen months prior to the last reading or self-reading may not be billed unless it has been impossible to access the meter and the consumer has failed to send in a reading showing his actual consumption, following the receipt of a letter from the system operator sent by recorded delivery with a request for acknowledgement of receipt, or in cases of fraud."

# TESTING THE ENERGY CHECK AS A REPLACEMENT FOR SOCIAL TARIFFS

Another major advance brought about by the energy transition law for green growth is the energy check. Its introduction for all forms of heating energy as a replacement for the current social tariffs for electricity and natural gas is a system that Jean Gaubert and his predecessor, Denis Merville, had called for and that Ségolène Royal, the Minister for Energy, had taken up during the draft bill phase. The aim of the measure is clear: to make aid to consumers fairer and more evenly distributed. However, a number of obstacles remain, beginning with a hesitation on the part of the electricity and natural gas suppliers, who would like to retain the current system as it offers them certain advantages.

A compromise has finally been found. It consists of testing the new system in certain departments before going national on 1st January 2018. An application decree has been used to organise the test and define the arrangements, particularly the income limit entitling consumers to the benefit.

The ombudsman was able to state his position before the Council of State examined the draft decree. He was heard on several key points and now hopes that the test will begin as soon as possible so that feedback can be received and improvements made to the system if necessary (see chapter 7 on fuel poverty).

#### RISERS UNDER ASSESSMENT

Another issue that has a greater scope than may at first seem: the maintenance and renovation of risers, the electricity cables that serve apartment buildings.

Approximately 300,000 of them are antiquated and need to be renovated. To find out who should finance their renovation, we need to determine whether they belong to the co-ownership properties or whether they are part of the distribution system. The issue is the subject of an increasing number of disputes and disagreements between co-ownership associations and the electricity distribution system operators, mainly ERDF.

The national energy ombudsman's view of the situation is clear: the risers are part of the system and are therefore the responsibility of the system operator. Concerned about serious accidents, mainly the outbreak of fire, and faced with the resistance of ERDF which does not want to bear the cost of these essential renovations, the ombudsman has encouraged the legislator to tackle the issue. The law states that a report on the status of risers should be submitted to Parliament during 2016.

"The report should estimate the number of risers requiring renovation, renewal or reinforcement works in the light of the standards in force and the needs of the buildings concerned, and the cost of the related works. It should propose ways of financing these works. It should propose all the relevant legislative and regulatory amendments required to specify the status of these risers," says article 33 of the law.

On the key question of who pays for the renovations, Jean Gaubert advocates a pragmatic solution with the cost split three ways between the co-ownership properties, the system operator and the local authorities, who own the licensed system. The experts assigned by the Ministers for Energy and Housing have met the ombudsman and his staff on several occasions since July 2015.

Their remit does not require the report to take a stance on the central issue of who owns the risers, which is the subject of

disagreement. This is an unfortunate restriction in the eyes of the ombudsman, as he had recommended that the legislator take up a position in order to put an end to these disputes.

Today, in most of the disputes referred to the ombudsman, the distributor refuses to cover the cost of the riser renovation works, but it is not always the case, as is shown in the practical example below.

∢ Practical example: recommendation >

The cost of work on the risers covered by the distributor

Mr. C. asked the distribution system operator (DSO) to cover the cost of work on the risers in his co-ownership property.

The distributor initially refused to cover the cost of the work (19,587.70 € incl. VAT), considering that it should be paid for by the co-ownership property, which he said was the owner of the riser.

After some research, the DSO finally found an agreement signed on 17 March 1965, establishing that the risers in the co-ownership property formed part of the council concession. The council had retroceded their maintenance and management to the historic supplier (then to the distributor).

A solution was reached and the DSO covered the cost of the works.

Recommendation  $n^{\circ}$ **D2015-00030** Available on:

energie-mediateur.fr/recommendations

**59** IN 2015

THE OMBUDSMAN'S

**RECOMMENDATIONS** 

**ON RISERS** 

**28** IN 2014

**13** IN 2013

**1** IN 2012

# AN OMBUDSMAN FOR ALL FORMS OF ENERGY CONSUMPTION

Since the energy transition law, the national energy ombudsman can now intervene in all forms of energy consumption, without distinction: electricity and natural gas as since 2007, but also domestic fuel oil, Liquid Petroleum Gas (LPG), firewood, and heating networks.

In 2015, the ombudsman received only 87 disputes concerning forms of energy other than electricity and natural gas. All consumers need to be made aware of this extension to his jurisdiction if it is to be fully effective, which is why the ombudsman took the initiative in September 2015 of meeting the leading professional associations in the sectors entering his area of jurisdiction: the French Butane-Propane Committee (CFBP), the French Fuels & Heating Federation (FF3C), the National Urban Heating and Urban Air-conditioning Association (SNCU), the Energy and Environment Services Federation (FEDENE), the French Oil Industries Union (UFIP), and the Renewable Energy Association (SER).

#### **OPERATORS' OBLIGATIONS TO PROVIDE INFORMATION**

Since the ministerial ruling relating to electricity and natural gas bills came into force on 18 April 2012, electricity and natural gas suppliers must mention on their bills the existence of the national energy ombudsman and the arrangements for referring disputes to him. New supplementary regulatory obligations were added during 2015. Article L. 122-1 of the energy code and articles L. 156-1 and R. 156-1 of the consumer code require the energy sector companies to inform their customers of the existence of the national energy ombudsman and communicate his contact details and the arrangements for referring disputes to him.

This information must be mentioned:

- on the operators' websites;
- in the appropriate section of their general terms of sale, e.g. settling disputes, complaints or claims;
- · on order forms;
- in letters sent in response to complaints;
- and in any other appropriate medium.

At these meetings, Jean Gaubert presented the institution and the working methods involved in mediation. Factsheets about the institution, how it works with operators to resolve disputes and the legal obligation to provide information for consumers were sent to these networks so that they could be circulated to their members.

However, in early 2016, a certain number of companies had still not informed their customers of the existence of the national energy ombudsman and the arrangements for referring disputes to him, despite their regulatory obligations, particularly in the LPG sector

∢ Perspective >



EMMANUEL TRIVIN
Chairman of the French
Butane-Propane
Committee (CFPB)

Whereas 2 out of 3 communes do not have access to a natural gas supply, bu-

tane and propane gases (also known as LPG) are the only gas offer available throughout France. In addition, if you choose propane gas for heating, you are choosing a cleaner form of energy that emits less CO2 than domestic fuel oil or coal.

Since the "Hamon" consumer protection law, propane gas delivered in a tank is covered by a special legal framework comparable to those that cover electricity and natural gas. For example, it sets out the conditions under which a customer who does not wish to invest in a gas tank may have one made

available to him by a gas supplier. In no circumstances may the contract exceed 5 years.

At the end of his contract, the customer decides whether to extend it or terminate it at no cost. Consumers can now enjoy the comfort of gas everywhere, even far from the cities, and in complete freedom: the customer can choose whether to entrust certain services relating to his gas solution to his supplier or to a professional of his choice.

In 2015, the energy ombudsman's role was extended to all forms of energy by the energy transition law for green growth. The CFBP has offered its support to ensure that he has all the information he needs about the propane gas market and contracts between LPG suppliers and their customers to enable him to carry out his mission.

# AN IN-HOME DISPLAY OF ENERGY CONSUMPTION FOR THE MOST VULNERABLE

The energy transition law provides for the free provision by their supplier of an in-home consumption display for consumers equipped with smart meters and benefiting from social tariffs (and eventually the energy check) (see chapter 8).

The national energy ombudsman has supported this measure from the outset of the smart meter project for electricity to enable consumers to manage their consumption more effectively and help them reduce their bills. However, he regrets that it does not concern all consumers, only the vulnerable ones. But the law does state that the system may be extended to all consumers in a second phase.

# TOWARDS A CSPE EXTENDED TO ALL FORMS OF ENERGY IN 2017

The other aspect of energy transition is energy taxation. While the issue was covered by parliamentary amendments during the debate, the Minister for Energy, Ségolène Royal, had agreed to support this vast undertaking in the finance law. The amended finance law for 2015 began the reform of the Contribution to Public Service Charges for Electricity (CSPE) for 2016, with a review clause in 2017. The ombudsman called for its scope to be extended to all forms of energy, particularly the fossil energies, via the merger of several existing taxes.

#### WHY REFORM THE CSPE?

The Contribution to Public Service Charges for Electricity (CSPE) is paid by electricity consumers via their bills, in proportion to their consumption.

This "disguised tax" on consumption was worth 6 billion euros in 2014 and is used to finance a number of public service energy missions: the development of renewable forms of energy (62%), tariff equalisation with the overseas territories (2%), co-generation (8%), social welfare (4%), and the national energy ombudsman (0.1%). Up to now it has escaped from budget control by Parliament.

