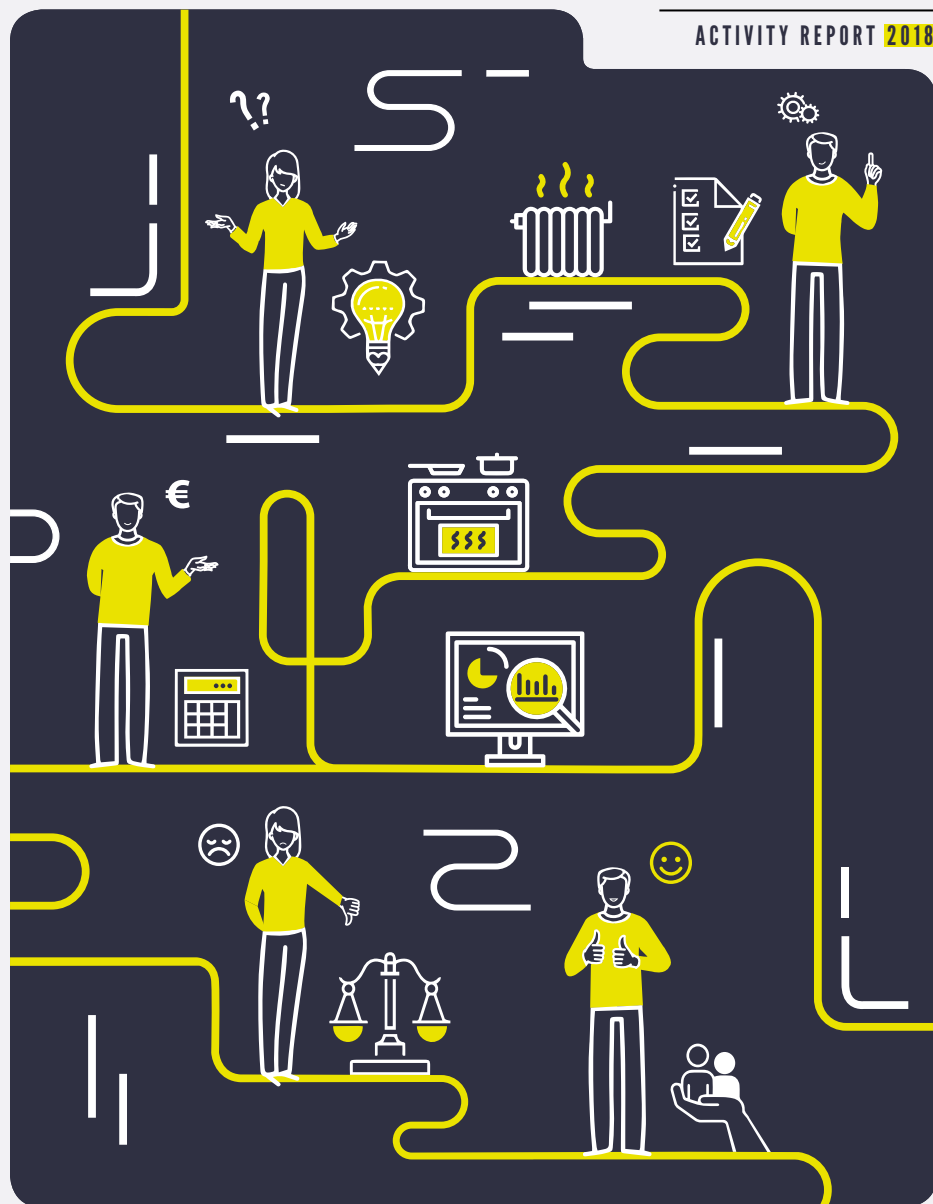


# The National Energy Ombudsman

ACTIVITY REPORT 2018



The National Energy Ombudsman is an independent public authority created by the Law of 7 December 2006 on the energy sector, with the intention of opening up the natural gas and electricity markets to competition.

It has two legal objectives: to inform consumers of their rights and to propose solutions to disputes.

—

Jean Gaubert, ombudsman since 19 November 2013, is a specialist in consumption and energy issues.

He was a Côtes-d'Armor MP from 1997 to 2012, rapporteur for the consumer budget in the National Assembly from 2006 to 2012 and vice-chairman of the Economic Affairs Committee from 2007 to 2012.

Formerly Vice-President of the French National Federation of local authorities (FNCCR), Gaubert has been President of the Côtes-d'Armor energy union since 1983.



# The National Energy Ombudsman

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ACTIVITY REPORT **2018**



# INTRO





If the national energy ombudsman did not exist, it would need to be invented, as the institution I have had the honour of representing for more than five years has proved its usefulness. You will find many examples of this by leafing through the pages of this 2018 activity report.

First, it fully fulfils its primary goal, which is to provide concrete solutions to consumer disputes. The latter are largely satisfied, since **94% of those who have used the mediation would recommend it to friends and family. More than 5,000 recommendations for solutions were issued in 2018**, showing that the need for protection is not weakening, and even less so in a context where competition between electricity and gas suppliers is increasing.

The organisation has been able to respond effectively to the rapidly increasing requests for mediation thanks to the commitment of all its employees and the digitisation undertaken in recent years which has made it possible to work more efficiently, whilst also maintaining human contact with consumers- a priority of ours!

This protective role is also to be undertaken in a broader sense, which is how I have understood my assignment since being appointed. Energy ombudsmen have a privileged perspective of the market; they can tell the difference between an error and repeated bad practice by operators.

Through my speeches, my proposals to the legislator, and the involvement of employees in focus groups, we have helped to improve the way in which the market operates. From the suspension of energy cuts during winter months (the 'winter break'), to the ban on invoicing back-dated bills over 14 months old, the French people- in particular those in low-income households- have benefited from substantial progress.

However, I acknowledge that this position is regularly challenged. A «scaling down» of the energy ombudsman would consequently stifle a voice, probably not the strongest one, but one which provides real support for consumers and associations. Of course, the interests of industrialists must count, but I would remind you that first and foremost, society should cater to the majority of people. An attempt to merge the institution with any other public body would result in dilution that would negatively impact its work. In addition, **its efficiency also depends on its agile and responsive organisation.** As my term of office ends in November 2019, I am committed to ensuring that the mission of the Energy Ombudsman is preserved and that its work may continue, independently.

**Jean Gaubert, National Energy Ombudsman**

*«Through my speeches, my proposals to the legislator, and the involvement of employees in focus groups, we have helped to improve the way in which the market operates. »*

Jean Gaubert



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01

# INFORMING YOURSELF

## and understanding the market

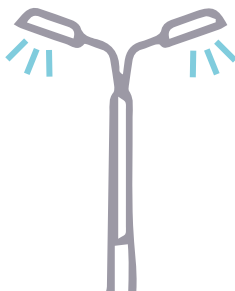


This is the first step for energy consumers: to obtain the knowledge needed to make informed choices. The year 2018 was a turning point, as revealed by the 12th Energie-Info Barometer. 2/3 of French people now know that they can change electricity or natural gas suppliers: a figure that is rising sharply. In a context of increased competition, ombudsmen fully commit to their mission of informing people.

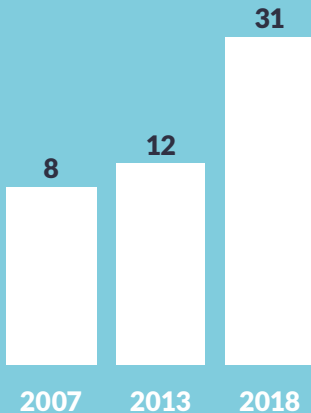


*« I have an off-peak subscription.  
I want to change suppliers by  
returning to a «classic» contract.  
How can I compare offers? »*

*Mr. P. - Brignais (69)*



## 2007-2018 : LARGE INCREASE IN THE NUMBER OF SUPPLIERS



**60**

different offers displayed during  
an «electricity» simulation on the  
Energie-Info comparator.

## MULTIPLICATION OFFERS

Competition is progressing rapidly. In 2018, roughly 30 electricity and natural gas suppliers were identified in the residential segment. **Alternative suppliers are gaining ground:** they held 21.9% of market share in electricity and 29.4% in natural gas at the end of 2018, compared with 17.9% and 26.2% respectively at the end of 2017 (Energy Regulatory Commission Quarterly Report).

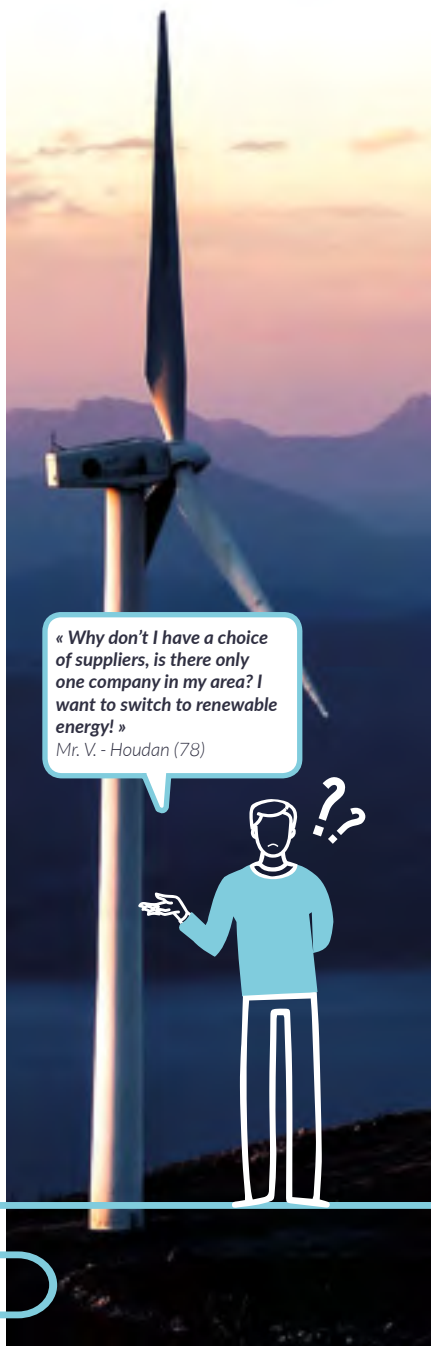
According to the 2018 edition of the Energie-Info barometer, 1 in 5 French people say they have already changed supplier. But the excitement in the market is not just about the emergence or consolidation of new players, such as the acquisition of Direct Énergie by Total announced in April 2018. The merger, under the Total Direct Energy brand, has been effective since April 2019.

The number of offers is multiplying under the combined effect of the increase in the number of suppliers and their creativity.

### ► SOME OFFERS ARE GREENER THAN OTHERS

First of all, suppliers benefit from the growing attention that **French people are paying to green offers:** 3/5 of them say they are ready to sign up, according to the latest Energie-Info barometer.

But not all are created equal. In December 2018, the ADEME (Agency for Environment and Energy Management) published an announcement, with proposals to increase the transparency of green electricity offers and promote the most effective ones, those that contribute to the development of renewable energy installations in France.



**The French public's interest in green offers demonstrates a certain commitment to the energy transition.**

ADEME distinguishes between two types of green offers: The «Standard», which use only «*guarantees of origin*» to certify that a quantity of renewable energy equivalent to the consumption of customers has been produced and injected into the networks, and «**premium**» ones in which the supplier not only uses certificates but also purchases the producer's green electricity. The latter offer better remuneration conditions for producers and contribute to the sustainability of their installations.

To better differentiate between the different green offers, the ombudsman teams have added a new feature to the price comparison tool on the [energie-info.fr](https://energie-info.fr) website in order to give individuals more information: for each green offer, the country where guarantees of origin are issued (France or Europe), the source of energy (wind, solar, hydro) and information on the purchase method (directly from producers or otherwise) are presented. Suppliers are encouraged to be transparent and, if they refuse, the comparator clearly indicates that the information has not been disclosed.





## INTERVIEW

### MARC BENSADOUN

Chief Executive Officer of Total Spring

## **LAUNCHED IN APRIL 2019, THE NEW BRAND TOTAL DIRECT ENERGY INTENDS TO PROPOSE A HIGH QUALITY OF SERVICE TO CONSUMERS, AS WELL AS SIMPLE AND INVENTIVE OFFERS TO MEET FUTURE DEMAND**

*« The market for energy supply is evolving. With 75% of French people still on the regulated tariff, we definitely can't consider it a total shake-up, but it's more than just a small tremor. There is even an acceleration of change. However, it is not so much the speed, but the «depth» which presents a challenge. If price is always the trigger, the customer realises that they can also become a key player in their own consumption*

*Along with the best price, it is now necessary to offer turnkey solutions to accompany new uses and to help French people consume better. And that is where competition has a role to play.*

*In a context where it will be increasingly necessary to adapt consumption to the production of energy, you have to be more and more creative. The electric car, for example, will require smart rates to be designed for charging at the lowest possible price, both at home and abroad.*

*But on this market, to be innovative, there must be critical size. This is the reason for the Total Spring-Direct Energy merger. With a current total of four million customers and the ambition to achieve a market share of 15% in 2022, the company will be able to weigh on the market and go even further in the quality of customer service that already unites the two entities. With the support of the Total group, the new group will also be able to draw on an integrated strategy for energy production, with its own gas power stations and strong investment in renewable energies. Mastering the two ends of the Electrical chain- the production and marketing - Total Direct Energy thus has two levers necessary to respond to new uses and new expectations of the French public. »*

## ► DEVELOPMENT OF LINKY OFFERS

Additionally, the ongoing rolling-out of smart-meters allows companies to be innovative. Since 2017, Engie and EDF have proposed «weekend off-peak hours». Direct Énergie took action in 2018 with a new offer: « *super off-peak hours between 2 and 6 in the morning* ». Ohm Énergie, in addition to its weekend off-peak hours, occupies a niche with an offer for second homes.

