

F B Q R I R I W O V G I E N B A M  
B Ç Q L J F A C T U R E T E U Y F  
Q O R R L I O M B U D S M A N I T  
J L B K V G W R R S C V W R I X A  
G A C O N C E R T A T I O N A N O  
I N C J P Z R M E N E R G Y E U M  
J A A C B A R O M E T R E B I S W  
M Ç R T O C O U P U R E S O A M P  
F B Q R I R I W O V G I E N B A R  
Z D Z T E O D U W Y A W V U L L E  
T L L Ç Y T N E D E L W G S E U C  
O O I N F O E A M A C Q U I S S A  
R E W A I E B R L O B U Z Z B I R  
G N S K F T V C O N F U S I O N I  
A J P C U D G O X T S B H E I T T  
N E R Z R X Ç Y Y E A Y U R D R E  
I I E C O E G K C C T Q E G F A T  
S M P V K H U N B I I L B A H N A  
A P O E R S A S V T U G A Z C S R  
T A R E H N T I E M Z W I P P I I  
I Y T I I A T G R S E K G A X T F  
O E H F B C R O X J M Ç K R Y I S  
N S U E A E F T C H E Q U E Ç O K  
X L D D N B H E U R E S D W N N W  
N P L E I N E S F W Z Y T M L T H  
M Ç R T O C O U P U R E S O A M P

**NATIONAL  
ENERGY  
OMBUDSMAN**  
ACTIVITY  
REPORT  
2012

**The National Energy Ombudsman** is an independent administrative authority that was created by the law of 7 December 2006 relating to the energy sector, in preparation for the imminent liberalisation of the French gas and electricity markets.

It has two legal roles: participating in the process of informing consumers about their rights, and recommending solutions for settling disputes.

The Ombudsman reports directly to the French Parliament.

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### TO READ THE QR CODES

→ Download a QR Code reader onto your mobile phone

→ Scan the QR code with the camera

→ The web page opens on your phone



National Energy  
Ombudsman

**EDITORIAL** Since I was appointed as the National Energy Ombudsman in 2007, a lot of progress has been made.

In five years, the institution has become a fixture in the energy landscape. Thanks to the independence that comes with an irrevocable and non-renewable mandate, I have defended an ambitious vision of the public ombudsman working for the benefit of all, with a permanent objective of finding the middle ground between the undeniable constraints of energy suppliers and the need to protect consumers.

The institution has become an essential player in the regulation of the sector, a role which certain parties had not expected it to take on. A great deal has been achieved, such as the instigation of ‘reversibility’, where consumers have the right to return to regulated tariffs without conditions applying, and faster reimbursements of any overpayments. These achievements have given consumers greater confidence in a market that has been open to competition since 2007. From improving the complaint processing procedure to enhancing the attention paid to consumers’ needs by suppliers, we have played a part in ensuring that consumers are placed at the heart of public energy policies —such as the

new-generation Linky meter, or the energy transition—as well as supplier operations.

The Ombudsman has also played a role in bringing the issue of fuel poverty into the national arena. During a period of sharp rises in electricity and gas prices coupled with a major economic and social crisis, it has been my duty to ring the warning bells and put forward solutions to help the most vulnerable households. Progress has been made in this area, although much remains to be done.

We have a duty to inform, advise and protect consumers, and our approach is the result of the work of a motivated team, which draws strength from its diversity and, now, from its experience. France has become a European leader in efficient and well-respected amicable dispute resolution, at the service of the wider community. The system is likely to be extended to cover various other consumer sectors throughout the European Union, driven by a Directive that is applicable from 2015.

This year, our activity report has adopted a somewhat original, but very informative, format: an ABC which, from Achievements to Zoom, allows us to take a look back at the highlights of 2012 and to summarise the great energy challenges that we have worked on since 2007.

A C Q U I S G D C S T J X Z L  
Z X C H O K J Y Q I L K E X F  
Q Q F A D L Z H N Y S I M E N  
Z R T M J L Y R O R U K U S Q  
C O K I T G W A A G U F C L C  
V M A A E Y S T C Q T Y Z X E  
D L P B G T A L C B C O L A O  
V C Q L T U X G O C N A A R U  
T P M E I O Q S R C R O P R C  
Ç R P C C L U Y D M L T I E R  
E O O U G L C O L H W I V T T  
R S K U J Y H R H Z E V H E C  
P F R C B A U S W J W I W O R  
B O D F A C T U R E S T C F R  
D X W V M Y X F O D V E O P S

**ACQUIS...**

*Achievements...* or how the Ombudsman has moved the goalposts in the public interest.

**ACTIVITÉ...**

*Activity...* or how teams have worked tirelessly.

**ACCORD AMIABLE...**

*Amicable agreement...* or how to settle disputes differently.

**ARRÊTÉ FACTURES...**

*Billing decree...* or how to improve consumer information.



**ACHIEVEMENTS** *or how the Ombudsman has moved the goalposts in the public interest* → Since it was created, the National Energy Ombudsman has put forward strong proposals to reconcile French consumers with the energy market, which was opened to competition in 2007. Although these proposals have taken time to become law, they now represent unquestionable progress for consumers. Since 2010, any consumer who has signed up to a market offer of electricity or gas has the right to return to the regulated tariffs at any time and without any delay. ☺ For Denis Merville, this measure, which he has always defended, “*was necessary to restore confidence in the operation of a complex market that citizens were finding difficult to understand.*”

Another cause that we have championed? The rapid and automatic reimbursement of overpayments, which was the subject of many generic recommendations. Our first activity report already highlighted unacceptable practices and suggested that late payment penalties were imposed, to encourage suppliers to alter their procedures. At the time, certain suppliers were taking many months to reimburse sums that sometimes amounted to hundreds of euros, whilst other

☺ The NOME law (Nouvelle organisation du marché de l'électricité / New organisation of the electricity market) Law of 7 December 2010 which introduced reversibility without a time lapse or conditions, for both gas and electricity consumers.

suppliers only reimbursed overpayments of less than 15 euros when customers made deliberate and repeated claims for them to do so. This achievement was obtained in two stages: the NOME law of December 2010 stipulates that when a contract is terminated, the supplier must send the final bill within four weeks then has a further two weeks to reimburse any overpayment. The billing decree of April 2012 specifies the conditions for reimbursement on live contracts. (See **Billing decree**)

The Ombudsman has always believed that informed and responsible consumers are in a better position to make enlightened choices, and has therefore campaigned for greater transparency. One of its priorities has been to give consumers the possibility of checking energy bills based on estimated meter readings. In 2010, a first point was satisfied with the publication on the GRDF website of details about the coefficient used to convert m<sup>3</sup> of gas into kWh, which varies according to the season and the region. Further significant progress was made with the billing decree, such as the publication of the data used to calculate and estimate bills, as well as the date and the description of the technical interventions carried out by the

## DATES OF KEY ACHIEVEMENTS

# 2010

The right for consumers to switch back to regulated electricity and gas tariffs without conditions.

The social tariff for electricity becomes accessible to a larger number of low-income households.

Consumers can check the coefficient used to convert gas from m<sup>3</sup> to kWh

DATES OF KEY  
ACHIEVEMENTS

2011

Quicker reimbursement of overpayment when a contract is terminated.

Generalisation of customer meter readings.

Possibility of correcting inaccurate meter readings in certain cases.

① The basic needs tariff (TPN) was put in place in January 2005.

② The Special Solidarity Tariff (TSS) was introduced in August 2008.

distribution system operator. Amended bills are now much easier to read, as they contain more precise information allowing consumers to understand them better. (See **Billing decree**)

Following thorough legal investigations, the Ombudsman has restored the rights of many thousands of consumers.

It analysed the decree relating to the social electricity tariff, ① and showed that the wattage and the service charge were not criteria for awarding the basic needs tariff (TPN, tarif de première nécessité) but rather elements for calculating its value. This made it possible to increase the number of beneficiaries, representing at least 6,000 additional low-income households each year. EDF has applied the basic needs tariff without tariff or wattage conditions since 1 July 2010 and has regained 4,000 previously excluded clients, who have been awarded retroactive access.

The attention given to the most vulnerable households has helped to increase the number of households eligible for the social tariffs. The decree of March 2012, which introduced automation, has increased the number of recipients of the basic needs tariff from 650,000 to one million and the number receiving the Special Solidarity Tariff (TSS) ②

DATES OF KEY  
ACHIEVEMENTS

2012

Households with a 'forfait cuisine' contract are now billed once a year on the basis of their actual consumption.

Quicker reimbursement of overpayment on live contracts.

10% reduction on the back billing amount if it results from an error in the programming of peak and off-peak hours.

has increased from 290,000 to 350,000. The decree of December 2012 extends access to these social tariffs to a further 400,000 households. Lastly, the Energy Act of 15 April 2013 will allow some four million vulnerable households to benefit from this assistance with paying their bills; it also sets out that the basic needs tariff should be awarded by all energy suppliers. (See **Bonus/Malus**)

The Ombudsman's work has also made it possible to reduce the number of 'forfaits cuisine', collective fixed-price gas consumption contracts that are now nearly extinct but still concern some 140,000 households. Not only has it been established that the reference consumption used to calculate the fixed price was over-evaluated, it was also shown that these contracts are no longer in line with the regulations, which state that energy use must be invoiced, once a year, based on metered consumption. In 2012, the situation was resolved with the installation of meters in around 6,000 apartment buildings, allowing the 140,000 households to be billed on the basis of their real consumption.

To ensure that consumers are billed as accurately as possible, the Ombudsman has defended the idea of allowing customer meter readings to be better taken into account.



141  
generic  
recommendations  
since 2012

A first step in this process has been made with the requirement ① that suppliers put in place a service for collecting these readings. The possibility for consumers to correct inaccurate readings during connection, termination or a change in supplier is progressing. This has been included since 2011 for the gas connection and termination procedure on the basis of proof—an inventory for example—providing the difference is greater than 50 m<sup>3</sup>. Furthermore, the DSO, GRDF has taken measures to allow gas suppliers to directly take into account customer meter readings, in order to automatically amend their bills. In 2012, the electricity operators approved the principle of correcting the meter reading

① This requirement is one of the measures of the NOME law of December 2010.

**ANALYSIS**  
Examples of key achievements

In 2012, other improvements in supplier procedures can be credited to the Ombudsman. When a meter does not operate correctly, a 10% reduction is applied to the back-billing amount to take into account uncertainty; this also applies when there has been an error in the programming of peak and off-peak hours. Previously, changing an energy supplier or a contract

and/or wattage had to be done in two stages, unless a paid service was used (at a cost of €25); ERDF has agreed to improve its information system to synchronise the modification of the meter with the change in supplier. When a supplier has initiated a contract termination, any request from the consumer to change suppliers is blocked and their only solution is to use a paid connec-

in the three scenarios; the thresholds now need to be set.

The Ombudsman was one of the first bodies to highlight fuel poverty. Since its inception, it has defended procedures that are more favourable for consumers facing financial difficulties. The Ombudsman has promoted symbolic and necessary public interest measures, such as enhanced protection against disconnections for consumers acting in good faith and the creation of a supplier of last resort for consumers who are refused a contract with any other supplier. Taking inspiration from these proposals, the so-called Brottes law provides for a winter moratorium on disconnections. Further-

tion service; the industry agrees with the principle that their information systems should be adapted so that this request can be approved at no extra cost to the consumer. Furthermore, suppliers have promised to no longer block connection requests from customers who have consumed energy without having a supplier (except in cases of fraud). Lastly, at the moment, a consumer

whose supplier is in the process of terminating their contract is informed by letter of the date when the power supply will be cut. The Ombudsman has defended the idea that a phone call from the supplier, encouraging the consumer to find another supplier, would be a more appropriate form of communication. This suggestion has been accepted for electricity.

**APPLICATION OF GENERIC RECOMMENDATIONS**



60%  
applied or application promised

20%  
application being examined

20%  
not applied

## ACHIEVEMENTS

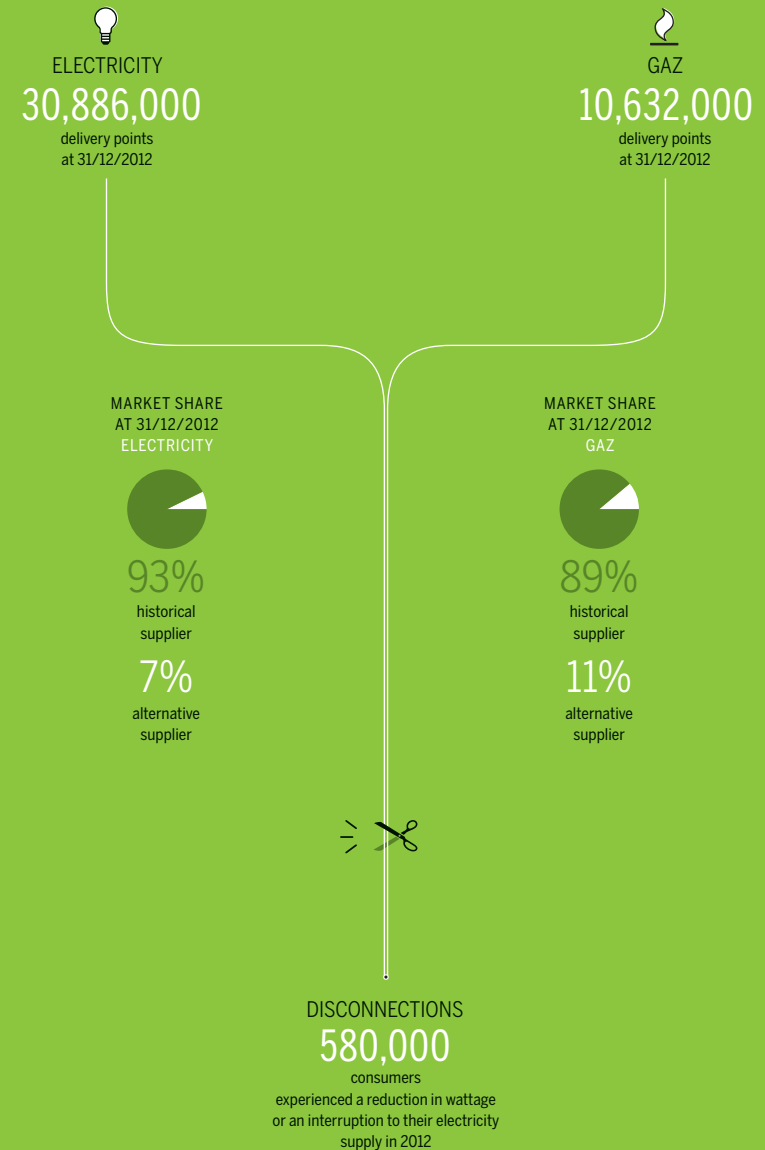
more, the law also provides to enlarge the scope of the Ombudsman's activities, something that we have been calling for since the service was created. (See [Bonus/Malus](#))

The institution has also helped to push forward the introduction of smart meters. Initially, they were envisaged for the use of suppliers and DSOS, but the Linky project has redirected this to make them into a tool to help French consumers make energy savings. The Ombudsman has consistently campaigned for all households, including the poorest, to have real-time access to their electricity consumption, and this persistence has received a favourable response. (See [Linky](#))

Lastly, by dint of its existence and its regular contact with the electricity and gas suppliers, the Ombudsman has played an important guiding role in encouraging suppliers to improve the way they handle complaints from their customers. The quality of these internal procedures is essential, not only in respect for consumers but also to ensure that mediation works correctly. The role of an ombudsman is not to settle complaints but to settle disputes, that is to say matters where parties are unable to find an agreement within a reasonable timeframe. (See [Complaints](#))

## ACTIVITY

### OVERVIEW OF THE ENERGY MARKET

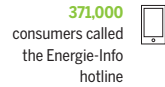
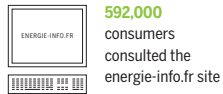


**ACTIVITY**  
or how teams have worked tirelessly

**PROVIDING INFORMATION**

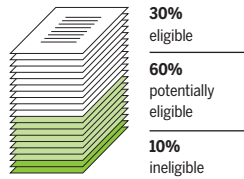
**963,000**

consumers received information  
in 2012 from Energie-Info

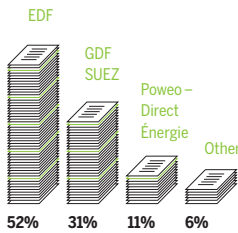


**COMPLAINTS**

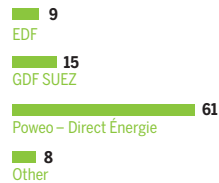
**5,412** complaints including:



Written complaints received  
in 2012



Complaints received per supplier  
in 2012



Complaints received in 2012  
for residential clients,  
per 100,000 gas or electricity\*  
portfolio contracts at 31/12/11  
(Data from CRE, National  
Energy Ombudsman)

**WHO COMPLAINED TO THE OMBUDSMAN IN 2012?**



\* 41 million residential contracts in France  
(electricity + natural gas)

**ACTIVITY**

**DISPUTE HANDLING PROCESS**

**15,720**

complaints received in 2012



acknowledge receipt  
and assess eligibility

Provide guidance,  
information and  
rights and available  
channels

Recommend a solution  
for the dispute

Intervene with  
the operator

**94%**

of cases which fall within the scope of the Ombudsman's  
competencies are settled or a recommendation is made

KEY FIGURES



€519

average amount obtained by consumer after recommendation



26,100

letters sent in 2012



43,167

contracts dealt with as part of the complaints procedure (not including calls to Energie-Info)



2,376

recommendations made



2,274

complaints managed within the "second chance" process in 2012



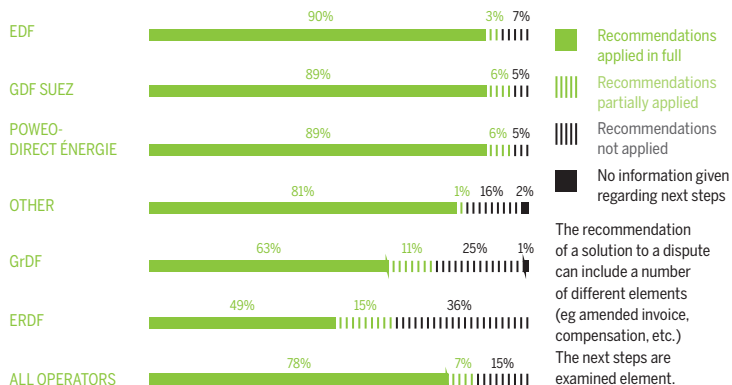
average time taken to settle and eligible case in 2012

(in days)



Average time taken to address complex questions and complaints by Energie-Info in 2012

APPLICATION OF RECOMMENDATIONS IN 2012



# AMICABLE AGREEMENT

*or how to settle disputes differently* → To increase efficiency and consumer satisfaction, the Ombudsman has created a new dispute resolution procedure which does not necessarily involve sending a substantiated written recommendation, as the law stipulates. What is this new procedure? The amicable agreement. ☺ How does it work? By using mediation to resolve disputes. In concrete terms, after analysing a complaint, the liaison officers communicate with the energy suppliers and consumers *via* email or telephone and present solutions in order to arrive at an agreement between the parties involved. And this agreement must meet the institution's high standards.

Consumers and nearly all suppliers approve of this flexible and pragmatic procedure. It reduces the time required for investigations into each case and formalising them in writing, and it simplifies administrative follow-up procedures for the suppliers. What is more, when both parties agree to the solution it becomes binding and the Ombudsman is guaranteed that it will be applied. This is not always the case for recommendations, which are non-binding on either

## CONCRETE EXAMPLE

After several years of bills based on estimated consumption, Mrs G. received a gas bill for 26,660 euros when her supplier recalculated the amounts due based on actual consumption. Following discussions between the parties, the Ombudsman obtained an agreement from the DSO to limit the back billing to a period of two years (see **Back Billing Time Limit**), which brought the bill down to 5,600 euros, and the supplier agreed to compensation and a suitable repayment schedule.

☺ Experimentations with the amicable agreement procedure began in the summer of 2011. It came into general use in 2012.

party. This ensures greater satisfaction for all involved.

However, there are a few drawbacks to this method for resolving disputes. Depending on the nature and complexity of the dispute, this procedure cannot be used in all cases. It will only work if all parties willingly cooperate: the consumer must refrain from making excessive demands for compensation and the company involved must assume its responsibilities. Discussions between the parties are sometimes lengthy, with no guarantee of reaching an acceptable compromise, in which case there is no alternative but to draft a re-

JEAN-PIERRE HERVÉ



Director of  
External Relations,  
Énergie France,  
GDF Suez

“We are pleased with the amicable agreement procedure, which fits with our idea of mediation. Dialogue is more effective than rigid processes when it comes to finding a balanced solution between the customer and the supplier with the help of the Energy Ombudsman. By really listening to each other, the teams from our national consumer service and the Ombudsman’s liaison officers achieve a better understanding

of disputes and identify more relevant, reasonable solutions that are perfectly acceptable to consumers. If we have been unable to resolve a complaint internally, the amicable agreement is a way to reconsider the issue from a different, third party angle and contribute our arguments. What is important to us is fast and good quality dispute resolution for customer satisfaction. The amicable agreement helps us to achieve this.”

commendation. On the whole, the Ombudsman is pleased with the way the amicable agreement procedure has been functioning for the last year and a half. Its aim is to develop the procedure over the coming years and energy suppliers are also in favour of this.

## BILLING DECREE *or how to improve consumer information*

→ The new decree on electricity and gas bills, dated 18 April 2012, revamps their presentation to make them easier for French consumers to understand. The Ombudsman is delighted with these improvements that include a number of its proposals, which were the subject of debate in the focus groups.

The first improvement suggested by the National Energy Ombudsman: if a consumer overpays their supplier whilst still under contract, the time frame for reimbursement must be shorter. When the amount overpaid is less than 25 euros and the customer requests a refund, the supplier must reimburse the money within fifteen days or carry the credit amount over to the next bill. When the amount exceeds 25 euros, the supplier automatically processes a refund within fifteen days from the date the bill was issued.

Several measures are aimed at improving consumer information. To simplify comparisons, the bill must show a clear breakdown of the kWh of electricity consumed over one year, possibly in a graphical format. Moreover, the bill must specify whether it is based on estimated consumption, actual consumption, or a customer meter reading. When consumption is estimated, the bill must include the basis for this estimation or tell the consumer how to access this information. ①

① Article 10 also makes it compulsory for suppliers to include the contact details of their complaints department.

The new bills must include better information on what recourse is available in the event of a dispute. They must provide the

#### ANALYSIS

When EDF makes commitments...

In November 2012, EDF launched an advertising campaign called 'Les engagements EDF & moi' (EDF's commitments & me). In advert number 6, the supplier makes a promise to refund customers within 15 days if they are owed money. That is precisely one of the obligations of the new billing decree! Other virtuous commitments such as 'offering

services that are adapted to your needs' or 'billing as accurately as possible' by taking into account customer meter readings are already obligations under the law reforming the French electricity market (loi NOME) passed on 7 December 2010. Does this mean EDF is committing to abide by the law? Consumers expect nothing less...

\* \*  
\*

National Energy Ombudsman's postal address and website, as well as details on the steps to take if a written complaint to the supplier has not led to a resolution within a period of two months.

Any amended bill must include a document outlining all information regarding the period and number of kWh in question, as well as the applied tariff, to enable the consumer to confirm its accuracy. Any intervention performed by the distribution system operator (DSO) and billed by the supplier must be listed on the bill with a date and description to enable the consumer to identify it by referring to the DSO's catalogue. ②

# 140M

Approximately 140M euros' worth of bills are issued each year in France by the 200 or so suppliers of domestic gas and electricity.