In the ombudsman's view, the increase in charges to come to finance renewable energy contracts, already begun in 2014 (over 100 billion euros between now and 2025) poses the question of the social acceptability of the scheme for households heated by electricity, which are not among the most well-off (as electric heating is cheaper in terms of the initial investment), and this at a time when, in 2015, the CSPE already accounts for an average of 15% of the bill for a household heated by electricity. There is also the fact that it is unfair to make electricity consumers bear most of the cost of developing renewable forms

Jean Gaubert believes that energy transition should also be financed by the fossil energies and the reform of the CSPE does in fact place energy taxation at the service of energy transition.

#### A TWO-PHASE REFORM UP TO 2017

of electricity production.

To secure the system and ensure that it is controlled by Parliament, the Government has chosen to build the CSPE into the State budget and combine it with the climate-energy contribution, which has taxed the carbon portion of fossil energies since 1st January 2014 <sup>[1]</sup> and the rate for which is set to increase every year.

Technically, the amended finance law for 2015, which was adopted in December and applicable in 2016, merges the CSPE with the "Domestic Tax on Final Electricity Consumption (TICFE) but maintains its name. The planned CSPE rate for 2016 is maintained and will be the same for 2017 (22.5 € per MWh), which helps to stabilise electricity taxation.

The tax situation for natural gas is changing too: the CTSSG (Contribution to the Special Solidarity Tariff for Gas) and the Biomethane Contribution are incorporated into the Domestic Consumption Tax on Natural Gas (TICGN) as a partial contribution to the development of renewable energy.

79

<sup>[1]</sup> Via the TICPE (Domestic Consumption Tax on Energy Products) the TICGN (Domestic Consumption Tax on Natural Gas) and the TICC (Domestic Consumption Tax on Coal).

In 2017, the increased collection of the energy-climate contribution should ensure that the fossil energies contribute towards the financing of renewable forms of energy.

More than two-thirds of the new CSPE will be used to finance renewable energy - 4.4 billion euros in 2016 and 5.5 billion in 2017 – via a special allocation account (CAS) in the State budget [1]. The choice of a dedicated account, separate from the traditional budget programmes, means that income can be directed towards expenditure, the two being tied together. This is a good way of ensuring that the taxes paid by energy consumers will go to finance renewable energy [2].

However, this first stage in the reform of the CSPE does not meet all the energy transition financing requirements. For example, the recorder responsible for the Budget in the National Assembly says that there is a 700 million euro shortfall in the energy transition account in 2017 to finance renewable energy. MPs have reduced the deficit to 540 million by allocated extra income [3].

A special "energy transition" account (CAS) has been set up to finance renewable energy. Most of its income will come from the CSPE-TICFE.

The other public electricity service charges are built into the overall budget, as part of the "Public Energy Service" programme overseen by the Ministry for Energy.

The national energy ombudsman and the social tariffs will be financed by this programme.

#### **CSPE-TICFE ALLOCATION IN 2016:**

- 4 373 M€ to the energy transition account
- 2 043 M€ to the overall budget, "Public Energy Service" programme

#### ∢ Perspective >



MARC GOUA
MP for Maine-et-Loire,
member of the Finance
Committee

The Contribution to Public Service Charges for Elec-

tricity (CSPE) is little-known to citizens, but it accounts for a large proportion of their electricity bill (approximately 16%) and is used to cover a number of essential public service missions. It contributes to the development of renewable energy and the cost of social energy tariffs and helps to compensate for excess production costs in areas that are not interconnected and to finance the energy ombudsman's budget.

The total costs covered by the CSPE are expected to be 6,34 billion euros for 2015. This amount will need to increase over the next few years to achieve the ambitious targets set by the energy transition law.

Considering its importance to the budget, an initial reform of the CSPE was voted as part of the amending finance law for 2015. From 2016, the costs financed by the CSPE will be incorporated into the State budget to provide better control over the costs that it finances.

The CSPE base is also expected to be extended from 2017, a measure that I have been proposing for several years in my special reports. The aim is to have the costs linked to energy transition financed by all forms of energy consumption. This extension is particularly feasible now due to the very low cost of fossil energies. It will also involve reviewing the current allocation of the revenues from the climate-energy contribution, which are not sufficiently directed towards financing the energy transition.

<sup>[1]</sup> The expected yield is 80% of CSPE-TICFE income and 75% income, bearing in mind the introduction of the reform and the collection constraints (only consumption actually giving rise to a payment or deposit between 1st January and 30 November 2016 may be paid into the State budget).

<sup>[2]</sup> The special energy transition account will also be used to repay the "CSPE debt" contracted by the Government with EDF since 2009, i.e 744 million euros.

 $<sup>\</sup>left[3\right]$  i.e the whole of the TICC and a fraction of the TICPE.

7.
FUEL
POVERTY:
A LONG-TERM
BATTLE

# FUEL POVERTY: A LONG-TERM BATTLE

One in five households is concerned by fuel poverty. Faced with this growing phenomenon, the legislator has introduced measures which the ombudsman believes should be further reinforced.

The National Fuel Poverty Observatory (ONPE), of which the national energy ombudsman has been a partner since it was set up in March 2011, stated in its 2014 report [1] hat 5.1 million households are in a fuel poverty situation. By including expenditure linked to travel, INSEE says that 5.9 million households are suffering from energy vulnerability [2]. This growing phenomenon is still poorly evaluated due to a lack of up-to-date statistics; the reference figures are still based on data from the 2006 National Housing Survey (ENL) until figures from the 2013 Survey become available

To understand the situation of these vulnerable consumers, the energy transition law adopted on 17 August 2015 included several measures based on proposals submitted by the ombudsman (cf. chapter 6). To respond to the inadequacy of the aid granted to households in a fuel poverty situation - the social tariffs for electricity and natural gas – the Government has adopted the idea of the energy check, which is supported by the national energy ombudsman, the Agency for the Environment and Energy Management (ADEME) and a number of consumer associations.

[1] Source: ONPE - taken from the 2006 National Housing Survey (ENL). According to the ONPE definition, three factors are taken into account to decide whether a household is in a vulnerable situation: energy effort level, income and a "feel cold" factor in the home (see the 2014 report).



BRUNO LECHEVIN
Chairman of ADEME

With our eyes on energy transition, it would be contrary to our desire to build a fairer society, more respect-

ful of resources and more supportive, if we did not treat the social question seriously. If we are to achieve a successful ecological transition, we need to involve everyone, even the most vulnerable.

The number of people living in energy vulnerability is rising because they are suffering the consequences of the global economic crisis and the rise in energy prices, even though we are in a downward trend at the moment. This pause is temporary and has come after a significant rise in energy prices; today, one in five French people is affected. The National Fuel Poverty Observatory's key challenge is to understand, define and measure fuel poverty in order to fight it effectively.

It has made us all aware that the phenomenon goes way beyond the commonly-accepted definition: it encompasses energy consumption for the home and household appliances, the reality of energy costs and the transparency of bills, the question of mobility and transport, the quality of air and health and the economic and behavioural dimension.

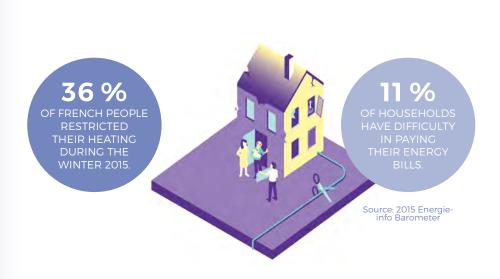
In addition to decisions on indicators and the monitoring of aid schemes, which are the Observtory's responsibility, the solidarity, energy and housing groups which are its members need to come up with some innovative, effective answers in order to eradicate this growing phenomenon quickly and efficiently.

FUEL POVERTY [1]

5,1
MILLION
HOUSEHOLDS



11,5
MILLION
PEOPLE



<sup>[2]</sup> Insee Première no. 1530 - January 2015.

#### THE SHORTCOMINGS OF THE SOCIAL TARIFFS

Despite the increase in the number of households that have actually benefited from them year after year since they were introduced, the social tariffs for electricity and natural gas suffer from a number of structural faults which. combined, have shown their limitations:

- · Firstly, their design different for electricity and natural gas - means that these uncoordinated aid systems partially overlap, which is the cause of other forms of inequality. For example, eligible households using gas heating benefit from the Basic Needs Tariff (TPN) for electricity and the Special Solidarity Tariff (TSS) for gas, while households using electricity for heating only receive the TPN. with no increase.
- · Secondly, the criteria for access to these tariffs limit the number of households that actually benefit from them. Considering the high level of renunciation of these allowances.