*« It's a complex process for consumers who have to do their calculations, » explains Caroline Keller, head of the information and communication department. Because, in compensation for the cheaper kWh on weekends, the contract price and/or the price per kWh on weekdays are higher. Our comparator allows you to make estimates on a standard consumption. In the long term, our objective is to allow a more precise analysis, with actual consumption data. »* Enercoop and Butagaz give their customers equipped with Linky the option to choose the power best suited to their needs, instead of supplying it in stages (3, 6, 9, 12... kVA).

## ► INFORMING THROUGH THE MEDIA

**Having informed 2.1 million consumers in 2018, the ombudsman has played its part.** The Energie-Info service, available at the toll-free number 0 800 112 212, received nearly 188,000 calls, including 6,200 complex requests that were handled internally by ombudsman staff. In addition to those received directly by e-mail, post or via the website, **10,700 requests were recorded**, an increase of 13% compared to 2017, mainly due to an increase in unexplained contract «cancellations» (See Chapter 2 «Signing-up to a contract» - p. 24).

The number of quotations where the ombudsman's services are mentioned in the media is increasing sharply: + 46%. The winter break, fuel poverty and door-to-door sales are the main focus. « *We contacted Relaxnews, a news agency, to provide them with weekly content, says Emilie Pourquery, Communications Officer. Under the heading Energy&You, it provides factual and impartial information on concrete topics such as switching suppliers or energy savings.* » Logically, **the institution's reputation among the general public is increasing**: according to the latest Energie-Info barometer, 41% of French people have heard of ombudsmen or Energie-Info, compared to 35% last year.

*« Are off-peak hours the same regardless of the supplier? I can't find this information anywhere. »*

*Ms P. - Large Field (56)*



**1,800,000**

visits on the site  
**energie-info.fr.**

**164,000**

visits on the site  
**energie-mediateur.fr.**



## OUTSIDE PERSPECTIVE

### ENERGY SUPPLIERS SWALLOWED UP BY FIERCE COMPETITION

**Belgium and the United Kingdom have been victims of increased competition in the electricity and gas markets.**

In Belgium, five suppliers ceased their activities with private individuals in 2018. The rise in energy prices on wholesale markets has been fatal for these small operators, as has the entry of large energy companies into play. This is an indication that future mergers could lead to further disappearances.

On the other side of the Channel, the British Energy Market Regulator (Ofgem) has raised the requirements for new entrants in order to protect consumers from the financial instability of certain players. In recent months, it has resulted in bankruptcies or serious service failures. A supplier was banned from taking new customers for several months to remedy the poor quality of its customer service; it ended up shutting down.

## A MISSION TO INFORM

### ► SOCIAL NETWORKS

Social networks are a cornerstone on which the ombudsman increasingly relies. Twitter followers increased by 23% and « likes » on Facebook by 24%. In 2018, four « Facebook live » videos, during which employees are called upon to contribute to teaching, were broadcast. Meetings are held every Thursday on social networks, alternating between two new features: the video called « *What does the ombudsman do for you?* » which, in less than two minutes, explains a case dealt with by the services that is representative of the problems encountered; and the visual « *Popular misconception* » which aims to combat fake news, such as « *EDF has disappeared* » or « *Regulated tariffs no longer exist* ».

Social networks are also updated with the ten new « *Practical Minute* » videos produced in 2018 as part of the partnership with the French National Consumer Institute (INC). Introduced ten years ago, each year it renews a television campaign on public channels that broadcast five **ConsoMag** programmes devoted to energy.

**Knowledge is taking control  
of your consumption.**

### ► A PRACTICAL GUIDE

The practical guide to the electricity and natural gas markets, co-edited with INC, has been updated. This thirty-page booklet answers consumer questions and is mainly distributed to associations and public service companies, who then make it available to individuals. It was mailed to 500 national and local organisations to help them educate consumers. A letter was also sent to 15,000 small and medium-sized municipalities, offering to send them the guide by post; 187 responded positively, some even taking the opportunity to write an article in their local newspapers.



**3,887**

Followers  
on Twitter.

**1,016**

Followers  
on Facebook.



**2,7 millions**

People in France watched each of  
the **ConsoMag** programmes  
on France Television in winter of  
2018.



HIT

## CONSUMERS THAT ARE BETTER AND BETTER INFORMED

**It took more than 10 years for the big upheaval and opening-up of the energy market to enter minds.**

Since 2007 and up until now, the French public had shown only a low desire for opening up the energy market to competition.

Now, they have had a wake-up call. The 2018 edition of the Energie-Info barometer shows a significant increase in awareness of the right to change supplier: + 16 points compared to 2017. As a sign of increased curiosity, more of them are looking for information: 32% compared to 20% the previous year. 62% are now aware of the processes to follow up from 53% a year ago. And a small majority of them can name a supplier other than their own.

The end of this sluggishness can be explained by the arrival of new suppliers on the market, particularly major energy players or leaders in mass distribution. The latter have driven the market, particularly with advertising campaigns that have not gone unnoticed by consumers. However, suppliers must be aware of the «boomerang effect» of aggressive solicitation. In 2018, 56% of French people were approached commercially compared to 36% in 2017.





*« I have changed electricity suppliers six times in a few years (mainly thanks to your excellent site). »*

Mr. G. - Hyères (83)



## ► TWO MORNINGS OF EXCHANGES

The success of the exchange mornings that have been organised since 2016 shows how much the ombudsman has become a key player. The first one in 2018 was dedicated to the **two years of consumer mediation in France** and allowed guests and the public to take **stock of this growing practice of amicable dispute resolution** and to share views on its usefulness as an alternative to the justice system.

The second round of discussions brought many participants together in December for a popular topic: « **Energy: consumers AND key players... is it possible?** ». In a rapidly changing energy market, it is necessary to be more inventive to free consumers from their role as mere spectators. First, to improve the transparency of business proposals, including green offers. The question is all the more acute at a time when 61% of individuals say they are ready to sign up to a green electricity offer, according to the latest Energie-Info barometer, thus showing a certain commitment to the energy transition.







MISS

## PUTTING TRANSPARENCY INTO THE «FAIRNESS» OF AWARDS

Voted «Customer Service Provider» of the year, first on the «Customer Relationship Podium», and Best Supplier Award... Awards and distinctions are multiplying in all sectors, including the energy sector.

«Award-winning» suppliers, such as Eni, Total Spring, Direct Énergie, Ekwateur and Plüm are quick to highlight this in their communications to enhance their offers and stand out from their competitors. What guarantees do these logos offer to electricity and natural gas consumers? At the very least, these approaches lack transparency.

In the food sector, quality labels are certified by an independent third party, attesting that the practices of professionals comply with specifications. This is far from being the case in the practices observed here. Marketing companies or energy brokers are the ones in charge of these rankings. Some use polling organisations to gauge the reaction of consumers. Others use the mystery shopper technique to test customer service by phone, email, social networks, etc. How do these companies receive their awards? Do suppliers pay for their first-class «label»?

The ombudsman suggests that this jungle of awards, an unregulated means of setting apart offers, should be put in order. In 2016, the legislature intervened to regulate the content and information methods of online comparison sites. A way forward, perhaps?





## FOCUS

### THE ENERGIE-INFO PRICE COMPARISON TOOL WILL BECOME «OFFICIAL».

Since 2009, the ombudsman has been proposing a price comparison tool whose existence is underpinned by the PACTE law.

The PACTE law reforming business life, soon to be promulgated, will confirm the existence of the price comparison tool, giving it a legal basis in a new article added to the Energy Code. This is an additional guarantee of credibility and legitimacy for this tool, which has proven its worth over the past 10 years.

Suppliers will have a legal obligation to reference on the comparator, all of their offers for private individuals and small businesses. They will be required to mention the existence of the comparator in communications to all their customers affected by the gradual disappearance of regulated gas tariffs.

In 2018, 660,000 consumers used the comparator, and some ten associations and organisations (such as the Energy Information Centres) have integrated an adapted version of this comparator on their own websites. A spin-off that will continue....

**The scheduled end in 2023 of regulated natural gas** tariffs for private individuals is set out in the PACTE law. For the ombudsman, it is essential to anticipate this and widely inform the French people so that the transition can take place under the right conditions. The energie-info.fr website has taken the lead, publishing a short video in 2017 entitled «Understanding the end of regulated selling prices» and encouraging consumers to compare offers. A first step far from being sufficient in terms of the issues at stake... While suppliers are polishing their weapons to attract consumers who will switch to a market offer, vigilance will be required to counter false information and pressure.







## INTERVIEW



**MICHEL CANÉVET**

Senator of Finistère

### **MARKET OFFER PRICES MUST REMAIN REASONABLE AND ATTRACTIVE**

*« Regulated tariffs set by public authorities now serve as de facto reference prices. Their disappearance - scheduled for 2023 for private individuals signed-up to natural gas - must be accompanied by a system that maintains a rate reference in order to help consumers to better identify themselves in the offers. Our debates in the Senate have highlighted the importance of access to energy for our fellow citizens, a good as essential as water. This is why the prices of door-to-door offers must be reasonable and attractive.*

*This reference price will be an average price of existing offers, weighted according to their specificity. In this context, the price comparison tool managed by the national energy ombudsman is particularly important to ensure the neutrality of information. This independent authority is able to secure consumers during the transition period, while the liberalised energy market will be increasingly marked by price fluctuations. Suppliers will not fail to be present at households. The ombudsman can enlighten people, and they should not hesitate to call if a problem should arise. It is a key element of sound market practices that are essential to its proper functioning. »*



« I would like to reduce the monthly deduction from my invoice from €60 to €40. How can I do this? »

Ms I. - Ollanuailler (91)



## REAL CASE

### THE SUBTLETIES OF « FIXED PRICE » OFFERS

In November 2017, when Ms. H. signed-up to a «green electricity offer» guaranteeing a fixed price for one year, she did not expect her bill to increase slightly in February 2018.

The ombudsman considers that the consumer was misled by an ambiguous communication on the offer, which highlighted the phrase «fixed prices guaranteed for one year». However, the latter only concerned kWh, and excluded tax. It is difficult for the average consumer to read between the lines and understand that the price of the subscription, which is identical to that of the regulated tariff, is subject to change. This happened on 1 February, 2018 with the increase in the regulated electricity rate, which was reflected in Ms. H's subscription.

The ombudsman recommended that the supplier correct the information about their offer in order to eliminate any source of confusion for consumers and to ensure price transparency. The supplier has changed its tariff presentation and made it more clear.



Recommendation No. D2018-07389



**SOME WORDS FROM**

**THE OMBUDSMAN**

## WHAT RULES ARE IN PLACE TO CONTROL THE INCREASE IN PRICE?

**Sudden increases in regulated electricity tariffs are unsustainable for lower-income French people.**

While regulated electricity tariffs were stable on average in 2018, with an increase of 0.7% excluding tax in February and a decrease of 0.5% excluding tax in August, 2019 looks set to be a more challenging year. In February 2019, the Energy Regulatory Commission recommended a 5.9% increase (7.7% excluding VAT) in regulated electricity tariffs for individuals. This is an average increase of €85 for households heating with this energy, a significant sum for precarious households. It would cancel the recent €50 increase in the value of the energy cheque.

It was decided that the evolution of regulated tariffs would be partly indexed to wholesale market prices. The problem is that, when market prices increase, alternative suppliers require that regulated tariffs take into account the costs that EDF, like its competitors, would have had to incur if it too had to obtain supplies on the wholesale markets under the same conditions as them. This is one of the points raised by the French Competition Authority in its opinion published on 25 March 2019: it recommends that the government request a new decision from the Energy Regulatory Commission in order to better assess the additional costs borne by suppliers

Should the rules be changed in order to limit the impact on French invoices? I ask this sincerely, because the current mechanism in place to make regulated electricity selling rates «competitive», is distorting them. While they were supposed to play a protective role for consumers, they are being transformed into a ceiling price to keep companies afloat in a sector where competitive space remains limited, given the centralisation of means of production by the incumbent operator.

In addition, Regulated Access to Incumbent Nuclear Energy (ARENH) allows alternative suppliers to purchase electricity produced by nuclear power plants at a price of €42/MWh and in limited quantities (100 TWh per year). Today, these suppliers are playing on two sides: they abandon the ARENH when wholesale prices are below €42/MWh and, when wholesale prices are higher, they ask that the ceiling be raised in order to be able to buy more. The reform of the ARENH must be an opportunity to consider the implementation of a minimum supply obligation by suppliers who wish to use it.

**Jean Gaubert**



**+ 40 %**

electricity increase  
in the last  
10 years.

**13 %**

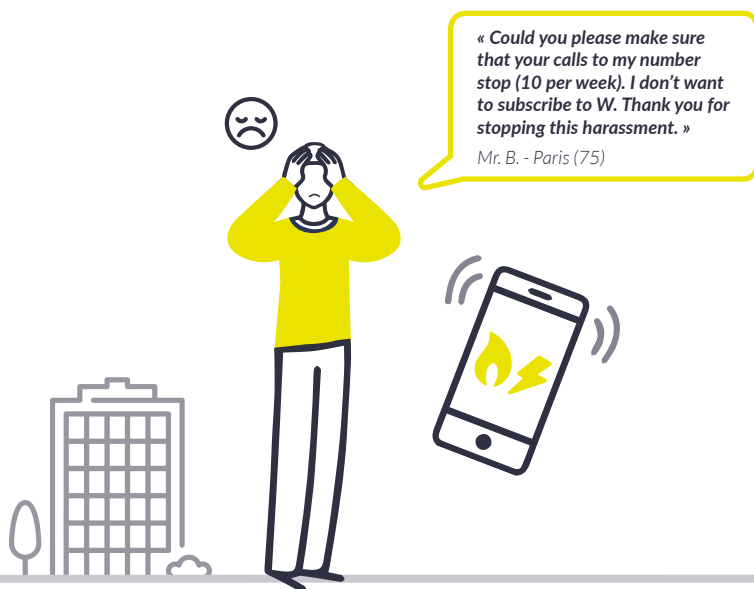
is the CSPE's  
(Contribution  
to the Public  
Electricity Service)  
share of the  
electricity bill.