② Suppliers had until 1 January 2013 to ensure their bills complied with the decree.

V B O N U S F N R K S O H U O  
Y A H B U D K C B Z I U I N W  
B X X C K D T Z T R B Y L Y B  
T U F T L T G Q Q E B X Z S J  
S M Z K D E R G R T D T U Y Q  
J L W Z V E N T C W I N F O I  
J C O X P P E H V E S Z I V Q  
I G A C M M J W Y C S S C F R  
T Z P F O E M S Y Ç U D A E E  
K L P R D M Ç M F L K X C I J  
N U A X Q X Q K A Z K P G B G  
K B A A M U S M R Q D R F S M  
F K C A A I M Q W B E K H U E  
O P I M D A X F U N X W S W N  
F A K F F H A X E B Y A E Q B

**BAROMÈTRE  
ÉNERGIE-INFO...**

*Baromètre  
Énergie-Info  
report... or how  
anxious French  
consumers are  
struggling  
to understand  
their options.*

**BONUS/MALUS...**

or how to  
encourage  
French  
households  
to conserve  
energy.

**BUZZ...**  
or what has the  
Ombudsman  
been up to in  
2012?



65%

of French consumers believe that their energy bills represent a significant proportion of their total household expenditure.

**BAROMÈTRE** *Énergie-Info report... or how anxious French consumers are struggling to understand their options* → French consumers are more preoccupied with energy bills than ever before. This is one of the findings in the report of the 6<sup>th</sup> Baromètre Énergie-Info survey on the opening up of the market, <sup>Ⓞ</sup> conducted each year by the National Energy Ombudsman as part of its commitment to providing information to consumers: in 2012, 79% of those questioned shared concerns about paying for energy, in comparison with 70% in 2010. Meanwhile, the effects of the social and economic crisis are being more and more widely felt, with 11% acknowledging that they had experienced difficulties paying some of their electricity or gas bills, and 42% saying that they had limited their heating over the winter in order to avoid high bills. This preoccupation is likely to continue, given that almost all households (97%) are expecting a rise in prices in the forthcoming months.

Five years after the energy market was opened up to competition, French consumers are better informed than before, although overall, the figures remain weak: only 48% know that they can change supplier—in 2007

<sup>Ⓞ</sup> Telephone survey of 1,503 households conducted between 5 and 12 September 2012 by the Institut CSA (French polling company) on behalf of the National Energy Ombudsman and the French Energy Regulation Commission.

the rate was just over 30%. In 2012, 58% said they knew they could change supplier at no cost and 75% said that it was not necessary to have a new meter installed. However the market, and how it all works, still remains a mystery to the majority of households: 65% have never heard of regulated tariffs. Among the others, 68% think—wrongly—that regulated tariffs can be obtained for gas and electricity from the same supplier, and 46% think that they are offered by all suppliers. Nearly two thirds of the people questioned consider that it is better to have a single operator for both gas and electricity: 29% believe that this is the way to obtain the cheapest tariffs.

Significant confusion persists about historical suppliers: only 32% of households know that EDF and GDF Suez are now two different, competing, companies. (See **Confusion**) Consumers are equally baffled by the difference between supplier and operator: 23% think that ERDF and GRDF are suppliers and 29% have never heard of them at all. This lack of understanding could explain the meagre appetite of French consumers for the competitive market: only 9% of households say that they have switched supplier, mostly to get more competitive prices. It must be said that 35% of households perceive regu-

7%

of French consumers are able to estimate their household's annual electricity consumption.

42%

of households restricted the use of their heating during the winter of 2011–2012 to avoid excessive bills.



52%

of French consumers do not know that they can switch supplier.

68%

of households do not know that EDF and GDF Suez are now two different, competing companies.

lated tariffs as cheaper than market prices, and 34% see them as the same, so in theory, French consumers say that they are in favour of market liberalisation, with 63% believing it to be ‘a good thing’. However in practise, they struggle to see the benefits: only 19% think that market liberalisation leads to an improvement in the quality of the service provided. Furthermore, 34% consider that it has led to an increase in energy prices in 2012.

**BONUS/MALUS** *or how to encourage French households to conserve energy* → The law, initially called ‘progressive energy tariffs’, was published in the Official Journal on 16 April 2013. The legislation’s key measure in the ‘transition to-

## FRANÇOIS BROTTE



President of the National Assembly's Economic Affairs Committee

“The National Energy Ombudsman has acquired real knowledge over the years and has made itself indispensable.

It has not been content simply to find solutions to individual disputes, but has managed to make progress on a number of issues by bringing them into the public domain. The Ombudsman requested an extension

to its prerogatives: it is entirely fitting that the legislator has granted that request, because until now, its skills were confined to private consumers and small-scale businesses. However, in recent years, hundreds of complaints have been declared inadmissible because they related to contractual issues, problems with connec-

wards a energy efficient system’ was a bonus-malus to be applied to French energy bills, which provided for a base volume of electricity, gas or heat to be allocated to each household; the amount would be determined by the household’s composition and geographic location and which energy source was used for heating. Consumption below this base volume would have been invoiced with a ‘bonus’; consumption above the base amount would be billed at one of two levels of ‘malus’ depending on the volume.

The intention was to render network energy tariffs both more ecological, by encouraging a lower rate of consumption, and also more socially equitable, two objectives we can but share. The difficulty arose from the

tion or because they were raised by property management companies or SMES. The Energy Ombudsman is going to be able to help even more consumers, as it will now be able to investigate problems encountered by non-business consumers, such as associations, property management companies or local authorities, as

well as professionals such as artisans or vses. This will also be the case for disputes with distribution system operators, such as issues over connection. This extension is thus both a sign of confidence in the Ombudsman, and encouragement to build on what’s been achieved so far. And this comes as much from Parliament as from the government!”

desire to combine the two objectives into a single piece of legislation, which was deemed to be unconstitutional by the French Constitutional Council. However, even if it was not the principle itself that was censored, but the method of application, it is likely that the measure would have suffered a similar fate to the carbon tax, which was rejected by the Constitutional Council in 2007 and never saw the light of day.

Other ambitious measures in the same legislation (known as Brottes law) relating to the prevention of energy poverty were, thankfully, left unchallenged. Social energy tariffs can now be awarded to nearly four million households, enabling access for all citizens to the fundamental rights of heating and light. Henceforth, not just the national health insurance service, but all the social security bodies, as well as the tax authority, will provide energy suppliers with the list of persons eligible for the social tariffs, for which the income ceiling will be established by decree. Taking inspiration from the propositions of the National Energy Ombudsman, the legislation envisages that all electricity suppliers will be able to accord the social tariff and the basic needs tariff to customers, as is already the case for gas suppliers. It also

prohibits gas and electricity disconnections during the winter months due to bill arrears, following the model of the winter moratorium for tenants. <sup>Ⓞ</sup> (See **Disconnections** and **Energy voucher**)

Lastly, and this has been a recurrent request from the National Energy Ombudsman, its remit has been expanded to enable it to provide assistance to a greater number of consumers who are in dispute with an energy supplier. Disputes encountered by non-business consumers—which means, for example, local associations or property management companies—as well as by businesses included in the micro-enterprise category, may now be investigated by the Ombudsman. This also applies to disputes with distribution system operators, such as issues over connection.

**BUZZ** *or what has the Ombudsman been up to in 2012?* → The Ombudsman has travelled widely, increasing the number of meetings held, participating in conferences and promoting the sharing of experiences, all to enable it to provide the fullest information to consumers. As always, meetings with consumer group representatives are seen as very important: associations were invited to

<sup>Ⓞ</sup> The law states that suppliers must, from now on, provide information to the Ombudsman and the French Energy Regulation Commission on any power supply reductions or suspensions that they carry out.

### THE OMBUDSMAN IN THE PRESS

2012 was a bumper year for energy sector events, and the Ombudsman made regular appearances in the press (in print and broadcast media and on the Internet) expressing opinions on fuel poverty, social tariffs, the rise in gas and electricity prices, repayment of overcharges, the simplification of bills, etc.

the Ombudsman's offices on 11 April, where discussions focussed on the treatment of claims and the Ombudsman's projects. On 6 December, discussions were fuelled by the results of the Baromètre Énergie-Info survey and the consultation on the standard terms and conditions of sale. The Ombudsman also travelled out to the provinces on a number of occasions to present its services and those of Énergie-Info (an information service) to consumer associations.

For the fourth time, teams from the Ombudsman's office took part in the Mayoral and Local Authority Exhibition, held from 20 to 22 November. *"The Mayoral and Local Authority Exhibition is one of the highlights of the annual calendar, and enables Ombudsman employees to meet elected officials, in particular those from rural areas, with whom direct contact would otherwise be much harder,"* explains Katia Lefevre, head of the Communications and Institutional Relations department. The Ombudsman joined a briefing organised by the Association of Mayors from Meurthe and Moselle with the theme of 'Understanding better who your energy suppliers are.' Within the framework of local government advisory committees, a number of presentations on the Ombuds-

One of the highlights of the year was organising the 'La Précarité énergétique : comprendre pour agir' (Fuel poverty: understanding fuel poverty in order to take action)" conference in partnership with the CRE. On 22 March the two institutions, which, with their legitimacy and expertise, are at the very heart of the market, brought together the key stakeholders to assess the situation and draw up working proposals. The discussions firstly brought to light a consensus: electricity and gas prices are going to increase over the next few years and the issue of fuel poverty must be prioritised. It has become important to be able to identify low-income households and provide them with specific solutions.

The general view was that while help paying bills, currently provided through the social tariffs, is useful, it is proving insufficient. The support available for home renovations is not adapted to the most vulnerable households, which do not have the financial resources to be able to pay the remaining costs of the work. Several participants underlined the risk of people in financial difficulty becoming stigmatised if assistance is too finely targeted due to use of files identifying 'low-income households'; some households prefer to do without heating or seal up their homes to avoid being identified by social services, putting their health at risk. By the end of the conference, the discussions had yielded plans intended to guarantee everyone the right to energy. For example, coordinating local stakeholders around an emergency procedure that could be initiated the first time a customer does not pay their bill, and before disconnection.

Or simplifying energy pricing, as well as access to assistance, which the 'energy voucher' advocated by the Ombudsman would achieve.

### ANALYSIS


Conference  
on fuel poverty  
(See [Fuel Poverty](#))



### THE OMBUDSMAN AND CONSOMAG

From 12-17 November, five Consomag programs entitled 'Énergie : faites jouer la concurrence' (Energy: shop around for the best deal) were broadcast on France Télévision channels. The campaign, undertaken in partnership with the l'Institut national de la consommation (National Consumers Institute), provided information on suppliers' prices, deciphering bills and the role of the Ombudsman in disputes.

Fifteen 90-second 'Flash Énergie' modules took up the same themes and were broadcast on a number of radio stations.

man and Énergie-Info were made during the course of the year, to Energy Committees from the Tarn-and-Garonne, Loire, l'Ille-et-Vilaine and Île-de-France. The Ombudsman's expertise is highly sought-after, and on 9 May he appeared before the Senate Select Committee to discuss the real costs of electricity. He has also had the opportunity to expound his vision at a number of conferences and congresses: the Usine Nouvelle Energy Congress, with its theme of 'Becoming a proactive consumer'; the 13th parliamentary energy meeting that discussed 'How to ensure that the energy transition does not become the energy divide', and the European conference of the French Energy Council on 'Energy Vulnerabilities'... On 26 and 27 June he attended the 12th meeting of the Infoénergie network, the umbrella network for the 350 ADEME  centres.

 French Environment and Energy Management Agency.



O I Z P O V G M M W S D D Z C  
E N E R G I E M V E U I Z N O  
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C E J A A N X U W L O R E S F  
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Q G H X A V Y C B B E U I V N  
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R E B M U B N B Y T G O V R B  
Q L G O U K A O V H R C A E Z  
O C C O N C E R T A T I O N M  
W B R L T X M Z J H G O V J R  
V M R H Z T N Z X H O V Z G A

**COUPURES...**

*Disconnections... or how daily life without light or heating affects many French consumers.*

**CONCERTATION...**

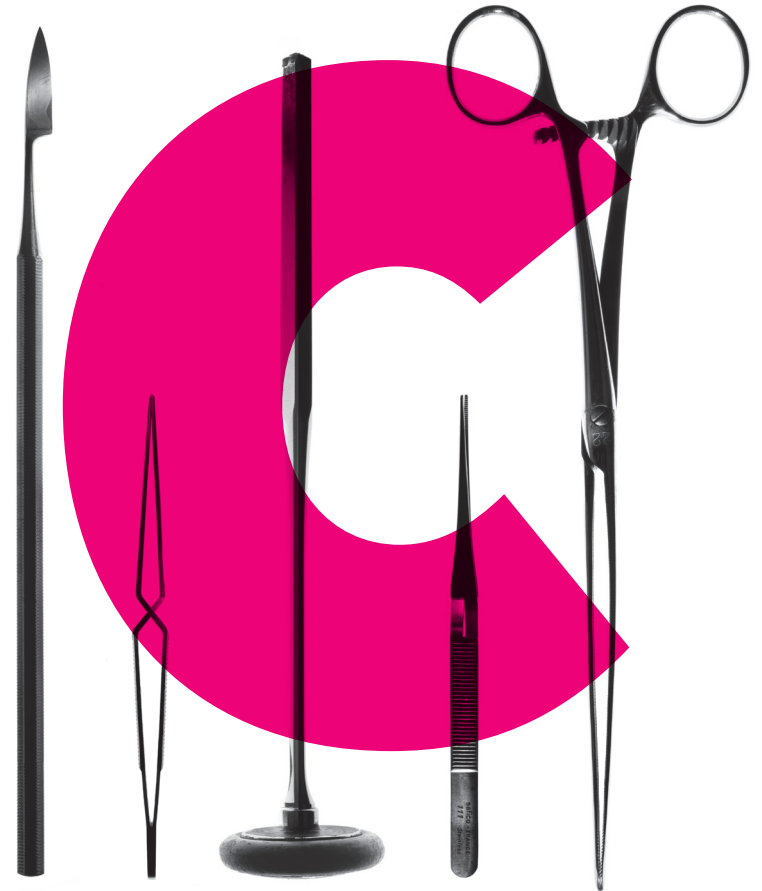
*Consultation... or how to improve consumer rights through dialogue.*

**CONFUSION...**

*or how ambiguity can affect consumers.*

**CHÈQUE ÉNERGIE...**


*Energy voucher... or how to help people struggling to pay their bills.*




**PUBLISH** 

The Brottes Law of 15 April 2013 also provides for greater transparency regarding disconnections.

Operators have to inform the Energy Regulation Committee and the National Energy Ombudsman when they request a disconnection.

**DISCONNECTIONS** *or how daily life without light or heating affects many French consumers* → Despite what is commonly believed, before 2013 there was no generalised winter moratorium on disconnections. Only consumers receiving assistance through the FSL  were entitled to a legally enforced moratorium between 1 November and 15 March, affecting some 300,000 households each year. Certain suppliers who apply social tariffs had also voluntarily agreed to suspend disconnections during winter for the consumers receiving these tariffs...but only in winter.

During very cold periods, power cuts remain a reality for households who are unable to pay their bills. The National Energy Ombudsman sees this on a daily basis.

To date, suppliers do not **publish**  their data on interventions for unpaid bills. However, in 2012, nearly 580,000 households had either their electricity or gas cut off for non-payment. The year before, this number was estimated at 500,000 households. For electricity, nearly 400,000 disconnections, reductions of capacity to just 1,000 watts or contract terminations at the initiative of the supplier were carried out. There were more contract terminations initiated by suppliers


in 2012 than in 2011: 110,000 compared to 85,000. For gas, the number of disconnection for non-payment and terminations of contracts with the supplier stands at around 180,000.

The National Energy Ombudsman has defended an extension of the winter moratorium on disconnections. However, it has never been the intention of the Ombudsman to encourage customers of bad faith to leave their bills unpaid, nor to aggravate the situation of certain consumers. In general and by experience, the Ombudsman has observed that consumers experiencing payment difficulties try to pay their bills: only a very small minority try to get away with not doing so. Too often, for suppliers, customers who don't pay their bills come under one of two categories: recipients of social tariffs or FSL, who may receive personalised support measures, and the others, too easily lumped together as 'bad payers' for whom the debt collection practices show no mercy. (See **Unpaid bills**).

Anyway, whether there is a winter moratorium or not, the bill has to be paid. The threat of disconnection resurfaces as soon as winter is over. Furthermore, the cost of disconnection is billed to the consumer, which

# 1,000 W

Reducing capacity to 1,000 watts has almost the same effect as a disconnection. It is impossible to use an electric heater or an electric hob without blowing the fuse for that circuit, which then requires an intervention from the supplier in order to change it.

 Housing Solidarity Fund (Fonds de Solidarité pour le Logement: FSL)

limits the supposed beneficial effect of the earlier moratorium on payment. The winter moratorium is included in the Brottes energy law. (See **Bonus/Malus**). In addition, the Ombudsman has also proposed the creation of a supplier of last resort, for both gas and electricity, for consumers who are unable to find a supplier.

**CONSULTATION** *or how to improve consumer rights through dialogue* → Building solutions through consultation is in the interest of both consumers and the industry. The National Energy Ombudsman favours this approach that is more flexible than the regulatory route, and has invested wholeheartedly in the existing consultation bodies. 2012 has been particularly rich in consultations, and progress has been made, but there have also been disappointments.

Since it was created, the institution has taken part in working groups organised by the CRE<sup>①</sup> which define the rules governing the electricity and gas markets. It presents its generic recommendations there, which are then debated. Once they have been accepted, they represent achievements for consumers and for a more efficient operation of the mar-

kets. (See **Achievements**).

In light of the future rollout of smart meters, known as Linky and Gazpar, a working group entitled ‘Procedures and new services’ was formed in 2012. Existing rules have to be adapted to the new ways of working of these meters, which will undoubtedly have an impact on customer relations. *“With the support of consumers’ associations, we have campaigned successfully for suppliers to make house calls to read the meter if a technical problems means that the remote reading can’t be made,”* Frédérique Coffre, head of the Consultation and Mediation department tells us. *“Because what consumers are promised with these new meters, is billing based on real meter readings and not estimations”.* This measure should limit the disputes around meter readings and encourage improved maintenance of meters.

During the series of public consultations organised by the CRE, the ombudsman explained its position on the forthcoming TURPE<sup>②</sup> and on the services provided by gas suppliers. *“We have argued, for example, for the 90 euro disconnection fee for non-payment to be reduced, and for there to continue to be no charge when contracts are terminated at the initiative of the supplier”.* The Ombudsman was successful in these areas.

## RIF

In the CRE working groups, discussions covered supplier-initiated termination (RIF). The Ombudsman has recommended that the supplier should warn the customer of the imminent suspension of power supply and the need to look for another supplier. This suggestion has been accepted for electricity.

① French Energy Regulation Commission (CRE)

② Tarif d’utilisation des réseaux publics d’électricité or Tariff for the use of public electricity grids



In its role as an expert who is independent of both consumers and the industry, the Ombudsman was invited to take part in the CNC energy working group, ① run by the DGCCRF. ② It is during this working group that the consultation was held on the provisions of the new billing decree, published in April 2012. This text includes a number of propositions made by the Ombudsman, summarised in the report submitted at the end of 2010 to the Energy Minister at the time, Eric Besson. (See **Billing decree**)

The results of the other work of the CNC, which were summarised in a statement relating to ‘the supply of gas and electricity’ in June 2012, are mixed. Although some progress has been made, no consensus was reached between consumer representatives and their industry counterparts on the provisions relating to the processing of claims and the amicable settling of disputes, which would appear to be reduced in number in comparison with the earlier report, in 2005 (see **Disputes** and **Mediation**).

Following on from the work of the CNC, the Ombudsman launched a new round of consultations, concerning the General Terms and Conditions of Sale ③ within the framework of its role of informing consu-

① National Consumer Council

② Direction générale de la concurrence, de la consommation et de la répression des fraudes—General Directorate for Competition Policy, Consumer Affairs and Fraud Control

③ General Terms and Conditions of Sale (T&C): this document is produced in addition to the contract and is written in very fine print; consumers would be wise to pay far greater attention to it.

mers of their rights. The Ombudsman offered to join forces with consumer associations to draft proposals for improvements on the aspect of ‘consumer information’. The documents of the main energy suppliers were studied in minute detail and this analysis allowed a number of opportunities for improvement to be identified. All the suppliers and DSOS involved accepted to provide detailed written information with the exception of EDF, who indicated that their General Terms and Conditions of Sale for regulated tariffs had already been drawn up in consultation with the FNCCR, after having first consulted consumer associations. Overall, the main suppliers were generally little inclined to accept the proposals of the Ombudsman and the associations. *“The operators say that they prefer the use of consultation rather than regulations to improve the way the market operates. Yet, the historical suppliers have a communication culture that they inherited from when they had a monopoly and it will certainly take time for them to adapt to this new context,”* explained Stéphane Mialot, Director of Services.

**CONFUSION** *or how ambiguity can affect consumers* → The Ombudsman has a legal duty to

## T&C

Some of the clauses need to be improved: clearly differentiate the supplier from the DSO, clarify the requirement for the supplier to provide tariff advice, clarify the explanations concerning contract termination, which can suggest that this service will be payable.

### FOR MORE INFORMATION





68%  
of French consumers believe—wrongly—that regulated tariffs can be obtained for both gas and electricity from the same supplier, according to the Énergie-Info survey carried out in 2012.

inform consumers about their rights, and this includes ensuring that their choices within the energy market are perfectly well-informed. There is still a long way to go.

With their ‘dual offers’, the historical operators play on a certain nostalgia for the single energy bill. By promoting the idea of this being as simple ‘as before’, they manage to increase the number of contracts taken out for gas (by EDF) and electricity (by GDF), whilst 32% of French consumers still believe that EDF and GDF Suez are the same company, and 31% think that they are different companies but not competitors. <sup>①</sup> We cannot be certain that all consumers who take out a ‘dual offer’ understand that they are changing suppliers for one of the two energy forms and are thus abandoning the regulated tariff, sometimes for a more expensive deal. This would appear to be confirmed by the many complaints that are made to the Ombudsman. Within the framework of the 2011-2012 report on the operation of the retail markets for electricity and natural gas, the Energy Regulation Commission (CRE) indicated that the commercial policy of the historical operators in terms of dual energy packages would be subject to further investigation during 2013.

<sup>①</sup> According to the 6<sup>th</sup> Baromètre Énergie-Info report on the opening-up of energy markets (see [Baromètre Énergie-Info report](#))

There is further confusion surrounding the ombudsmen. This is because there is a single National Energy Ombudsman but also multiple energy company ombudsmen. It is true that the use of the title of ombudsman is not regulated, and that the historical suppliers had put in place their ombudsmen before Parliament created the National Energy Ombudsman. However, every time they promote their mediation service, suppliers who have made the choice to keep their internal ombudsman are required to mention that a public mediation service created by legislation also exists: the National Energy Ombudsman. But this does not always happen in practice. *“Notwithstanding their regulatory requirements, EDF and GDF Suez often tend to keep quiet about the existence of the National Energy Ombudsman, whether in their correspondence or on their website, for example,”* explains Stéphane Mialot, Director of Services. How many consumers turn to the company ombudsman having heard about the National Energy Ombudsman? Nobody knows, but on a number of occasions the National Energy Ombudsman has observed that even the customer service advisors of these suppliers can make mistakes... The National Energy Ombudsman is keen to

# FNH

In the context of the discussion of the draft Brottes law on progressive energy pricing, the Fondation Nicolas Hulot (FNH) suggested that “fuel poverty should be given greater priority with the implementation of an energy voucher for those in most need.”

clear up this ambiguity and has published information about its existence and the way to approach in-house ombudsmen on its website since the end of 2011, but this has not been particularly well reciprocated to date. In 2011, the European Energy Regulators asked that suppliers using an in-house mediation service give it another name than that of the legal ombudsman system, so as not to add to the confusion of consumers. “We are not questioning the existence of in-house ombudsmen,” explains Denis Merville, “but a solution has to be found to avoid confusing them with their national, independent counterpart. It would be of benefit to everyone.” (See **Mediation**)

**ENERGY VOUCHER** *or how to help people struggling to pay their bills* → The ‘energy voucher’ scheme was a proposal from the National Energy Ombudsman that had already been formulated in 2011 to help low-income households who were struggling to pay their energy bills. This idea arose from an observation: that social tariffs are not effective enough on their own to reduce fuel poverty. In addition, they do not cover certain forms of energy.