A REAL OBSTACLE COURSE

- eligibility for health grants (CMUC or ACS) means in practice that a large number of beneficiaries are lost: at the same time, the income criterion per tax household does not take account of the variety of living situations (house sharing, cohabitation, etc.) or may, conversely, allocate the social tariff to a well-off household where the contract holder has a level of income below the limit or taxable income that is negative or reduced by adding together property or
- In addition, it is extremely difficult to cross-reference files (social security, taxable income, operator data) and errors can occur. There is also the problem of names incorrectly spelt, the constraint of updating schedules for the different files (e.g. tax file based on the address at 1st January) and the high level of house moves among our

other deficits

co-citizens (approximately 13% a year).

# "AUTOMATIC" IDENTIFICATION OF ELIGIBLE HOUSEHOLDS:

Every year, the electricity and natural gas suppliers receive a variety of files from different sources:

- 1. the tax files for households with an annual taxable income below 2,175€;
- 2. the CPAM (health insurance) file containing the names of CMU and ACS beneficiaries:
- 3. the distribution system operator files which give the energy delivery points for each accommodation.

It is then up to the suppliers or their service providers to identify their customers from among these files in order to apply the deduction to their bill. This assumes that the names match, which is not always the case, particularly when the person eligible for the social tariff is not the holder of the supply contract within the household.

∢ Practical example: recommendation >

#### A social tariffs error ... and a bailiff is sent in

Mrs. B.'s story sounds like a case of runaway on the part of the administrative circuits that are supposed to be there to help the most disadvantaged. In the summer of 2012, Mrs. B. who was living in Yvelines at the time, received a certificate of eligibility for the "Basic Needs Tariff" (TPN) due to her low income. She conscientiously returned the form but then had to move house for work reasons a few weeks later When she arrived in Fure-et-Loir she informed her new supplier with whom she had a contract that she was entitled to TPN. He assured her that no further steps were required and that her TPN entitlement would be taken into account, since she was eligible for this social tariff. However, TPN was not applied and Mrs. B had to move again. To terminate her contract, her supplier asked for 295.10 €, which she agreed to pay once the TPN deduction to which she was entitled was made. The company refused and sent a court bailiff who raised the sum to 408.89 €. As Mrs. B. refused to give in and insisted that the TPN to which she was entitled should be applied,

the bailiff effected a procedure to seize the money from her bank account, which raised the cost further to 632.25 €. The amount was withdrawn in a single payment, contrary to the agreement made with the supplier. Mrs. B. called in the national energy ombudsman who noted that the petitioner had in fact been eligible for TPN since mid-2012. In his recommendation, the ombudsman regretted that the supplier had not adopted a more conciliatory attitude during their discussions. The recovery of the debt could have been suspended until supporting evidence had been produced, which would have avoided these costs. Also, and taking Mrs. B's good faith into account, the ombudsman considered that the supplier should grant compensation to cover the bailiff's costs and compensate Mrs. B. for the inconvenience caused.

Recommendation n°2014-3803 Available on:

energie-mediateur.fr/recommendations

∢ Practical example >

#### An error that benefited a well-off household

A couple living near the French border but working in Switzerland were surprised to find themselves granted a preferential tariff usually reserved by EDF for poorer households. A "bug" which appeared to have been caused by their membership of the "CMU" system (state health care for people on low incomes),

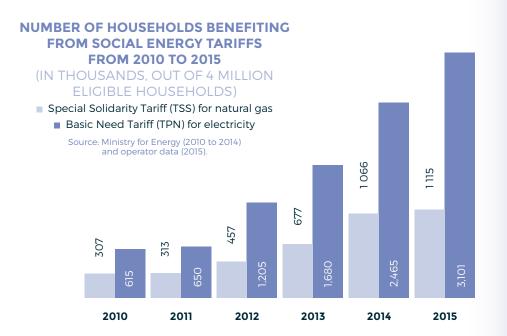
which has been mandatory since 2014 for people who are not insured in Switzerland. "With my wife's salary, we earn 10.000€ a month. We're already well-off so it would be improper to accept this aid", said one of the beneficiaries .to the press.

# THE SOCIAL TARIFFS IGNORE HUNDREDS OF THOUSANDS OF VULNERABLE HOUSEHOLDS

Just under 2,5 million households were benefiting from them at the end of 2014. At the end of 2015, suppliers declared 3,1 million beneficiaries, although it is now accepted that the number of eligible households is well over 4 million.

Added to these shortcomings is the fact that households that use other forms of energy for heating have no right to any aid, even though 28% of the stock of main homes is concerned (domestic fuel oil 13% of main homes, wood 10%, urban heating, LPG...)<sup>[1]</sup> and a significant number of vulnerable households use domestic fuel oil for heating<sup>[2]</sup>.

<sup>[2]</sup> Source: <u>INSEE Première n°.1530 January 2015</u>. Proportion of vulnerable households: 68.6% for domestic fuel oil, 75.8% for bottled gas, 41.6% for electricity and 27.4% for natural gas.



# A SYSTEM THAT IS EXPENSIVE FOR CONSUMERS BUT BENEFITS THE SUPPLIERS

The management of the social tariffs system by the suppliers generates significant administration costs for which they are compensated in full by the Contribution to Public Service Charges for Electricity (CSPE) or the Contribution to the Special Solidarity Tariff for Gas (CTSSG), paid by all consumers on their bills.

These administration costs include the dedicated staff (management, training and information), the cost of the external service provider responsible for cross-referencing the files and the cost of sending letters to the households concerned or potentially concerned. According to the Energy Regulatory Commission (CRE), they represent 11.65 million euros for the electricity tariff and 5 million euros for the gas tariff, i.e. 5 and 6% of the total TPN and TSS charges for 2014 compensated in 2015. The CRE regularly notes an increase in EDF's administration costs linked to manual re-processing following file processing problems and is inclined to reduce the operator's compensation requests on this heading.

The management of social tariffs by the historic suppliers tends to suggest that these tariffs are their own initiative, particularly in some of their communications to elected representatives or the public, and not as public interventions for which they are compensated via the CSPE or CTSSG.

Furthermore, their contribution to the Housing Solidarity Fund (FSL), which is used to deal with outstanding debt situations concerning expenditure on the home, including energy bills, is also compensated by the CSPE up to 20 % of their TPN charges. So EDF received compensation of 23.3 M $\in$  in 2014, i.e. the total of its "voluntary" contribution to the FSL. The suppliers size their contribution to the FSL according to this level of compensation.

This situation could be viewed as a competitive advantage for the dominant operators in the market, about households that may be concerned about losing the social allowance if they change supplier.

### SOCIAL TARIFFS:

- 3,1 million households benefited from social energy tariffs in 2015;
- The average
   TSS amount
   is 110 € per year,
   and the TPN 95 €;
- The administration cost: 16.65 M€ in 2014;
- Compensation for operators was 300 M€ in 2014 for the 2 energies and is estimated by the CRE at 450 M€ for 2015.

<sup>[1]</sup> Source: SOeS, Phébus survey 2013. Energy Consumption. <u>Figures and Statistics</u>  $N^{\circ}$ .645 for house holds in 2012.

The complexity of the whole system and its failure rate have prompted the legislator to recommend replacing the social tariffs with a simpler system that does not require the cross-referencing of files: the energy check, which has long been proposed by a number of stakeholders, including the national energy ombudsman.

# AN ENERGY CHECK FOR ALL VULNERABLE HOUSEHOLDS

The aim of the new energy check is simple: to rectify the structural faults in the current social tariffs and reach out to all vulnerable consumers, regardless of which energy they use for heating.

It will be tested in 2016 and 2017 prior to its extension to the whole country, as prescribed by law, from 1st January 2018, when it is expected to replace the current social tariffs once and for all.

There are three aims to the creation of the energy check:

- simplify the distribution of social allowances for energy by putting an end to the administration of the system by the suppliers and to the cross-referencing of files;
- put an end to the inequality between electricity consumers and gas consumers and to the inequality between the system energy consumers and the other forms of energy (domestic fuel oil, LPG, wood, heating networks, etc.);
- · make public aid more effective and clearer for the consumer.

#### WHAT IS THE ENERGY CHECK?

An aid for the disadvantaged, allocated on the basis of a tax criterion that takes account of income, and household composition, to help pay their energy bills, regardless of how they heat their home (electricity, natural gas, domestic fuel oil, LPG, wood, etc.).

A system for helping to pay bills for all forms of energy may be considered fair if all the forms of energy help to finance it, because it is a solidarity mechanism financed by consumers.

Under the energy transition law, its financing is based on the current systems for electricity and gas (part of the CSPE and CTSSG) and on the State budget for the other forms of energy, depending on the "respective weight of electricity and natural gas in the final residential energy consumption". Since the amending finance law for 2015, aid to vulnerable consumers falls within the overall State budget, via the "public energy service" mission (see chapter 6).

This avoids the pitfall of having only electricity and gas consumers bear the burden of the national solidarity effort for fossil energies (electricity consumers already bear most of the burden of supporting renewable energy, via the CSPE).