# SIGNING UP

## to a contract



Signing an energy supply contract is, in theory, a simple act. However it is not always a walk in the park for consumers. The pressures of some unscrupulous salespeople, while door-to-door sales are multiplying with the competition, are at the root of many disputes. As for suppliers, they do not always comply well with procedures.



**56 %**

of French people were  
canvassed in the energy  
sector in 2018.

(Barometer Energie-Info)

**70 %**

solicitation  
carried out by phone

(Barometer Energie-Info)

**8 %**

**This is the proportion  
of disputes received by  
the ombudsman in 2018  
that concern subscription  
disputes or bad commercial  
practices**

## THE INCREASE SOLICITATION

In 2018, more than 1 in 2 French people said they had been approached by an electricity or gas supplier, compared to 36% in 2017, according to the 2018 Energie-Info barometer. It is not surprising, therefore, that the number of disputes relating to subscription or denunciations of commercial practices remains high in 2018, with 1,416 cases recorded by the ombudsman. However, this figure is down slightly: -7% compared to last year. These disputes mainly concern contracts entered into during door-to-door sales. Telephone solicitations, even if they are the most frequent (70% in the energy sector), generate fewer problems: consumers can avoid commercial pressure simply by hanging up and if they grant a verbal agreement, it is not binding. Two suppliers account for 3/4 of the disputes of which the ombudsman is aware: **Engie** leads with 44% of cases, followed by **Eni** with 28%.

### ► CALL FOR VIGILANCE

The Energie-Info service is a good observatory of the questionable commercial methods used, as evidenced by people who are solicited at home. It's a free-for-all: a so-called «EDF housing solution service mandated by the State» promises a reduction in bills, a pseudo «national energy management centre» proposes an energy assessment; sellers lie about the existence of a «Hulot act» providing bonuses for low-energy housing or claim that a false European regulation was adopted following COP 21 introducing a compulsory visit to all housing in order to assess electricity consumption; a commercial announcement of a 30% increase in regulated tariffs... They will use any means to get in and access energy bills. **Some pretend to be a meter reader or impersonate competitors.** In March 2019, the Versailles appeal court ordered Engie to pay €1 million in damages to EDF for solicitations implementing acts of unfair competition. Furthermore, other providers advance offers with low monthly payments, not to mention that the regularisation invoice will be high.



*« A Y salesman abused my elderly father's trust and made him sign a contract pretending to be an EDF-GDF agent »*

Mr. C. - Lyon (69)

**The Ombudsman's services were heard on 19 October 2018 by the working group on telephone solicitation of the National Consumer Council (CNC) on the specificities of the energy sector.**

**Elderly people are a particularly vulnerable group.** The case of Mr G., 87 years old, retired from EDF and thus benefiting from the agent rate, illustrates to the point of absurdity the abuses of solicitation. The ombudsman's intervention enabled him to be reimbursed a sum of €4,600, corresponding to the difference in price between his agent rate and the market offer to which he had signed up, for a year and a half.

**Small businesses** are not immune to false promises from direct sellers either. The latter submit offers allowing a substantial reduction in invoices, but they ignore the conditions for changing suppliers. The professionals' contracts provide for a period of engagement with early termination fees that can be high. And unlike individuals, they do not have a right of withdrawal, except for entities with less than 5 employees. The ombudsman invites them to check their contract carefully, in order to avoid any bad surprises if they leave their supplier before the scheduled term. Especially since it is not always easy to know in advance the precise termination cost, as the methods of calculating them, described in the general terms and conditions, are sometimes imprecise themselves. One supplier was the subject of a general recommendation requiring them to clarify the parameters allowing their customers to accurately assess their termination costs (recommendation D2018-00296).

*« Following solicitation at our home to answer a questionnaire, our regulated rate contract was terminated and replaced with a market offer contract. The General terms and conditions were illegally signed »*

*Ms et Mr. D. - Vern sur Seiches (35)*



## INTERVIEW

### FRANÇOIS CARLIER

General Delegate of the CLCV Association

## SUPPLIER CLAIMS ON PRICE REDUCTIONS MUST NOT BECOME THE INDUSTRY'S COMMUNICATION STANDARD

*« The energy market is structured around price. Suppliers position their offers by offering a discount from regulated tariffs, from 10% to 15% cheaper. The arrival of new players in autumn 2017 reinforced this wave. However, no consumer will save this much on his bill since the reduction concerns only the price per kWh consumed, and not the fixed portion corresponding to the subscription price and taxes. That is why in the spring of 2018, we took three operators to court for misleading commercial practices. It is a case of putting a stop to these advertisements which must not become the communication standard in the sector.*

*Do these allegations make a big difference to individuals? The promised 10% discount is actually limited to about 6.6%. These offers are often accompanied by additional constraints: payment by automatic monthly transfer, lack of customer service by telephone, etc. The consumer overcomes these disadvantages if the price difference appears substantial; but if it is less so, they will hesitate more. Few people complain,» replied the suppliers concerned. Probably because the damage appears to be diffuse: the first invoices arrive several months after the subscription; and they are not always strictly comparable to the previous year, taking into account climatic variations.»*



## ► OMBUDSMAN AND THE DGCCRF AN ACTIVE COLLABORATION

In 2018, the Ombudsman services and the General Directorate for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF) strengthened their collaboration. **It makes it possible to better support consumers while respecting everyone's prerogatives.** The existence of a signed contract, even if refuted by the consumer, is considered to fall within the ombudsman's legal field of competence; subscription disputes may therefore be the subject of mediation, if the admissibility criteria are met. In addition, the ombudsman services relay information given to them by victims of misleading commercial practices to the DGCCRF.

**Several scenarios arise when an individual calls the Energie-Info service** to be assisted in contesting the subscription of a contract : *« If the 14-day deadline has not been exceeded, we inform them of their right to withdraw »* explains Caroline Keller, head of the information and communication department. *Beyond this period, when the consumer has received a first invoice from their new supplier and/or a termination invoice from the old one, and if the consumer has withdrawn in time or if there is a suspicion of fault on the part of the direct seller, we forward the consumer's complaint to the relevant supplier.»*

In most cases, this approach is sufficient for the supplier to terminate the contract in question. They acknowledge poor behaviour on behalf of their commercial service provider, or that they have failed to take into account the withdrawal form sent in due time, without the need for mediation. **Sometimes, however, non-consented subscriptions lead to cascading problems; they have required mediation in about a hundred cases.** Indeed, it could be several months after the contract has been activated before the consumer notices that their cancellation has not been taken into account.

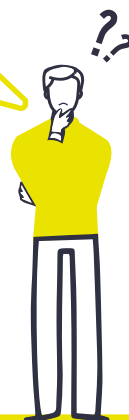
« Energy has been consumed, invoices issued, direct debits made. These disputes

are settled globally by amicable agreements. » says Catherine Lefrançois-Rivière, Head of the Ombudsman Service. The supplier cancels the disputed contract, reimburses any sums deducted or does not recover the invoiced consumption, and generally offers compensation.

But for the consumer, the trouble doesn't always stop there. **A so-called «backtracking» procedure is provided** for so that they can return to their previous contract, under the same commercial conditions. When the supplier cancels the disputed contract, they must inform the consumer's former supplier who then asks the distribution system operator for a correction of the change of supplier. The ombudsman sees failures in the procedure. Some cases show difficulties in reactivating old contracts. Some errors lead to scamming, as can be seen in the example of Ms. A. Her new supplier (due to an input error) did not request a return to her former supplier... but to another. It was then technically impossible for them to make a new request to the right supplier!

*« I withdrew, by registered mail, within 7 days. However, a collection agency is asking for an invoice of €50. My complaints remain unanswered. »*

*Mr. A. - Annette (74)*







## REAL CASE

### CHANGE OF SUPPLIER WITHOUT HIS KNOWLEDGE

**The ombudsman's intervention speeds-up the return to normal.**

Ms. T was shopping in a home appliance store on March 17, 2018 when she changed electricity suppliers against her will and without her knowledge. After receiving a first invoice from her new supplier a month later, she denied that she was the one who initiated the subscription. As her complaint letter remained unanswered, the consumer referred the matter to the ombudsman.

The supplier reacted to the investigation of the case and informed her by letter of the current processing of her file. On 21 June, they cancelled the contract and the associated billing, and approached Ms. T's previous supplier so that the latter could take over the electricity contract on the initial terms. As part of the mediation, the supplier proposed a compensation of €50 for the inconvenience caused.

The examination of her complaint makes it possible to resolve all her questions regarding the other elements contested. No activation fee was invoiced when she became a customer of her former supplier again and the ombudsman found no anomalies on the consumption recorded by the meter. In the end, Ms. T. came out on top since she did not pay for any subscriptions or consumption during the litigation period.



Recommendation No. D2018-09498

## INTERVIEW



### FLORENCE FOUQUET

Engie Consumer Manager

#### **ENGIE IS CONSTANTLY WORKING ON THE QUALITY OF ITS SALES. WITH A CLEAR DIRECTIVE : THE CUSTOMER IS ALWAYS RIGHT**

*« Engie's door-to-door sales are going very well overall: our complaint rate was only 0.2% in 2018. We have a clear process that we are continuously improving in consultation with consumer associations (4 workshops in two years). Since 2017, each visit to an individual is followed by a confirmation call to check that everything has been understood. Our follow-up of complaints is reactive and the customer is always right: when they wish to withdraw, we always cancel the contract.*

*However, cases of dissatisfaction are regrettable. To make further progress in 2019, I asked for a detailed inventory and met with consumer associations. This allowed me to identify two main areas.*

*On the one hand, following the recommendation of the associations, the training of salespeople will be rethought. In the first half of 2019, we will set up a sales school by Engie. Built with a leading organisation on these subjects, the new training course will finish with an exam in which passing is mandatory in order to obtain the Engie accreditation card.*

*Furthermore, we will refine the terms of the contracts with the companies that operate the sales for us. In particular, with an even more incentive system to reward good quality in practices and, conversely, to punish bad behaviour. Already, in 2018, we withdrew accreditation cards from 30 sales representatives and any sales that were withdrawn were not remunerated. »*





**SOME WORDS FROM**

**THE OMBUDSMAN**

## **A DECENT PAY SYSTEM FOR HOME SALESPeOPLE**

**Salespeople need a fixed salary, supplemented by a variable bonus. This is the only answer to the excesses of solicitation.**

The conditions of pay for direct sellers, with variable commission, can only lead to improper behaviour. No one can afford to work without being paid. This financial pressure leads many of them to ignore the rules given to them, without much constraint, by suppliers. The essential aim is to get contracts signed by any means, legal or illegal. Giving false information about offers and competitors, presenting oneself under false pretences, obtaining a signature by presenting the contract as a simple proof of passage... the reasons for consumers' anger are numerous.

Suppliers must be held responsible. They are the ones who mandate the service providers who employ salespeople under this status. They continuously state that they supervise and control their practices, but this is clearly not enough since ombudsman services are regularly solicited by consumers who dispute a subscription.

It is not a case of banning door-to-door sales or preventing product sellers from doing their rounds. The only answer is to introduce a fixed salary for traveling salespeople, necessary to cover at least their costs, with a variable premium indexed to sales.

**Jean Gaubert**

## PROCEDURES THAT ARE NOT ALWAYS RESPECTED

Procedures for activation or changing suppliers are not always well controlled and this leads to slight or serious failings.

### ► THE ISSUE OF PEAK/OFF-PEAK HOURS

Individuals sometimes find that their off-peak hours have disappeared or changed as a result of a change in electricity supplier. The explanation is often simple: the new supplier has made a mistake, either by activating a basic contract or by requesting an activation instead of a change of supplier (which may result in a change in the off-peak time slot).

When Enedis is asked to restore the peak/off-peak option, the supplier does so but at different times. Consumers who are dissatisfied because they have become accustomed to adjusting their practices to previous schedules do not hesitate in referring the matter to the ombudsman: *« In these cases, we welcome Enedis's positive attitude. Through mediation, it is agreed to restore the old time slots »* says Christian Souletie, head of the electricity division.

*« I just want to cancel this contract and get my old one back at X. Please help me, I beg you. »*

Mr. B. - Lyon (69)



**FOCUS****A MAXIMUM TIME LIMIT  
FOR ACTIVATION**

**The Ombudsman proposes to introduce a maximum time limit for activation, with a price reduction in the event of an overrun.**

Is it normal that a gas activation request made on 15 November cannot be carried out until 8 December or that a power activation request made on 27 November cannot be carried out until 27 December? Waiting a month to access energy was a reality for these consumers who complained about it to the Ombudsman's office. Although a standard deadline of 5 working days is provided for in the catalogues of network management services, the performance of the service depends on the availability of the teams. «Express» activation within 48 hours is possible (additional cost of around €40), along with same-day activation «in emergencies» for gas (additional cost of €124). This is why the Ombudsman believes that the Energy Regulatory Commission should force network operators to commit to maximum activation times. In the event of an overrun, a reduction in the price of the service, or even a waiving of all costs, could be introduced in order to encourage distribution system operators to be diligent.

**OFFERS THAT ARE ATTRACTIVE  
BUT DIFFICULT TO SIGN-UP TO**

**The ombudsman has reported an anomaly concerning some of Engie's offers to the DGCCRF.**

Some offers listed on the the energie-info.fr website comparator are not accessible on the supplier's website, unless you are aware of a very complicated direct link. These offers are not automatically made available to someone when they make a subscription request by phone. Ombudsman findings show that it is difficult to access to these offers unless you are an informed and obstinate consumer. With these «ghost» offers, the ombudsman considers that the supplier artificially increases their visibility on the comparator. The latter said that they would develop their website to take into account the Ombudsman's remarks.

## ► THE ERROR OF ATTRIBUTION

More seriously, activations or supplier changes are sometimes made with meter allocation errors. Procedures are in place to address this, but they are not systematically followed by suppliers. This results in significant disruptions for the consumer whose meter reference has been assigned to another person. The ombudsman intends to highlight this failing which has always existed and tends to become increasingly common.