To date, this measure has not been adopted, despite it receiving the support of a num-

ber of consumer associations and NGOs, as well as researchers, who suggest ‘replacing the basic needs tariff with a means-tested energy voucher’.

This proposition is still on the table. Despite the various measures taken in 2011 and 2012 by the public authorities to improve social tariffs (automation, raising the qualifying income ceiling), the number of beneficiaries struggles to exceed half of those who are actually entitled to it. At the end of 2012, nearly 1.2 million consumers were receiving the basic needs tariff (TPN), ① 400,000 of whom were also receiving the special solidarity tariff (TSS). ② This represents significant progress compared with 2011, where the number of households receiving the basic needs tariff stood at 650,000 and the number receiving the special solidarity tariff stood at 290,000, but this is far from the estimated number of fuel-poor households, which is believed to be four million.

The Brottes law provides for a doubling of the number of eligible households, to reach 4 million. However, there is no reason to believe that the difficulties currently experienced, relating to the cross-referencing of the social and commercial data files, will allow much more than 50% of effective beneficiaries to be reached.

# 2.4 M

households are eligible for social tariffs. This will rise to four million once the changes set out in Brottes law come into effect. To date, only 1.2 million households benefit from them for their electricity supply and 400,000 for gas.

① Basic Needs Tariff (TPN) put in place in 2005 for electricity bills.

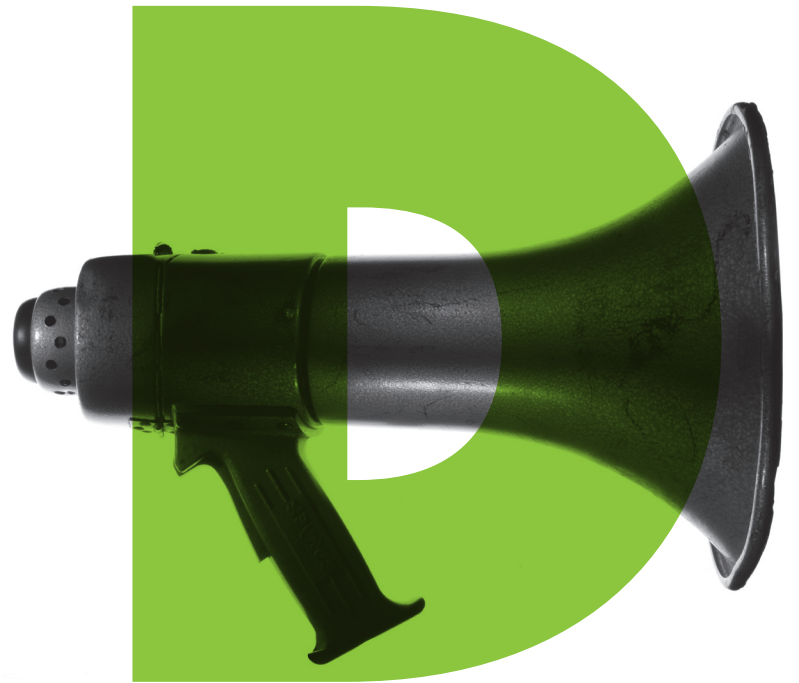
② Special Solidarity Tariff, created in 2008 for gas bills.



I N H H L R X C I X S B T S Y  
T R A N S I T I O N S J X F D  
C S E W O G F A M T M K Y B Q  
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**DÉBAT NATIONAL  
SUR LA TRANSITION  
ÉNERGÉTIQUE...**

*National debate on energy  
transition... or how to  
prepare the low-energy  
society of the future.*



## NDET

The national council is the body that establishes the priorities of the French national debate on energy transition (NDET). It includes unions and employers, environmental NGOs, consumer associations, local elected representatives, members of Parliament and government representatives.

**NATIONAL DEBATE** *on energy transition... or how to prepare the low-energy society of the future* → Energy emerged as one of the priorities for the coming years during the environmental conference organised by the French government in September 2012, a conference which Denis Merville attended as a representative of the AMF (the Association of French Mayors). How do we shift towards greater energy efficiency? What measures should we take to achieve the energy mix by 2025? How do we finance the energy transition? These are the questions the national debate must answer. ④ Through its involvement and by drawing on its expert knowledge of the daily lives of consumers, the Ombudsman intends to contribute concrete and innovative propositions.

A successful energy transition will require people to cut their consumption and become more energy-wise, particularly through energy saving measures. But these cannot be implemented with a wave of a magic wand. Smart gas and electricity meters will be a first step: providing each household with daily and precise information on their energy consumption will enable them to adjust their behaviour and dwellings accordingly. Home renovations will play a key role in improving

④ The debate was launched during the first meeting of its national council, on 29 November 2012.

thermal efficiency and eliminating energy-inefficient dwellings. Grenelle de l'environnement, the French Environment Round Table, had already identified this priority.

*“This long-term policy will have be financed in such a way as to ensure that consumers, and particularly the most vulnerable amongst them, are able to bear the cost of shifting to a low-energy society,”* says Denis Merville, who has put forward a number of recommendations. First and foremost, one of these would be to make those who can afford it pay the true price of electricity and gas and, in parallel, increase national solidarity for low-income consumers. To reach these objectives, a

One of the characteristics of renewable energy is that it is produced intermittently and at times when we don't necessarily need it. The increase in the portion of renewable energy in the energy mix means that storing this energy is becoming a priority. Several innovative technologies are being considered, but we sometimes forget an existing solution that is already widespread: the electric hot water cylinder.

14.5 million hot water cylinders are installed in France, representing a storage potential estimated at 20 million MWh. Instead of heating water at night, we could do it when wind and solar farms are overproducing, with appropriate management of the off-peak tariff. Of course, this means of storage isn't reversible, but it is a proven solution. And even if its output is low, we all need hot water..

**ANALYSIS**

The wise use of hot water cylinders

**CSPE**

Today, the CSPE, or contribution to electricity public services, represents approximately 60 euros per French consumer per year.

simple solution would be to reform the CSPE (contribution to electricity public services), the tax which currently serves mainly to fund the development of renewable energies and provide subsidies for French islands. It would be possible to broaden its base to all sources of energy by giving it a social dimension, through the exoneration of low-income households, and an economic dimension by increasing the upper limit which currently applies to energy-intensive industries.

The structure of pricing could also be reformed: why not consider suppressing gas and electricity service charges? This reform, which

**DELPHINE BATHO**



French Minister for Ecology, Sustainable Development and Energy

“Consumers will contribute to a successful energy transition through actions to save energy and by controlling their consumption. As I see it, saving energy a priority. This is the most effective way to reduce the energy bills of both France and its households. We are going to invest heavily in thermal renovation and active energy efficiency. This should allow

us to combine our environmental objectives with a social goal of tackling fuel poverty and creating jobs. Consumers will not be left out of the national debate that is currently under way: each citizen will be able to voice their opinion either online or at meetings organised nationwide. Each citizen will be able to have their say in choices that are critical for the future of our nation.”

would involve setting electricity prices that increase according to the subscribed capacity, would thus eliminate the current sliding scale structure (the more you consume, the cheaper the average price per kWh becomes). There would be two major advantages to this: billing would be much simpler and it would be much easier to compare the offerings of different suppliers. But how to proceed? *“We could, for example, incorporate the fixed portion of transmission costs into the variable portion, at both the TURPE and ATRD level: these network tariffs, which represent approximately 50% of the bill amount before taxes*

“In France, electricity consumption for one year is equivalent to 500 terawatt-hours\*. To reduce this figure by 110 TWh by the year 2030 would require an investment of 170 billion euros. Energy transition management must therefore involve a plan that consumers are able to sustain. This would mean focusing on the most mature renewable energies whilst industry sectors are being built up, and combining this with

strong encouragement to save energy. The financing options must provide real leverage for owners and tenants alike. Households will play an essential role in this transition: thanks to the services provided by smart grids, they must begin to manage their electrical installations proactively, even out their consumption and help to reduce peak production, which costs more and pollutes more.”  
\*1TWh = 1 million MWh

① Tarif d'utilisation des réseaux publics d'électricité (tariff for the use of public electricity grids)

② Accès des tiers aux réseaux de distribution (third party access to the distribution networks)

**ROBERT DURDILLY**



President of the UFE (French Union for Electricity)

*are applied, have a major influence on the structure of sale prices,”* says Bruno Lechevin, the Ombudsman’s chief representative.

To change consumer behaviour, another method for billing energy is worth considering if we can approach it without preconceptions: the prepaid energy solution. *“Despite its bad reputation, this solution has both economic and environmental advantages. Indeed, prepaying intuitively makes people more aware of their consumption and means they can control their spending,”* explains Stéphane Mialot, the Ombudsman’s director of Services.

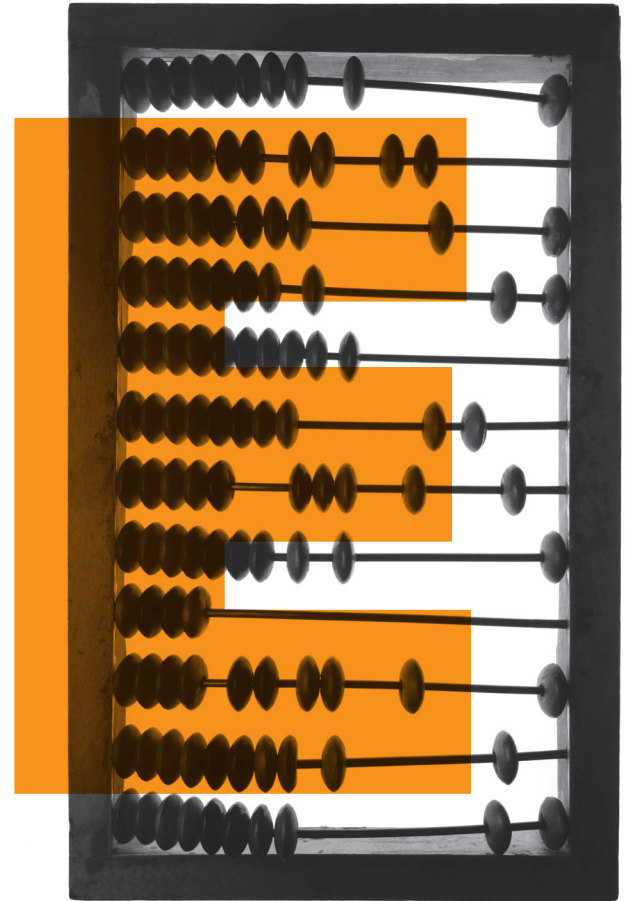
With this system, a consumer would more easily see what 200 euros’ worth of electricity and gas credit actually represents. Prepayment should be aimed not only at low-income households as a way to practise self-restraint, but rather at all consumers in the spirit of social and environmental awareness. Of course, the logic currently applied to this type of offer—pay upfront and pay more—should be reassessed: on the contrary, it would be normal for prepaid energy to be cheaper so there is some benefit for the consumer. (See [Tariffs](#) and [Taxes](#))

\* \*  
\*

Q W V J A X A K Q Y C H Y F I  
Q G J G U M R I J W A I S R X  
I L X H E K H E Y H E W F R H  
V U S H S F G N D B Y D S F Q  
M O O D I R L E W K O O Z K A  
U D T C N C N R M M V S A Y O  
S U C A O B L G M Y W Ç A N K  
F J K F Z D N I X N O Q Z U  
T R N L V Y E E O Y T C P B C  
E I G D E O X U E M M T D B C  
K U C C T Z Q B B Q P J R C U  
C Ç V U J V R L Z T F T M K U  
Ç Ç W A G P X D E U Ç Z C B  
C L C X I D N K S Y N W C I  
I S Ç B E D U A U X X M G P W

**ÉNERGIE-INFO...**

or how the Ombudsman  
and the French Energy  
Regulation Commission  
are helping consumers  
find their way.





## SOS

Inexplicable contract terminations are the main reason why consumers turn to Énergie-Info advisors: when a consumer receives a termination statement and bill without any prior steps having been taken.

**FREEPHONE**

Consumers have been able to contact the service using the French freephone number 0 800 112 212, since 2012.

It was launched in 2007 to coincide with the liberalisation of the market, and was intended to help private customers by providing them with information about their rights and options.

**ÉNERGIE-INFO** *or how the Ombudsman and the French Energy Regulation Committee are helping consumers find their way* → Énergie-Info was created in 2007 and is a service that provides information to consumers; it is run jointly by the Ombudsman and the French Energy Regulation Commission. A freephone number directs customers to an interactive vocal prompt system which lists the suppliers and their contact details, and they can also ring a call centre to talk through any questions they may have.

An expert unit deals with the most complex requests, such as inexplicable contract terminations, unscheduled power cuts and contested bills. Advisors give help with technical or regulatory issues, provide information on current social tariffs and explain gas and electricity price rises. They also support consumers who are in dispute with their energy supplier or DSO. Consumers' expectations of the Énergie-Info service can sometimes exceed its scope, but this role of advice and support is what gives the service added value; advisors contact the energy suppliers directly to flag up issues against a customer's file. They also

enable consumers to take the right steps by explaining the possible options (consumer associations, the local court, the DGCCRF—the General Directorate for Competition Policy, Consumer Affairs and Fraud Control—etc.) and by providing sample letters.

This information service is complemented by the [energie-info.fr](http://energie-info.fr) website. The site's strong point? With one click, a price comparator shows consumers the various prices available from the different gas and electricity suppliers in a given municipality. This is a free-to-use, independent tool that provides neutral information to both consumers and suppliers, and of course, all suppliers are listed on the comparator. In 2010, the European Commission Price Transparency working group awarded the tool the 'Victoire de la modernisation de l'État' prize (an annual award given for innovative public action). Practical and educational, it gives consumers what they need to take advantage of the competition, should they wish to, and to see how they can make savings on their energy bills.

The site continues to evolve and innovate and in 2012 it introduced calculators

963,000

consumers were advised by Énergie-Info in 2012.

**ENERGIE-INFO.FR**

The website includes practical sections on how to terminate a contract, switch supplier, connect a new residence to an energy network, and more generally, on regulated and social tariffs.

The price comparator was created on 5 November 2009.



90%

of consumers are satisfied with the response time to their request.

90%

of consumers would be happy to re-use the Énergie-Info service and to recommend it to friends and family.

(Satisfaction survey from May 2012 carried out by the Institut LH2 on behalf of the National Energy Ombudsman) (See [Satisfaction](#))

ⓘ The Transmission Contribution Tariff (CTA) helps finance the pension scheme in place for employees in the electricity and gas industries. The amount depends on the Transmission Tariff chosen by the supplier.

designed to help customers make sense of price rises. Typically, when tariff changes are announced in the press, average figures are used. However, depending on your usage and where you live, the range can vary considerably. Énergie-Info receives lots of calls from households that don't understand why their energy bill has gone up by 5% when the press announcements indicated an increase of 2.5%. These 'educational' calculators now enable households to measure the impact of tariff changes on their own bills, based on their own circumstances. One calculator assesses the effects of variations in gas prices on bills over the previous year. Another works out the back billing amount, now that the Council of State has lifted the 2011 and 2012 price freeze. (See [Gas formula](#)) A third calculates the increase in the CSPE (Contribution to Electricity Public Services), the tax that is paid in proportion to electricity usage, from 1 January 2013. Lastly, a fourth gives averages for the consumer to check whether the amount of CTA (Transmission Contribution Tariff) ⓘ indicated on their bills is correct. Consumers are now equipped to see rather more clearly!



O S T C S K T W E G C K R L S  
F C W C Q J A F Z G A Z Q C C  
I Q Z S C H Z I J M V N U E J  
F E C Y Y Q Q N B J L N A I G  
P E F N E A J A N B C T Z V V  
Z V M R F A M N A C G N R D D  
E S E W B H Z C C C P V E C N  
C Z C B X N J E F H Z F K A A  
I X M Q B K J S H C C O T W Z  
N X F C B N C U Y C G R C X Y  
K H P N W P Y M O E L M L X C  
N S B Q J D A M C L L U J V J  
X I A A E P L H A C J L K F I  
E R Q U S M C C K A Y E W N Q  
O V F N I S Y X Q O P N T L Q

**FORMULE  
DU GAZ...**

*Gas formula...*  
or how it is  
difficult to find  
the magic recipe  
for lowering gas  
prices.

**FINANCES...**  
or how to best  
manage public  
resources



80%

Increase in the price of gas since 2005

**BACKBILLING** <sup>p</sup>

For a household that uses gas for heating, the first back bill is for 38 euros, the second for 23, on average.

**GAS FORMULA** *or how it is difficult to find the magic recipe for lowering gas prices* → The gas formula, which is the basis for setting regulated tariffs, has been the subject of much discussion for many years. Successive governments have tried to restrain price rises in order to maintain the purchasing power of French consumers, but have found themselves confronted with the riddle of the magic formula: a formula which only takes its various components into account when their prices drop, but not when they increase. So far, attempts have been in vain.

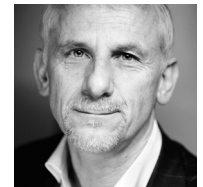
On a number of occasions in 2011 and 2012, the authorities limited the rise in regulated tariffs at a level lower than that calculated by the infamous formula. But the Conseil d'État, to which both GDF Suez and the alternative suppliers appealed, declared it illegal not to respect the application of the formula. It annulled four decrees, two made by the Fillon government and two by the Ayrault government. These annulments will result in two separate **back billings** <sup>p</sup> for GDF Suez's customers on the regulated tariffs, spread over time.

On 10 December 2012, Delphine Batho, the Minister for Energy, announced a new

gas formula, which would better take into account the economic reality of the supply costs incurred by GDF Suez. The calculation mechanism will now be reviewed each year; the regulated tariff is modified each month and not each quarter, in order to smooth out any eventual rises; a safeguard clause makes it possible to freeze a monthly change. These new measures give more consideration to the role played by the market price of gas (the spot price) but it remains two-thirds depen-

“We have been asking for a change in the gas formula for a long time. We feel that the increases in the regulated tariff on this basis no longer seem to reflect the supply costs of GDF Suez, given that the operator makes an increasing proportion of its procurement on the spot markets. The new formula takes this aspect into account and we are satisfied with this, as it has resulted in a slight drop in prices since February. It can be revised each year: It is important that the regulation of prices is adapted to the behaviour of the supplier.

We are more circumspect on the monthly development of tariffs, which does not facilitate consumer understanding, particularly in the case of estimated bills. Consumers already find themselves in a confusing situation: Between the current drop in tariffs and back billing spread over a number of months, following the decisions of the Conseil d'État, they do not know what they are paying. In this period of transition, it makes it difficult to choose a gas supplier, despite the price comparison information on the **Énergie-Info** website.”

**ALAIN BAZOT**

president of the consumer association, UFC-Que Choisir

# €1,200

Average annual bill for a four-person family heating their home using gas.

Ⓢ On the [energie-info.fr](http://energie-info.fr) site, there is a calculator for working out the impact of these price changes, based on personal consumption.

dant on the oil price. After a rise of 2.4% in January 2013, the revised calculation method resulted in a reduction of 0.5% in February, 0.3% in March and 0.6% in April and June. Ⓢ

Although the Ombudsman understands the logic underpinning this reform, it wonders about the operational practicality of a monthly change in price. Meters are currently read at best every six months, and consumers are not allowed to transmit their own meter reading each time a price change is applied. Prorata temporis estimates are therefore bound to increase, and bills become more complex. Even if it is too early to measure the impact, we fear that these new methods for changing prices will lead to a rise in the number of claims. (See **Tariffs**)

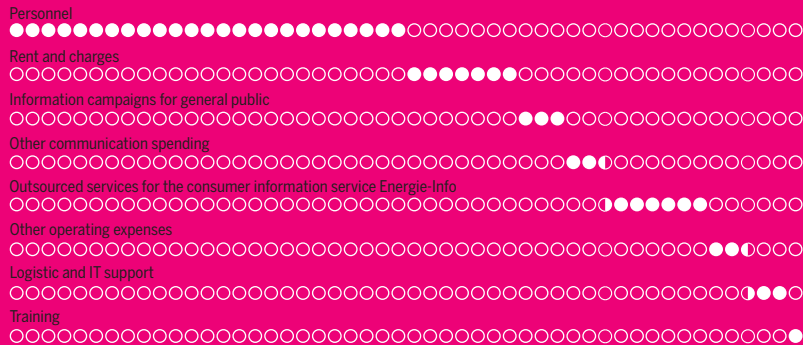
**FINANCES** *or how to best manage public resources* → “For the second consecutive year, we have reduced our operating charges, for the same headcount, notably thanks to the optimisation of our procurement process”, indicated Béatrice Gaudray, the head of the Administration and Finance department. The Ombudsman regularly re-examines the possibility of maintaining certain activities in-house or subcontracting them out. In 2012, the decision was made to subcontract data entry services but also to bring in-house the graphic design of the institutional newsletter. The aim is to spend less, across all budget items, whilst improving the effectiveness of the institution’s activities.

Spending on professional training represented 3% of payroll because improving employee skills is one of the Ombudsman’s priorities, in order to keep pace with legislative and regulatory developments.

FINANCES

2011			
	FORECAST BUDGET	ACTUAL BUDGET	PERCENTAGE USED
TOTAL	€6,620,000	€6,337,326	96%
PAYROLL	€3,035,000	€2,876,316	95%
OPERATIONS NOT INCLUDING PAYROLL	€3,335,000	€3,119,157	94%
OF WHICH			
Rent and charges	€796,000	€816,284	103%
Information campaigns for general public	€500,000	€414,658	83%
Other communication spending	€350,000	€292,748	84%
Outsourced services for the consumer information service Energie-Info	€850,000	€823,843	97%
Other operating expenses	€732,933	€665,558	91%
Training	–	–	–
Logistic and IT support	€106,067	€106,067	100%
INVESTMENT	€250,000	€341,853	137%

DISTRIBUTION OF BUDGET PER CATEGORY



FINANCES

2012			
	FORECAST BUDGET	ACTUAL BUDGET	PERCENTAGE USED
TOTAL	€6,515,000	€6,136,532	94%
PAYROLL	€3,088,000	€3,088,000	100%
OPERATIONS NOT INCLUDING PAYROLL	€3,247,000	€2,871,306	88%
OF WHICH			
Rent and charges	€824,000	€852,251	103%
Information campaigns for general public	€350,000	€346,761	99%
Other communication spending	€325,000	€321,789	99%
Outsourced services for the consumer information service Energie-Info	€780,000	€766,094	98%
Other operating expenses	€666,896	€292,709	44%
Training	€198,000	€188,598	95%
Logistic and IT support	€103,104	€103,104	100%
INVESTMENT	€180,000	€177,226	98%

PUBLIC PROCUREMENT IN 2012

**€2,196,281**  
 Spending (operations and investment, not including rents and CRE agreements)

**57.9%**  
 Proportion of public procurement in spending (not including payroll)

J V G K D M D R W C D G G D R  
B V F F V B C E R Z I N C G N  
H I V Z N W U K N L D U A F U  
X K Y T B Y Z C P J S O J L H  
E N X Z N A C V W X N J P R A  
X Z P X V L W C I Y L O I G T  
C X N D Y V A P R P H N R A G  
M G I W M R S K I W H T Q Z I  
M T C R H T D F N K N V C P D  
O B P S C L W O Q R V P A A A  
S X D V X W R Y J O R N Z R D  
E R W B O E N L A C Z M K F R  
F O C V U S G Q K H I C I M O  
Y M U L Q G J L K X Q L F W O  
V E B G C A C R S P B D D K G

**GAZPAR...**  
or how the  
communicating  
gas meter project  
is making headway.



## CALL FOR IDEAS



The name Gazpar was found by... GRDF employees during a call for ideas which was followed by a vote in 2012.