In addition, one of the main advantages of the energy check is that it is not specialist in its targeting of energy expenditure, and therefore avoids one of the main pitfalls of the social tariffs (one system for one form of energy, duplicated costs for identifying beneficiaries): the same check may be used to pay for gas, electricity, LPG or domestic fuel oil.

+ 4 MILLION
BENEFICIARIES
EXPECTED FOR THE
ENERGY CHECK

#### 1<sup>ST</sup> JANUARY 2018

THE ENERGY CHECK SYSTEM EXTENDED TO THE WHOLE COUNTRY



LADISLAS PONIATOWSKI Senator, Rapporteur

for the draft bill relating to energy transition for green growth

Eight months after the vote

on the "energy transition" law, how would you assess progress in the fight against fuel poverty?

The advances in the legislation are very real on paper: I think in particular of the energy check which is set to gradually replace the social tariffs and, regardless of what form of energy is used, finance energy expenditure and renovation works, and even real-time in-home displays to help people manage their consumption. But the decrees have still not been published <sup>[1]</sup>, even though they were promised for the end of 2015, so the two measures cannot yet be applied, which is a great pity when we know that fuel poverty affects 5,1 million households in France, i.e. 11.5 million individuals.

## Can we hope to see fuel poverty reduced in the years to come?

We must do everything we can to fight this inequality about which too little is said but which is nevertheless essential, particularly in the rural parts of the country. The energy check, will is to be tested in four departments (Ardèche, Aveyron, Côtesd'Armor and Pas-de-Calais) in 2016, should eventually benefit 4 million households, at an average of 150 euros a year. It's a first step. Other schemes exist to improve the energy quality of buildings (ANAH grants, "CEE précarité – [vulnerability energy-saving certificate]", "in-built" insulation works in the event of renovation, tax credits for households, etc.) but the key question remains: the remaining cost to be paid by households, and how to finance it...



# TESTING THE CHECK SHOULD HELP TO IMPROVE THE SCHEME

Consulted in September 2015 over the draft application decree relating to tests on the energy check, the ombudsman emphasised a number of points on which he was heard, including information for eligible households about the rights linked to receiving the check (reduction in the cost of operations for outstanding debts, benefit of the winter energy truce, etc.) via an accompanying letter.

The scheme provides for a pre-allocation mechanism for the payment of electricity and natural gas bills, as for the current social tariffs system: at the consumer's request, the check could be automatically deducted from his bill, year after year.

However, there are still a few regrets. While the new scheme takes account of the tax situation of everyone in the household, the decision has been made to choose the council tax, which has the advantage of being linked to the occupation of the accommodation but the disadvantage of not always taking account of atypical housing situations (house-sharing, accommodation with third parties, student halls of residence, hostels that are not social housing, retirement homes, etc.).

In addition, the application decree, which was published on 8 May 2016, excludes the use of the check for collective heating bills, even if the households concerned can still use it to settle their electricity bill with their supplier.

Finally, the planned report on the test that is due to be carried out by 1st January 2018 must leave enough time for Parliament and the Government to adjust the scheme by decree if necessary.

<sup>[1]</sup> Interview carried out in April 2016.

The energy check will be tested in four departments (Ardèche, Aveyron, Côtes-d'Armor and Pas-de-Calais) once the decree has been published in the Council of State and is expected to concern around 170,000 households. The average amount of help to the most vulnerable should be around 150 euros and will vary according to annual resources and the composition of the household:

150 €
THE AVERAGE
VALUE OF THE
ENERGY CHECK

- a single person with a reference taxable income of 6,000 €
   will receive a check worth 96 € every year;
- a couple with no children and a reference taxable income of 8,000€ will receive a check worth 190€ every year;
- a couple with two children and a reference taxable income of 10,000 € will receive a check worth 227 € every year.

The ombudsman believes that the planned level of funding should be raised significantly. At an average value of 150 € per year today, it should be raised to 250 € per year to help the most vulnerable consumers significantly ease the burden of their bills.

The Services and Payment Agency, which will manage the scheme on behalf of the operators, was allocated 322,000 euros by order in December 2015 to carry out the test. In addition to managing the checks, the Agency will set up an assistance system to deal with claims.

The major suppliers have worked hard to discredit the energy check, even mobilising certain social or militant associations that they finance to explain that the reform would give rise to a deprivation of rights, that vulnerable households would not cash their check or that it would cost more to administer... The ombudsman's view is that it is up to the public authorities, particularly through the test period, to improve the energy check scheme if necessary before it is spread to the whole country. This necessary stage should not serve as an excuse for retaining the current social energy tariffs system, the inadequacies of which are well-known.

∢ Perspective >



#### **DOMINIQUE MARMIER**

Chairman of the "Familles Rurales" association

We have always supported the introduction of the energy check. We are therefore

delighted to see that it will soon be with us! The check is an answer to the inequality in accessing government aid for families who heat their homes with "non-system" energy, i.e. not electricity or town gas, which is the case for many families living in a rural environment, who mainly use domestic fuel oil.

However, we are concerned about the very short test period. How can lessons be learned over such a short period as one winter, especially if it as mild as the one we have just had? While the Government's determination to move quickly is a good thing, it should be a matter of "one must not confuse speed with haste"

Concerning the financial evaluation of the test, a distinction should be made between set-up costs and operating costs. We are also disappointed by the low level of aid – an average of 150 euros – which is well below what we believe to be necessary.

Finally, the energy check is not an end in itself. It is a necessity to help families to reduce their energy bill. However, if we are to fight fuel poverty – a curse for many families whose homes consume large amounts of energy because they are poorly insulated – we need to treat the problem at the root, i.e. fight against these "energy guzzlers". The energy check needs to be part of a more global and ambitious strategy of improving home insulation and modernising heating equipment.

# CUT-OFFS FOR UNPAID BILLS: A MAJOR PROBLEM

In application of the provisions of the decree of 27 February 2014, the electricity and natural gas suppliers are bound to send the national energy ombudsman and the Energy Regulatory Commission (CRE) the number of occasions on which they have had to intervene with household consumers as a result of unpaid bills. Following an analysis of this information, the ombudsman notes that 577,139 interventions took place in 2015, compared to 623,000 the previous year. This 7.4% reduction is broken down as follows:

- 476,003 interventions for unpaid electricity bills (-4% compared to 2014);
- 101,136 interventions for unpaid gas bills (-20% compared to 2014).

According to the ombudsman, this fall may be explained by two factors: firstly, the mild winter of 2014/2015, which allowed consumers to keep their energy bills down and have less difficulty in paying them.

Also, the change in the price of the two forms of energy may have had an influence, as they reduction in the number of interventions is more marked for natural gas (-20% compared to 2014), the price for which fell by 8% over the period, than for electricity (-4%).

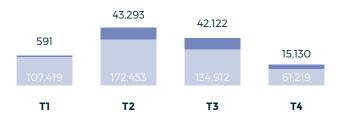
The results of the second year after the winter energy truce came into force show that the myth of the "bad payer" who simply waits and takes advantage of the truce to evade his obligations is not confirmed by the figures. However, what is certain – and this is something that is heard regularly by the national energy ombudsman's staff, particularly via his "Energie-info" service – is that consumers who contact their suppliers in good faith when they are faced with difficulties in paying their bill do not always find an attentive ear

# INTERVENTIONS FOR UNPAID BILLS DURING 2015

(BY QUARTER)

• ELECTRICITY • GAS

TOTAL FOR 2015 = 577,139 ELECTRICITY = 476,003 GAS = 101.136



#### THE WINTER TRUCE FOR ENERGY CUT-OFFS EXTENDED TO 31 MARCH

This was a request from the national energy ombudsman that has become a
reality with the draft energy transition law. For the first time during the winter
2015/2016, the two winter truces (electricity/gas and rental accommodation),
which had previously been different by a fortnight, will now both be extended
from 1st November to 31 March. Between the two dates, consumers who are unable
to pay their system energy bills or rent are protected.

# 8. THE SMART METER ROLL-OUT HAS BEGUN

# LINKY HAS PROMISES TO KEEP

While the Linky roll-out is accompanied by often irrational fears about electromagnetic waves and data protection, the ombudsman, who is in favour of the project, notes that there is still progress to be made if it is to fully benefit consumers.

After a test phase in 300,000 households in the Lyon conurbation and Indre-et-Loire between 2009 and 2011, the nationwide roll-out of Linky meters began in December 2015 with the aim of installing over 30 million meters by 2021<sup>111</sup>. This is an ambitious transformation project for the distribution system operator (DSO) ERDF, for whom the global cost of 5 billion euros is said, judging by its economic model, to be neutral for consumers as it is expected to be financed by the long-term savings made by the distributor.