The number of meter errors identified (See Miss - p.36) represents **5% of the disputes investigated in mediation**, twice as many as the previous year. «As the French are increasingly active on the energy market, the number changes from one supplier to another has increased... as well as the number of problematic situations,» says Catherine Lefrançois-Rivière. «It is feared that the phenomenon will worsen.»

In 2015, Enedis estimated their rate at 8 per 10,000 activations and half as high for supplier changes. These out-of-date figures probably do not reflect today's reality. They have not even been updated in the new procedure for correcting a meter error dated 1 January, 2019. Several improvements have been made through this amended procedure: **the consumer's initial situation must be restored within a maximum of one month for electricity and two months for gas** and the customer must be informed of the measures taken within 10 days of their request. But there is no point in improving the operating rules if the operators do not apply them.

« Hello, I moved into a new home in December. Since then, my contract has been terminated 3 times, by mistake according to my supplier. Because it is absolutely not me who is asking for this termination. What can I do to prevent this from happening again? »

Ms D. - Vence (06)



## ► UNEXPLAINED TERMINATIONS

In 2018, more than 1,800 disputes, received mainly via the Energie-Info service, were due to unexplained terminations, compared with 1,200 in 2017. When a consumer receives a termination invoice from their supplier and calls them for an explanation, **the supplier should investigate the cause of the termination systematically**, however, they do not do so. «Quite understandably, some consumers are frustrated when we explain to them that they must make a written complaint to their former supplier since it is up to them to do the work,» says Caroline Keller. These are generally errors or subscriptions to disputed contracts. The ombudsman's staff intervene with the supplier and the distribution system operator if the termination of the contract has resulted in an energy failure or if the written procedure has not resolved the problem.



**11 %**

Out of the total number of disputes received by the ombudsman, this is the portion of **unexplained terminations**.





## REAL CASE

### UNEXPECTED POWER FAILURE

**Because a supplier did not comply with the rules to correct an error in the allocation of a delivery point, a consumer suffered significant inconvenience**

Upon returning from his holiday, Mr D. had the unpleasant surprise of finding that there was no electricity in his apartment, and a foul smell coming from the rotting contents of his freezer. He was shocked to learn that his energy contract with supplier A had been terminated without his request.

The person in charge is another supplier, B, who has carried out an activation in a neighbouring apartment; he has made a mistake in the delivery point (the technical reference of the meter), using that of Mr D. instead of that of his neighbour.

Upon realising this error, supplier B terminated Mr D's contract in order to set-up the correct client (Mr D's neighbour) on the right meter. According to the market rules, they should have instead immediately contacted the network manager to find out the identity of Mr D.'s supplier in order to get in touch. Supplier A, thus notified, would have taken back their former customer, whose contract was terminated against his will.

This failure to comply with the procedure led to the power failure because, with a Linky meter such as the one used in Mr D.'s house, the termination results in a power limit of 1,000 Watts on the same day; the consumer's installation, requiring a higher power, was therefore disconnected.



@ Recommendation No. D2018-16690



MISS

## INCORRECT APPLICATION OF THE AGREED PROCEDURES IN THE EVENT OF A METER REFERENCE ERROR

Suppliers do not properly manage errors in the assignment of meter references. The Ombudsman sees this as a major failing.

When a contract is not assigned to the right meter reference, it is the starting point of an often difficult situation for consumers. However, procedures have been in place for more than 10 years to correct these errors quickly and efficiently. However, suppliers are far from systematically applying them. This failure to comply with the rules of the market has significant consequences for the individuals involved in this crossover: unexplained termination, the ordeal of trying to understand what happened, the invoicing of consumption that is not their own, risk of energy suspension. The re-engineering process provides for cooperation between suppliers to reassign the correct delivery points to their respective customers.

The procedure provides for cooperation between suppliers to reassign delivery points to their respective customers. When an individual receives an unexpected termination invoice, they must give their supplier permission to contact the distribution system operator in order to find the identity of the company that wrongly activated a contract on their meter.

Some suppliers do not do this; they refer the consumer to the Energie-Info service, which does not have access to this information, or to the grid operator, which does have the information but will not give it to the consumer because it is up to the former supplier to contact them. In short, the different players are passing the buck. And suppliers are turning to a simple solution: the terminated consumer just has to sign a new contract, even if it means having to pay an activation fee!

The Ombudsman considers this lack of rigour in the management of errors to be unacceptable.







## OUTSIDE PERSPECTIVE

### THE END OF FREE CHANGING OF SUPPLIER?

The new European directive on common rules for the electricity market adopted in March 2019 could make significant changes.

This is a step forward that will benefit all European consumers, even if in France the deadlines are already well defined. The total time-frame in which to change suppliers must not exceed 3 weeks and, by 2026, the technical procedure must be carried out within a period not exceeding 24 hours.

But the main point that attracts attention in France is the possible end of free switching. Indeed, the text provides for Member States to decide whether to allow suppliers to charge termination fees to their customers who terminate a fixed-price and fixed-term contract before the end of the term.

These costs must be clearly communicated to the consumer before he or she signs the contract. They must be proportionate and must not exceed the loss of income directly suffered by the supplier due to the premature departure of their customer. The authorisation of contract termination charges will have to be monitored by national market regulators.

The Directive also provides a legal framework to encourage tied purchases (energy and the internet, or energy and photovoltaic panels, for example) and to encourage Member States to put in place consumer protection measures to prevent any abusive practices. It provides for increased information for consumers on the content of these offers (duration, renewal, termination), as well as an obligation for Member States to ensure that the various mediation entities cooperate in the resolution of disputes involving linked offers.

# BEING INVOICED, paying



Consumers expect reliable, clear and timely invoices from their supplier. This is far from always the case, as shown by the nature of the disputes handled in mediation. The legal prohibition on back-dating energy consumption after 14 months could have changed the situation, but operators do not always apply the law with the required rigour. Smart-meters, which make invoicing more reliable by transmitting real indexes, reveal unexpected malfunctions.



« I received 4 invoices for a total amount of €1,822 for the period from 11/2016 to 08/2018. I am not supposed to receive invoices that are more than 14 months old. »

Ms D. - Onet le château (12)





# 118,000 €

This is the amount that a Church has recovered through the intervention of the ombudsman. The electricity meter had been over-counting since.... the year 2000! The supplier had cancelled part of the invoice but only for one year, i.e. €2,200. However, the disproportionate consumption of electricity compared to the use of the parish, should have made them suspect a meter malfunction.

## BILLING DISPUTES

Billing disputes remain the main cause of disputes investigated by the ombudsman in 2018. First and foremost, consumers question the level of consumption invoiced: this is 44% of all disputes receivable through mediation. Among them, **disputes related to a meter malfunction corrected by an adjustment are down 16% compared to 2017**; even if the installation of a Linky meter reveals a malfunction of the old meter, the distribution system operator generally does not make any adjustments. **On the other hand, referrals based on a challenge to the index used when changing suppliers are up sharply in 2018** compared to the previous year: **+ 50%**. This is the consequence of a more dynamic energy market, with rules that are not always well followed: for example, the supplier does not ask for, or take into account, their new customer's meter reading.

### ► CONSUMPTION AT THE HEART OF DISPUTES

The proportion of consumption disputes has decreased since 2017, when they represented 52% of cases (-8 points). But this decrease is deceiving. In fact, the overall number of admissible disputes increased by 36% this year. Thus, in absolute terms, the ombudsman service handled more disputes on consumer disputes than in the previous year: **2,443 compared to 2,105, an increase of 16 %**. « We can't speak of improvement, far from it, » says Frédérique Coffre-Feriaud, Director General of Services. ***In roughly 10% of cases, investigation during mediation reveals that the prohibition of regularisations beyond 14 months is not complied with (See Some words from the Ombudsman - p. 42).*** « Additionally, with the deployment of smart-meters and the generalisation of monthly remote reading, we expected to see a decrease in disputes related to the catching-up of invoicing based on estimated indexes. This is indeed the case, but the installation of Linky reveals other malfunctions which cause disputes. »

This is indeed the unpleasant surprise that occurs from time to time after the installation of a smart-meter: the first invoice following the change of appliance shows a sharp increase in the consumption of electricity or gas, resulting in a large sum to be paid... Logically, the consumer thinks that Linky (or, in fewer cases, Gazpar) does not work well. On the contrary, the investigation of these disputes shows that it is most likely the old meter that was at fault, no longer recording all the consumption. Is quite easy to verify this by comparing the consumption invoiced with the energy uses and characteristics of the households (See real case - p.41).

The problem lies in the **lack of responsiveness of suppliers in warning their customers** : « With the real indexes sent to them by the distribution system operator each month, they have a preview of the development of consumption, » says Christian Souletie, head of the electricity division. They should not wait a year to charge these increases to the regularisation invoice, but take the initiative to re-evaluate their monthly clients' schedules. »

« I don't understand, since I got the new Linky meter, my bills have doubled. I live alone in 63 m<sup>2</sup> and I barely use the heating, if at all. »

Ms C. - Carbon-Blanc (33)





## REAL CASE

### WHEN LINKY REVEALS THE TRUTH ABOUT CONSUMPTION

The smart-meter, which records higher consumption than the old one, often reveals that the previous device was not working well.

Since a smart-meter was installed in his second home in December 2016, Mr R. has noticed an increase in electricity consumption. Convinced that Linky was not working properly, he asked for a visual inspection. It did not reveal any problems.

The ombudsman carried out an analysis of daily consumption over six-month periods. It appears that before December 2016, Mr R.'s electricity consumption was abnormally low and not very consistent with his electricity use.

The most plausible hypothesis, in the absence of any change in usage to explain this discrepancy, is that of the malfunctioning of the old meter. In its comments, the distribution system operator indicated that it was indeed part of a defective series. There is no reason to doubt Linky's recordings. The Ombudsman notes that no consumption adjustment has been invoiced, which is favourable to Mr R. whose actual consumption has not been recorded for several years.



Recommendation No. D2018-13757

## SOME WORDS FROM THE OMBUDSMAN



### LET'S REMIND OPERATORS OF THEIR LEGAL OBLIGATIONS

Operators take the law which prohibits the back-dating of invoices after 14 months lightly. They should apply it systematically, without the ombudsman having to intervene to enforce simple consumer rights.

The 14 months limit for back-billing was a real step forward for the French. The regularisation of several years of consumption could plunge lower-income people into insurmountable financial difficulties.

Almost three years since this measure was enforced, codified in Article L. 224-11 of the Consumer Code, and intended to prevent negligence on behalf of operators, it must be noted that its application remains uncertain. And the number of related referrals recorded in the first quarter of 2019 shows little sign of improvement. This situation is intolerable.

Sometimes it is during the processing of another dispute that we discover that the 14-month limitation has been omitted. Or the consumer has not been able to make themselves heard through the customer service of their supplier. It takes the intervention of my services to get them on the right track. These cases are usually settled by amicable agreement: operators tend to make the necessary corrections when confronted with the facts. Nevertheless, I find that there is a form of frivolity on behalf of professionals. They have refused to invest in adapting their information systems to this legislative development. In their opinion, this investment is unnecessary because, with the deployment of smart-meters that automatically transmit real consumption indices, the issue of invoice back-dating would no longer arise.

But it will not be until 2021 that all French people will be equipped with Linky. And we will have to wait until 2023 for all gas consumers to have a Gazpar meter. This argument is not admissible. Operators must take measures to comply with the law.

**Jean Gaubert**

**Set-out in the Energy Transition Act passed in 2015, the ban on back-billing of over 14 months old came into force on 17 August 2016.**





## REAL CASE

### A BACK-DATING OF INVOICING ABOVE THE REGULATORY LIMIT

Because his gas consumption was underestimated over a long period of time, Mr P. received a large settlement invoice. However, the prohibition on back-dating bills after 14 months was not complied with.

In July 2018, Mr P. received his annual gas bill, which was very high. Although he has already paid €1,527, his supplier is asking him to pay a remaining balance of €7,261. However, his boiler is relatively new and verified by a professional. He suspects that there is a significant back-billing in consumption.

After carrying out an analysis, this is confirmed by the ombudsman. In May 2017, the distribution system operator estimated an index lower than the previous winter's consumption, excluding a larger index reading. This underestimation was corrected by a survey six months later, resulting in a back-dating of nearly 4,000 m<sup>3</sup> of gas. While the supplier must invoice once a year on the basis of actual consumption, the supplier has not taken action, either by proposing immediate regularisation or by reassessing his customer's monthly payments.

The annual invoice of July 2018 thus regularises consumption over the period from 17 November 2016 to 18 May 2018. Article L.224-11 of the Consumer Code, prohibiting the back-dating of invoices after 14 months, has gone out of the window.

The ombudsman calculated that the application of the law would mean cancelling approximately 2,000 m<sup>3</sup> of gas, i.e. a deduction of €1,500 for Mr P. In view of the shared responsibilities in this late regularisation, it is recommended that the supplier and distribution system operator share the burden.



Recommendation No. D2018-14359

## ► THE «HAZARDS» OF INVOICING

**Invoice anomalies represent 9% of admissible disputes in 2018:** the most frequent problem is the absence of invoices, but it can also be double invoicing, incorrect balances or poor management of monthly direct-debits. This is a relatively small share of all admissible disputes, but it is a significant increase compared to 2017: the number has more than doubled (+ 120%). **The same proportion (9%) of disputes concern prices:** the price of the contract subscribed to is not applied, the energy cheque is not taken into account, etc. Finally, **the payment of invoices represents 8% of cases**, with, for example, overpayments that are not reimbursed promptly or payments that are not taken into account.

Some suppliers are more susceptible to these issues than others, with Eni being the most likely to send out erratic invoicing (See Miss - p.45).

The problems related to the supplier Engie's distributed gas sales contracts (VGR), albeit in limited numbers, remain a real headache. Marketed under the brands «Vertuoz Habitat» or «Fideloconso», they have fuelled a growing stream of admissible disputes in 2018: 110 compared to 74 the previous year. These contracts are offered to residents of co-owned properties equipped with a collective gas boiler room; their heating and hot water costs are individualised using a meter installed in each home and directly invoiced by Engie... The first cases brought to light a series of problems... which remain in 2018, so the supplier has set up a dedicated unit to handle these cases.