⌚ Their useful life is still 20 years.

**GAZPAR** *or how the communicating gas meter project is making headway* → Linky is no longer the sole member of the communicating meter family. Gazpar, its gas sector cousin, is pursuing its development without making waves. It sparks fewer debates than Linky, because the challenges are not on the same scale. 11 million existing gas meters will eventually be replaced by meters equipped with radio frequency modules... ⌚ compared with 35 million electricity meters. Gazpar's functionalities are also much more limited than Linky's: the technical solution makes it possible to perform a meter reading remotely, but not carry out interventions (disconnections, service activations, etc.).

## LAURENCE HÉZARD



Managing Director  
of GRDF  
(Interview conducted  
in March 2013)

“We consider that Gazpar, which concerns 11 million private customers, is first and foremost an energy efficiency project aimed at consumers. It has two objectives. The first is to improve billing quality and customer satisfaction by eliminating estimated consumption, and systematically billing based on actual meter

readings. The second involves improving energy management by frequently providing customers with consumption information that fulfils their requirements. The basic functionalities will give households access to their monthly consumption figures *via* their supplier, as well as daily consumption

Between February 2010 and June 2011, GRDF performed an experiment with four different equipment manufacturers in several cities, on some 5,000 meters. An economic study conducted by the CRE (the French Energy Regulation Commission) estimated that 2 billion euros in investments were needed. ⌚ In July 2011, the CRE gave the green light to continue with the project. During this phase, the equipment and information systems will be developed and the deployment will be prepared. The decision to bring these meters into general use should be made by the Minister for Energy in summer 2013. If all goes according to the established schedule, Gazpar should be installed throughout France between 2015 and 2021.

⌚ The investment made by the DSO will be financed by the transmission tariff.

figures *via* the DSO's website. If customers are interested, they can get access to hourly consumption figures, or even real-time data, with an additional device connected to the new meter. From these elements, additional services can be introduced, such as alerts, assessments and energy-related advice. The major goal of

the project is to ensure that as many customers as possible are able to use this information about their consumption to make energy savings. The mobilisation of all market players – suppliers, energy consulting firms, social housing organisations, local authorities – will play a determining role in its success.”

C X A U H A Y E E C G V R C I  
F V E S G Y S K D C L S X C B  
S H E U R E S A S Y E K F Z W  
Z Z P I Q G D Y X N Z S N C V  
A B D X E B S M I A O X S P J  
W L F D M C R E C D J U K O K  
D P V H E S L R R W O U X O A  
O W X K A P Q B C N C C B V H  
F O T U Q U Z M D R O X E C C  
J U M W U I T U N A E X C B Q  
D C W B J M M U R O I U E O  
U O F V P K L U B H K W S E X  
N K N M U W R K X P W K D S  
K J J F H B D X I K I F U O S  
K X I F J Z F M E C Z H J J Q

**HEURES PLEINES,  
HEURES CREUSES...**

*Peak hours, off-peak  
hours... or how to  
consume electricity  
the smart way.*





1965

Creation of  
the peak/off-peak  
rate system

14M

French  
consumers  
are on this  
tariff

⌚ ERDF (DSO)  
establishes the  
times for peak  
and off-peak hours  
according to grid  
operating constraints.  
They therefore  
vary from one region  
to another.

**P/OP** *Peak hours/off-peak hours... or how to consume electricity the smart way* → Peak/off-peak pricing is a system which enables people to use a dual rate meter in order to pay less for their electricity during 8 hours per day, in return for a higher service charge. This pricing option encourages households to use their electrical equipment when others are not, so generally between 10.30pm and 6.30am. ⌚

Yet since 2009, a change to the structure of regulated prices has made this option less advantageous for consumers. More electricity now needs to be consumed during off-peak hours to make the higher service charge worthwhile. Consequently, many households would now be better off moving to a different pricing structure. Even if this option is still appealing to the majority of customers, this pricing change goes against the objectives of the energy transition, which seeks to encourage people to consume less and in smarter ways.



F K H U S S F L X Y U R C G F  
M R Z N E L E T O V D F D C R  
N K E O N Q Q N H H K R G E J  
Z X W B S Y Z K S T X J F O Q  
K O V B I I Z H V I B S G A E  
Q S P C B N T Y C D B B U G I P  
J R U C L K X M F R G L X S R  
C O M M E R C I A L E M E N T  
W P Q Q S U J X V J L W C S C  
Q N K Y S D V G I F X X H T C  
D S M C Z A F U U N E B G B Y  
N J B F R I A S K A P A D I M  
K I X S P K O I M P A Y E S Z  
I B C P A P E C X R W Z E M Q  
W H P I N F O R M A T I O N S

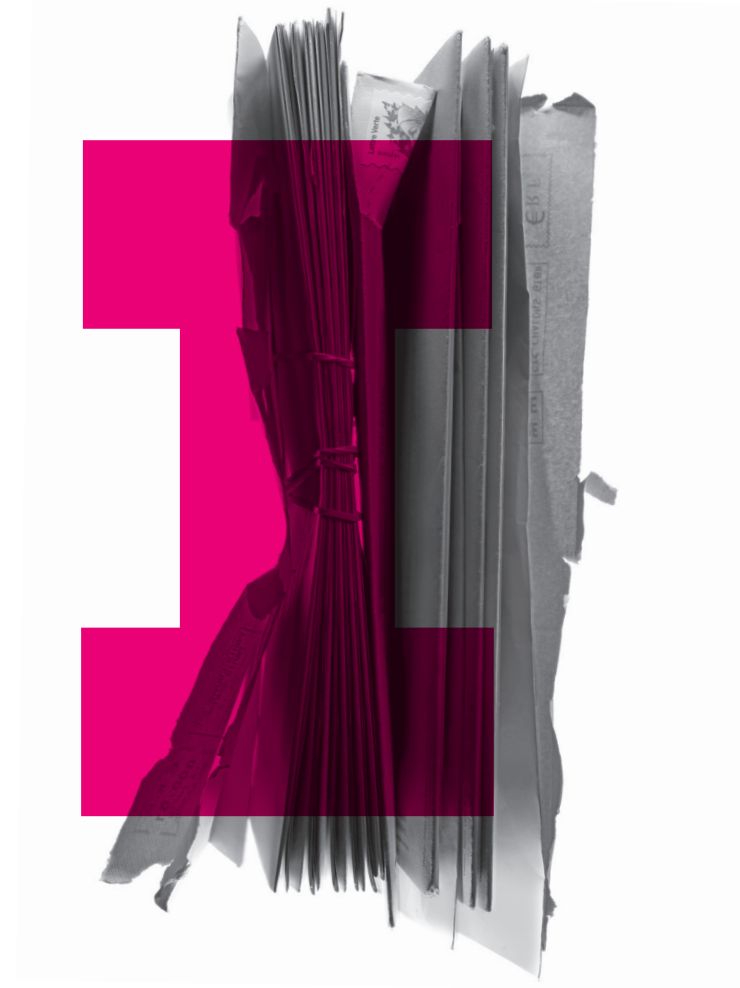
**IMPAYÉS...**

*Unpaid bills...*

or how to put pressure  
on consumers.

**INFORMATIONS  
COMMERCIALEMENT  
SENSIBLES...**

*Commercially sensitive  
information (CSI)... or how  
legal provisions can hin-  
der investigations.*



## DGCCRF

Debt collection agencies are audited by the DGCCRF (the French General Directorate for Competition Policy, Consumption and Fraud Control), which takes appropriate measures when rule violations are identified, such as the use of misleading or aggressive sales tactics.

Ⓞ If a consumer is billed at the social tariff or receives aid from the FSL or *Fonds de solidarité pour le logement* (a housing solidarity fund), they are granted an extra 15 days to pay.

**UNPAID BILLS** *or how to put pressure on consumers* → If a consumer has an unpaid bill and does not pay it within a month of its due date, Ⓞ their energy supply may be reduced or suspended. The supplier may also decide to terminate the contract.

Most operators hire companies specialising in debt collection and legal recovery, even for small amounts of sometimes less than 100 euros. These companies contact the customers directly to have them settle their debt. Often the customers are waiting on a dispute to be resolved and some panic. Especially when they receive alarming letters from court bailiffs.

These companies, with evocative names such as Intrum Justitia or Contentia International, put pressure on consumers with threatening letters. Letters containing statements such as ‘final demand’ or ‘last warning before legal action’ in bold capital letters that are intended to make an impact. If the consumer does not comply, their case will be sent to a ‘litigation department’ that will initiate proceedings, the cost of which will be added to the customer’s outstanding debt.

Debt collection on behalf of third parties

is regulated. Ⓞ This legal framework requires these specialised organisations to send the debtor a letter that includes several pieces of information: their organisation’s details and an indication that they are debt collectors, the name and contact details of the supplier and creditor, as well as the reason for the letter, and the amount due with a breakdown of principal, interest and any additional costs. The latter exclude fees that remain payable by the creditor. When the debtor acts in bad faith, the creditor must submit their request for recovery to the judge tasked with executing the decision of the court.

According to David Grébil, Deputy Director of the National Energy Ombudsman’s Information and Orientation department, consumers must react quickly when they are unable to pay their bill. *“They should ask for payment terms straight away. Even if the repayment schedules granted by suppliers aren’t based on available income, it is important to reach an initial agreement in order to avoid escalating the issue.”* Other solutions can be found with social services or intermediaries such as the PIMMS (multi-service information and mediation points), consumer associations and, of course, the National Energy Ombudsman.

## DECREE

The 13 August 2008 decree relating to unpaid bills aims to protect consumers. Article 6 stipulates that if a service is disconnected due to unpaid bills and the supply has not been re-established within the following three days, the supplier must immediately inform local social services of the matter.

Ⓞ By articles L1111-8 and R124-1 to 7 of the code of civil enforcement procedures

**CSI** *Commercially sensitive information... or how legal provisions can hinder investigations* → As part of the dispute resolution process, the Ombudsman may request additional observations from the companies involved. These are crucial to conducting a detailed analysis of the dispute, even though from time to time operators find it difficult to be completely transparent. Sometimes, legal reasons are put forward to justify this: the requested data is considered to be ‘commercially sensitive information’<sup>Ⓞ</sup> and any person disclosing it exposes themselves to criminal proceedings and sanctions.

Mrs S.’s complaint illustrates the problem well. The Ombudsman is trying to understand why the meter reading taken at the time the service was activated in 2010 was identical to the meter reading taken when the previous inhabitant cancelled their service in 2005. Did the electricity remain disconnected during this time? Or were other contracts entered into? But the DSO in question refuses to answer, stating instead that

Ⓞ CSI decrees: decree n°2001-630 dated 16 July 2001 amended by decree n°2007-1664 (for electricity); decree n°2004-183 dated 18 February 2004 (for gas)

the information at its disposal concerning earlier contracts for this point of delivery is considered to be ‘commercially sensitive and cannot be disclosed.’

Is information such as the existence or non-existence of other contracts really commercially sensitive information when it is destined for an independent administrative authority? The Ombudsman is not even asking for the identity of the suppliers and consumers in question. Its only goal is to ensure that Mrs S. was not billed for electricity she didn’t use, which does happen on occasion.

Certain exceptions could apply to CSI—a concept which became necessary when the markets were opened up to competition—depending on who is requesting the information and their reasons for doing so. At the very least, the public authorities could allow some degree of flexibility in exercising judgment. Instead, time is wasted and certain elements are lacking to formulate a balanced recommendation. In the end, it is the consumer who suffers.

\* \*  
\*

V J V P I J C X J G D C R C J  
I K H I X Q A B W U L O F T V  
M J N Y N A G M W R S L D Z R  
F U R C L X E Z G F T T R C U  
G W X X M I P N G A T K I Z F  
H O R L R J H I G I L A G C E  
F L W S X F D T G Z Y J H E E  
R B H B T D T X K N K F Q T G  
U O A R G M U D T R Z N J A P  
N T R Y I S G F Q T M C U J M  
Q Y Q S E X N Y Z C Q T T Y O  
R Q L K H A N F N A G B B C L  
X U P T E J S U V M S M O X R  
I H L K H W U E C S W Z E C E  
W I F O C R V Z J H V L X Q J

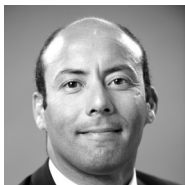
**JUSTICE...**  
or how an  
independent  
ombudsman is  
not an adversary  
of the courts.



**JUSTICE** *or how an independent ombudsman is not an adversary of the courts* → The National Energy Ombudsman does not believe that alternative dispute resolution (ADR) and justice are at odds. Quite the contrary, in fact. ADR—and this is the very principle behind it—helps to resolve disputes more simply and more quickly than if the consumer took the matter to court. However, as stated in the European Commission’s texts, the recommended solutions must not penalise the consumer more than a court decision would have.

The National Energy Ombudsman advocates a mediation method that is not aimed

#### MOUNIR MEDDEB



lawyer with the firm  
Énergie-Légal

“Consumers bring very few legal proceedings against their energy suppliers. Because they are unfamiliar with their rights in this area, they are reluctant to initiate long and costly proceedings when they don’t know what the outcome will be. It is good that they are able to seek free assistance from the Ombudsman. This objective and impartial authority has demonstrated that it gets

results, sometimes quicker than through the legal system. If the consumer is not satisfied, they are still able to take their matter to court. But now their file will include a legally sound recommendation, complete with technical justifications. During legal proceedings, the opinion of an independent institution that knows its industry can play a determining role.”

at steering people away from standard legal proceedings. Consequently, the Énergie-Info information service provides leaflets outlining the different courses of action available to consumers, as well as the cost of such a procedure. A database of [past rulings](#) is also available on the Ombudsman’s website and accessible to all. It includes rulings relating to the energy industry and consumers, whether these were made by the local courts, the Court of Appeal, or the Court of Cassation. Lastly, the Ombudsman’s recommendations are non-binding and clearly specify the courses of action available to a consumer if they are not satisfied with the proposed solution or if an energy supplier does not comply with it.

It is essential for consumers to take disputes to court from time to time: “*Energy suppliers think they won’t do it and this certainty means they are not always willing to compromise in order to find amicable solutions,*” explains Stéphane Mialot, Director of Services. Mr B.’s case illustrates this. When Mr B.’s billing was recalculated for what a DSO considered to be acts of fraud, he approached the Ombudsman for help in early 2012. Since the fraudulent tampering of his meter had not been proven, to resolve the dispute

#### PAST RULINGS [P](#)

The database of past rulings was published on the National Energy Ombudsman’s website on 9 November 2011.

#### FOR MORE INFORMATION



**ANALYSIS**

Database of  
past rulings:  
selected excerpts

**RULING BY THE LOCAL  
COURT OF SENLIS ON  
17 JANUARY 2011**

A consumer brought legal proceedings against its energy supplier and DSO to correct a bill on which the change-of-supplier meter reading was overestimated. The DSO was found responsible for the calculation error in the

changeover reading. The new supplier was found guilty of negligence, for having continued to issue bills based on the erroneous reading in spite of their customer's protests. The operators were jointly ordered to pay the consumer 400 euros in damages and 600 euros for the costs incurred.

**RULING BY THE LOCAL  
COURT OF PARIS ON  
12 APRIL 2010**

A consumer asked the court to accept the supplier's liability in cutting off the consumer's power supply after noticing that they were consuming electricity without a contract. The judge ruled that the supplier could not blame the consumer for the absence of a written contract,

since the supplier had asked them to request their service activation by telephone. The supplier is then solely responsible for the absence of contract and bills which led to the disconnection. Since no final demand was made before the disconnection, the supplier was found to be at fault and ordered to pay non-pecuniary damages of up to 300 euros.

the Ombudsman recommended that the DSO waive fees <sup>ρ</sup> billed for the services of the sworn officer. As the DSO did not act on this recommendation, Mr B. took the matter before the local court. The DSO's lawyer then proposed a settlement agreement to cancel the fees for the sworn officer and end the dispute.

Therefore, resorting to legal proceedings is not akin to failure. On the contrary, it moves the mediation forward. Because legal action creates dispute resolution references for energy suppliers, who would save time and money if they implemented these spontaneously as part of an alternative dispute resolution process.

\* \*  
\*

**FEES** <sup>ρ</sup>

A fee of 442 euros incl. taxes is charged when a sworn officer makes a finding of electricity fraud.

I K U C D H P X G L V B D A O  
W V X B U C H B Z Q C U E E I  
A R M O E W Q S L F M E J O D  
C D R V K M N O L D G Y Y E Q  
T J J F U K E X X D C M X C O  
M K O L O R Q N V V N C V A O  
Y C J U J J I B G X K C H D A  
J H P E H H S B Y G W R G A  
C O S U C A T A G H R V V J V  
Y J A B Z E U M N P I K H G B  
K V A W N I P I S V K U C R E  
G H P Q P L F Q A H M A K P Y  
H P A N O P W V E O I X H L I  
C Z Y Y J U K E K X S V V U V  
C L O N N O K H W F A Z Y J X

**kVA...**  
or how to  
measure  
real-time  
electricity  
consumption.

**kWh...**  
or how to  
measure  
energy usage.





**6 kVA**  
is the subscribed  
electricity capacity  
of most French  
households

**kVA** *or how to measure real-time electricity consumption* → One kVA, or kilovolt, is 1,000 volts. This is the unit of measurement applied to the 'apparent power' that is being used by all appliances that are switched on and operating at the same time. The wattage available is limited to the subscribed capacity, and controlled via the principal power circuit breaker, and this will determine the cost of the service charge. The greater the subscribed capacity, the higher the annual service charge, even if the maximum wattage is only ever used for a couple of hours a year. So an over-subscribed capacity can add significant costs to a bill. However, if the subscribed capacity is inadequate, this will cause the electricity to trip...

One kVA is enough to power three light bulbs and a fridge at the same time. This can be an issue encountered by people who are in arrears with their bills: limits can be imposed on the amount of wattage they can draw, and in the event that they are tempted to use multiple appliances at the same time, the main fuse will trip, cutting off the electricity supply. Which equates to a disconnection... (see **Disconnections**)

**kWh** *or how to measure energy usage* → A kWh or kilowatt hour is 1,000 watt hours or 1,000 watts an hour or 1 watt every 1,000 hours. In other words, it is the unit of measurement that shows how much energy has been consumed and billed for. For electricity, it's shown on the meter. For gas, kWh are calculated by multiplying the amount of cubic metres measured by the meter by a coefficient that is determined by the quality of the gas; the amount is then shown on the bill.

With one kWh, you can heat one room for one hour during the winter (using gas or electricity), or use an energy-saving light bulb for 20 hours, or run a fridge for 3 days, or watch TV for 6 hours, or use a desktop computer for half a day, or drive 5 kilometres in an electric car...

You can also wash your laundry but you can't tumble dry it (a single cycle of a tumble dryer uses 3 kWh). You can bake a cake (gas or electricity). You can take a quick shower but not a bath (you need 4 kWh of gas or electricity to fill a bath with hot water)...

**1 kWh**  
of electricity costs,  
on average, around  
14 euro cents inc. tax

**1 kWh**  
of gas costs,  
on average, around  
7½ euro cents inc. tax

**4,400**  
the average household's  
electricity consumption  
in kWh in 2012\*

**12,200**  
the average household's  
gas consumption in kWh  
in 2012\*

\*Source : CRE Observatoire  
market report, 4th quarter  
of 2012



S O Q C F T G U D X D D O H B  
Q Q B M V O I Z S N V Z B F E  
B S A Y A C D X L N Q A P U C  
C D E S L Q U W B H W X T D A  
T G U N C I I S K H V L T U J  
U T L S B S N H W M H C D G C  
C Q O W F B K K A M W C A L  
I I P K R P O L Y F K N A F I  
E S M Z N C V Y C M C Z H O T  
U Z H T Z C S K A X X L Q O I  
Y X H G F E X O C C M C H G G  
P K E R S S W C K J W W A W E  
G P V D M F G U V F W H Q V R  
F R P B Z F Z A B Z M C P P  
I W S I R N H Y X P C O S W G

LINKY...  
or how smart  
meters should  
also benefit  
consumers

LITIGE...  
*Disputes...*  
or how this  
differs from  
a complaint.



WG

To help redirect the Linky project towards consumers' needs, Delphine Batho, the Minister for Energy, set up working groups (WG) with the other stakeholders. This should lead to a national debate on the energy transition.

**LINKY** *or how smart meters should also benefit consumers* → The cornerstone of the smart grids of the future, some 35 million electronic smart meters are likely to be installed in French households between now and 2020. Ⓞ After more than a year on hold, the Linky project was given a new lease of life with the announcement (in the autumn of 2012) by the Minister for Ecology, Sustainable Development and Energy that it would be used to help the 'energy transition'. For Delphine Batho, the Linky computer is a project *"for the benefit of all"*, a *"tool to provide energy usage information"* to all French households and *"a proactive way to manage consumption, by providing each household with the ability to monitor usage in real time: Linky will also contribute to the development of energy-saving services, such as load-shedding technologies, with the goal of making substantial energy savings at a national level."*

Linky comes in from the cold. The National Energy Ombudsman came to the project in 2011 and has since helped to redirect it. Initially conceived as a 'measurement tool', the meter was of foremost benefit to ERDF—improving employee productivity by putting an end to the need for physical meter reading readings, enabling remote operations and en-

Ⓞ Total investment is estimated to be 4.5 billion euros.

suring easier identification of anomalies and fraudulent activity. As for suppliers, with better knowledge of their customers' habits they would be able to increase the number of innovative tariff options and propose new services. At this point the only advantage to consumers was the possibility of receiving bills calculated, in principal, on actual consumption.

The Ombudsman fought for a wider scope from the very beginning, arguing that the project could benefit all French homes by

"Linky must contribute to achieving energy management objectives. The smart meter effectively provides the possibility for consumers to control their own usage. However, a lot rests on what information is given to them, and how. Together with the National Energy Ombudsman, we have advocated the common positions arrived at by the working groups that were set up for this project by the Minister for Energy. We are in favour of integrating a wireless communications module into Linky that 'talks' to consu-

mers' homes, which would provide a real-time energy activity snapshot. Unfortunately, however, we've noticed that consumers are often not interested enough in making energy savings to actively seek out the information that could help them do so; this has to be sent directly to them and at no additional cost. Finally, it's important to talk in concrete terms about their consumption, not just about money but also about notification thresholds and comparisons with the previous year or other, similar households."