Unlike the current meters, Linky communicates with the DSO's information system by sending it consumption data. It can also be remote-operated. While the advantages of this new generation of meters are undeniable for the DSO in terms of meter reading and system management, the national energy ombudsman believes that consumers should also enjoy benefits.

With remote readings sent by the new meter to the suppliers every month, electricity bills will be based on actual consumption at closer intervals than with "traditional" meters, which, at best, are read twice a year. Linky will mean that bills will reflect actual consumption much more closely and therefore give the consumer greater control over his consumption and budget.

Another advantage should be the reduction in the cost of the DSO's interventions, which will be remote-operated and invoiced. At the end of 2015, the Energy Regulatory Commission organised a consultation on this issue, which the ombudsman supported; he also offered proposals for making standardised services free or at least reducing the cost for the consumers concerned.

Finally, the Linky smart meters should help consumers monitor their consumption more closely and therefore control it as they will have access to the remote readings shown every day on the Internet portal provided by the distributor. Their supplier will also provide them with information in kWh and also in euros.

However, although he welcomes the arrival of the new meters, the national energy ombudsman remains convinced that, if they are not combined with the introduction of real-time consumption monitoring systems in the home, such as in-home displays, and ways of accessing detailed consumption data over the long term, consumers will find it difficult to take advantage of the meters and control their consumption.

90%
OF METERS WILL
BE REPLACED BY
31 DECEMBER 2021

<sup>[1]</sup> In the area in which ERDF is the system operator. On the 5% of the country served by a local distribution company, the smart electricity meter roll-out will be completed by 31 December 2024.

# METERS THAT WERE LITTLE-KNOWN BEFORE THE START OF THE ROLL-OUT

40%

OF FRENCH PEOPLE

HAVE HEARD

OF SMART METERS

OF CONSUMERS ARE

IN FAVOUR

OF SMART METERS

According to the "Energie-info" [1] carried out in September 2015, only 40% of French people had heard of smart meters, mainly for electricity (35%) but also for natural gas (10%).

Those people who knew about them had a good idea of how they work, including the billing of actual consumption (89%) and remote meter-reading (84%). On the other hand, little was (and still is) known about the installation arrangements: only half of them were aware that installation was free and compulsory.

Also, while they thought that these meters would help them keep a closer eye on their energy consumption (78% of those surveyed), consumers were more sceptical about the energy savings that they might make (37%).

Smart meters already appear to be segmenting: 58% of consumers were in favour of them. For the others, the reasons invoked were their pointlessness, as the current meters worked well (34%), the fear of job cuts (17%) or a rise in prices (15%).

It is interesting to note that the reasons for rejecting the meters have increased in just a few months: while a small minority of consumers surveyed in September 2015 said that they were not in favour of the installation of smart meters, out of a fear of the harmful effects of electromagnetic waves (less than 1%) or a risk of having their consumption data pirated (6%), the situation has been completely different since the start of 2016. From the questions received by the "Energie-info" service and the way the subject has been treated in the media, it appears that more consumers are now worried about the effect of the electromagnetic waves emitted by these meters on their health and the risk of their consumption data being captured by unauthorised third parties.

[1] Telephone survey carried out by Market Audit on a representative sample of 1.497 French households.

In this context, the ombudsman has no hesitation in taking a public stance, in the field and in the media, and delivering objective information. He explains, for example, the principle of power-line communication (PLC) and reminds people that consumption data belong to consumers and cannot be passed on to third parties without their consent.

∢ Perspective >



#### **BERNARD LASSUS**

Director of the Linky programme, ERDF

The nationwide roll-out of smart meters began on 1st December 2015, after a test

phase carried out among 300,000 households in Lyon and Indre-et-Loire. By the end of March, France had over 250,000 extra Linky meters, at a rate of around 5,000 meters installed per day. Eventually, in 2021, nearly 35 million households will be equipped with the new-generation meter, and we need to explain its various functionalities and remove the mystique surrounding the risks.

Without going into technical details, Linky can be questioned and activated remotely. To do this, which avoids having to send technicians to carry out simple jobs and helps detect power cuts more quickly, Linky uses "power-line communication" (PLC). This technology is used to send information along the low-voltage power grid to little boxes known as "concentrators".

Then, to send the information to ERDF, Linky uses the existing mobile telephone network between the concentrator and the central system. There should eventually be around 700,000 concentrators across the country.

While there is no doubt that ERDF did not initially do a good job in explaining Linky's functionalities, I should emphasise that this smart meter is of absolutely no danger to health and there is no risk of any loss of confidentiality of the data it reads. ERDF is not alone in this nationwide roll-out, which has been approved by the highest authorities, including the Energy Regulatory Commission: ADEME, CNIL, the Association of Mayors of France, the FNCCR, consumer associations and laboratories are all accompanying it to ensure that this huge public service operation is absolutely transparent. indispensable. With this smart meter roll-out, ERDF is turning the page of the previous generations of meters, which played no role in controlling energy consumption.

With Linky, the consumer has an accurate knowledge of his electricity consumption and can adapt and control it.

#### WHO DO ELECTRICITY METERS BELONG TO?

Electricity meters belong to the local authorities who have licensed the operation and maintenance of the system (of which meters are a part) to the system operator.

The electricity system operator is responsible for "carrying out metering activities for the users connected to his system, and in particular the supply, installation, metrological inspection, maintenance and renewal of metering systems, and for the management of the data and all its missions relating to all these activities". Energy Code, article L. 322-8

# SYSTEMS FOR TURNING THE PROMISES OFFERED BY THESE NEW METERS INTO REALITY

#### Real-time consumption display in the home

From the start of the Linky project, the national energy ombudsman expressed the hope that it would be accompanied by a system that would monitor consumption in the home in real time to make households more aware of their electricity consumption and encourage them to control it. A meter on its own, which, in half of all cases is situated outside the home and in the rest is often outside the living areas, is not enough.

As part of the energy transition law, MPs decided to introduce widespread roll-out in the form of a box in the home, for households eligible for social tariffs initially (and eventually the energy check), with the option of extending the scheme to all consumers following a financial assessment by the Energy Regulatory Commission.

It will be up to the suppliers to offer in-home display free of charge to customers who benefit from social tariffs, while the meters are the responsibility of the supply operators, who will be refunded the cost of these in-home displays via the Contribution to Public Service Charges for Electricity (CSPE), which now falls within the State budget.

Consulted in December 2015 about the draft application decree relating to in-home displays, the ombudsman pointed out that consumers should have the option of being equipped with physical boxes in their homes and not just simple applications for telephones or tablets, as many households do not have access to the Internet or a Smartphone. Above all, the key advantage of the in-home display is that it informs the consumer "in real time" when he is over-consuming (and not after the event) and how much it is costing him, and therefore encourages him to change his habits.

The ombudsman also argued that the public authorities should define a common standard to facilitate interoperability between displays, i.e. the possibility of continuing to use the same box if the consumer changes supplier, in order to reduce the overall production cost and therefore the cost to consumers, who are ultimately financing the scheme via their bill (CSPE).

He is concerned about the late arrival of in-home displays, as the first beneficiaries are not expected to be equipped until 2017, more than a year after the start of the meter roll-out

# 2. The possibility for consumers to access their consumption history hour by hour

Consumers will have access to their electricity consumption on a daily basis via secure website set up by the system operator. If they explicitly ask for it, they may also obtain information about their consumption hour by hour. This hourly consumption is known as a load curve

The national energy ombudsman and ADEME believe it is important that consumers who wish to access their hourly load curve should be provided from the outset with a one-year history to give them a better understanding and closer control of their consumption and have made a certain number of proposals for the Linky meters to be configured by default for hourly data to be stored locally in the meter.

The National Commission for Information Technology and Liberty (CNIL), initially opposed to the principle of default load curve storage in the meter, has finally accepted the principle of a maximum one-year storage period (unless the consumer objects), as long as the consumer gives his express consent to this information being fed back into the ERDF information system and the load curve being passed on to third parties.

The national energy ombudsman welcomes this important advance but believes that it is important that ERDF should increase the Linky meters' data storage capacity to at least a year's hourly load curve, as this is currently technically limited to five months as a result of ERDF's industrial choices.

## 3. Smart meters everyone, even in isolated areas

While Linky meters are to be rolled out over 90% of the country, this will not be the case in isolated areas. As a result of the technical solution chosen by ERDF, Linky meters have to be installed in "bunches" in order to communicate their data

The national energy ombudsman believes it is essential that ERDF finds and implements a solution quickly to ensure that consumers living in scattered areas are not excluded from the roll-out and are therefore unable to benefit from the advantages offered by Linky. All consumers should be able to benefit from the same service, wherever they live.