### The most cases cases report Invoicing irregularities.

Months go by (or sometimes over a year!) without receiving a single invoice or a levy, resulting in late regularisations that deprive consumers of the opportunity to smooth their payments.

This is illustrated by the case of Mr L., who has twice referred the matter to the ombudsman: in 2017, his December invoice made up for a consumption of... 21 months; in September 2018, he received in a similar letter the invoices for February, April, June and September!

*« These malfunctions should cease in 2019 as Engie have assured us that they have put in place a new and more appropriate invoicing tool. »* says Alexandre Rodrigues, project manager in the mediation department.

**The lack of transparency** on individual consumption data, as well as that of the building, is at the root of other disputes. Without information on the overall hot water consumption in m3 and the consumption of heating in other dwellings, it is impossible for the occupants (as well as for the ombudsman) to check the proportion applied on the invoices. The supplier Engie has made a contractual commitment to make this data accessible on an Internet portal. However, many customers can't connect to it. Additionally, Engie applies the GRDF conversion in a rather loose manner; allowing the translation of m3 of gas consumed into kWh, it varies during the year according to different parameters. Suppliers are required to strictly apply it. The «Vertuoz» contracts seem to be free from this rule, without it necessarily being to the detriment of consumers elsewhere.



*« Nice of you to forget to charge us for electricity for 1 year, then send us an invoice for €450, giving us 1 month in which to pay it. My mother is alone, sick, unemployed. The household income is no higher than 800 €/month. »*

Mr. N. - Montpellier (34)



**MISS**

## ENI, INCOMPREHENSIBLE INVOICING PROBLEMS

Since 2016, the ombudsman has been drawing attention to the multiple and repeated invoicing problems experienced by Eni's customers. Despite the supplier's claims that it is taking action to combat this, there has not been any significant improvement on the situation.

Malfunctions in Eni's invoicing system should be resolved. This is not the case. These problems, laid out by the ombudsman, still persist. Closing invoices are not sent within the regulatory 4 week-period after the termination of the contract. It can even take... months, as was the case for Mr D. who received it 8 months after leaving Eni. Sometimes the consumer continues to be charged during that period! The reimbursement of overpayments is not much faster, although it must be done no later than 15 days after the invoice is issued or the within 15 days of the customer's request.

Eni customers, who choose their billing rate, are not sure that this will be followed. Those who have opted for bimonthly payments sometimes wait up to six months or more for the first invoice to arrive. And those that pay every month are sometimes not charged until the annual invoice is issued. Are there any other recurring problems? Yes, display anomalies that make the invoice incomprehensible: monthly instalments do not appear; in the regularisation invoice, consumption is deducted but this is not stated.

Even if these are anecdotal cases, there may also be confusion between names: invoices for two clients with the same surname are sometimes mixed-up, as well as payments that are not deducted from the right account. The consumer who has paid too much is not quickly reimbursed because Eni refuses to fix the situation until the person that benefited from the reversal has paid their due.



## THE GENERALISATION OF THE ENERGY CHEQUE

### ► AN ENERGY CHEQUE FOR LOWER-INCOME HOUSEHOLDS

The Ombudsman welcomes the generalisation of the energy cheque, the Ombudsman welcomes the generalisation of the energy cheque, introduced in 2018, to replace the social tariffs for electricity and gas. For a long time, the ombudsman has argued in favour of this new measure to aid in the payment of invoices, automatically allocated under resource conditions and extended to other heating energies (wood, fuel oil, LPG, etc.). Originally, the energy cheque was supposed to reach nearly 4 million households; but **fewer households were eligible than expected: 3.6 million**. The measures announced at the end of 2018 - an increase in the amount of the cheque and an increase in the income threshold - are a step in the right direction; **other improvements can still be made, particularly for people on re-integration living in rental intermediation housing; they are not subject to housing tax, do not fall within the regulatory framework and are the most-often forgotten.**

« My dispute with my supplier about my energy cheque was an ordeal; despite my calls and letters, they closed my file without further action. Thanks to the Ombudsman, the problem has been resolved.. »

Ms P. - Le Cannet (06)

However, the transition from the old to the new system has not been without its complications. **The Energie-Info service has often been used by consumers who previously received social tariffs and thought they would be eligible for the energy cheque. They were surprised to find that this was not the case:** « *The eligibility criteria are different, some households no longer benefit from the aid-scheme,* » explains Caroline Keller, head of the information and communication department. For example, all the incomes of people living in the same household are now taken into account, even if they file separate tax returns. In the event of a dispute on eligibility, we refer consumers to the Services and Payment Agency (ASP), which manages the sending of the energy cheque, in conjunction with the tax services; the answers they receive are unfortunately not always sufficiently explicit. »

**INTERVIEW****VIRGINIE SCHWARZ**

Director of Energy at the Directorate General  
of Energy and Climate (DGEC)

## **THE ENERGY CHEQUE SCHEME WAS ADJUSTED IN 2019 TO TAKE INTO ACCOUNT THE FEEDBACK FROM ITS FIRST YEAR OF GENERALISATION**

*« In 2018, the first year of its widespread use, the energy cheque was sent to 3.6 million households, following a well respected deployment schedule. Its rate of use should be close to that observed during the experimental phase, around 80%. This is a high figure compared to the rate of use of other social aid, such as the RSA (Active Solidarity Income), at 64%.*

*An overwhelming majority of beneficiaries (93%) say they have used their energy cheques without any issues. Only 2% encountered difficulties with their supplier, mainly wood sellers, small businesses that we have since raised awareness to. This is part of the learning phase of the scheme.*

*To improve its efficiency, we have worked with associations to make the letter that is sent alongside the energy cheque clearer. We have enlisted the help of social workers to act as pedagogical representatives, mainly through a video. We have set up a reminder campaign for households that have not yet used their energy cheques. Measures have been taken for specific cases: when a homeless person enters a household, they will no longer need to wait until the following year to qualify for aid; this is also the case for households that are not registered with the tax authorities and that regularise their situation.*

*The energy cheque has proved its usefulness in the fight against fuel poverty. In 2019, it will be extended to almost 6 million households and the 2018 sum will be increased by €50. »*

## ► SUPPLIERS' LACK OF RESPONSIVENESS

**The fate of the energy cheque, sent by individuals to their energy supplier, has also raised a number of questions and complaints.** Suppliers have sometimes been slow to deduct the amount of the cheque from invoices or monthly deductions. This is incomprehensible to consumers who were assured by the ASP that their cheque had been cashed. *« All suppliers have experienced failures while they adapt their internal processes to this new system, » says Alexandre. We handled 83 cases, mainly in the last quarter. They are easily settled by amicable agreement, with the supplier acknowledging that they have cashed the cheque but not yet allocated it to the customer to whom it belongs. »*

Eni sometimes takes between 8 and 12 months to pay back monthly payments that were mischarged as a result of energy cheques not being processed in due time. This delay may worsen the already difficult situation of consumers. **Additionally, suppliers fail to inform their customers sufficiently** when they apply the aid: they suspend the monthly payments covered by the cheque without informing them, or deduct its amount from the invoice without making it clear. These practices have caused confusion for households.

Moreover, **the rights associated with the energy cheque are not always well known** to consumers in difficult situations. The latter benefit from free activation and a reduction in charges in the event of non-payment. Suppliers cannot reduce their electrical power during the winter break. To claim these rights, lower-income households must send their energy cheques to the supplier or send them a certificate if they have used it for other purposes.

An unprecedented difficulty arose when disputes relating to the application of social tariffs in 2017 had to be dealt with during 2018. The company providing the suppliers stopped managing them at the end of the first quarter. For the ombudsman's services, it then became impossible to carry out the necessary checks to determine whether or not the consumer was entitled to them. Only the supplier Engie was accommodating, granting the social tariff retroactively to settle these disputes.



**4,2 %**

is the increase in the  
number of interventions  
for unpaid bills compared  
to 2017.

### Interventions for unpaid bills

In 2018, the number of interventions for unpaid electricity or of gas in private households increased compared to 2017: + 4.2 %. According to the figures they have provided to the Ombudsman and the Energy Regulatory Commission, suppliers had 572,440 interventions carried out for unpaid invoices: 477 349 in electricity (+ 4.9%) and 95 091 in gas (+ 0.8%).

Year after year, this data makes it possible to assess the situation of French people who have great difficulty paying their energy bills and shows that fuel poverty remains a major problem.

**INTERVIEW****CATHERINE ACHOUCH**

Eni's Customer Operations Director

**THE MEASURES TAKEN TO PUT AN END TO INVOICING ERRORS ARE BEGINNING TO BEAR FRUIT, WITH THE RESOLUTION OF INVOICING DELAYS**

*« Billing incidents affected 3% of our customers. These incidents occur due to the need to adapt our IT tools, the deployment of smart-meters that modify the flow sent by distribution system operators, and the sustained growth of our acquisitions. Solutions have been found to strengthen our information system. We are gradually closing the gap in sending invoices, which averages three months. New customers no longer experience these malfunctions.*

*Aware of the inconvenience caused, we have put in place accompanying measures by notifying the consumers concerned by letter or email. Delays result in high invoices, so we offer payment plans over several months. We are in the process of creating an internal Appeals and Consumers department, whose mission is to carry out a personalised follow-up of complaints and dissatisfaction. During the year, we will unfold a new customer relationship management software package, demonstrating that we are putting the quality of customer relationships and the user experience first.*

*We value exchanges with the national energy ombudsman, which assist us in improving our practices. In 2018, three-quarters of disputes were settled by amicable agreements. And we have awarded higher compensation rates, €40 on average, compared to €30 in 2017. »*

## ► THE OMBUDSMAN COMMITTED AGAINST FUEL POVERTY

By taking a stance, the Ombudsman has helped to make **the fight against fuel poverty a public policy issue**. It has been fully associated with the National Observatory on fuel poverty (ONPE) since its creation in 2011. The ONPE's work provides more detailed information on the phenomenon. While its annual «dashboard» provides an overview, several surveys published in 2018 provide precise pictures, both on strategies for handling unpaid debts and on the identification of households eligible for subsidies. These studies should be highlighted in advance, and awareness raised out-with the circle of partners or specialists in the subject.

The Ombudsman actively participates in workshops and plenary sessions. It shares all the data in its possession with the ONPE, such as the figures on energy cuts and the results of the Energie-Info barometer. At the observatory's request, a question was added to find out the proportion of households suffering from cold: **15% of respondents reported having been cold at home for at least 24 hours during the winter of 2017/2018.**



**6,7 millions**

**people are affected by fuel poverty in 2017,  
i.e. 12% of French households spend more  
than 8% of their income on their energy bills.  
(National Observatory on fuel poverty)**



However, if the ombudsman wishes to extend their commitment to the NPO, they can no longer be a funding member. The institution, which is subject to severe budgetary constraints, has no choice but to refocus on its primary tasks of information and mediation; the sharp increase in referrals in 2018 does not leave any room for manoeuvre to renew a financial partnership agreement for the period 2019-2022.

**The Energy Transition Law of 2015 stipulates that lower-income households receiving the energy cheque must be equipped with a free home energy consumption display in kWh and euros. After many deferrals, the deadline was set for 1 January, 2019... however nothing has happened yet, and we lie in wait for a decree that is still in limbo. The association UFC- referred the matter to the Council of State.**

However, the fight **against fuel poverty must not weaken**. The ombudsman is renewing two recurring proposals to help those who are struggling to pay their bills and who live in poorly insulated homes. It is essential to set up a supplier of last resort for households that are unable to conclude a contract with an energy supplier because of their financial difficulties **(See chapter 5 - p.68)**.

**Achieving a minimum energy performance level** for rented housing must also be a priority in order to eliminate poorly insulated homes.



**2/3**

of French people consider **that energy bills represent a significant part of their expenses.**

(Energie-Info barometer 2018)



**9 %**

of households **had difficulty paying some electricity and gas bills.**

(Energie-Info barometer 2018)



**30 %**

of households have **restricted their heating** so as not to have to pay bills that are too high. .

(Energie-Info barometer 2018)

# SETTLING

## your dispute



When operators ignore their complaints, consumers have an effective solution. In 2018, 86% of the mediations were performed entirely by operators. Over the years, the institution has been able to make the digital shift to become more responsive, while still remaining close to the public. This allows it to deal with a wide variety of disputes both recurring and unprecedented, retaining a high level of quality.



*« Very efficient mediation service and cordial telephone manner. It's so rare these days. Thank you so much. »*

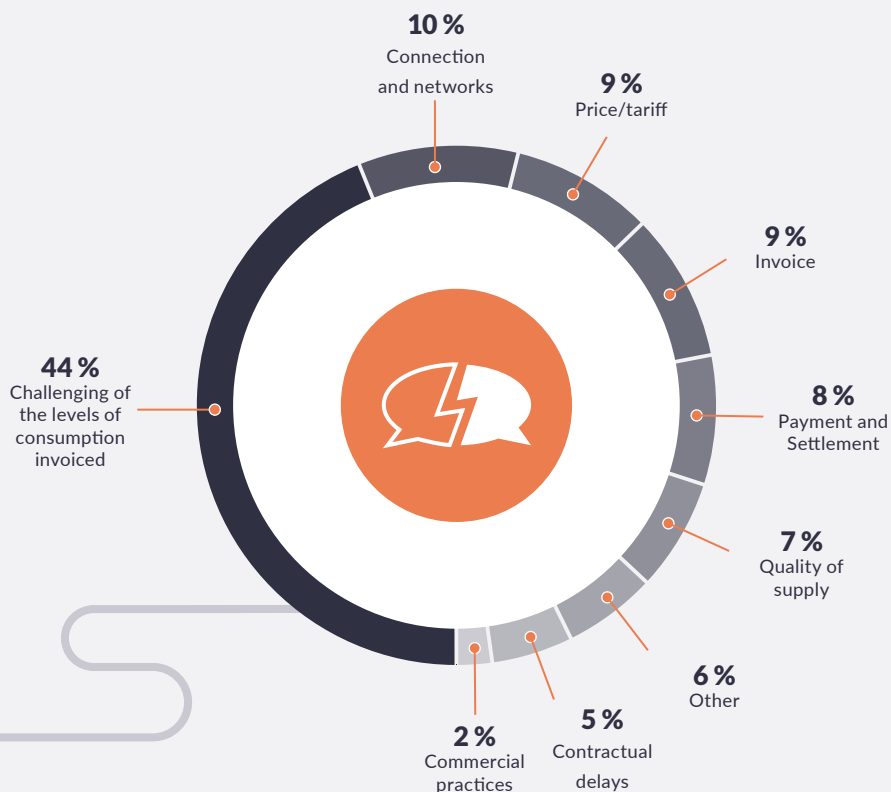
Mr. D. - Evreux (27)





Just over 5,000 recommendations were issued in 2018. The mediation service saw an overall increase of 37% in admissible disputes compared to 2017. All categories of disputes are increasing, but some more than others: the number of invoicing cases (invoice, price or payment) has increased by 60% (See chapter 3 «Being invoiced» - p.38). Disputes concerning connection/network issues increased significantly (+64%), while the increase in referrals on quality of supply was more moderate (+9%).