VIRGINIE SCHWARZ



Executive Director of Programs for the French Environment and Energy Management Agency (ADEME)

providing consumers with usage data, thereby enabling them to make energy savings. It bemoaned the fact that Linky had been conceived only as a ‘semi-communicating’ meter, able to talk to the operators but not suppliers. The idea that individuals can monitor their daily energy usage, without incurring extra costs, to enable a proactive response and a more considered consumption, has now taken hold. All meters would have to be equipped at source with a wireless communications module that could send

OLIVIER GAINON



chief representative from the Industries du génie numérique, énergétique et sécuritaire—or IGNES—(digital engineering, energy and safety industries)

“Linky is an interesting tool for both consumers and industry, as the foundation for intelligent energy management. To achieve this, two conditions must be met. First, households must remain in control of their environment. ‘Intelligence’ does not come from the meter, it is to be found at home. Given that households will have to deal with multiple tariffs, it’s essential that consumers are always well informed of energy prices and continuously manage usage. Secondly,

it is important that the meter can easily transmit, using a radio module, relevant data such as prices to equipment in customers’ homes, so that they can control energy usage accordingly while improving their levels of comfort. The project’s new objectives are taking it in the right direction but manufacturers are waiting for the proposals to firm up before developing the equipment—displays and energy managers—that will communicate with Linky.”

energy consumption data and prices to customers’ homes; this proposition, which was put forward jointly with ADEME in 2011, has now gained quasi-consensus. What is still needed is a remote display that can give consumption and cost data in euros, to be provided free of charge by suppliers to any customer wanting this information.

The proposals put forward by the Ombudsman were reinforced by the results of a survey undertaken at the end of 2012 by the l’Institut national de la consommation (I.N.C.) (the National Consumers Institute) <sup>①</sup> which wanted to discover what French households’ expectations of smart meters might be. 89% of French consumers said that they were ready to change their behaviour to lower their energy bills and 88% would do so to help protect the environment; a majority of people (52%) think that introducing Linky is a good idea. “Consumers are in favour but that is not the same as saying that they are ready to make immediate and concrete changes that are outside of their daily routines,” is how Jean-Pierre Loisel, Projects and Partnerships Manager at I.N.C., analyses it. “Information and support tools will be needed”.

Thus, 41% of people questioned said that they would be interested in a breakdown of



In the UK, the use of smart meters showcases the provision of free, real-time information. Suppliers must offer remote displays to their customers at no extra charge. The ‘In-Home Display’ has to show daily, weekly and monthly cumulative usage, in both kilowatt hours and pounds and pence.

<sup>①</sup> CSA survey carried out in December 2012; a representative sample of 1,029 people were questioned face to face.

51%

of French consumers consider that Linky will provide a chance to reduce their electricity bills and 61% think that Linky will enable better electricity management for the environment (CSA Survey)

energy usage that they could consult online, and 45% said they would be interested in receiving an alert when their energy usage went over a pre-established threshold. And 49% see the benefit of a remote display that they could use in real time to check usage. But this percentage drops to less than 20% as soon as the display is charged for. However, it climbs back up to 89% among the 35% of French consumers who said they were strongly in favour of Linky. Whether or not French households will want to adopt smart metering<sup>Ⓢ</sup> therefore seems to depend in large part on a good understanding of its purpose and the new services it could offer. (See **National Debate on Energy Transition**)

<sup>Ⓢ</sup> Linky is now expected to be made widely available from, at the very earliest, 2014 but more likely 2015.

<sup>Ⓢ</sup> Survey by the Enquête du Centre de recherche pour l'étude et l'observation des conditions de vie—or CREDOC—(Research Centre for the Study and Observation of Living Conditions), carried out in September 2012 for the Commission de la médiation de la consommation (Consumption Mediation Commission)

**DISPUTES** *or how this differs from a complaint* → A dispute is a claim or complaint that a consumer believes has been poorly handled by a company; irrespective of the business sector, the responsibility for handling claims and complaints lies with the company. Disputes, on the other hand, are resolved by the courts or a method of alternative dispute resolution such as mediation. The dichotomy is clear thus far. But, at what point does a claim or complaint become a dispute?

The answer to this question is important because it determines the number of disputes and the costs involved. Bearing in mind that it has been shown<sup>Ⓢ</sup> that any additional steps will act to discourage consumers, companies are naturally inclined to introduce as many as possible when handling complaints, without being overly concerned about response times. It then falls upon the regulatory authorities or the legislator to act and encourage businesses to handle claims and complaints in a satisfactory way and within reasonable time frames.

In the energy sector, public authorities have established clear and ambitious rules: after two months, all claims and complaints that have not received a response and any claims and complaints where the customer remains unsatisfied with the solution, become a dispute. If the customer wishes (and

Beyond the distinction between complaints and disputes, is the question of how to deal with them outside the traditional legal system. Certain businesses feel that the 'alternative dispute resolution methods' (ADR) provide a better way

to handle complaints, hence the name. Those who defend consumer interests tend to design ADR with built-in assurances as to impartiality, compliance with all legislation and regulation, and independence. (See **Mediation**)

**INITIAL PROCEDURE RESPONSE RATES FOR ADMISSIBLE COMPLAINTS RECEIVED IN 2012**



38%  
No response

37%  
Response by customer services (level 1)

21%  
Response by a consumer advice service or in-house ombudsman (level 2)

4%  
Unspecified

**ANALYSIS**

The distinction between complaints and disputes is at the centre of debates on mediation

## DISPUTES

assuming they are aware of their rights!), they may ask the National Energy Ombudsman to intercede, contact the supplier and help resolve the problem. At this point the supplier can no longer assume that the issue is one that can be addressed under conditions that it alone has stipulated. It is now obliged to participate in the mediation process, which will naturally incur higher management costs. This definition of dispute creates a virtuous circle that encourages businesses to improve their claims and complaints handling, to avoid them turning into 'disputes' that can be investigated by the Ombudsman. (See **Complaints**)

\* \*  
\*

J H S T T P B Y F M J D H W U  
N N A O N C K J H J G R M G M  
M J M L E N J D X T G L B N Z  
N E N G Q V S A C K K D F N H  
V P D P R C X A I H C M M P F  
I V P I Q L F X D C T Z K S P  
H I T E A B X L Q X C N R J P  
R G W N O T Z S Q K O B P D T  
T U Q D U V I E I M D W O J P  
J X P H Q O L O H L U F G Q H  
O W F B F Z M P N A E Q D D X  
Z V T F L S M K B J T L P S V  
O R C O F N F I J P D T I O D  
Q I L X G N Q U F F E H Q V D  
D Y W W V X I Y S D N K B A M

**MÉDIATION...**

*Mediation...*

or how the French  
exception is illustrated  
in the development of  
mediation.





**MEDIATION** *or how the French exception is illustrated in the development of mediation* → Whether in France or the European Union, public authorities, business and associations are united in their praise for mediation, as a simpler and faster solution than the courts for settling disputes between consumers and industry. New mediation programmes have been created in all countries.

France was a pioneer in the field of mediation in the energy sector. After the creation of mediators within the public monopolies of the time—EDF and Gaz de France—a further step was taken with the creation of the National Energy Ombudsman in 2006. The EU Energy Directives of 2009 then confirmed the French initiative, by requiring all Member States to put in place truly independent mediation organisations. Since then, the development of mediation in France has been essentially based on the initiatives of companies or professional organisations and the National Energy Ombudsman has yet to see an equivalent structure appear in any other consumer sector, with the notable exception of the mediation service of the Financial Markets Authority.

The Ombudsman is an independent administrative authority, and it benefits

from a statute and source of funding that ensure its total impartiality with regards to the parties and which requires it to exercise transparency. Its main recommendations are published, which allows third parties to control their quality and also to improve practices for the benefits of all. (See **Achievements**). Its budget, resources, teams and even the Ombudsman's remuneration are all in the public domain. The situation is clear for both consumers and professionals.

The National Energy Ombudsman has an ambitious conception of mediation, which it shares with its European counterparts and the main consumer associations in France. An ombudsman must not only settle the individual disputes that are submitted to it with irreproachable impartiality, but it must also help to improve handling of all the claims made in the sector and help to prevent these claims from arising. If the claims process is to be improved—and there are currently around 2 million claims per year for the energy sector, taking into account all operators and channels—the Ombudsman needs to be easily accessible. The ease with which the Ombudsman can be contacted has a direct impact on the incentive for operators to improve their complaints process.



This accessibility depends on the criteria for assessing the eligibility of complaints—which must not form an obstacle to making the complaint—but also on the information given to consumers about the channels to which they have access. The best mediation system in the world would only be of limited use if consumers do not know that it exists when they need it!

Preventing claims from arising, by improving practices, requires great transparency. Not everything is necessarily confidential in a process of mediation and if we want it to be useful to the population as a whole, then it is indeed necessary to render certain aspects public. In addition, close collaboration between the Ombudsman and the authorities

in charge of the economic regulation of the sector is absolutely essential. The National Energy Ombudsman has a duty to alert the regulatory authorities of the sector: the Energy Regulation Commission, of course, but also the DGCCRF<sup>①</sup> and the DGEC.<sup>②</sup> It informs them of potentially abusive practices, provides them with statistical data for each operator and puts forward corrective measures.

Will such a model of mediation manage to develop in France and in Europe, for the benefit of all? We hope so. The example of [Ombudsman Services](#)<sup>ρ</sup>, the British counterpart of the National Energy Ombudsman demonstrates that it is perfectly possible to combine private financing with a truly independent mediation service.

\* \*  
\*

#### OMBUDSMAN SERVICES<sup>ρ</sup>



① Direction générale de la concurrence, de la consommation et de la répression des fraudes—General Directorate for Competition Policy, Consumer Affairs and Fraud Control

② Direction générale de l'énergie et du climat—General Directorate for Energy and Climate

E Q E L O V K T N P I U N V X  
P E F S G Z H J U E C H M D K  
R K S I Z E K G E D H W B F O  
Y O D R L G Q S G I F E H Z B  
V O F C J B H K U C W O N E R  
C O Y Z E H E F C C B V U B T  
E G B J P Y Y W D O P X D Q Y  
V P J V K W E Q I E R E O H H  
N K R P O C C H Q P R C Y O G  
Z C H W E Z K J D G S T O K R  
X L N E M S B D X U R T T Q  
G D E Z O H B X J K C G Y Y C  
C R O B D C G X U C D R P I S  
P A N N H C C W S I R C T X G  
S X C J K X O X I V T R V I K

**NEON...**  
or how the  
European Network  
of Independent  
Energy Ombudsmen  
is growing.



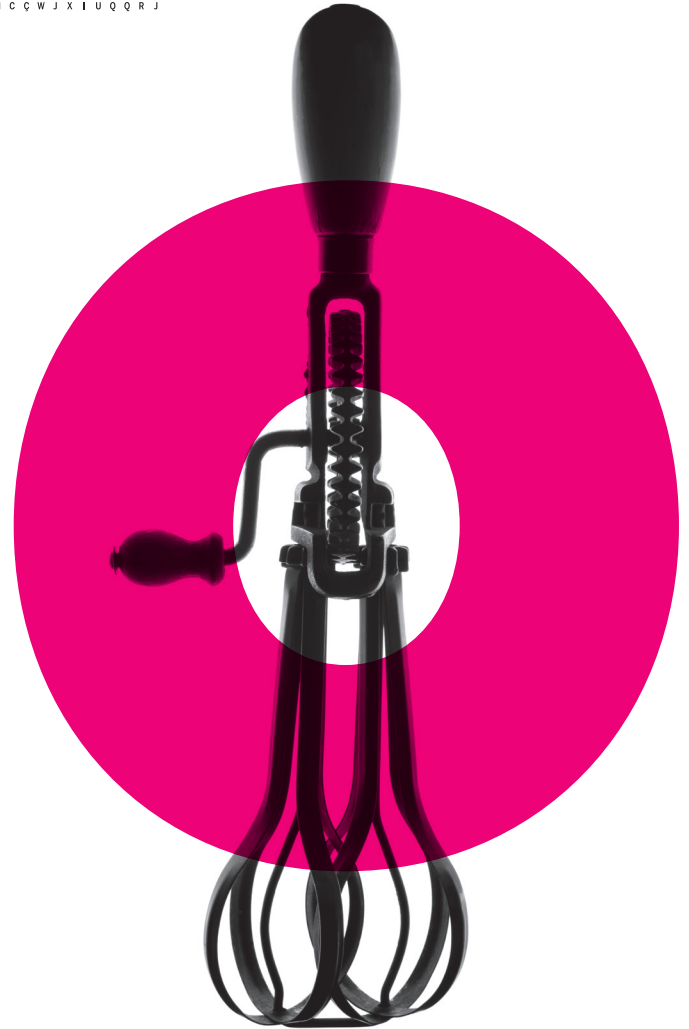
**NEON** *or how the European Network of Independent Energy Ombudsmen is growing* → NEON has nothing to do with light but everything to do with independent mediation. Neon is the acronym for National Energy Ombudsmen Network and brings together European energy ombudsmen services, all of which share the same values: independence from the companies of the sector, transparency with regards to their activity and their funding, effectiveness in the treatment of disputes. When it was created in October 2011, <sup>①</sup> the network consisted of a trio of ombudsmen from France, Great Britain and Belgium. Since 2012, it has been enriched with the participation of their Catalan counterpart. Contact is underway with the German, Dutch and Swedish services. The network seeks to be a forum for the exchange of best practices, and representation in European bodies and working groups. It has set itself the objective of promoting high-quality alternative dispute resolution methods in Europe.

<sup>①</sup> The creation of NEON was announced during the Citizens Energy Forum that was held in London in October 2011.



E C N V W Y O L F O I O G R Q  
Z I R J D M O E R Q I L M I Q  
P N Q Z D H L S E K R M O O V  
B C R S G N K R N U O S C Y Y  
S L E V N T B V U Ç D R X U K  
D G J O R G A N I S A T I O N  
Q Y O Q H T H V R J M C D Y F  
G L J I V Z A I A O M K K I F  
J I D D Y U E O C G Q Q D H M  
J F R R Q U Y C Z Q B T C Y L  
H C U Z L X T U J Ç M Q P N Z  
F Y C C I N N F B K G H A I  
Y A S U K D S V C U V J O N M  
C O P U G F R G R Z H X K H Q  
Z D N H C G W J X I U Q R J

**ORGANISATION...**  
or how to do  
more and better  
with less.



# APP

In 2012, the Ombudsman chose to put in place an Annual Performance Programme. This means managing the budget through the use of indicators that take into account aims, activity and spending.

# 46

people work for the National Energy Ombudsman.

Ⓞ The Ombudsman's budget comes in part from the CSPÉ, a tax paid by electricity consumers.

Ⓞ The 'second chance' process allows operators to study a claim to which they had not previously given a response, following intervention from the ombudsman.

# ORGANISATION *or how to do more and better with less*

→ Because the national and independent settlement of disputes has a cost for the community, Ⓞ the institution has sought to make the efficient processing of claims a constant priority since 2008. The budgetary context, which has been marked by the need for all State operators to exercise rigour, echos this and requires initiative to be demonstrated.

In September 2012, a new organisational structure was put in place, centred around three main hubs. The Information and Orientation department deals with all incoming contacts, whether complaints or requests for information. It brings together the expert group from Energie-Info, employees who examine the validity of complaints and those who work with consumers experiencing payment difficulties. The two other departments work on the processing of eligible complaints. The Consultation and Mediation department deals with 'second chance' cases Ⓞ and strives to find a maximum of amicable agreements. It updates the content of the Energie-Info website and its supplier-comparison tool and is a member of various consultation groups. The staff in the Studies and Recommendation depart-

ment process the complaints that are given to them and monitor the legal positions of the Ombudsman and the analysis of rulings that are made. They update the database of past rulings which is accessible from the Ombudsman's website.

In 2012, for the same headcount, the number of published recommendations doubled compared to the previous year. Our teams managed to handle more cases than the number of incoming valid complaints, which meant that the processing period for disputes was reduced and a large proportion of the backlog of pending cases was cleared. However, in 2012, the number of complaints stopped increasing, and even showed a slight decrease compared with previous years. This can be explained by an improvement in the way claims are processed by operators, which is a positive point, or by the ongoing confusion in the minds of consumers between the company ombudsmen and the national institution. But the fact that the contact details for the National Energy Ombudsman will be included on all bills from 2013, coupled with the extension of its competencies by the Brottes law, means that we could see the number of complaints rise again. To anticipate this and to adapt to the changing

## DISTRIBUTION OF STAFF PER DEPARTMENT



21%

informing consumers about their rights



64%

recommending solutions to disputes



15%

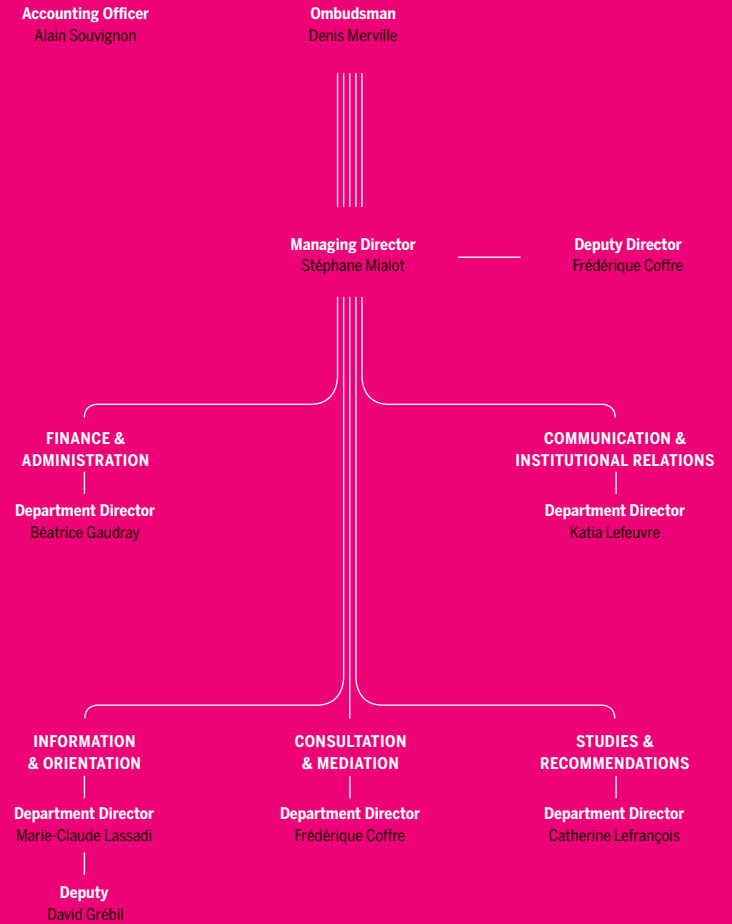
Support (management, administration – finances, communication)

## ORGANISATION

expectations of consumers, the Ombudsman is developing its online dispute settlement service. (See **Sollen**). “Our ambition is to maximise our use of ‘smart productivity’, which means being more productive whilst improving the quality of the service provided to consumers and operators,” declared Denis Merville.



## ORGANISATION CHART ON 30 APRIL 2013



Bruno Lechevin held the position of Chief Representative until 13 March 2013

E T S P V A K P B A A C L D U  
P J B K T S W A T M O V F K C  
U R W I S C Y R P Z V F F I O  
H Z O E E T A T A W L E P W N  
Q V Y T C E K E R C D A R E S  
C R G X E Ç J N U A K G E H O  
C P G T F C O A X V W Y S E M  
H L R R Y N T R Z G J I C L M  
Q N W E Q M B I Ç K O G R K A  
T N H N C G I A O G U W I W T  
P T P N B A D T X N Y O P G E  
Y F Q I W U R S N S O O T S U  
E N E R G E T I Q U E W I O R  
J K M Z K V Z Y T Y N C O A S  
P V Ç V B G S B M E I Ç N H W

**PRÉCARITÉ ÉNERGÉTIQUE...**

*Fuel poverty...* or how  
to make progress on  
an issue that is a priority  
for national solidarity.

**PROTECTION DES  
CONSOMMATEURS...**

*Consumer protection...*  
or how to better protect  
them against businesses.

**PRESCRIPTION...**

*Back billing time limit...*  
or how to limit the time  
period during which back  
billing is allowed.

**PARTENARIATS...**

*Partnerships...* or how  
 $1 + 1 = 3$ .



**CONFERENCE P**

The 'Précarité énergétique: comprendre pour agir' (understanding fuel poverty in order to take action) conference organised in conjunction with the French Energy Regulation Commission (CRE) was held on 22 March 2012.



**FUEL POVERTY** *or how to make progress on an issue that is a priority for national solidarity* → This is a phenomenon which the Ombudsman has helped to highlight over the last few years and a first conference P was organised in 2012. Despite an improvement in assistance schemes, fuel poverty is worsening: last year, 18% of the cases handled by the Ombudsman's services involved people who were having trouble paying their energy bills. The average amount outstanding was over 1,900 euros. In 2011, this figure was at 15% and the average outstanding amount was around 1,900 euros. After winter 2011-2012, a record was reached in July with more than 25% of cases and an average outstanding amount of 2,500 euros. The Baromètre Énergie-Info report ① confirmed this trend: 42% of French consumers limited their use of heating to avoid hefty bills and 11% had trouble paying the amounts owing.

Because the Ombudsman receives their calls and assists them in their efforts, it knows who is affected by fuel poverty: single parent households, senior citizens on small pensions, people who have lost their jobs and had a sudden drop in income, people receiving basic welfare benefits, households with excessive debt, or people with low incomes

① The 6<sup>th</sup> Baromètre Énergie-Info report was published in October 2012.

② In two years, gas prices have risen by 25% and electricity prices by 8%.

who are living in poorly insulated dwellings and sometimes end up with astronomical bills. Fuel poverty results from a combination of three factors: low income, poor thermal performance in dwellings, and the high cost of energy. ②

Because energy prices will continue to increase, tackling fuel poverty has become a priority. Consumers can end up trapped in a vicious cycle when they are unable to pay their bills. *“With several unpaid bills, communication with the supplier sometimes breaks down,*

“The UNCCAS’s 2012 report on local social welfare confirms that fuel poverty has increased nationwide. The most frequent request from people in difficulty when they visit the community welfare action centres (CCAS) is the payment of their energy bills. These action centres work with energy suppliers locally to find solutions and implement prevention measures. But these are limited. It is unacceptable that nowadays some alternative suppliers do not offer the social tariff

for gas and that only EDF is currently able to apply the social tariff for electricity. Extending social tariffs and making them automatic is a good thing, but this does not solve all situations. For example, it could be worthwhile to come up with a system for applying the tariff based on ‘residual income’ instead of a certain income level, in order to better assist people experiencing difficulties and reduce disparities in situations according to the place of residence.”

**DANIEL ZIELINSKI**

Chief Representative of the UNCCAS (National Union of Community Welfare Action Centres)

(Interview conducted prior to the law dated 15 April 2013)



## NFPO

The National Fuel Poverty Observatory aims to improve knowledge of the phenomenon by gathering data that is currently scattered, on income, energy uses, and the state of dwellings.

## 8M

people were living in fuel poverty in 2010, according to INSEE (the French National Institute of Statistics and Economic Studies). These people spent more than 10% of their income on energy. In Great Britain, a report published in March 2012 challenges the relevance of this indicator. It suggests that 'residual income' should be taken into account instead, the income that is left over after paying the household's energy bills.

*as it becomes difficult to arrange a payment schedule and the threat of disconnection becomes very real. There is also a risk that the operator will terminate the service and turn to specialised companies to recover the debt,"* explains Marie-Claude Lassadi, head of the Information and Orientation department. At this stage, it becomes incredibly difficult to find a new supplier, as none want to be burdened with 'bad payers'. The only solution then is for the consumer to lie and say they've just moved. In some cases, when the supplier initiates the termination, the power supply might not be cut off until several months later and low-income households end up with paying extra for 'consumption without a contract'.