#### **ISABELLE FALQUE-PIERROTIN**

Chairman of the French Data Protection Authority (CNIL)

How do we reconcile the extraordinary potential of

digital innovation with the protection of privacy and individual liberty? At the same time as decisive progress in announced in the control of energy consumption and the development of new services, the arrival of smart meters makes it possible to collect and process consumption data that reveal a great deal about users' private lives: times of getting up and going to bed, periods of absence, number of people living in the home, etc.

From 2012, CNIL anticipated the compulsory installation of "Linky" throughout the country. Noting its potential impact on the privacy of users and, quite simply, on the security of their homes, it pointed to the need to avoid collecting the load curve on a systematic basis. The public energy stakeholders - including the ombudsman - reacted positively by coming up with a solution that favoured the local storage of detailed consumption data. The user keeps control over information that he may or may not decide to send to alternative suppliers with a view, for example, to receiving energy performance services. The process seems to me to be exemplary in the way that data protection leads to a more robust innovation and encourages manufacturers to incorporate concerns upstream and therefore create user confidence over the long term.

#### AN EXPECTED REDUCTION IN THE NUMBER OF BILLING DISPUTES

If smart meters hold their promises, back-billing disputes linked to absence or reading errors - of which there are many today - should be significantly reduced.

However, it would be wrong to think that Linky will solve all the problems. There will still be technical malfunctions, such as meter blockages, and data transmission problems. For example, during the test phase in Lyon and Indre-et-Loire, the ombudsman had a few disputes referred to him concerning Linky meters that were "not communicating". It is also very likely that the new offers of suppliers with Linky – more complex than those currently proposed with the "traditional" meters – will lead to new types of disputes.

# WHAT ABOUT GAS? THE SMART METER ROLLED OUT BY GRDF IS CALLED GAZPAR

While electricity meters belong to the local authorities, the situation is different for gas, as the meters are the property of the system operators.

Like Linky, the Gazpar smart meter is used to send consumption data to the DSO's information system and thus provide remote meter readings. However, its functionalities are more limited: it does not allow for remote technical operations to be carried out. 150,000 Gazpar meters are currently being rolled out since early 2016 by the gas distribution system operator GRDF in four pilot areas in Lyon, Le Havre, Saint-Brieuc and the Hauts-de-Seine. The nationwide roll-out will begin in early 2017, a year after the Linky roll-out. 11 million gas meters are due to be replaced by 31 December 2022

The overall cost of the Gazpar installation is 1 billion euros. According to the technical/financial study approved by the Energy Regulatory Commission, the savings generated by remote readings will not fully cover this amount, which will therefore be partly financed by consumers via the transport tariff, with an average impact of 2 to 3 euros a year on the gas bill. In theory, this extra cost should be compensated by energy savings made through better monitoring by consumers of their natural gas consumption.

The ombudsman's attention is attracted by two areas of vigilance concerning the Gazpar project.

The first concerns simply any appliances connected to the current meter. These are most often "energy boxes" used to monitor consumption, mainly in new homes built to the RT2012 standard, which requires buildings to be "fitted with systems for measuring or estimating the energy consumption of each home". If such an appliance is installed on the current meter, it will no longer operate after it has been replaced by Gazpar, for connectivity and technical reasons, and this will legitimately lead to complaints. The DSO GRDF is aware of the problem and is working on the problem with the home automation manufacturers.

2017-2022 GAZPAR METER ROLL-OUT

The second area of vigilance concerns meter readings on the dates when prices change: these take place every month for regulated tariffs and market offers at indexed prices. One of the main benefits of Gazpar for consumers will be that, with remote readings, their bills will be based on their actual consumption more often that with a non-communicating meter, particularly during events linked to the life of their contract (activation, deactivation, change of supplier, change of price, etc.).

Currently, when gas prices change, the distribution between gas consumption billed before and after a change of price is estimated by the suppliers, which can lead to complaints. With Gazpar, consumers may not understand that their bill is drawn up on the basis of their actual consumption in this situation.

Despite the Energy Regulatory Commission ruling of July 2011, which referred to the provision of the consumption reading measured at the moment of a price change as being a "basic functionality" of the Gazpar meter, as for other contractual events, this functionality will not be available initially for technical reasons. The constraints caused by GRDF's information systems, which limit the number of simultaneous requests to send back meter readings to 500 meters, mean that suppliers will be unable to retrieve this information for customers concerned by a price change (several million on the same date for regulated tariffs).

In the consultation overseen by the Energy Regulatory Commission and supported by the DGCCRF (Trading Standards Authority) and the consumer associations, the ombudsman insisted that GRDF prioritises the IT evolutions required to implement this functionality. In December 2015, GRDF announced that these evolutions were in the pipeline but would not be ready for the start of the nationwide roll-out; in the meantime it would introduce a transition solution.





#### THE ENERGY MARKET IN BRIEF

#### **ENERGIE-INFO BAROMETER\*** ON THE OPENING-UP OF MARKETS

#### **ELECTRICITY**

31.8 MILLION THE NUMBER OF RESIDENTIAL SITES AT 12/31/2015

3.7 MILLION THE NUMBER OF RESIDENTIAL **CUSTOMERS WHO HAVE** LEFT THE REGULATED SALE TARIFFS FOR ELECTRICITY

GAS

**MILLION** THE NUMBER OF RESIDENTIAL SITES AT 12/31/2015

**MILLION** THE NUMBER OF RESIDENTIAL CUSTOM-ERS WHO HAVE LEFT THE **REGULATED SALE TARIFFS** FOR NATURAL GAS

of French people say they were involved in litigation or made a complaint to their

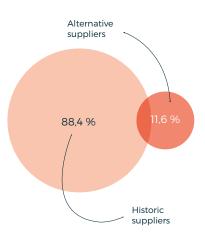
54%

60%

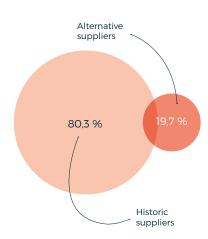
52%

35%

**ELECTRICITY MARKET SHARE** (AT 12 · 31 · 2015)



**GAS MARKET SHARE** 



72%

36%

20%

Source: Energy Regulatory Commission

<sup>\*</sup> Survey carried out by Market Audit in September 2015 of a representative sample of 1,497 French households by telephone.

#### **FUEL POVERTY**

3.8 **MILLION** 

HOUSEHOLDS IN FUEL POVERTY, ACCORDING TO INSEE (BASED ON THE NATIONAL HOUSING SURVEY 2006). THEY SPEND MORE THAN 10% OF THEIR INCOME ON ENERGY FOR THEIR HOMES.

114

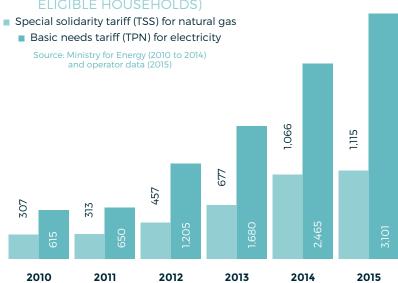
#### **MILLION**

HOUSEHOLDS IN FUEL **POVERTY ACCORDING** TO THE OBSERVATORY OF FUEL POVERTY (2006 HOUSING SURVEY). AN INCOME TEST AND A "FEEL COLD" FACTOR IN THE HOME ARE ADDED.

**HOUSEHOLDS IN** A SITUATION OF ENERGY **VULNERABILITY, ACCORDING** TO INSEE. HOUSEHOLD INCOME SPENT ON ENERGY IN THE HOME IS EXTENDED TO FORCED MOVEMENT AND THE VULNERABILITY THRESHOLD IS DEFINED IN RELATION TO THE MEDIAN INCOME/EXPENDITURE RATIO.