## TPOLOGY OF ADMISSIBLE DISPUTES 2018



Despite this strong increase in activity, which has put employees to the test, the quality of dispute resolution has not weakened- quite the contrary. The follow-up rate of recommendations gains a few points: **92% are fully taken over by operators compared to 89% in 2017**. «We have succeeded in bringing our views in line with suppliers on the prohibition of catch-up invoicing beyond 14 months» says Catherine Lefrançois-Rivière, head of the mediation service. The development of amicable agreements also plays a role. «However, there has been a decrease in the average amount of compensation awarded, from €768 to €611 in 2018. This can be mainly attributed to an increase in «basic» disputes with low financial stakes with new suppliers, for which, logically, the claims for compensation are lower.

**Engie strictly applies the ombudsman's recommendations, with a 99% follow-up rate. It is also the most disciplined supplier, with an application rate of 95% of the recommended damages.**

*« It's a good thing there's an ombudsman or we'd get ripped off. »*

*Mr. D. - Argenteuil (95)*



### **Recommendations following those of in-house company ombudsmen**

- 98 cases were investigated by the national energy ombudsman following the recommendation of an in-house company ombudsman.
- 85 cases were investigated following the recommendation of the EDF ombudsman: in 53% of cases, the national energy ombudsman proposed a different solution. These cases concerned the malfunctioning of the supplier and quality of supply records. The national energy ombudsman's additional requests mainly concerned the distribution system operator, who followed-up the analysis in 70% of cases.
- 13 cases were investigated following the recommendation of the Engie ombudsman. The majority of the national energy ombudsman's analyses were in line with those of the Engie ombudsman. However, when the national energy ombudsman justified a claim for additional compensation, it was always followed-up by the supplier or distribution system operator.



MISS

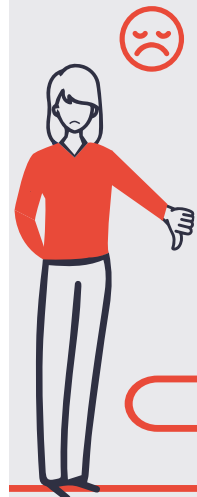
## BAD STUDENTS OF MEDIATION

The examination of disputes cannot progress without the active participation of the companies concerned. Extremely late responses when asked for comment may suggest that some companies are reluctant to enter into mediation...

The study of admissible referrals depends on the comments made by the operators, who have three weeks to forward them on to the ombudsman. Many of them do not play ball, happily freeing themselves from this regulatory obligation. **The distribution system operator Enedis, involved in 59% of the disputes handled in 2018, is a common offender:** it is late to comment in 56% of the cases that it is involved in, with an average response time of 34 days in the event of a delay- 1.5% of which arrive two months later.

**Antargaz and Primagaz are not much better at complying with the rules:** they send their comments late in 37% and 52% of cases respectively, with an average of 35 days for the former and 49 days for the latter. **The prize, however, goes to a natural gas supplier, Dyneff, who broke the deadlines set by the ombudsman** by responding on time in less than 1 in 5 cases; for the others, it took on average 37 days. Although, this supplier was only involved in 29 mediation requests in 2018!

Another trend that shows mediation is taken lightly by operators on any given occasion : **is that some mutual agreements are not implemented within a reasonable time.** Consumer complaints most often involve Eni and Enedis. They return to the ombudsman's services, forced to relaunch the case against the «offender». **In 2018, the ombudsman asked suppliers and distribution system operators to implement the mutual agreements within one month** unless more time is required to resolve a more complex dispute, in which case they must inform their customers.



## INTERVIEW

**Christian Buchel & Pierre Charvet**

Director of Enedis' clients and territories &  
Deputy Director of the North-East,  
head of the "Elan Risers act" programme.

**AFTER THE TRANSFER OF OWNERSHIP OF ELECTRICAL  
RISERS, ENEDIS IS PREPARING TO RENOVATE 4,000  
STRUCTURES PER YEAR**

*« The interesting thing about the Elan Act, which regulates the concession of pre-1992 risers, is that it clarifies the responsibility for their management and operation. The most important thing for our customers is the opportunity of making a transfer request before the two-year deadline, when all the works will be integrated into the concession. The social housing (HLM) services are in favour of this and their notices will probably reach us during 2019. The condominium trustees will probably anticipate a little less.*

*To facilitate this transfer of ownership, we have put an internet portal online since March 2019, co-constructed with social housing stakeholders, professional federations and local authorities. It is an easy-to-use tool that guarantees the traceability of requests and the fair processing of files.*

*As confirmed by the preparatory work for the Elan Act, there is no major safety issue regarding non-concession risers. There will therefore be no systematic technical diagnosis. Nevertheless, we will pay close attention to the condition of risers on which there would have been a call-out following an incident.*

*Every year, Enedis carries out around 2,000 renovations on the risers already in concession. The integration of the other structures should double this figure. We are giving ourselves one year to get our 25 regional offices in working order, with special arrangements to meet the larger demand in the major metropolitan areas. Enedis will take responsibility for work on these risers, according to the same procedures as the others while taking the opportunity of this transfer to coordinate us with possible renovation works planned by the owners or their other projects, for example the installation of charging stations for electric vehicles. »*

## CONNECTION AND NETWORK DISPUTES

### ► DEADLINES TO MONITOR

**10% of the share of admissible disputes received in 2018 related to a connection or network structure.**

The main causes are delays by the distribution system operator Enedis in sending estimates and carrying out the work. These delays have significant consequences for households that cannot move in or rent their property at the right time. While the deadlines for sending estimates are regulated by the Energy Regulation Commission (ERC), this is not the case for the provisional deadlines for carrying out the work/maximum deadlines for making the connection available. « Some estimates announce deadlines of up to 14 or even 16 weeks for the completion of the work, » says François-Xavier Boutin, head of the gas and networks division. « Consumers are seeking our help, wondering whether such an expectation is reasonable, especially since the distribution system operator does not justify the reason behind it. »

These estimated times are not monitored, except for the connection of photovoltaic panels. In addition, Enedis does not always meet the announced deadline for the implementation of the project and does not justify the reasons for its delay.

**« Got a call today from the distribution system operator to inform us that they will be coming in 30 to 52 weeks to move a meter in an apartment!**

**It'll be impossible to start our work and move in... »**

Ms K. – Paris (75)



A few cases concerned **the absence of an easement agreement**, a document that must be signed between Enedis and an individual when a public distribution structure (pylon, cable, box, etc.) serving several households is installed on their property. These disputes arise when the owner plans to carry out development work, for example, or when they have sold their property to another person: and one of the parties wishes to have the structure moved. The distribution system operator may object by producing the easement agreement, but sometimes they do not find it. In mediation, the dispute sometimes comes to a fairly simple resolution: Enedis regularises the situation by proposing the signature of a new agreement, with the payment of an indemnity.

**Service box location can also be the subject of controversy.** Distribution network operators do not always meet individuals' requests on the location of service boxes, which are indicated by a milestone or photo, or decided at an on-site meeting. This box, instead of being installed on the property line, is sometimes set back or even installed at a neighbour's house. This can have a negative financial impact on consumers who must then pay the costs of modifying the connection. The ombudsman recommends that the distribution system operators should take care of these costs when it is clear that the error was made by them.

## ► THE FLAT-RATE PRICING OF TARIFFS

Despite all of this, there is cause for satisfaction, with **the disappearance of some recurrent disputes**, particularly those relating to the dizzying increase in the prices of technical services. The ombudsman's 2016 activity report highlighted a lack of clarity in Enedis' and GRDF's specifications for non-scale work approved by the Energy Regulatory Commission (ERC). Since the outline of Enedis' technical services was not published, the situation led to price drift, with increases of up to 40% for a change in connection. A new system, incorporating some of these services into the CRE's price list, came into force in the first half of 2018. As a result, 80% of connection operations are now invoiced on a flat-rate basis, and no longer on an estimate.

*« The ombudsman supported the cause of our co-ownership in the changing of the electrical riser but Enedis couldn't have cared less. Today, the Elan law proves Jean Gaubert right. »*

*Mr. M. (Facebook)*



**HIT**

## RISERS : IN LIGHT OF THE ENEDIS' BAD FAITH, THE LEGISLATOR HAS DECIDED

At the end of two years after the promulgation of the Elan Act, ownership of the risers will automatically be transferred to the public electricity distribution network... including renovation and maintenance costs.

The Elan law, promulgated on 23 November 2018, puts an end to the judicial soap opera on the ownership of risers of which Enedis and co-owners are the protagonists. In buildings, these structures allow for the carrying of electrical power from the roadway to each household. They will be part of the public electricity distribution network within two years. This transfer will be made automatically, free of charge and without compensation, unless the co-owners object.

Enedis, the network operator for almost the entire French territory, is responsible for the maintenance and repair of these risers. If urgent renovations are required, it is not necessary to wait two years: the transfer of ownership of the risers as they stand is possible at any time by simply notifying the grid operator, who cannot refuse.

The ombudsman welcomes this outcome «which removes legal ambiguity and has the merit of simplicity», but if, instead of the legal route, dialogue had been favoured, a more balanced financial solution could have been found. As early as 2013, Jean Gaubert had taken a stand for tripartite financing for the renovation between the co-owners, the distribution system operator and the local authorities. Without success...

**121**

**Disputes related to the risers** were received in 2018, compared to 82 in 2017 and 70 in 2016.

**2,000 €**

**Per household** : this is the average cost of renovating the risers in a building.

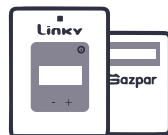
## DISPUTES OVER SMART-METERS

### ► A FEW DEPLOYMENT ISSUES

Among the disputes dealt with relating to the connection or network, those related to the deployment of smart-meters are growing somewhat: **330 in 2018 for Linky compared with 121 in 2017**, and 10 for Gazpar compared with 3 previously. Installation failures are now classic cases for the ombudsman team. So what's the first source of annoyance? People are not given advance warning of the technician's arrival, which means they are unable to manage the time of the outage as well as possible. The rule is clear, however: the distribution system operator must send a message to inform the consumer 45 days before the meter is installed; then the service provider must contact the consumer to inform them of the planned time of the call-out. Enedis claims to be doing its part but acknowledges that it is not in a position to ensure that its providers are doing the same.

More problematic are **the incidents resulting from the installation of the new smart-meter**. « The root of the issue is often simple, » says Christian Souletie, head of the electricity division. The pilot wires are incorrectly reconnected to the peak/off-peak switch, preventing the equipment from operating properly. We also have some examples of damage on electrical appliances caused by Linky's installation.» Similar damage following the installation of Gazpar fuelled some referrals; GRDF contested its responsibility, while agreeing to bear half the costs of replacing damaged equipment (boiler/gas pipe).

Most of the referrals relating to the gas meter focus on one subject: **the costs of a heating engineer's call-out after installation**. After installation, the technician who changed the meter ensures that the gas is working properly, but is not required to restart the consumers' equipment. They sometimes do it, if they are familiar with the equipment. Otherwise, they are sometimes forced to call on a professional to purge the boiler and restart it. These disputes are usually settled by amicable agreement, with GRDF taking on the cost of the call-out, which ranged from €44 to €370 in the cases that the ombudsman had to resolve.



# 83%

of French people **know about smart-meters**. In 2017, this figure was 57%.

(Energie-Info barometer 2018)



# 57

complaints were received concerning **refusals to install smart-meters** (56 Linky, 1 Gazpar) contre 121 en 2017.



« I don't have Linky yet, but I'm getting ready for it. My contract is at 6 kVA, my load shedder is set at 25 A and I control my consumption via an energy manager. My question concerns the time it takes to trigger the Linky, taking into account the reaction time of the load shedder, which is on average 1 minute but can exceptionally reach 2 minutes (unlikely to be used with additional devices). Does Linky have the rhythm to erase the spike? » Mr. D.



## ► BENEFITS TO BE DEMONSTRATED

In 2018, the benefits of smart meters for households are still not clear. The promise of knowing your electricity or gas consumption in detail to save energy is still far from being fulfilled. The Enedis internet portal, which must make its daily consumption data available to each household with Linky, is still experiencing access difficulties, as shown by the dozens of messages received by the Energie-Info service throughout the year.

A consumer equipped with Gazpar also referred the matter to the ombudsman because they could not consult their consumption online in hourly intervals, as GRDF proved to be unable to transmit the data «at hourly intervals» for several weeks.



**25 %**

of households **believe that smart-meters will enable them to save energy**, compared to 41% in 2017.