The rising price of energy, combined with the economic and social crisis that is affecting a large number of French consumers, will aggravate these dramatic situations. With such a situation comes the risk that certain households will make decisions that are dangerous for their health and safety, by going without heating or by blocking off air vents. And that they will end up being marginalised because of their unpaid bills. For all these reasons, the Ombudsman believes it is urgent to tackle this problem head on. Energy is a basic need which must be priced

"In 1999 we decided that we would no longer provide financial help for paying energy bills, because public assistance schemes had been created. But we ended up reconsidering that decision, because these schemes are too difficult to access and insufficient funds are allocated to them. Between 2004 and 2010, the assistance we provided for energy bills increased by 82%. Increases in basic welfare benefits are far from being in line with increases in the price of gas and electricity. We advocate the idea of energy protection measures for the most

All consumers pay the CSPE, the tax which finances electricity public services and social tariffs in particular. A family of four using electric heating pays a bill of approximately €1,500 per year.

vulnerable; measures which would cover all forms of energy. Significant financial efforts are being made to ensure people in vulnerable situations are able to access and remain in housing, but if the latter has no heating or lighting, it isn't a real home. The amount of aid allocated to energy must mirror the rise in energy prices. Longer payment terms must be granted to people experiencing difficulties and these should be established based on their actual repayment capacities and not the rules set by the suppliers."

The basic needs tariff (TPN) enables them to save €140 on their bill. But they contribute €150 to the CSPE. Therefore this household pays more than it receives...

## BERNARD SCHRICKE



Director for  
France-Europe at  
Secours Catholique

## ANALYSIS

When the poorest pay for their own social tariff

€90

average yearly discount on an electricity bill when the customer benefits from the basic needs tariff (TPN)

fairly but solidarity means that its access must be guaranteed to the most vulnerable. ①

Given that the bill payment assistance scheme is insufficient, complex and sometimes unsuited to the situation, in 2011 the institution suggested replacing social tariffs with an 'energy voucher'. This voucher for a greater amount would benefit the 4 million low-income households. Although all players

## FABIEN CHONÉ



Deputy CEO of Direct Énergie

(Interview conducted prior to the law dated 15 April 2013)

"Because consumers living in fuel poverty are more sensitive to price, they are more inclined to use the services of alternative suppliers. When our customers do not pay their bills, we are criticised for threatening to disconnect them. But if we were to bear the cost of all these unpaid bills, we would soon disappear! Fuel poverty is not only the problem of energy suppliers. Above all, it is a matter of national solidarity. We have been saying for a long time that the current social tariffs are insufficient, both in terms of the number of beneficiaries and the amount. And it is scandalous that only EDF can apply the social tariff for electricity! Our electricity customers cannot, as with gas, cumulate the advantages of both the social tariff and our offers. It is also unacceptable that EDF's are the only company to have their contributions to the FSL (housing solidarity fund) compensated to them by the CSPE! We should tackle the problem with an ambitious policy for overcoming fuel poverty rather than stigmatising the competition, which is a source of competitiveness and innovation that is all the more essential during times of crisis."

concerned (suppliers, charity organisations, government bodies, economists, etc.) agree with this initiative, it has not yet been implemented into policy.

The Ombudsman has also fought for an extension of the winter moratorium on disconnections, as well as the establishment of a supplier of last resort for consumers whose supply has been terminated due to unpaid bills and who are now unable to find a new supplier.

This curative measure must be combined with actions on dwellings. The rehabilitation of energy-inefficient homes is a major objective and not just where social housing is concerned. Many owners of private houses are concerned, particularly in the provinces. This was one of the lessons of Grenelle de l'environnement, the French Environment Round Table. The 'Habiter Mieux' programme ② is a first step to improving the energy efficiency of homes. Renovated dwellings make energy savings of 39% on average. The implementation of this type of programme must be accelerated and intensified. Renovations are the only long-lasting solution for reducing fuel poverty. Let's hope that the debate on energy transition will free up the necessary resources and simplify procedures, as the latter are often too complex.

€156

reduction on the gas bill of a family using gas heating, when they benefit from the special solidarity tariff (TSS)

① In 2012, 2% of the CSPE went to funding social measures, whilst 41% was allocated to renewable energies.

② With a budget of 1.3 billion euros, the 'Habiter mieux' programme aims to renovate 300,000 energy-inefficient homes. In 2012, only 15,000 dwellings had been renovated.

**PROTECTION** *or how to better protect them against businesses* → It is widely accepted that consumers need to be protected against businesses. Even though certain voices are occasionally raised to criticise consumer protection law for contributing to the infantilisation of individuals, this law is constantly enriched with new approaches both on a French and European level, and particularly approaches based on behaviour analysis.

In September 2012, a report submitted by the CAE or Conseil d'analyse économique<sup>①</sup> (Economic Analysis Council) to Benoît Hamon, the French Minister in charge of the Social and Solidarity Economy and Consumption, showed that the markets are incapable of protecting consumers effectively, as the latter 'suffer from a limited rationality' that prevents them from understanding complex, excessive, or even hidden information on the products and services they purchase. Several measures were put forward to remedy this, including class action.

The draft consumer legislation presented during the first half of 2013 draws inspiration from these. Will class action—a never-ending debate in France—see the light of the day? The National Energy Ombudsman believes this

<sup>①</sup> On 10 September 2012, the CAE presented the report entitled *La protection économique du consommateur : rationalité limitée et régulation* (Financial protection of the consumer: limited rationality and regulation) to Pierre Moscovici, Minister for Economy and Finance and Benoît Hamon, Minister in charge of Consumer Affairs.

The energy sector is no doubt the only consumer sector where, without prior notice, an individual may receive an unexpected bill for several thousand euros, debited from their account a few days later. (See **Back billing time limit**) In this context, it can be worrying to have suppliers encourage payment by direct debit. Especially since the direct debit order has often already gone through by the time the consumer receives their bill. What is the only solution when faced with such a hefty bill? Ask the bank to put a stop on the payment and pay the associated bank fees...

Fortunately, most suppliers offer other payment options, even if they don't always promote them (bank card, electronic payment, interbank payment order, etc.). The law also requires all suppliers to accept bill payments in the form of cash or cheques, without charging any additional fees at their end for this... although the consumer might incur charges of their own. Now that local branches have practically disappeared, except for EDF's to a lesser extent, the only way to pay in cash is to buy a money order from a post office. Before the markets were opened up, EDF bore the cost of this money order; but in some cases, certain suppliers now expect the customer to pay this cost. Although we understand the need to direct people to the payment methods that are cheapest for the community, the fact remains that consumers who pay cash often do so because they have no other option. This is the famous double jeopardy criticised by Martin Hirsch, President of the Civic Service Agency: poor households pay more for basic services than others do.

This situation calls for research into bill payment methods and their cost and the National Energy Ombudsman will conduct this in 2013.

#### ANALYSIS

Payment methods and consumer protection

could be a good thing, because individual and collective mediation is only meaningful if legal action is possible. (See [Justice](#))

Today, the protection of electricity and gas consumers rests on a number of public bodies working every day to ensure that the adopted legal provisions are applied: government bodies, of course, including consumer affairs (DGCCRF), but also energy (DGEC), the energy regulator (CRE) and the organisation responsible for resolving disputes amicably, in other words the National Energy Ombudsman.

In early 2013, the European Commission organised a workshop as part of the European Consumer Summit, to identify ways to leverage a higher degree of collaboration between all of these organisations in order

**ANALYSIS**  
Group mediation  
also exists

In Notre-Dame-de-Gravenchon in 2011, a dispute with GRDF regarding the standardization of gas connection boxes involved several dozen households. With the assistance of the National Energy Ombudsman,

a new solution was identified that was highly advantageous for all concerned: since the DSO agreed to pay for a significant portion of the work required, each household was able to save several hundred euros.

to facilitate the implementation of public policies relating to consumer protection. The National Energy Ombudsman participated, sharing its wealth of experience of close collaboration with the CRE, the DGCCRF and the DGEC: working groups, statistics sharing, consultations on draft legislation and regulatory texts.

The existence of an industry-specific organisation in charge of resolving disputes amicably is an interesting feature of the energy sector. Indeed, the public authorities can rely on the support of an expert and pragmatic body that has first-hand experience of consumer issues but is also aware of supplier constraints. As the Ombudsman has the right to speak freely, it is also able to take a stand on sensitive issues such as the rise in energy prices. Lastly, its impartiality can reassure and extinguish controversy. For example, after conducting the investigations requested by the Minister for Energy at the time, the National Energy Ombudsman managed to restore calm by clearing GDF Suez when it was accused of deliberately overestimating customer bills in the summer of 2009.

**BACK BILLING** *limit time... or how to limit the time period during which back billing is allowed* → The law dated 17 June 2008 regarding the reform of back billing time limits represents real progress for consumers, since businesses can only recalculate customer bills over a period of up to two years, ① where previously it was five. If the creditor does not act within this time period, they will not be able to recover their debt. As the Ombudsman is often called in to assist consumers who are contesting big bills for recalculated consumption, it is clear that this rule is not always applied.

“Consumers don’t always know their rights,” says Catherine Lefrançois, head of the Studies and Recommendations department. “Given the ever-increasing price of energy, back billing over several years has a huge impact on a household’s budget.” The Ombudsman considers that the two-year limitation applies. Because businesses have the means to know what is owed to them. “We believe the meter reading is the most objective and concrete starting point for the limitation period.” This opinion is shared by the French Energy Regulation Commission’s (CRE) legal department and several limitation legislation specialists.

Several complaints led to businesses ap-

① Article L 137-2 of the French Consumer Code

plying the two-year limitation period and cancelling the billing of any consumption prior to this period. Nevertheless, certain differences in approach remain for certain types of disputes, with DSOS in particular. GRDF, for instance, refuses to apply it if no meter reading is available for several years, on the grounds that it is not responsible for not reading the meter if the consumer has never been present. In the absence of a reading, GRDF considers that the limitation period has not yet started and grants itself the right to bill consumption going back further than two years.

These differences in approach are also evident when consumers have consumed energy without having a contract with a supplier. Because of the lack of a contract, the DSOS consider that they can back bill over five years or more. Yet when a point of delivery is no longer assigned, they have eight weeks to disconnect the electricity supply and twelve weeks to cut off the gas. “In order to avoid sending agents out, DSOS do not always observe the intervention scheduling. When the excessive duration of consumption without a supplier is the result of a business decision or of negligence on the part of an operator, the consumer should not be penalised.” ②

#### CONCRETE EXAMPLE

Mrs H. submitted her complaint to the Ombudsman as she was disputing an electricity bill for €2,160, which was much higher than her usual yearly bills. Her meter had not been read for almost two and a half years and her bills had been based on consumption estimates, which explains why her bill was so high once the meter had been read. The Ombudsman made a recommendation to cancel all back billing for consumption that occurred outside of the back billing limitation period, in this case €923. The supplier complied with the recommendation.

② The DGCCRF is conducting an extensive legal analysis of the matter

And here's another contentious issue: when a remote metering system doesn't work properly, suppliers are known to back bill over several years. According to them, any consumption recorded by the meter should be paid for. But the Ombudsman disagrees, since inconsistencies in the meter readings transmitted remotely should raise a red flag and prompt businesses to react.

On the other hand, if a bill recalculation needs to be performed in favour of the consumer, a limitation period of five years must apply, from the time the consumer noticed the anomaly. Which means that we can go back a lot further if the anomaly was not detectable.

The Ombudsman is dealing with a complex legal issue and working to implement legal provisions relating to the time limit, so that operators can apply them simply. This is also a way of making businesses more accountable when it comes to meter readings and have them take them properly into account, and of ensuring that unacceptable (but not uncommon) situations where a meter is not read for several years in a row do not persist.

To go even further, the Ombudsman is looking into the matter of limiting back billing to one year instead of two if the consumer is not responsible for the recalculation

and it is clear they are acting in good faith. British <sup>ρ</sup> energy suppliers have voluntarily adopted similar measures. *"A supplier can wake up one day and ask you to pay several thousand euros' worth of debt going back up to two years. Because current charges have to be added to the debt repayments, a household already made vulnerable by the crisis is sure to find themselves in severe financial hardship,"* explains Frédérique Coffre, head of the Concertation and Mediation department. To date, however, suppliers have not been keen to look beyond the limitation rules in the interest of consumers, even though they sometimes agree to follow the Ombudsman's recommendations in this matter. With the advent of smart meters, the matter of reducing back billing time limits will eventually have to be reassessed as energy suppliers will have real-time knowledge of how much their customers are consuming. In the telecommunications industry, the back billing time limit has been set to one year for several years already.

**PARTNERSHIPS** *or how 1 + 1 = 3* → There is strength in numbers. The Ombudsman has made this motto its own by forging partnerships with

#### **BRITISH** <sup>ρ</sup>

In Great Britain, the 'code of practice' adopted in 2006 by the Association of Energy Suppliers limits back billing to one year if the consumer is not to blame for the issue. The issue might be: the absence of a meter reading for more than one year, customer meter readings not taken into account, a bill not stating that it is based on consumption estimates, etc.



various institutions. First and foremost, with the French Energy Regulation Commission, the Ombudsman's historic partner, with whom it shares the **Énergie-Info** service (see **Énergie-Info**), logistical resources, as well as common projects such as the organisation of a conference on fuel poverty in 2012. With the Institut National de la Consommation (National Consumers Institute), it reinforces its mission to provide information to consumers, via the Consomag programmes or studies on specific themes. The agreement entered into with the FNCCR (National federation of local public energy, water and environment services) aims to encourage the sharing of information regarding disputes and to elaborate and defend common positions. With the Association of French Mayors, the aim is to develop the awareness of elected officials regarding issues that exist in the energy industry and help them better meet the needs of the citizens of their town or city.

① The partnership with the INC began in 2009.

② The agreement with the FNCCR was entered into in March 2011.

③ The partnership with the Association of French Mayors (AMF) was signed in May 2011.

To tackle fuel poverty, a strong collaboration has been established with the UNCCAS (National Union of Community Welfare Action Centres) with a view to increasing available information on the assistance available for paying outstanding bills and helping

with cases involving people in situations of hardship. The Ombudsman discusses this topic regularly with specialised NGOs such as Fondation Abbé Pierre and non-specialised charity organisations such as Secours Catholique. With the French Environment and Energy Management Agency (ADEME), the Ombudsman defends common positions and delivers information regarding energy savings on the energie-info.fr website.

And finally, the Ombudsman regularly holds meetings with consumer associations to discuss various topics. Positions are sha-

“The National Energy Ombudsman and the INC have forged a partnership that is enriched by our respective areas of expertise: the energy industry for the Ombudsman, and consumer concerns and appropriate means of communication for the INC. We work together to keep customers informed through the Consomag TV programmes, radio campaigns and videos on the web. In 2012, the theme for these campaigns was ‘Énergie : faites jouer

la concurrence’ (Energy: shop around for the best deal). The qualitative studies conducted after they were broadcast shows that consumers are starting to become familiar with the complex electricity and gas market. But, as the recent study we conducted on the Linky meter shows, there is still a lot of work left to do. Consumers can only benefit from the partnerships between the National Energy Ombudsman, the INC, the energy suppliers and partner installers.”

FABIENNE CHOL




Director-General  
of the INC (National  
Consumers Institute)

**ANALYSIS**

Other partnerships:  
energy suppliers and  
installers

**ENERGY SAVINGS  
CERTIFICATES** 


There is a well-known trick used by building professionals to obtain an appointment with a consumer: they introduce themselves as a “partner of EDF Bleu Ciel” or a ‘partner of GDF Suez Dolce Vita’. Indeed, as the Conseil national de la consommation (National Consumer Council) reported in 2012, *“the consumer transfers the trust they have in the supplier to the approved installer.”* But when the relationship between the consumer and the installer turns sour, the suppliers are reluctant to get involved. When approached regarding a dispute relating to an unkept promise that the consumer would save on energy after installing a heat pump, here is what one supplier told the Ombudsman: *“All EDF did was provide the customer with a contact and therefore we cannot be held liable.”* The Ombudsman considers that, on the contrary, suppliers have at least a moral if not a legal responsibility to resolve disputes involving their partners. Especially given that suppliers do not merely put the customer in touch with an accredited installer for free, as certain consumers would believe. The suppliers have a financial interest in the work performed by their partners, as it enables them to collect the precious ‘energy savings certificates’  necessary for reaching the restrictive objectives set by the government.

red within the discussion groups set up by the CRE and the public authorities, and joint projects are initiated, such as the one aimed at improving the information included in the terms and conditions of suppliers. (See **Consultation**)

Through this networking, the Ombudsman, which is a national body with no regional offices, intends to create ties at the local level and find intermediaries in the field. The Ombudsman provides its partners with technical and legal expertise; delivers training courses on energy; and participates in conferences to make presentations and answer questions in a practical manner. On a broader level, these partnerships reinforce and give credibility to the recommendations made in order to improve the way the markets work, for the benefit of all.

**TOGETHER**

In the Linky focus groups in 2011 and 2012, the National Energy Ombudsman and ADEME defended a common position to provide free information to customers in real time and in their home. Within the context of the partnership with the Association of French Mayors (AMF), certain elected representatives were invited to participate in the first conference on fuel poverty held in March 2012 and jointly organised by the National Energy Ombudsman.



B Q O R E X K H T Q K T C B Z  
W Q K R Y V M C S A W M Z E J  
L U V Z Q N N P I L K H R A B  
U S V A Q Z K X M F O U A O F  
Q H K C L L E O Y X T G B C H  
K F C T C K H E J I R T J E M  
S Z Y Y F J K N R B A E G I  
P Z F K M S I R J U T Q X C H  
I M C V Y O U C D U M A R C Z  
W P W B O O U O Z A Y J S C K  
T U E B F L V P A R J B E Q S  
X L Q L S X M A A M V R S C X  
E B G Z N M T R F G R T U S B  
U Q U A L I T E C G G O L W C S  
C L B U A R Z C U V R U I N T

**QUALITÉ DE  
FOURNITURE...**

*Supply quality...*  
or how to manage  
unexpected problems  
with the grid.



7,5%

of disputes dealt with by the Ombudsman in 2012 related to the quality of the power supply.

60%

of recommendations were not followed by ERDF.

**SUPPLY QUALITY** *or how to manage unexpected problems with the grid* → Unscheduled power cuts, poor power quality, power drops or surges that prevent the use of, or cause damage to, electrical appliances... These are the source of numerous complaints from consumers to the Ombudsman. Such disputes often prove to be complex and difficult to resolve and frequently give rise to disagreements with ERDF over interpretation. In 60% of cases, suppliers do not follow our recommendations and very rarely pay compensation to the customer.

First, it is not easy to establish a causal link between a poor quality electricity supply and the difficulties suffered by a customer. ERDF is

LADISLAS  
PONIATOWSKI



Senator and President of the inter-communal syndicate for gas and electricity for the Eure department of France.

“It is clear that over the past decade, supply continuity has followed the downward trend of DSO investments. Power quality is a real issue for rural towns and villages, which are having to devote a significant proportion of available resources to improving the network, in order to reduce the number of users that are poorly sup-

plied and to predict the risks of degradation. It is also an issue for ERDF, which is contractually liable for operating and running the service at its own risk; the operator cannot therefore legally take any other position than to accept the responsibility given to them by the licensing authorities. The licensing authorities

often unwilling to recognise that there was a problem, thereby exonerating itself from any responsibility. “*Only certain instances of force majeure, such as extreme weather conditions, relieve the DSO of its obligations in respect of supply quality,*” explains Catherine Lefrançois, head of the Studies and Recommendations department. “*However, most of the incidents that are deemed to be technical issues are a normal part of network life and do not fall within these exceptions.*”<sup>Ⓞ</sup>

Where power dips below normal levels, causing a need for the network to be strengthened, ERDF sometimes defers responsibility to the network owners, in other words the Licensing Authority (the municipality or its representative). The Ombudsman has made

and the suppliers may understandably be displeased to be required to carry out unexpected reinforcing works after heavy electrical equipment is installed. For this to change, electricity standards will have to be met. We also have to improve cooperation: the consultation procedure introduced by the NOME law is the first stage, which could

be enhanced by many other measures, as the Ombudsman has suggested. Sharing information is a crucial element to improving the quality of electricity distribution. However, for it to pay its dividends, any dialogue must be within the framework of the concession contract and should avoid short-term investment.”

Ⓞ Law number 2000-108 of 10 February 2000

**GILLES GALLÉAN**

Technical Director  
of ERDF

“The French electricity distribution network is one of the best in Europe. Despite an increase in climate issues, the quality of electricity distribution achieved by ERDF has been maintained at a good level in 2012, thanks in particular to some significant investment. The levels of quality that public electricity grids are expected to meet are set by regulations drawn up by public authorities. It is within that framework that ERDF develops, operates and maintains the 1,300,000 km of lines that serve 35 million customers, providing a service 24 hours a day, 7 days a week. However, inherent to operating an electricity grid are electrical phenomena that can affect distribution. The most common types of disruptions, as defined by European standards, are long power cuts (>3 minutes), short power cuts (between 1 second and 3 minutes), very short power cuts (<1 second), temporary surges (<1 second) and power dips (<1 second). All ERDF’s modernisation and maintenance activities and its proactive approach to developing new technologies such as the ‘smart grid’, are intended to reduce incidence and duration rates, and to provide the best possible supply to customers. The distribution networks are equipped with a number of auto-responses designed to limit the effects of disruptions. Obviously, we look carefully into any complaints where customers feel that they have suffered damage to electrical appliances due to something that happened on the network and each case is analysed to verify whether there was any particular incident. We are committed to offering compensation for every time that a network anomaly is found. Finally, you should know that the electrical appliances used by our customers, assuming that they are compliant to the standards in force, are built to withstand the most common types of disruption.”

the following case in a number of its recommendations: the DSO operates and maintains the network under a licence; according to the terms of the electricity supply contract, it is responsible to the consumer for such failures in the supply quality—the decision delivered by CoRDIS (Dispute Resolution and Sanctions Committee) on 2 April 2008 having established a direct contractual link between the DSO and its clients. *“While they wait for network strengthening works, consumers are not receiving an electricity supply that meets standards and have to put up with a number of inconveniences—the disrupted use of appliances, excess consumption, etc. We believe that they should be indemnified by the DSO.”* However DSOs only pay compensation where they accept that they are responsible for the failure, such as when they are late in warning the licensing authority.

Rural zones are particularly prone to suffering from the grid’s ‘mood swings’. Higher customer demands, coupled with more modern living conditions—houses with heat pumps, induction hobs, single-phase electricity systems (rather than the more common three-phase systems that used to be typical in the countryside)—require far more power from a network that is not equipped to res-

**DUTY TO PERFORM**

In October 2012, the Caen Court of Appeal delivered an Order reminding ERDF of its duty to perform with regards to ensuring the supply of electricity and that it cannot abrogate its liability simply by demonstrating an event of force majeure or other external cause. The court found ERDF liable and ordered it to pay 2,500 euros to Mr and Mrs La Cour (under article 700 of the French Code of Civil Procedure) in compensation for a power surge that resulted in a dehumidifier catching fire, causing damage to their home.

② Comité de règlement des différends et des sanctions de la Commission de régulation de l’énergie (The Sanctions and Dispute Resolution Committee of the French Energy Regulation Committee)

**THE EVIDENCE FROM LINKY**

With the Linky smart meter, all power cuts that last longer than a second will be recorded. It will therefore be much easier for consumers to provide evidence of a network problem. The Ombudsman will be keeping a careful eye on the procedures that govern the preservation of this information and the way in which individuals can gain access to it.

pond. It must be said that the current conditions make it difficult for licensing authorities and DSOS to anticipate demand and thus to undertake the necessary work.

The Ombudsman considers that an improvement needs to be made in the amount of information available to DSOS and network owners before electrical equipment that may disrupt the network, such as heat pumps, is installed. Consumers can help with this by making a simple declaration at their local town hall, similar to the declarations for other kinds of works. Headway is being made in this area, and further progress is expected in 2013.