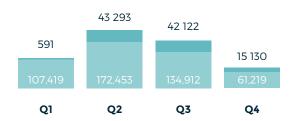
#### **NUMBER OF HOUSEHOLDS BENEFITING FROM SOCIAL ENERGY TARIFFS FROM 2010 TO 2015**

(IN THOUSANDS, OUT OF 4 MILLION **ELIGIBLE HOUSEHOLDS)** 



#### **ACTION TAKEN AGAINST NON-PAYERS IN 2015**

(BY OUARTER) **■ ELECTRICITY ■ GAS** 

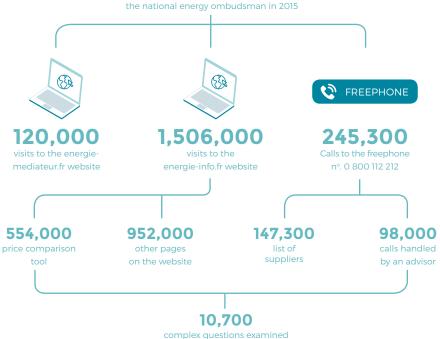


**TOTAL FOR 2015 = 577.139 ELECTRICITY = 476,003** GAS = 101,136

115

#### **INFORMATION TO CONSUMERS**

#### 1.900.000 consumers informed by

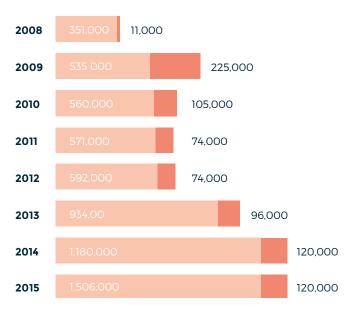


with a personalised reply

#### **INTERNET STATISTICS**

(VISITS)

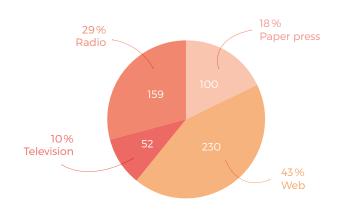
#### ■ ENERGIE-INFO.FR ■ ENERGIE-MEDIATEUR.FR



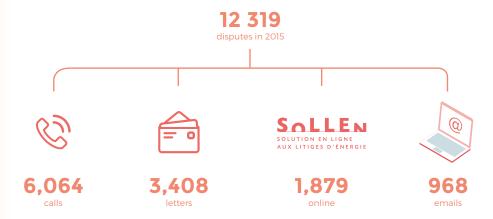
# MEDIA IMPACT OF THE NATIONAL ENERGY OMBUDSMAN IN 2015

**TOTAL: 541 ARTICLES** 

Source : MNE - INC

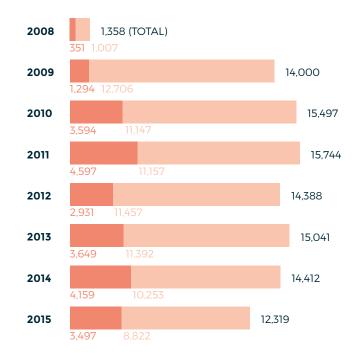


#### **DISPUTES RECEIVED**

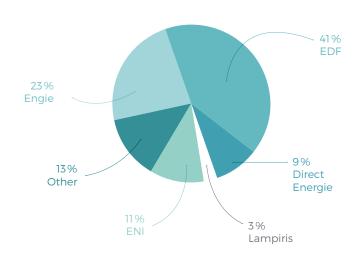


# EVOLUTION IN THE NUMBER OF DISPUTES RECEIVED

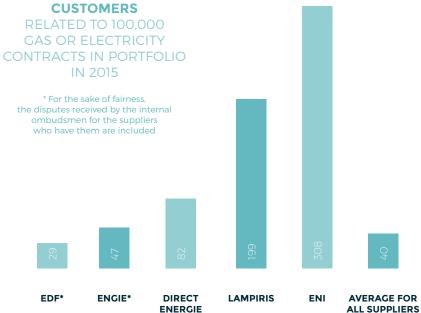
■ ADMISSIBLE ■ NON ADMISSIBLE



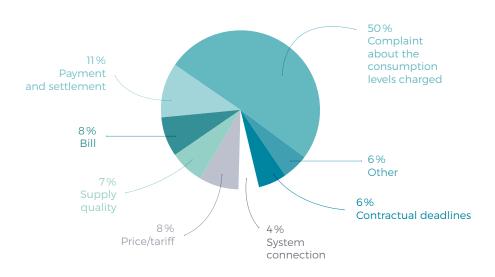
# DISPUTES BY SUPPLIER IN 2015



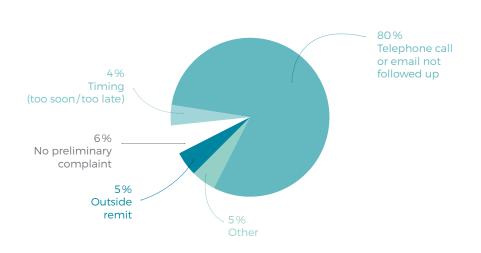
# DISPUTES FOR RESIDENTIAL CUSTOMERS



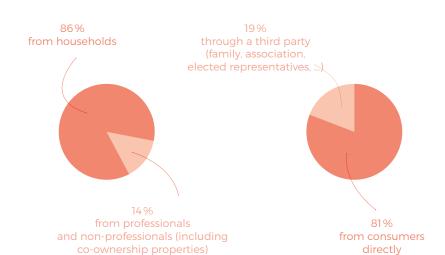
# TYPE OF DISPUTES ADMISSIBLE IN 2015



# TYPE OF DISPUTES NOT ADMISSIBLE IN 2015

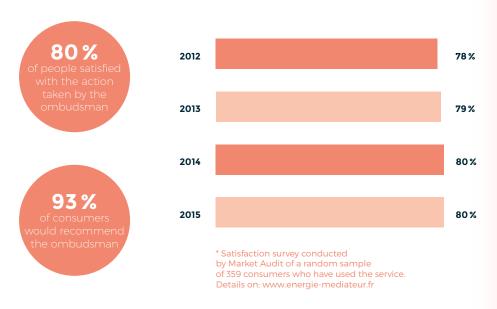


# ORIGIN OF THE DISPUTES RECEIVED

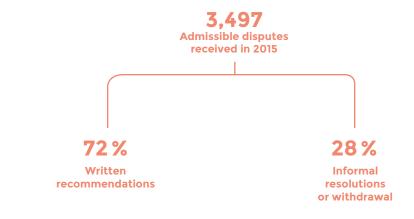


# SATISFACTION AND RECOMMENDATION

# EVOLUTION IN OVERALL SATISFACTION \*



#### **HANDLING OF DISPUTES**



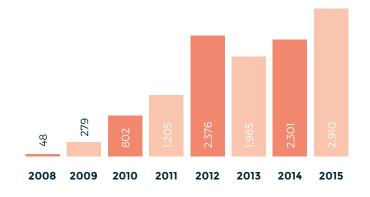




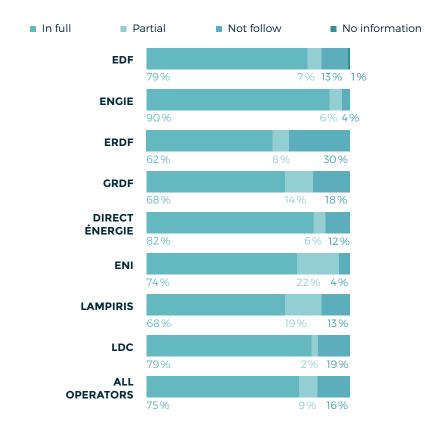




# OVERALL FOLLOW-UP OF RECOMMENDATIONS FOR INDIVIDUAL DISPUTES



# OVERALL FOLLOW-UP OF RECOMMENDATIONS FOR INDIVIDUAL DISPUTES



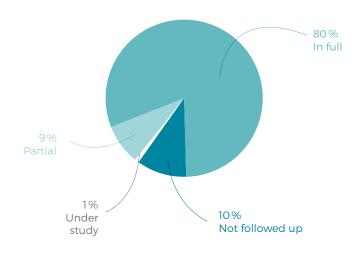
# FOLLOW-UP ON FINANCIAL RECOMMENDATIONS

(% AGREED, ON AVERAGE)



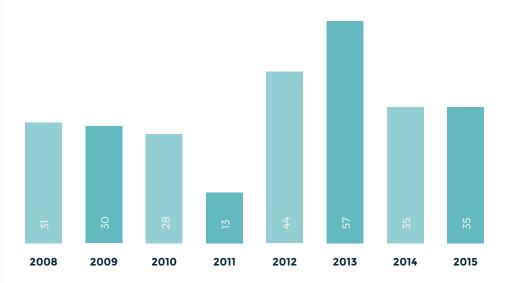
<sup>\*</sup>Follow-up of 80% excluding one atypical dispute

# FOLLOW-UP ON GENERIC RECOMMENDATIONS (2008-2015)



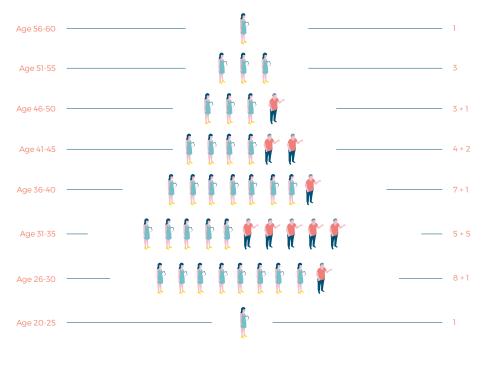
# OVERALL FOLLOW-UP OF GENERIC RECOMMENDATIONS