(Energie-Info barometer 2018)



## OUTSIDE PERSPECTIVE

### THE ART OF DEPLOYING SMART-METERS

**Italy and Great Britain have not put the same key-players in charge of installing smart-meters. With different results...**

In Italy, 30 million smart electricity meters were installed between 2001 and 2011 by the main grid operator, Enel Distribuzione (which covers 85% of consumers in the peninsula) and other distribution system operators. Unlike in France, the deployment of these «1st generation» meters, with basic functions (remote reading only) did not generate any resistance from the Italians.

In Great Britain, it is the suppliers that are in the process of installing 53 million smart-meters by 2020. This strategic choice has an advantage: the latter are more used to communicating with consumers than network managers. Their customer services were the first to inform the British people about the new account, and every country had a higher acceptance rate than France. Nevertheless, technical problems have been identified: the lack of standardisation reduces the interoperability of systems. When a consumer changes supplier, the meter no longer communicates, as the software of the two operators is not the same. Those who had opted for a prepaid meter no longer have this feature.

In the light of these examples, the choice of deployment by the distribution system operator seems more appropriate.

## DISPUTES OVER THE QUALITY OF ELECTRICITY SUPPLY

### ► COMPLEX SITUATIONS

Representing 7% of admissible disputes, there is little change in supply quality problems. The focus remains on compensation difficulties. Very often Enedis only admits responsibility in one case: **neutral breakage which causes an over-voltage that damages electrical equipment**. But the distribution system operator offers a refund at the second-hand price, even if the equipment is new. «We do not assess damage on the same basis,» confirms François-Xavier Boutin. Additionally, Enedis' agents do not often attend expert meetings organised by the consumer's insurer. In order to calculate compensation, the distribution system operator also uses old purchase invoices, which are not always possible to obtain. «

However, Enedis does not admit responsibility in the event of loss or phase inversion on the network, and even less so in the event of repeated power cuts or micro-breaks, or problems with voltage that is too low or too high. However, in these cases, partial compensation up to 50% is sometimes proposed, which seems somewhat contradictory. Will disputes over low voltage increase in the future with the rise of the electric car that individuals recharge at home? In 2018, two consumers referred the matter to the ombudsman because the low voltage of their power supply caused repeated cuts in the charge of their vehicle (See [Real case - p.64](#)).

**The smart-meter can however change the data.** This is because Linky makes it possible to record long and short outages (with the exception of micro-outages), whereas until now only outages on the medium-voltage grid could be recorded. «This is information about over-voltage or low voltage problems that we did not have before and which facilitates the investigation of cases in mediation. » comments François-Xavier Boutin. Furthermore, Linky can detect over-voltages upstream of the meter: by automatically activating a shut-down device, it prevents damage to electrical equipment, especially in the event of a neutral break. Enedis has indicated that it is already receiving fewer complaints in this area, which could reduce the number of disputes in mediation.



## 63 %

This is the **low follow-up rate of the recommended compensation amounts by Enedis in 2018.**

*« A power outage occurred at my home on the night of 07/11/2018 during my absence. All the foods contained in my freezer have become unfit for consumption. It was full for the holiday season- I'll let you imagine the damage! »*

*M S T.*





## REAL CASE

### AN ELECTRIC CAR WITH NO POWER SUPPLY

**The poor quality of the electrical supply in his home caused a lot of inconvenience for one consumer who could not properly charge his vehicle to go to work.**

As a travelling consultant, Mr B. spends long hours on the road as part of his business trips, driving his electric car, which he plugs in at night at home. For several years, he has noticed a poor quality of electrical service to his house. Voltage fluctuations regularly cause the vehicle's recharge to disengage during off-peak night hours. This malfunction forces Mr B. to continue charging during peak hours or, when he has left for work, from public charging stations. He estimates his financial loss at nearly €200.

Following a first complaint, the distribution system operator carried out a voltage check in January 2018, the recording of which shows that its readings do not comply with the standards. It then informed the consumer that improvement work would be carried out... at the end of 2019. Dissatisfied with the response, Mr B. referred the matter to the ombudsman.

The amicable settlement goes much further. The distribution system operator offered to pay Mr B. compensation of €200 and to reimburse the price difference of his subscription, whose power had to be increased until the work was carried out, i.e. €250. It also agreed to consider an interim solution to improve the situation between now and the project, which, given its importance, cannot be held before the end of 2019. Furthermore, it has undertaken to investigate any new request for compensation for equipment damaged during this period.



Recommendation No. D2018-11867

## LPG DISPUTES

### ► LESS PROTECTED CONSUMERS

While referrals relating to LPG remain in the minority, they are nevertheless growing, increasing from 2% to 3% of admissible disputes in 2018, with two suppliers at the forefront of the scene: Antargaz Finagaz (51%) and Primagaz (35%).

The main issue in these cases is the dispute over the level of consumption. In the absence of a meter (only a gauge attests to the level of gas in the tank), individuals are suspicious of the volume actually delivered compared to that invoiced; when they consider their consumption to be abnormally high, they complain of possible gas leaks. The particularity of these contracts makes it difficult to analyse the evolution of consumption in mediation: « We must rely on the history of LPG deliveries per year, » explains Leila Marouf, project manager. This is inaccurate data, which does not allow us to detect a potential malfunction. »

Some supplier practices are clearly not up to the task. This is evidenced by their lack of diligence in implementing a termination and removing the tank, which the consumer is only renting. Mr V. had to wait seven months for the termination of his contract to take effect. This process, which is far from the exception, holds clients captive, which in the ombudsman's view is unacceptable. Once the tank is removed, suppliers still take weeks or even months to refund the credit note corresponding to the remaining gas that has been pumped back.

The decree on LPG price transparency, which came into force in March 2018, is a step forward for LPG consumers. It has led



# 80 %

of disputes with LPG suppliers are resolved with an amicable agreement

to a decrease in referrals to challenge tariffs, although some problems remain, such as contractual discounts that are not granted or the absence of renegotiation of the contract by the supplier. However, private individuals do not realise that they can take the initiative to renegotiate the prices applied, which benefits professionals.

This is the general observation made by the ombudsman: **LPG consumers are less protected than natural gas and electricity users.** They do not benefit from the winter break: in the event of non-payment, deliveries are immediately suspended, even during the coldest months. Adjustments to consumption following a malfunction are not regulated; the prohibition on back-dated bills for consumption more than 14 months-old prior does not apply. Furthermore, suppliers are reluctant to readily implement advice.

## SOME WORDS FROM

## THE OMBUDSMAN



### AN EFFICIENT AND CONSUMER-FRIENDLY INSTITUTION

By relying on digitisation and the unfailing commitment of our employees, we maintain the requirement for high quality mediation, despite severe budgetary constraints. As proof: 94% of consumers would recommend us to family and friends in need.

Since my appointment almost six years ago, I have measured the progress we have made in supporting consumers in the energy sector. While the institution has been operating with the same level of staff since 2014, the number of written recommendations has doubled- and this is with an increased requirement for quality. This efficiency is the result of a rationalisation of the handling of disputes, based on the digitalisation and increased professionalism of employees, who demonstrate a strong commitment.

In 2018, 62% of consumers applied for online mediation, compared to 52% in 2017. But digitisation, which brings with it responsiveness (particularly by making communication with operators more fluid) does not mean the end of human contact. Individuals can always contact us by mail, including hand-written letters. 45% of customers spoke on the phone with an employee during the investigation of their case, ensuring that we do not overlook the «13 million people far from digital» that the Human Rights Defender identified in the report entitled «Digitisation and inequalities in access to public services», published in January 2019.

Any other signs of efficiency? The proportion of out-of-court settlements continues to increase, from 53% in 2017 to 61% in 2018. Proposed by a team lawyer, this personalised solution, which respects the interests of each party, allows for the rapid resolution of the least complex disputes. Thus, overall, the average processing time for a file was 63 days in 2018. This is well below the 90 days required by law.

Since pedagogy is an important dimension of mediation, the drafting of letters and recommendations underwent an in-depth reform in 2018. The annual satisfaction survey shows that for 95% of respondents, these documents are clear.

**Jean Gaubert**





**89 %**

of consumers who called on the ombudsman in 2018 said they were **satisfied with the intervention.**



**91 %**

of them are satisfied with the **time-frame** during which their file has been processed.



**83 %**

believe that online mediation has facilitated the **resolution of their dispute.**



**89 %**

believe that the ombudsman's services **are accessible.**

(Satisfaction survey 2019)

# BEING PROTECTED

## in the energy sector



Protecting consumers is not just about finding a solution to their disputes. Due to the ombudsman's understanding of recurring problems, it is involved in consultation bodies to improve market rules. This experience also allows it to be a source of proposals for companies in the energy sector and public authorities.



*« The ombudsman's role as a whistle-blower allows it to change bad practices, because it alone has the visibility that allows it to confirm that a malfunction is not an isolated case and serial disputes can be identified early enough. »*

*Alain Bazot, President of the UFC-Que Choisir on the morning of 9 January 2018*





## CHANGING THE GAME

A well-functioning energy market must result in fewer disputes. This is why, since its inception, the institution has understood mediation in a broad sense. It must provide a personalised solution to the consumer's dispute; but it must also take advantage of its knowledge of recurring problems to improve procedures and thus avoid the repetition of certain failures. To change the game, the ombudsman invests in the consultation bodies, publishes general recommendations for operators and provides the legislator with its insights and proposals.

### ► PROGRESS FOR CONSUMERS

This fundamental work, in collaboration with stakeholders, has resulted in significant progress for the French public. The ombudsman was key in promoting the principle of "reversibility", introduced in 2010, which provides a wide range of benefits for consumers who have subscribed to a market-priced offer but who wish to return to regulated tariffs, but he also supported the energy cheque- a fairer and simpler aid in paying bills that was sent to 3.6 million lower-income households in 2018. Since talks with operators are not always very productive, a number of changes have been achieved through legislative or regulatory constraints. This is the case with the ban on 'catch-up' invoicing of periods exceeding 14 months prior, introduced by the Energy Transition Act of August 2015, or even the transfer of risers to Enedis, enacted by the Elan Act of November 2018.

From 1 November, 2013 to 15 March, 2014, the first winter break prevented lower-income households from being deprived due to non-payment. Introduced by the so-called Brottes law, this social progress was led by the ombudsman. Its duration was then extended to the 31 March.

**Since the April 2012 decree, overpayments of electricity and gas bills over €25 are automatically refunded within 15 days.**

## ► ONGOING PROJECTS

Other projects still need to be implemented. The ombudsman calls for a simplification and clarification of the financing of the French Housing Solidarity Fund (FSL). The FSL provides assistance to vulnerable households, particularly in paying their energy bills. Suppliers can contribute to this fund through an agreement signed with the Departmental Council, which manages the system. This financial contribution is repaid to them by public subsidies up to a certain limit. Why does this public money go through suppliers? It would be easier for the government to pay these sums directly to the FSL, in sums proportionate to the number of customers receiving the energy cheque per department, for example. This would not prevent suppliers from contributing to the Fund as part of their sustainable development policy. The system would have the merit of providing clarity on what suppliers actually pay to the SLF out of their own funds.

Accelerating the energy renovation of housing must be a priority. The rehabilitation of poorly insulated homes is the essential preventative measure in the fight against fuel poverty. It requires strong incentives, and even coercion, for owners of poorly insulated housing to carry out work. *« For properties that do not achieve a minimum level of energy performance, it should be considered in the long term to make landlords pay part of the energy bill or heating rental charges. »* says Jean Gaubert.





## SOME WORDS FROM

## THE OMBUDSMAN

### SELF-CONSUMPTION IN SEARCH OF MEDIATION

To simplify disputes concerning the sale or production of electricity by private individuals in self-consumption must fall within the scope of public and independent mediation.

Recognising the effectiveness of amicable dispute resolution and the usefulness of a public sector ombudsman, the legislator has extended the scope of the institution's powers on two occasions since its creation. Since 2013, small businesses, craftsmen and professionals, associations, trustees and local authorities can contact me, as well as individuals. All can refer to me for contracts concluded with a distribution system operator, thus giving me the opportunity to intervene in connection disputes. Since 2015 and the Energy Transition Law, all consumers, whether they use electricity, gas, fuel oil, LPG, firewood, or heating networks, have access to the public and independent mediation service.

This expansion must continue. The production of renewable energy by households is growing; with self-consumption, encouraged by the law of 24 February 2017, the French are increasingly using the electricity they produce instead of feeding it into the grid for a financial reward. Already, those who are experiencing difficulties are turning to the ombudsman- whether it be over a meter malfunction when recording the share of electricity consumed and injected, or a price incorrectly applied to the electricity purchased. In the case of private individuals, it is very difficult to draw a line between consumption and production disputes. Given that we have the technical and legal expertise, it would be logical if we handled these cases in order to simplify their procedures.

Furthermore, I believe that as long as the consumer is connected to the electricity grid, even if they use it less because of their own production, it is normal that they should fully participate in the financial burden of its maintenance.

Jean Gaubert

*« Self-consumption of electricity is expected to grow strongly, under the combined effect of lower prices for photovoltaic panels and the resurgence of new players who are very active in the field of solicitation. However, in the case of a dispute, the energy ombudsman cannot intervene. Is it in the Ministry of Ecological Transition's intention to propose any legislative measures to broaden its scope of competence in order to strengthen consumer confidence? »*

*Roland Courteau,  
Senator of Aude. Question  
published in the OJ Senate on  
8 March 2018*

## INTERVIEW



### France Michel

Head of the 'Roofs First' programme  
at the Abbé Pierre Foundation.