However the DSOS cannot be exempt from the cultural shift taking place in the way com-

**ANALYSIS**

a 6-hour power cut = a loaf of bread

Where the electricity supply is interrupted, legislation provides a flat-rate reduction to distribution tariffs of 2% for each 6-hour period of continuous power cut. This mechanism is sometimes wrongly presented by ERDF as a form of indemnity. In any event, the reduction is ridicu-

lously low when you take into account the degree of inconvenience suffered, and is well below levels of compensation found in other European countries: €0.97 excl. tax for a power cut between 6am and 11am, double that for a power cut between 12pm and 7pm, with a 6kWA 'Base' contract.

\* \*  
\*

penetration requests are handled. *“ERDF fears that by following some of the Ombudsman’s recommendations, it would open the flood-gates,”* explains Stéphane Mialot, Director of Services. *“And it is true that the issue goes far beyond the tens of thousands of euros at stake in the cases that we are currently handling. And yet, ERDF can’t swim against the tide: fifty years ago, French households were so pleased simply to have electricity that they didn’t ever dare complain. Now, they see ERDF as a service provider just like—well, almost—all the others.”* This indemnity will, of course, have a cost attached but in order for DSOS to be encouraged to make improvements, ‘zero quality’ should cost them more than quality.

M M C C N Y R G V C E M E K S  
E X O E C G P Q A O C E Q N C  
N C F T S F X Y Q T F N O K F  
J B I N W V V L C D A I V R J  
S B P V Y N N P T A T U P E W  
C R E M C N H M K A O H H C M  
H W R V E J T R D T A V Y L M  
U V B D I J C N C E F U V A N  
Y U U S B A A C R K B Y N M V  
R Q L T Z M M D S Y D C H A B  
M B A J M K D V Q V I C J T N  
U A C O Q C X X B M N Q C I G  
U W C R H Y R I G F F X G C C  
Z E G U Y J W J B A X R F N P  
R E Y L M J C E O X W Z I S A

**RÉCLAMATIONS...**

*Complaints...* or how the operators are gradually improving.

**RECOMMANDATIONS...**

*Recommendations...* or how the Ombudsman resolves disputes.



9%

of households say they have made a complaint or been in dispute with their supplier in 2012.

24%

of complaints involve payment issues

23%

involve problems with a bill

19%

involve contested usage

15%

involve difficulties with a meter

(Annual Baromètre Énergie-Info report on the opening up of the market, from October 2012)

**COMPLAINTS** *or how the operators are gradually improving* → The complexity of implementing market liberalisation was accompanied by a number of shortcomings that led to an increase in complaints. Through regular exchanges with operators and focus groups, the Ombudsman's contribution has been to ensure that companies now take customers' complaints much more into account—even those that don't make it as far as the Ombudsman.

In the report delivered to the then Minister for Energy in December 2010, a number of suggestions were put forward: that businesses undertake to respect response times, that they notify customers in advance where this is not likely, that they simplify complaints procedures to save consumers from an arduous obstacle course, that they name a dedicated contact person to deal with representatives or associations that relay customer difficulties.

In 2012 the Conseil national de la consommation (the National Consumer Council) working group delivered an Opinion that incorporated some of these recommendations. Ⓢ It stipulated that *“suppliers [should] handle the majority of complaints within less*

*than a month, at all levels of the process”* and that *“they [should] inform customers that their complaint was being dealt with, and how long it was likely to take (...), particularly if it was likely to overrun.”* It also encouraged operators to have interlocutors who are specialists in dealing with social services and associations, in order to *“to handle requests of an urgent nature.”* In addition, the new billing decree Ⓢ requires businesses to put their complaints department contact details on bills. (See **Billing decree**).

The manner in which complaints in the energy sector are handled has undoubtedly got better over the past few years, as witnessed in 2012 by a reduction in the number of complaints received by the **DGCCRF** Ⓢ or referred to the Ombudsman. However, it is a pity that so little information is available about the number of written complaints that have been received by the operators; even more so for complaints made over the phone. There is also scope for improvement in terms of organisation. This is evidenced by the significant number of referrals to the Ombudsman, of complaints that have not been looked at by the operators: 38% of admissible complaints in 2012. The ‘second chance’ process that was introduced in 2010 provides

**DGCCRF** Ⓢ

Baromètre des plaintes complaints report: the number of disputes relating to energy dropped by 40% between 2009 and 2011

Ⓢ The working group within the CNC (National Consumer Council) called “The supply of electricity and natural gas: preparing for the future” delivered their report on 12 June 2012.

Ⓢ The new decree relating to electricity and gas bills was published on 18 April 2012.

suppliers with the option of reconsidering complaints that were not properly investigated initially. This ‘second chance’ is good for the operators, but also for consumers who feel that they have not been listened to. However, the Ombudsman remains alert to whether operators are keeping up momentum and improving their procedures for the benefit of everyone, so that one day there will be no more need for second chances; in reality, shouldn’t all complaints be dealt with properly the first time round?

**RECOMMENDATIONS** *or how the Ombudsman resolves disputes* → One of the National Energy Ombudsman’s main jobs is to recommend solutions in disputes between energy consumers and operators. Ⓞ In 2012, Denis Merville reviewed and signed off on 2,376 recommendations: that’s more than for the previous four years combined. During the institution’s first two years, all the recommendations were published on the Ombudsman’s Internet site. Such transparency was very useful because we wanted to share what had been learned from the first disputes that we investigated by us and that regularly re-occurred. Given the thousands of cases now being handled, the Om-

Ⓞ Law of 7 December 2006 by which article 7 created a national energy ombudsman.

budsman has decided to post a selection of recommendations on the website, once a month. These are chosen for being the most symbolic: either because they raise a particular point of law or because they address a new problem. Individuals who find themselves in a similar situation, consumer associations, jurists and even operators, will all be able to find food for thought.

Operators are also legally bound to inform the Ombudsman, within two months, of how

“To reduce the number of complaints, we analyse disputes to try and pick out the sources of customer dissatisfaction and then respond with changes in our procedures (contract management or subscription, for example) or bills, which we redesigned in 2012 to make them easier to read. Handling complaints well is a way for us to reinforce customer confidence. In 2012, we created a specific telephone access pathway: customers who want to make a complaint are directed to specially trained technical and cus-

tomers services advisers. Those of our customers who contact us in writing now receive a delivery acknowledgement letter informing them that we have received their letter and setting out the process timetable; we undertake to do all that we can to be able to get back to customers within 30 days. We have also increased the size of our consumer services teams, which deal with complaints from customers who are not happy with the response given by customer services, as well as the disputes that we refer to the Ombudsman.”

MARC ALDEBERT



EDF’s Director of External Relations, Consumers and Solidarity.



**ANALYSIS**

When a supplier error resulted in a disconnection... over the Christmas holidays!



Mrs A. and Mrs M. contested the termination of their electricity supply contract—which took place without their knowledge or consent—and the electricity supply to their home was then suspended during the Christmas holiday period. The supplier acknowledged that it had terminated the contract after their point of delivery number (PDL) had mistakenly been assigned to another customer. That customer, who noticed that the PDL had been wrongly assigned, pointed out the error, which was rectified. However, EDF forgot to reinstate Mrs A. and Mrs M.'s initial contract and so, from the point of view of the DSO, their PDL was not associated to a contract. According to the legislation and regulations in force, a DSO need only maintain supply for eight weeks where the PDL's associated contract has been terminated. Because no electricity supplier had requested service during this period, the DSO disconnected the electricity—on 30 December. Following phone calls made by the customers that same day, the supplier asked that the electricity be restored as matter of urgency, but this only happened on 3 January. The reason for the disconnection, the time of year and the situation (young children in the house, electric central heating) undeniably justified a faster reconnection. In addition to the significant damages ordered against the supplier at fault, the Ombudsman recommended to DSO's that they should not disconnect supplies if they are not equipped with the means to reinstate a supply urgently by the end of that day or the following day, where required. The DSOs agreed to take this recommendation into account when they reviewed their disconnection procedures, something they envisaged doing within the focus groups created under the aegis of the CRE.

they intend to respond to its recommended solution. In the large majority of cases, recommendations are followed, and in 2012, the full and partial follow-up rate was 85%. Again, this is an area where there is room for improvement.

2012 saw a significant reduction in the time taken to process recommendations. It's the first year that the Ombudsman's office has been able to process as many files as it received, which gives hope that in 2013, it will be able to stick as closely as possible to the statutory

Mr G. changed electricity supplier in July 2009; one year later he received a back bill for 1,500 euros, which he thought rather excessive. During the 'second chance' procedure, the supplier confirmed the amount, based on the readings taken by the operator. Mr G. did not accept this and his dispute became a dispute. The Ombudsman's investigations brought

the origin of the dispute to light: the operator had estimated the change of supplier meter reading... at a lower rate than the reading taken three months previously. The Ombudsman recommended that the operator pay 100 euros in damages, but the recommendation was not followed, because the DSO considered that it had implemented the change of supplier procedure correctly.

**ANALYSE**

When an operator finds it reasonable to estimate a meter reading... that is lower than previous readings



## ANALYSE

When the courts proved the Ombudsman right in an issue concerning the quality of the energy supply



Mrs M. had been signalling repeated mini power cuts and longer power cuts since 2002, since when her hot water boiler control panel and her laptop had broken down and she had also lost the entire contents of her freezer. Some of the damage was covered by her insurance policy, but ERDF, who she turned to for the remainder, refused to pay any compensation, for the reason that the power cuts and mini power cuts were not “*of such a nature as to disrupt the electricity current to the point of damaging electrical appliances that meet manufacturing standards.*” Following an investigation conducted on behalf of both parties ERDF did, however, acknowledge that there had been a lack of quality in the provision of service that delivered electricity to the customer, and proposed the following: “*a change to the operating schema, [as well as] pruning at the medium voltage start-point,*” but it also reconfirmed that there was no link, according to it, between the failures and the damage suffered by the customer. The Ombudsman considered that the operator was liable for the damage caused to Mrs M.’s property because the following three conditions were met: the customer had proved that damage had occurred, it had been shown that there were incidents on the network and these were shown to be due to a failure by the operator to meet its obligations, and cause and effect between the incidents on the network and the damage suffered was at least plausible or corroborated by the evidence, if not proven. The Ombudsman therefore recommended that ERDF pay 2,400 euros inc. tax to Mrs M., which took into account the amount she had already received from her insurers. ERDF refused to comply with the recommendation. Mrs M. took the case to her local court, where the judge upheld the Ombudsman’s recommendation and ordered ERDF to pay the 2,400 euros plus 600 euros in legal fees (under article 700 of the French Code of Civil Procedure).

timetable (two months). It’s the first year that the Ombudsman’s office has been able to process as many files as it received, which gives hope that in 2013, it will be able to stick as closely as possible to the statutory timetable (two months). (See **Satisfaction**)

The Ombudsman’s office has also developed alternative methods for resolving disputes to written recommendations, and allowed mediation to play an important part: the ‘second chance’ <sup>①</sup> gives operators the opportunity to consider complaints that were not looked at by customer services, and consumers can ask the Ombudsman for a review. Amicable agreements enable all parties to seek a solution through dialogue, under the aegis of the Ombudsman. (See **Amicable agreement**) The Ombudsman’s office, which constantly seeks to improve the service it provides, is also developing a parallel online dispute resolution platform. (See **Sollen**)

\* \*

① 88% of consumers using the ‘second chance’ procedure accepted the solution proposed by their supplier; 57% because the compensation was satisfactory and 37% because they agreed with the advice given by the Ombudsman. (Ombudsman services user satisfaction survey carried out by Harris Interactive in February 2013.)

D H Y E O F P P U Y P S A T D  
C L O S U X J Q C B A K N L H  
O W Q O I U B U D M E E D H R  
R F A L C B U T O O M S D S N  
O O I L B F Z L T E I C F A V  
G Q Y E H Q P J T Z O D I T C  
D T F N K J J T B G E S Y I O  
N I Z D P D E V N Z R Y I S C  
S C P L W D Z D L F B X K F E  
V N X D N J Y B J N L L O A C  
M U Y E B D J F K J D V C C C  
O V R N J K C D V F N W A T L  
G U B W I T G C P K L R P I T  
S Q Z A P N Y X C A X I L O D  
W J H C Z G F W N N V E Q N S

**SOLLEN...**

or how to resolve  
disputes *via* the Internet.

**SATISFACTION...**

or how a large  
majority of consumers  
appreciate the work of  
the Ombudsman.

**SURENDETTEMENT...**

*Debt distress...* or how  
certain practices can have  
dramatic consequences.



**SOLLEN** *or how to resolve disputes via the Internet* → Sollen is the French acronym for Solutions Online in Energy Disputes (Solution en Ligne aux Litiges d'Énergie) and is the name of the online dispute resolution service that will be rolled out in 2013 by the National Energy Ombudsman. This tool, which will complement current methods for dealing with complaints, is an innovation in France and is the brainchild of an expert in this area, Marie-Françoise Le Tallec. ☺ The aim is to use the flexibility of the Internet to reduce the time needed to process disputes, by facilitating the communication between consumers, the Ombudsman and the operators.

Its aim will be to organise a dialogue between the parties, *via* the digital platform, supervised by the Ombudsman's team. The team will analyse each dispute and remind the parties of the legal arguments that can be used to resolve it, which are often unknown to consumers and sometimes forgotten by customer services departments. The consumer and the operator can discuss matters and find a compromise; the Ombudsman formalises the agreement and monitors its application. If the situation reaches a stalemate, the Ombudsman intervenes and proposes solutions. If an

☺ From 2004 – 2010, Marie-Françoise Le Tallec created and then ran the 'médiateur du net', Europe's leading online dispute settlement system. She is an expert consultant for the UNCITRAL (United Nations Commission on International Trade Law) on online trading, and for the French government within the framework of the draft European Regulation on online dispute resolution.

amicable agreement cannot be found, a substantiated written recommendation will be sent to both parties, as in the current procedure.

With Sollen, consumers can manage their case remotely and provide additional pieces of documentation, making them instantly available to all. If nothing happens for a few days, emails are sent out to reactivate the process. The dynamic nature of the online tool allows the consumer to feel reassured about the progress of their case, because they are constantly kept abreast of the situation.

The main suppliers have been involved in the development of Sollen, so that their customer service departments, which are in charge of managing enquiries from the National Energy Ombudsman, make the best use of this new tool. A users' charter should be drawn up during the consultation process, in order to clarify the rules governing the operation of the tool, notably regarding questions of confidentiality.

**SATISFACTION** *or how a large number of consumers appreciate the action of the Ombudsman* → In early 2013 and for the first time, a survey was carried out on the institution's dispute settlement work in 2012. ☺

#### REGULATION

A European Regulation on online dispute resolution was adopted on 12 March 2013. It will be applicable from 2015. It concerns all disputes relating to online sales or services contracts.

☺ Survey carried out in February 2013 by Harris Interactive with 440 persons who had called on the National Energy Ombudsman. This survey will be carried out each year from now on.

**93%**  
of consumers say they would recommend the National Energy Ombudsman to a friend or relative.

**78%**  
of people asked said that they were satisfied with the actions of the Ombudsman.

**98%**  
of people considered that the Ombudsman's teams 'listened' and 94% said they were 'competent'.

**41%**  
found out about the Ombudsman through the Internet and 24% from information provided by their supplier.

The results unequivocally demonstrate that this work meets the expectations of consumers. 78% of people asked said they were satisfied with its actions, and 65% felt that using the Ombudsman had allowed them to find a “satisfactory” resolution to their dispute. The time required to process the case is considered to be good by 81% of those surveyed. The Ombudsman is seen as easily accessible (96%), competent (89%) and reactive (88%). 88% of those questioned applauded its independence and 84% its transparency. It appears as a protector and powerful for 73% and 71% of them respectively. Whilst consumers complain of a growing distance with companies, public services and institutions, 80% of consumers consider the National Energy Ombudsman to be close to them, which is a remarkable result, and is undoubtedly due to the way telephone contact between consumers and the Ombudsman's staff is perceived. What are the consequences? An overwhelming majority (93%) say that they would advise friends or family to turn to the National Energy Ombudsman.

With regards to the advice given by staff, eight out of ten people found it to be clear. 73% felt that the advice corresponded well to their problem. The ‘second chance’ pro-

The 2012 edition of the Énergie-Info satisfaction survey is the third edition of this annual report\*. Consumers who have asked for help from our expert group, which manages complex calls and written requests, award it 7.7 out of 10 in terms of satisfaction. The speed with which the department replies is particularly appreciated: 56% of those asked and who had called Énergie-Info had their call returned the same day and 60% received a personalised letter within a week; more than 90% said they were satisfied with this response time.

In addition, 88% of requests are satisfied with just 2 calls and 64% during the very first call. On the whole, advisers also provide answers that are appreciated by users.

Three-quarters of people asked said they had obtained what they expected. 55% felt that the department had helped to unblock the dispute and 28% said that they had intervened with the supplier. After the intervention of Énergie-Info, 69% stated that their problem was resolved.

However, the overall assessment of the department depends on customer expectations: 63% were looking for advice on what to do to settle their dispute, which comes within the remit of Énergie-Info; but nearly 40% were looking for a concrete settlement of their dispute. The latter awarded only 6.6 out of 10 to the department in terms of satisfaction against 8.2 for the former.

\*Survey carried out in May 2012 by the LH2 institute, on 350 people (300 private customers and 50 small professional customers).

#### ANALYSIS

Énergie-Info, an information service that is also appreciated

cedure, ④ when it produces a positive result, is appreciated. Regarding consumers who closed their case at the end of this procedure, a little over half of them did so because they considered the amount of the compensation to be satisfactory and a third because the settlement corresponded to the advice provided by the Ombudsman.

When an appeal is not eligible, in terms of the legislative criteria, the institution still does its best to help the consumer. 73% of those surveyed who had experienced this situation, said that once the reasons for this ineligibility had been explained, they felt that they had been clearly understood. Even though the Ombudsman had not actually handled the dispute, a majority of consumers felt that it had been a driving influence in resolving the problem. Notably by transferring the case to the supplier, or by informing the consumer of their rights.

**DEBT DISTRESS** *or how certain practices can have dramatic consequences* → Some consumers experiencing debt distress and who have been given help to draw up a personal recovery plan, which includes how to reduce an energy debt, have then called on the Ombudsman.

④ The 'second chance' procedure is reserved for complaints that had received either no response, or only a superficial response, from operators.

Their supplier was asking them to pay a bill that was produced after the plan was drawn up and which included a debt payment schedule. Given the complicated schedule they were already following, they found it difficult to pay this additional bill. When payment failed to materialise, the operator considered the recovery plan to be void and demanded the debt be immediately paid in full.

The National Energy Ombudsman considers this to be an abusive practice. Analysis shows that the suppliers incorrectly interpret the texts governing debt distress in private customers. According to the Consumer Code, a recovery plan can be considered void if serious actions are committed which exacerbate the poor financial situation of the beneficiary. However, bills relating to ordinary household costs, such as electricity and gas bills, cannot be considered as such actions. They should not be allowed to undermine the recovery plan.

Although the number of complaints made in 2012 on this subject remains low, the Ombudsman felt it was necessary to draw attention to this questionable practice, which places already vulnerable consumers in dramatic situations. The Ombudsman was satisfied to see that its analysis is now followed by the suppliers in question.

#### 6 MONTHS WITHOUT ELECTRICITY

A plan had been put in place to help find a solution to M.D.'s debt distress, but the consumer was unable to pay the 2,392 euro bill demanded by their supplier. The supplier therefore considered the debt plan to be void and demanded that all the outstanding debt should be reimbursed...some 6,717 euros, which M.D. was even less able to find. The result? A contract terminated for non-payment, which meant six months without electricity including during part of the winter...



D D U B J J I C Z C G U C F Y  
Z D A H O Y U D B X I Z M O R  
T L M X C C S V T E Z B Q C P  
M A Y M V X C V C R P K Z F G  
R K R I I M Y Q N S K N F Z T  
U V U I K D V F Z K B F Q S R  
D B J I F K C L D U Z D R Y Z  
A I Q F Q S O D L T Y T S H B  
B K G Q C A E C F X D A R V W  
K R B G G I J B I H K X L C F  
G X X I Z X W R G U W E Q R H  
D T M K V W K S O C Q S Y H L  
P U H K F U B D Z B O R K C C  
H C Q J M D H J A L G B F F K  
N K E P O D F S X A G H A V R

**TARIFS...**

*Tariffs...* or how  
to cope with the  
inevitable rise  
in prices.

**TAXES...**

or how the  
multitude of  
itemised deduc-  
tions on bills  
is becoming  
incomprehen-  
sible.





**TARIFFS** *or how to cope with the inevitable rise in prices* → Electricity prices have risen sharply over the last decade, and gas prices even more so. These increases are set to continue: changing energy demands, investments in green energy, renewing conventional power plants, and strengthening the network; the costs will all ultimately find their way onto customers' bills. In both 2011 and 2012, the French government attempted—in vain—to cap increases to the regulated gas tariffs, as a measure intended to help French households maintain some purchasing power. (See **Gas formula**)

At the same time in the electricity market, the increase in CSPE, ① the tax charged to help finance, among other things, renewable energy, is capped to well below the likely

① Contribution to the electricity public services

**ANALYSIS**  
It's tough for the competition

Maintained by local authorities in order to protect consumers, regulated tariffs still apply for 94% of French electricity consumers and 91% of French gas consumers.

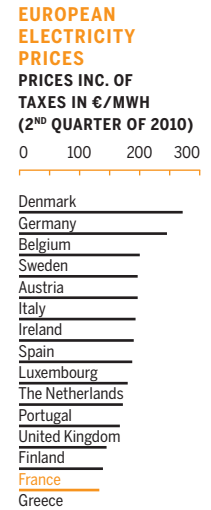
Yet, only 35% of consumers have ever heard of them, and a lack of awareness does not stop there: only 32% know that EDF and

GDF Suez are two separate and competing companies. It's difficult for alternative suppliers to exist under these conditions and consequently, the large European energy groups have shown little interest in the French market, which is a victim of its own apathy in failing to promote either innovation or lower prices.

costs estimated by the CRE (the French Energy Regulation Commission), which means that a catch-up cost is inevitable.

Capping a rise in prices can have perverse effects: *“Price freezes lead to really brutal catch-up costs which are, at the very least, incomprehensible to the consumer,”* is how Bruno Lechevin, the Ombudsman's Chief Representative, analyses the matter. And this is without taking into account the fact that the entire system's economy is disrupted: the operators invest differing amounts or waive necessary investments altogether, which has repercussions for competition and employment. The electricity and gas markets are malfunctioning, with ‘price signals’ that don't reflect the real costs involved. The only economically and socially viable option in facing up to the price rises that are on their way, is energy conservation, which will mean taking action towards energy efficiency, as well as making behavioural changes.

Consuming less electricity will not be enough to manage the higher bills. Consumers will also have to consume better, which is to say, they will have to adapt their usage to the available methods of production. Load-management tariffs have proven to be effective: EJP ② and Tempo ③ encourage



Data M.Cruciani – IFRI.

② EDF's EJP tariff, which dates back to 1982, enables consumers to benefit from significant tariff reductions, in exchange for much higher prices on 22 days in the year, which fall between November and March and are determined by the supplier.

③ The Tempo tariff, which was created in 1996, works on the same basis.

1.5 M

of the 10.6m consumers that are connected to a gas supply, have opted out of regulated tariffs.

1.9 M

of the 30.7 residential electricity consumers have switched to market price tariffs.

€2,900

In 2010 this was the average amount spent on energy by French households: €1,600 for domestic energy and €1,300 for vehicle fuel.