TOTAL: 2008-2015 = 273



#### AGE PYRAMID FOR THE OMBUDSMAN'S STAFF

AT 31 DECEMBER 2015











\* Full-Time Equivalent

# DISTRIBUTION OF STAFF BY MISSION







#### **FINANCES**

# IN 2015 THE OMBUDSMAN CONTRIBUTED TO THE PUBLIC EXPENDITURE REDUCTION EFFORT: -10.8 % COMPARED TO 2012.

2015 FINANCIAL REPORT					
MISSIONS	Provisional budget	Budget actual	% Execution		
TOTAL	5,811,000€	5,381,336€	93%		
Examining disputes	1,806,835€	1,898,805€	105%		
Informing consumers	1,543,620€	1,283,541€	83%		
Monitoring performance	2,270,167€	1,987,762€	88%		
Depreciation	190,378€	211,228€	111%		

TOTAL IN €	%
2,793,566€	52%
2,754,000€	45%
896,476€	17%
372,572€	7%
69,230€	1%
436,849€	8%
289,674€	5%
33,093€	1%
99,396€	2%
211,228€	4%
179,252€	3%
5,381,336€	100%
	2.793,566 €  2.754,000 €  896,476 €  372,572 €  69,230 €  436,849 €  289,674 €  33,093 €  99,396 €  211,228 €

# **APPENDIX**

#### 35 GENERIC RECOMMENDATIONS ISSUED IN 2015

that are submitted to him, the ombudsman aims to prevent disputes for the benefit of all consumers. operators concerned to correct them. We present a

In addition to resolving the individual disputes is the result of poor practices, the ombudsman issues generic recommendations to encourage the For example, when a particular type of dispute summary of these generic recommendations below.

THEME	RECIPIENT	ENERGY	CONTENT	RECOMMEN- DATION
Other	Supplier	Electricity	The supplier should inform the co-beneficiaries of the supply contract if there is a change to the contracting parties' identity to ensure that the contract in progress is continued.	2015-1162
DSO service	DSO	Electricity	In his technical and financial proposals for a connection modification, the DSO should remind consumers of the maximum power rating permitted by the connection in place.	2015-0767
Change of supplier	Supplier	Electricity	The supplier should not use a contract activation meter reading taken more than 8 weeks prior to the activation date without the consumer's agreement.	D2015-00997
LDC contract	ELD <sup>III</sup>	Electricity	The company should no longer make the signature of an electricity supply contract conditional on the person requesting the contract sending a deed of ownership or a copy of the lease.	2015-1712
Termination/ Activation	Supplier	Gas	The supplier should inform the customers who contact him to terminate their natural gas supply contract that they need to make an appointment with the distributor to come and take the end-of-contract reading, as the self-reading sent with the request only serves to attest to its accuracy.	D2015-01184
Termination/ Activation	Supplier	Gas	The supplier should ensure that his bills and his General Terms of Sale are consistent with regard to the arrangements for requesting a termination.	D2015-01054
Termination/ Activation	Supplier	Gas	The supplier should propose to consumers who wish to terminate their contract but who can no longer provide access to their meter that they send a self-reading and the contact details of a contact who can ensure that the installation is made safe.	D2015-01054
Other	Supplier	Gas	Suppliers should warn customers immediately of the risk of a problem with their indoor installation when a reading suggests a level of consumption representing double the usual consumption over a similar period.	2015-1419
Other	DSO	Gas	The DSO should warn customers immediately of the risk of a leak in their indoor installation when a reading suggests a level of consumption representing double the usual consumption over a similar period.	2015-1419
DSO service	LDC	Electricity	The DSO should read his customers' meters on a half- yearly basis in compliance with the current regulations.	2015-1385
Outstanding debt	LDC	Electricity	The supplier should not suspend the electricity supply for a contract in progress as a result of an outstanding debt relating to another contract.	2015-1385

DSO service	DSO	Electricity	The DSO should inform the supplier when a reading generates a high consumption alert, so that the supplier can put his billing on hold until the consumption data can be checked for accuracy.	2015-0940
Billing	Supplier	Gas	The supplier should harmonise the arrangements by which his billing system calculates on a pro rata basis, or at least clarify what is calculated on a pro rata basis by providing customers with appropriate information, with and without climate coefficients.	D2015-00487
Billing	Supplier	Electricity	If he is billing on a two-monthly basis, the supplier should mention in his bill the readings taken by the distributor and the date on which they were taken.	2015-0982
DSO service	Supplier	Electricity	The DSO should immediately introduce a metrological control procedure carried out by an accredited organisation chosen jointly with the consumer, as provided for by legislation and his contracts.	2015-1224
DSO service	DSO	Electricity	The DSO should facilitate customers' requests for metrological controls, as this will help him adapt gradually to the need to check the metrology of a large number of meters, which he will have to do shortly.	2015-1224
DSO service	DSO	Electricity	The DSO should propose a less expensive service than the metrological check or control to provide the consumer with conclusive information that will either confirm or disprove whether his meter is recording his consumption accurately.	2015-1224
Other	Supplier	Electricity	The supplier should periodically include a message in his bills encouraging consumers to check that the power rating they have contracted is appropriate to their normal use and should alert consumers individually if their consumption appears to be significantly lower than the average consumption of other customers who have contracted for the same power rating.	2015-1218
Billing	Supplier	Electricity	The supplier should apply to all his customers who have a contract with a power rating lower than or equal to 36 kVA at a VAT rate of 5.5% pour la Transport Tariff Contribution (CTA) already collected and to be collected.	2015-1230
Billing	Supplier	Gas	The supplier should change his payment schedule presentation to include estimated annual consumption and the number of debit payments to be made.	2015-1008
Billing	Supplier	Gas	The supplier should, in his General Terms of Sale, clarify the billing arrangements proposed to consumers, particularly those relating to quarterly billing.	2015-1008
DSO service/ Connection	DSO	Electricity	The DSO should update the technical data relating to the condition of the risers so that the suppliers are in a position to provide consumers with an accurate answer when they are faced with a request for a power rating increase.	D2015-00211
Metering malfunction / Fraud	DSO	Gas	The supplier should amend his General Terms of Sale so that they comply with article L111-8 of the Civil Procedures Code which, in the absence of an enforcement order, prohibits him from charging the recovery costs to the consumer.	2015-0626

Billing	LDC	Electricity	The supplier should amend his General Terms of Sale so that they comply with article L111-8 of the Civil Procedures Code which, in the absence of an enforcement order, prohibits him from charging the recovery costs to the consumer.	2015-1002
Billing	Supplier	Electricity	The supplier should, by any means, provide his customers with clear information about the climate coefficients used in calculating taxes and contributions if there is a change of rate during the billing period.	2015-0695
Termination/ Activation	Supplier	Electricity	The supplier should no longer make the recording of termination requests from his consumer or non-professional customers conditional on a change of supplier or a house move, and should amend his General Terms of Sale accordingly.	2015-0596
Distributor service	DSO	Electricity	If a meter cannot be accessed, the DSO should send the consumer a letter a few days before the cyclical meter reading date to inform him of this date and explain the possible alternatives if the consumer is absent at the stated time (send a self-reading, schedule a special reading, etc.).	2015-0961
Billing	LDC	Electricity	The LDC should synchronise the dates on which it sends out its bills with the cyclical meter-reading dates.	2015-0866
DSO service / Connection	DSO	Electricity	In the event of a loss of phase, the DSO should systematically, without distinction, and depending on the user's connection type (single phase or three-phase) apply the regulatory tariff discount for a power cut longer than six hours due to a failure in the public electricity distribution system.	2015-0786
Other	Supplier	Electricity	The supplier should no longer organise lotteries that lead consumers who have carried out energy-saving works to think that their participation in a lottery is dependent on them transferring their Energy-Saving Certificate (CEE) rights.	2015-0517
Other	Supplier	Electricity	The supplier should clearly inform his customers who carry out energy-saving works that these works open the right to an Energy-Saving Certificate (CEE) and should, before these works are carried out, ask for their written agreement for the transfer of CEE rights.	2015-0517
Payment	Supplier	Gas + Electricity	The supplier should contact consumers paying by card money order to draw up an agreement to arrange for the supplier to take responsibility for any charges so that this method of payment is genuinely free for the consumer.	2015-0514
Payment	Supplier	Gas + Electricity	The supplier should automatically reimburse his customers who pay him by card money order any fees charged by La Banque Postale.	2015-0514
Other	Supplier	Gas + Electricity	To avoid a large number of disputes and the risk of misuse of Energy-Saving Certificates (CEE), all energy suppliers who are "obliged" under the Energy-Saving Certificate scheme should obtain consumers' prior, express agreement to the execution of works for the transfer of the corresponding CEE.	2015-0273
Metering malfunction/ Fraud	LCD	Electricity	The LDC should apply the 10% discount provided for by the concerted procedure between the electricity companies relating to metering errors to adjustments following a meter malfunction.	2015-0273

Find all the generic recommendations published since 2008 on: <a href="https://www.energie-mediateur.fr/recommendations">www.energie-mediateur.fr/recommendations</a>

[1] LDC: Local Distribution Company

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