+32 %

is the increase in the proportion of French households' annual energy budget spent on electricity and heating between 2000 and 2010.

lower rates of consumption on days where the demand for electricity requires complementary production methods that are costly and polluting. Unfortunately, these tariffs aren't advertised and they can't be offered by any alternative supplier, so it will take a strong political will to breathe some new life into them. Is there an alternative route to encouraging consumers towards low-energy consumption? Lower the subscribed capacity. This would not have an impact on the price of consumption but on the service charge; the higher the subscribed capacity, the greater the charge. And yet, over the past few years, consumers have in fact been encouraged to subscribe to ever-higher capacities: the price difference in the average annual subscription charge between two voltages at the off-peak/peak rate was 97 euros in 2012 against 176 euros in 2007.

As an independent administrative authority, the Ombudsman cannot conceive of a situation where regulated tariffs do not reflect the real costs of electricity. However, price changes must be controlled, programmed and spread out over time. For the sake of education and simplicity, increases could take place once a year, so as not to give consumers the impression of an uncontrolled sys-

“The significant increases in gas and electricity prices over the past few years mean that access to energy is fast becoming a problem for many French consumers. And because they are not well acquainted with the market and its participants, they are unable to benefit from the competition. The explosion of prices raises a number of issues because it lacks transparency and justification.

“If our gas prices are the most competitive in the French market, this is in part because we are not greedy in terms of our margins, and also because we only buy on the spot market. Contrary to a market that is index-linked to price of oil, in the spot market, gas is traded at the price of... gas!  
It's more logical and, most of all, more advantageous to the consumer because, contrary to

Consumers don't understand what they are paying for, or why. We can see this with the gas price formula, which has changed three times since 2012, a fact that leads one to believe that the calculations are ill-founded, whilst the opacity makes it hard to accept the increases. An urgent rethink of the tariff policies is required, to render them universally comprehensible.”

popular belief, contracts can be negotiated for the long-term. All the international indicators are also banking on stable prices, at a level that is far lower than that of oil. The liberalisation of the electricity market is much more problematic: the legislation is not conducive to the use of renewables, and we are held hostage by the regulated tariff, which we have no choice but to fall into line with... for the time being.”

## THIERRY SANIEZ



Chief representative of the CLCV consumer association

(interviewed in March 2013)

## VINCENT RONSE



Manager, Lampiris France

tem with repeated price rises and ‘surprise’ back billing. A multi-year provisional timetable would be helpful, as it would enable consumers to anticipate forthcoming price increases and make educated choices when buying a new home or carrying out renovations.

#### ANALYSE

At what price should we load-shed?

In the context of encouraging energy savings, some companies are very active in promoting solutions known as ‘load management’ to elected representatives, developers and funders. What is load management? Homes that are heated by electricity can receive, free of charge, a communicating box that is fitted to the fuse box. This enables remote shutting down of radiators, hot water cylinders and air conditioning units for a few minutes during peak hours (‘load shedding’). According to its advocates, this system enables energy consumption reductions of up to 15%, with no loss of comfort to the customer. However

this last objective appears very hard to achieve and many questions have been raised as to the benefit for consumers of such devices. Similar arrangements are available elsewhere, in particular in North America, but the promises made seem rather more realistic: the consumer is rewarded in exchange for lower levels of comfort, which are contractually limited. This is also the operating philosophy behind the EJP and Tempo prices: the price on ‘red’ days is ten times higher, but those who sign up to load shedding gain overall because the price on all other days is lower than the normal tariff.

**TAXES** *or how the multitude of itemised deductions on bills is becoming incomprehensible* → Gas and electricity bills include multiple layers of taxes, which consumers are finding hard to decipher. Although the Transmission Contribution Tariff <sup>ρ</sup> and VAT <sup>ρ</sup> are common to both energies, dedicated contributions are then added: the CSPE <sup>ρ</sup> and TCFE <sup>ρ</sup> (a tax on consumption) for electricity, and the CSPG <sup>ρ</sup> (contribution to gas public services) and CTSSG <sup>ρ</sup> (contribution to the TSS) for natural gas. In 2012, these taxes represented a significant proportion of each bill: 31% for electricity and 17% for gas.

Regulated energy tariffs have essentially gone up because of the increases to some of these contributions. Between 2010 and 2012, the CPSE increased by 133%, going from 4.5 euros per megawatt hour (MWh) to 10.5 euros per MWh. And it’s not over yet. According to the French Energy Regulation Commission, it would need to be at €18.80/MWh if it is to cover the actual costs borne by the electricity public services. However, the government decided to cap the rise in the CSPE rate at 3 euros, to €13.50/MWh, starting from 1 January 2013. This represents a 2.5% rise in electricity bills—an average of 15 euros a year for each household. At the beginning of 2013, the CTSS-

#### THE TAXES PAID BY CONSUMERS

##### ELECTRICITY & GAS

**CTA** <sup>ρ</sup>  
**Contribution tarifaire d’acheminement**  
(Transmission Contribution Tariff)  
This was created in 2004 to help finance the pension plans of employees working in the gas and electricity industries.

**TVA** <sup>ρ</sup>  
**Taxe sur la valeur ajoutée**  
(Valued Added Tax)  
A reduced rate of 5.5% is applied to the service charge and the CTA. The rate of 19.6% is applied to the amount charged for consumption and to all remaining taxes that are applicable to electricity and gas bills.

## ELECTRICITY

CSPE <sup>Ⓛ</sup>**Contribution au service public de l'électricité**

(contribution to electricity public services) Created in 2003 to finance the costs associated with schemes that support renewable energies, co-generation, French island tariff subsidies and the electricity social tariff.

TCFE <sup>Ⓛ</sup>**Taxes sur la consommation finale d'électricité**

(taxes on electricity consumption) These replaced the local electricity taxes in 2011, and are paid to communities, which set the amounts themselves.

## PHILIPPE DE LADOUCKETTE



President of the French Energy Regulation Commission

GA doubled in comparison to the previous year, a rise designed to accommodate the growing number of people receiving the TSS. <sup>Ⓛ</sup>

All of these taxes are calculated against household consumption rates, with a euro centime price for each kWh, except for the CTA <sup>Ⓛ</sup> which is charged against the fixed element of the transmission tariff. For the National Energy Ombudsman, a consumer should be able to check the calculations that make up their bill so that they can verify the amounts, but this isn't possible for the CTA; bills do not itemise the transmission tariff. Moreover, transmission tariff options are determined by the supplier: thus households with an identical energy consumption rate and the same bill before taxes will pay differing amounts of CTA based on choices made by their operator. And these differences can prove significant, which raises ques-

"To finance the electricity service charges in 2013, the Commission has calculated that an increase of 80% to the CSPE would have been necessary, or in other words, it would have reached €18.80 per MWh. One can also see that the amounts needed

to support renewable energies now represent the biggest cost: 59% of the total, in comparison to 41% in 2011. With the CSPE being capped at €13.50/MWh from January 2013, the costs have been covered, but not the debt to EDF that has been

tions with regard to the principle of equality before taxation. There is clearly no issue with the principle of this tax, nor with the level, but only with the way in which it is calculated.

Similarly, the TCFES vary from one municipality or county to the next, with the greatest difference found to be 6%. Changing electricity supplier enables a maximum gain of around 4%. It would be better to move house than change supplier, if you want to lower your electricity bill!

accumulated over the past few years. If this amount seems rather high to you, it might be interesting to compare our situation with Germany, where the equivalent tax that helps fund renewables, is €53/MWh. Solving the question of rising elec-

tricity prices caused by investments (networks, production of renewables) means examining the issue of fuel poverty. Finally, increasing kWh does not mean an increase in electricity bills; it means lower usage and therefore better consumption."

## GAS

CSPG <sup>Ⓛ</sup>**Contribution au service public du gaz**

(contribution to gas public services) Devised in 2012, this tax helps finance buy-back rates for biomethane, which is added to the natural gas pipeline network.

CTSSG <sup>Ⓛ</sup>**Contribution au tarif spécial de solidarité gaz**

(Contribution to the gas social tariff) Implemented in 2006, this tax finances the gas social tariff.

<sup>Ⓛ</sup> The special solidarity tax grants means-tested flat rate reductions on household gas bills.

<sup>Ⓛ</sup> From August 2009 for electricity, and January 2010 for gas, suppliers have been obliged to clearly itemise the CTA on customers' bills.

X K C J E U Y T A U I Z S M M  
M Y Z R Y X X T U Q Y P C Q W  
T G J P F X O Q G B I O E K Y  
J G R E H J N I I F L L M Z K  
R U K G U P Y C C F X I J D W  
W D S S N U L F I F V K K X Y  
N V E Y I T J J B P I T I J Z  
C C U K O Y Q C S T G K O S J  
C I A T N R T T O Z Y E Q I P  
F L X G C T Y L A H D C C R E  
B D H E U R O P E E N N E Y T  
X X L G S T H W O D F Z W D S  
S A P W F P I W V C E C U H I  
F O M N W F E P C Y Q V T U F  
M Z I Y M A D E F E E Q R W X

**UNION  
EUROPÉENNE...**

*European*

*Union... or how  
Brussels had to  
accept a com-  
promise regard-  
ing mediation.*



**EFFICIENCY**

A directive on energy efficiency was also adopted on 15 October 2012. It will be incorporated into national legislation before June 2014.

**EUROPEAN UNION** *or how Brussels had to accept a compromise regarding mediation* → In 2012, Europe made some progress in the area of energy and mediation.

The Directive on alternative dispute resolution (ADR) was the subject of lengthy debate in 2012 and was adopted in March 2013. It provides simple, fast and free (or inexpensive) procedures to resolve disputes between consumers and businesses, without the need for legal proceedings. Although the text specifies that it is important for the mediation organisation and its staff to be independent in order for consumers to have trust in these procedures, it remains vague

**MONIQUE GOYENS**

Director-General of the European Consumers' Association (BEUC)

“The Directive will encourage the development of alternative dispute resolution systems, with a few benefits: the procedure costs close to nothing; limitation periods are suspended, thereby preventing stalling tactics; and current regulations and legislation are enforced. Nevertheless, we regret

that in-house ombudsmen can continue to exist under the alternative dispute resolution system. This sophisticated complaints service can be of some value but the use of the word ‘ombudsman’ should have been restricted to the mediation bodies that are independent from these companies. Independence is essential

on the intended meaning of ‘independence’. Indeed, ‘in principle’, the mediation services which exist within companies and are run by individuals employed and paid exclusively by said company should not be considered as alternative dispute resolution bodies in the sense of the directive... unless the Member States decide that they should be.

*“For certain States, including France, legal action takes precedence over the quality of the mediation, based on the principle that consumers are informed about and know their rights. Yet this approach remains theoretical and far removed from reality... Understandably, companies try to profit from this, but what consumers lose in terms of protection doesn’t neces-*

to consumer protection. In the past, we noticed that suppliers ‘capture’ the regulators, and this is not specific to the energy market. This occurs because the regulators are too close to the industry they supervise: they meet regularly with the industry players and often rely on their information. The Euro-

pean Commission’s general directorates for energy and for health & consumers are working with the Council of European Energy Regulators (CEER) to change this: consumer representatives are being given a bigger role in meetings and in preparing the measures applicable to the industry.”

**CUSTOMERS FIRST**

On 13 November 2012, the Council of European Energy Regulators (CEER) and BEUC, the European Consumers’ Organisation, signed a joint declaration presenting their vision of the energy market in 2020. In this vision, customers will be at the heart of the matter.



sarily benefit them. Independent mediation is therefore a flexible and efficient opposing force that encourages companies to improve,” says Stéphane Mialot, the National Energy Ombudsman’s Director of Services. (See **Disputes**)

**MARIA-CRISTINA  
RUSSO**



Head of unit at the European Commission’s Directorate General for Health & Consumers

“With three fundamental principles, the directive on alternative dispute resolution is a huge step forward in ensuring that consumers have trust in the internal market. The text applies to all sectors, except education and health. The measure is based on quality criteria: transparency, efficiency and fairness. The decision complies with legislation and the consumer is not bound by it unless they have agreed to be in advance. Lastly, the consumer is informed about legal recourse in the event of a problem. In the case where a Member State authorises an alternative dispute resolution process paid for by a company, the Directive establishes conditions to guarantee its independence: the professional in charge is appointed for three years, by an organisation representing both consumers and industry players. They must have a separate budget and have no reporting or functional ties with the company’s management. Once their mission is over, they are not allowed to work for the company for a period of three years. This compromise was reached within a context of budgetary restrictions, to ensure that alternative dispute resolution continues to cost the consumer little or nothing. Certain existing in-house ombudsmen will have to revise their way of working in order to comply with the directive which will come into effect in 2015.”

\* \*  
\*



G K J X N Q D C Q O B J S H G  
Z A J H M J L M N T V B Y F Z  
L O U X K X S D V U U H A N V  
E J E A L V K C A N U W N T F  
C C T U Z W G V D R C C M Y L  
W H C K R F A R Z M V T U Z R  
K R D C V C H I C K H A U Y W  
C X F L N C Q O S A A L F T N  
R B Q C N S W J V E B Q X Q  
D L Z A E F H K A Y O E B V Y  
F M V C C I R N J Y H J R V W  
R B O V U J S J N B D Q P T N  
C H S U L Z L Y I V L V C A E  
A U C D Y N B G D H Q D V C Y  
B A A F T X L D T O I S G G

**VERTE...**  
*Green...* or how  
to choose the  
colour of your  
electricity.



**GREEN** *or how to choose the colour of your electricity* → The liberalisation of the electricity markets has, at least in part, fulfilled its promises in terms of bringing diversity to the range of services on offer. As a result, since 1 July 2007 it has been possible to switch to a so-called green electricity service, for an identical, slightly higher or even much higher rate than the regulated tariffs.

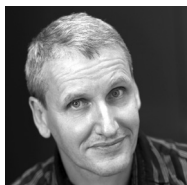
What is a green electricity service? For this service, the supplier looks at how much electricity a consumer uses and then commits to injecting that same amount back into the grid, but from renewable sources. That is basically how it works. But when it comes to the details, suppliers have not yet managed to agree on a common definition, and as a

result several rather different services coexist. And they each claim that their services are greener—or at least as green!—as those available through their competitors...

It has to be said, the fact that it is technically impossible to trace the electrons injected into the grid does not make their task any easier; and neither does the funding scheme for electricity from renewable sources chosen by the public authorities: the purchasing obligation. In fact, all French consumers contribute to the development of renewable energies through a portion of their bill. ☺ This compulsory system of pooling contributions for the development of electricity from renewable sources leaves little room for ‘green’ services based on an

☺ For 2013, 59% (compared with 41% in 2012) of the CSPE, or contribution to electricity public services, should be allocated to developing electricity from renewable sources. This represents 3 billion euros. (Source: CRE – the French Energy Regulation Commission)

PATRICK BEHM



CEO of Enercoop

“We had some reservations about joining the *Énergie-Info* comparator because the site did not make it possible to distinguish between the various green electricity offerings, with private traceability of green certificates. We weren’t able to highlight what sets us apart: our cooperative chose not to sign up for ARENH\*

and, instead, to buy directly from generators of renewable energies, including hydroelectricity. Our prices are 20% to 30% higher than regulated tariffs and this needs to be explained to consumers. In 2012, we decided to appear in the comparator because it is an important information tool. The site has been improved and

it now includes a blank field where we can provide details regarding our offering, as well as explain our prices and where our energy comes from, with the guarantee of origin that confirms the uniqueness of the traceability. We find it regrettable, however, that the idea of adding a column that would be more visible to

consumers, stating whether a supplier is signed up for the ARENH or not, was not taken up.”

\*Accès Régulé à l’Électricité Nucléaire Historique (Regulated Access to Established Nuclear Electricity): a measure introduced by the NOME law of 7 December 2010. It requires EDF to sell part of the electricity it produces from nuclear energy to its competitors, at a regulated price.

individual willingness ‘to do more’. In the end, it is not always easy to understand the differences between the services and why they might cost more.

In 2012, a first step was taken to simplify and harmonise these services: regulations ended the competition between the two opposing certification systems: ‘energy savings certificates’, which are a private system, and ‘guarantees of origin’, a public system managed by the RTE, the French electricity transmission system operator. But not everything has been clarified. And above all, there is still one key ingredient missing to make these services a success: consumer trust. This will not be won without transparency and simplification.



K S E J T B U P P U D Q D X S  
 N Q U C T P Y N V W H F F J O  
 D L A J K Q M R N L R J P Q O  
 D W S S R M X N V S Q Q M C F  
 V O A X D O Q W K P P U N V Z  
 J X Y C Q I Z Z G M K U U Y U  
 A K T K Z Y S I L R Q U J X N  
 K E C P B V Z D Z L V V A C G  
 H I H O A V B V P W L D L C Y  
 U G T N B H Y H X A B F D P D  
 R R M O G G C M C O Y F N S O K  
 D R J K L O I J J U E T X C M  
 I W I T G M J K I Y U Y H R L  
 W M N K D Q V N V H Y S D V O  
 D S V I Z X C P J W A T T R I

**WATT & MOI...**  
 or how to track  
 your consump-  
 tion online.



## ELSEWHERE

Interesting experiments are being conducted abroad, such as the Home Energy Report, a tool designed by the American company OPOWER and distributed by various energy suppliers. This easy-to-understand letter is sent out to customers on a regular basis, providing an overview of their consumption, comparing it to their neighbours, and offering advice. And there is even coaching to encourage people to keep up their efforts!

## WATT & MOI *or how to track your consumption online*

→ That is the name of the secure website available to certain homes equipped with a Linky communicating meter. It is an experiment conducted by ERDF and the social housing office Grand Lyon Habitat since May 2012, involving some one thousand tenants. These tenants have access to their daily electricity consumption figures, a breakdown of past consumption, and also a few elements for comparison purposes.

Watt & Moi is the chance to raise (again) certain questions: What are the roles of the DSO and supplier in terms of informing the customer? What types of media and information influence consumer behaviour? The surveys conducted show that the answers are complex. ☉ (See [Linky](#))

☉ Of the one third of French residents with a favourable opinion regarding Linky, 89% would be interested in having their consumption displayed in real time on an electronic box in their home. (face-to-face survey

conducted in December 2012 by the French survey company Institut CSA on behalf of the National Energy Ombudsman and the National Consumers' Institute (INC), involving a representative sample of 1,029 individuals).



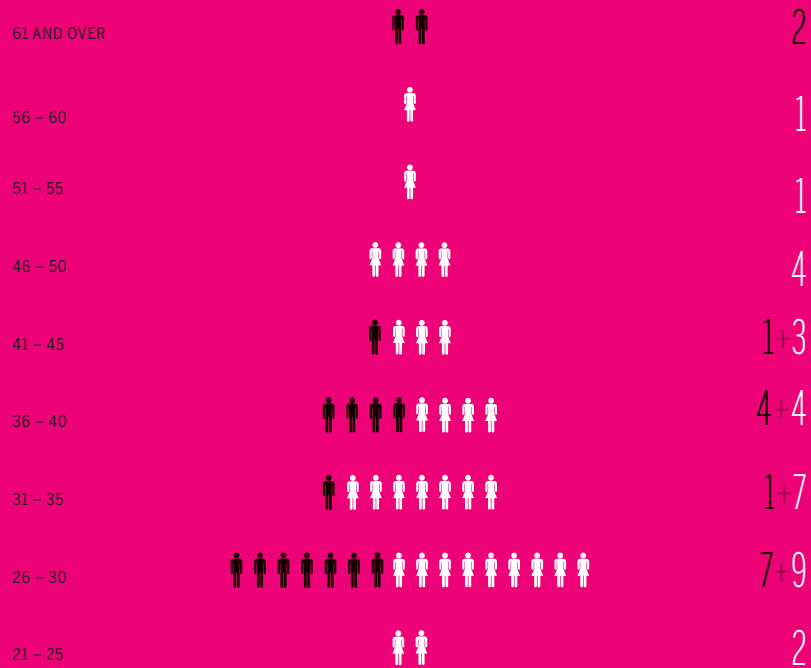
M S X B O T X R C W Y Z K C O  
Ç U I P Z P P O V G C O Q L S  
M Z C X A X B H G A Y L R I K  
V K G Y N T K K M J V Z X B V  
S O J E Q Z J B L B T D Y K C  
X J H Q W U P Y N E E V Z J D  
H M J G R T G M G E S M Z T P  
J C I O D S Y A N H M S A Q M  
I R S A A Z Z U O G V O H N A  
F E X T R M A C Q I S G K H Z  
X C B H S U C S D F Z S O H Z  
Q X G E W U I X R V T V B K S  
F A J J K F I L P Q X N Q S F  
G S P S P L L B G S U N R R F  
D K K O I G G E E A L R Y C E

XY...  
or gender  
distribution  
within the  
institution.

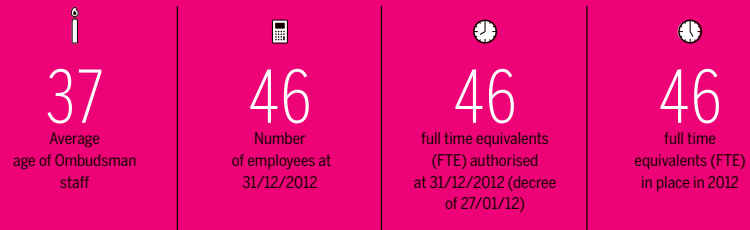


XY  
or gender distribution within the institution

AGE PYRAMID OF OMBUDSMAN EMPLOYEES AT 31/12/2012



HEADCOUNT





T F P I I T C E X Z W S I J K  
I B Y R V X C T C W B Z B O F  
N Q B X K E N Z I O S O D C L  
F A B I V Y Z I U W D L C O Y  
Z I O X Z G Y T F P O Y F K Y  
K Z O R R O Z Z J Q W E I U K R  
X C L Z L C N V Q C Z M K M O  
O Y P I P N Y K X Q Q P X R Z  
N D K W G K U Z U O I Z L C Q  
A C D E N W Y E Z M M L U A U  
C O F K L W U H Q K M S Z T C  
G I C E F C K V G I J F Q T Z  
K A B R Y N E E C D I C N Y Z  
C A O J V P W R H C Q T R B O  
A T U D J L C M A Y H J O P W

**ZORRO...**  
or how  
consumers  
can refer a  
case to the  
Ombudsman.

**ZOOM...**  
or how to  
contact the  
Ombudsman.



**ZORRO** *or how consumers can refer a case to the Ombudsman* → Any private, non-professional or professional consumer <sup>Ⓞ</sup> can refer a case to the Ombudsman, free of charge. Before doing so, they must have sent a written complaint to their supplier or DSO. If, after two months, they have not received a satisfactory response, or should no response have been forthcoming, the consumer can refer the case to the Ombudsman. The case file should include all the documents and elements needed to examine it.

The Ombudsman will acknowledge receipt within 48 hours and will undertake an initial assessment within ten days. Eligible cases are managed by the Ombudsman's staff who make contact with the parties in order to identify a solution. The Ombudsman will then send the parties its substantiated written recommendations. These are not binding, but operators are required to provide information within two months about how the case is being followed up.

<sup>Ⓞ</sup> Professional customer within the micro-entreprise category i.e. fewer than 10 employees and €2M in turnover



## OR HOW TO CONTACT THE OMBUDSMAN

BY POST, NO STAMP NEEDED



ONLINE



BY TELEPHONE



**energie-mediateur.fr**

**Médiateur national  
de l'énergie**

Libre réponse n°59252  
75443 Paris Cedex 09

**Freephone  
0800 112 212**  
(No charge when calling  
from a landline)

TO FIND OUT ABOUT YOUR RIGHTS  
AND THE PROCEDURES



**energie-info.fr**

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Le médiateur  
national  
de l'énergie

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Informer, conseiller, protéger