## RENTING OUT A THERMAL SIEVE MUST BECOME INDECENT IN OUR SOCIETY

*« Whether it is a case of responding to the environmental challenge of reducing greenhouse gas emissions, or the social emergency of curbing fuel poverty, we have every reason to review the way we look at the 7 million poorly insulated homes in our country. Public policies have been in place for 15 years to combat the scourge of fuel poverty which affects 12 million people and is one of the facets of poor housing, but they are still incomplete. The 2015 Energy Transition Law promised a major step forward by including an energy performance criterion that would qualify housing as «decent». But its implementing decree is ineffective: it only mentions vague criteria, such as «sufficient airtightness», and is not likely to force owners to undertake renovation work.*

*We also deplore the decision made on 20 December 2018 by the Council of State to reject the appeal brought by four associations (Abbé Pierre, CLER Réseau pour la transition énergétique, France Nature Environnement and UFC-Quechoisir) to annul this decree. Tenants are the first victims of fuel poverty and remain forced to live in thermal sieves and pay the bills at high prices, cutting back on their comfort, health and purchasing power.*

*Forcing landlords to carry out work would, however, be beneficial to society as a whole. We support the idea that this is possible and necessary. It is important to combine this with incentive-based financing tools geared towards lower-income households, to support them with a genuine public energy service and individualised support. »*



## 4 million

is the number of people  
that **are homeless or poorly  
housed in France.**

(24th report on poor  
housing from the Abbé  
Pierre Foundation).



## OUTSIDE PERSPECTIVE

### THE END OF THERMAL SIEVES IN THE UK?

**British landlords are now required to carry out a minimum of energy renovations in the homes they rent out.**

The measure came into force in April 2018 in England and Wales. From that date onwards, owners of empty properties with a poor energy performance rating, equal to F or G, will not be allowed to rent them out. From April 2020, this obligation will be extended to occupied properties whose leases are in progress. Landlords are encouraged to take energy renovations measures as soon as possible in order to have rented homes classified as Level E as of April 1, 2020.

However, there are a few exceptions to this 2015 regulation. If rehabilitation work within an investment ceiling of £3,500 (about €4,000 at the current exchange rate) is insufficient for the property to reach class E, the owner is not required to do any more. It then benefits from a 5-year exemption, noted in a specific register. At the end of this period, the landlord must recommence work to improve the energy performance of the property - a new 5-year exemption is possible if an additional investment of £3,500 does not achieve class E.

Landlords that are not eligible for third-party financing must pay for the work themselves, up to a maximum of £3,500 including tax. Offenders are liable to pay a fine of £4,000 if non-compliance lasts more than three months.





## ► A LOADED LEGISLATIVE AND REGULATORY AGENDA

The generalisation of the energy cheque, after its experimentation in 2017, required some adjustments to perfect the system. The ombudsman's services were consulted by the Directorate General of Energy and Climate (DGE) on the draft decree. *« This contribution enabled public authorities to check whether the planned provisions were in line with what we are seeing in the field and to adjust the text as closely as possible »* underlines Pierre-Laurent Holleville, Public Affairs Officer.

The PACTE law on the growth and transformation of companies contains a strong segment on energy issues. The ombudsman was heard in the Senate by the special committee and participated in the consultation organised by the DGE on the provisions envisaged by the government.



## ► WITH THE PACTE LAW, THE UNIVERSAL LAST RESORT SUPPLIER WILL PARTLY MATERIALISE

This text, which is awaiting promulgation, makes some major progress, including the creation of a last resort supplier for gas consumers. This provision is in response to the planned abolition of regulated tariffs for the sale of natural gas in 2023, following the decision of the Council of State of 19 July 2017, which ruled that these regulated tariffs were contrary to European Union law.

From the ombudsman's perspective this is a step forward- but still not enough : « *Many believe that regulated tariffs guarantee consumers the supply of energy,* » says *Frédérique Coffre-Feriaud, Director General of Services. But we note that incumbent suppliers terminate the contracts of their insolvent customers at regulated rates. In our view, consumer protection also means that there should be a mechanism for last resort provision for customers who cannot find an electricity supplier.* » This measure is intended to complement the support system for households in fuel poverty. Although refusals to sell are illegal, some suppliers who are experiencing payment difficulties from customers refuse to issue them a contract.

The end of regulated gas tariffs will be a major change for some French people, who will have to sign up to offers at market prices. The ombudsman was not in favour of this but recognises the decision of the Council of State. It hopes that it will be implemented under good conditions.

The consultation meetings with the DGEC provided an opportunity to

exchange views on how consumers can be informed and supported.

Several concrete courses of action have been identified. In any case, communication by public authorities seems necessary as soon as the law is promulgated; it is essential that those concerned are made aware as soon as possible so that they can plan ahead and avoid becoming «dormant customers». «The ombudsman will assist in informing the public via the Energie-Info service and could also implement additional measures if appropriate resources were allocated.



# 4,16,000

**households are on regulated gas tariffs as of 31 December 2018**

(Retail Markets Observatory for the 4th quarter of 2018 ERC) and will have to sign-up to a market offer before 2023.



## INTERVIEW



**JOËL BIGOT**

Senator for Maine-and-Loire

### PROTECTING THE MOST DISADVANTAGED

**The “last resort” supplier for gas consumers will be an essential part of the energy shield set up to protect the most disadvantaged French households.**

*« The PACTE law establishes the creation of a last resort supplier for private gas consumers. I wanted this system to be extended, so that it would benefit small businesses in particular. With the end of regulated gas sales tariffs, there is a risk that they may not be able to enter into a contract due to the often high security deposit required by operators. An amendment to this effect was passed in the Senate, which reinforces the universal nature of this mechanism.*

*With the existence of a last resort supplier, energy is recognised as a basic necessity. It will be one of the components of the energy shield set up to protect the most disadvantaged French households because it guarantees access to energy for all, to cover vital needs and live with dignity, without fear for their health. This is all the more important as deregulation of gas prices can fuel an increase that would be difficult to sustain for those with a lower income.*

*While the European Commission's 4th energy package has not put an end to regulated electricity tariffs on the agenda, it seems to me that a last resort supply should also be introduced for electricity consumers, i.e. all French people; I am carrying out in-depth parliamentary work on this subject with the aim of tabling a legislative proposal.*

*The fight against fuel poverty also requires a more ambitious policy on the renovation of housing and the creation of a public service for the energy performance of housing (SPPEH) or the creation of new indicators, such as over- and under-consumption, to better identify families in need. »*



## ► A RIGHT TO OPPOSE THE ELECTRONIC INVOICE

The PACTE law also legislates on the digitisation of electricity and gas bills, on which the ombudsman has been asked to make an assessment. A first amendment, which was not very protective, was then repealed. It stipulated that «consumers are required to accept the invoice on a dematerialised medium when it is offered to them by the supplier, unless they are unable to do so». Discussions in Parliament have resulted in legislation that allows consumers to return to paper invoices at any time, without justification and at no cost. This is an acceptable compromise, given the general trend towards digitisation, including within public services. However, attention should be paid to the proper implementation of this measure.

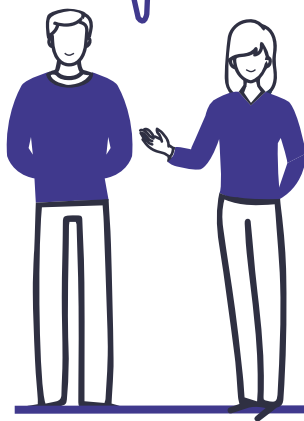
*« The energy ombudsman received us this morning for the signing of our first institutional partnership. At the end of our discussion, we identified several actions that will strengthen the professionalism of students and the understanding of mediation. »*

*Sorbonne énergie  
on December 19, 2018  
on Facebook*

## ► CONTRIBUTING TO THE CONSTRUCTION OF THE EUROPEAN LEGISLATIVE FRAMEWORK

Since Europe sets an important legislative framework in the field of energy, the ombudsman extends its influence beyond French borders. It is an active member and one of the co-founders- of NEON (the National Energy Ombudsmen Network) which brings together British, Belgian, Catalan, Italian, Irish, Polish, Walloon, and Georgian independent ombudsmen from the energy sector all over the European continent. Janusz Gwiazdowski of Poland became the new president of NEON in March 2019, to continue to defend this vision of independent, easily accessible and free out-of-court dispute resolution in order to strengthen consumer protection.

The « *Clean Energy for All Europeans* » package, presented by the Brussels Commission in 2016, should make it possible to achieve the climate objectives of the 2015 Paris Agreement. As part of this « *4th energy package* », a new directive on the organisation of the electricity market was adopted in March 2019. « *The explicit reference to an independent ombudsman almost disappeared from the text; it was therefore a victory that it was maintained.* » says Annette Jantzen, NEON's Corporate Secretary. In June 2018, members met to decide on a new work programme: the focus will be on market developments, including the rolling-out of smart meters and new services, but also on vulnerable consumers.



**90,000**

This is the number of disputes that independent energy ombudsmen who are members of NEON processed in 2017.



## FOCUS

### THE OMBUDSMAN'S BUDGETARY PROCESS MUST BE SIMPLIFIED

**The ombudsman calls for a simplification of the process for the payment of its budgetary subsidy, which should be enshrined in the PACTE law.**

The PACTE law should finally simplify the validation of the ombudsman's budget with a provision that removes an inconsistency. The budget of an independent public authority (a status which was expressly granted to the ombudsman by the January 2017 law) is voted by Parliament as a finance law. But an article in the energy code, dating from the creation of the institution, still attributes the approval of its budget to the ministers of economy, energy and consumption.

However, each year, the inter-ministerial order is delayed, resulting in time-consuming round trips between the ombudsman's services and those of the administrations concerned, delaying the awarding of the funding. Thus, while the 2018 budget was voted by the members of Parliament at the end of 2017, the decree was not published in the Official Journal until 7 April and the funds were not released until 9 May. Without working capital, it would have been impossible to pay employees, expenses and service providers during this period. In 2019, the payment came earlier, but it was still 21 March before the funding was released.

In order to actively contribute to the necessary budgetary efforts expected of all public institutions, the ombudsman strives to manage the resources allocated to it in an effective and efficient manner. The 2018 budget has been set at 5,546 million euros; it will be 5,320 million euros in 2019. « *Wherever possible, we use inter-ministerial public contracts and the French Union of Public Purchasing Groups (UGAP),* » says Béatrice Gaudray, head of the administration and finance department.

However, this cost optimisation policy will eventually reach its limits. The number of full-time equivalents (FTEs) has been capped at 41 since 2014, while since 2015, disputes have increased by 37%. « *If productivity gains made possible by the digitisation of our work have so far made it possible to handle the workload without reducing the quality of mediation, our room for manoeuvre is becoming increasingly limited,* » says Frédérique Coffre-Feriaud, Director General of Services. « *With the intensification of competition in the energy markets and the abolition of regulated gas sales tariffs, it is likely that the ombudsman's activity will increase further in the coming years, which will inevitably raise the question of additional resources.* »



## ► AN IMPLEMENTATION WHICH REQUIRES GDPR

On 25 May 2018, the European regulation which regulates the use of personal data (GDPR) entered into force. It is now the responsibility of companies and organisations to ensure optimal protection of their customers' and users' data. The ombudsman immediately brought itself into compliance with these new provisions. The SOLLEN online platform usage policy has been modified, with an article providing additional information: «Consumers are assured that the data entered in the referral form, as well as the additional documents they send us, are exclusively intended for the handling of their dispute, that they are not communicated to any third parties except to the operators concerned; they are kept for five years for prescription purposes, then destroyed.» says Pierre- Laurent Holleville, who was appointed Data Protection Officer in 2018, a position that is now mandatory in all organisations, private and public.

Given that consumers request the institution's services themselves, the question of consent is less acute. However, the obtention of this consent has been made clearer. On the SOLLEN platform, consumers must tick a box allowing the ombudsman to use the data necessary to resolve the dispute. When an individual inquires about the Energie-Info site or uses the offer comparison service, no personal data is recorded; all they have to do is enter their postal code and their energy consumption. This is not the case for some private comparators on which an email address is required to access offers. If the consumer needs further information, they can fill in an online request form, with their contact details; they must then tick a box, agreeing that this data may be used by Energie-Info to provide them with an answer.

## PROTECTING PERSONAL AND COMMERCIAL SENSITIVE DATA

With smart-meters, consumption data is aggregated into files at network managers' premises, and accessible on request to suppliers or authorised third parties. A market is emerging around the use of this highly valued information: companies selling energy performance services, intermediaries modelling attractive pricing grids according to consumption profile... Distribution system operators are required to protect this data for two reasons: it is commercially sensitive information; it is part of private life, and therefore part of the GDPR.

The Electricity and Natural Gas focus groups- led by the Energy Regulatory Commission (ERC) and in which the ombudsman contributes to changing market procedures- have launched a project on the conditions under which suppliers and third parties can access consumption data. All of these parties must have the customer's consent to do so. This procedure allows network operators to carry out checks on companies that have requested a consultation in order to verify that this consent has been obtained in a clear and intelligible manner.

## ANTICIPATING FUTURE MARKET CHANGES

Launched in October 2017, the ERC's Foresight Committee brings together experts, industrialists, consumer representatives and local authorities to discuss medium and long-term changes in the energy market. Jean Gaubert, the ombudsman, and Frédérique Coffre-Feriaud, Director General of Services, participated in the focus groups. Digitisation raises many questions that are still difficult to grasp: what protection exists for consumers in this dematerialised world? What are the challenges and opportunities created by

These controls are carried out a posteriori, and on random samples. If express authorisation has not been obtained, the distribution system operator may refer the matter to the ERC, the National Commission for Information Technology and Civil Liberties (CNIL), or may even report it to the public prosecutor.

The ombudsman invites households equipped with smart-meters to be vigilant; on the internet portal where distribution system operators post their consumption data online, they can check the names of companies that have accessed the data with their permission- or otherwise.

Since consumers are increasingly sensitive to the protection of their personal data, the ombudsman is following these issues very closely. Will distribution system operators have the human and material resources to carry out adequate control if there are millions of consultation requests? *«The community relies on the responsibility of network managers to ensure that the rules of the game are respected,»* observes Catherine Lefrançois-Rivière, head of the mediation department. *Any failure by a supplier to do so would naturally be detrimental to the opening of the market. »*

the sharing of personal consumer data? And, regarding the emergence of new services, what risks would linked and/or time-bound offers in the energy sector, such as those existing in the telecoms sector, pose? *« The linked offers benefit the sellers most of all and offer little to the consumers,»* summarises Frédérique Coffre-Feriaud. *There is a type of opacity on the prices of different products or services, the comparison between offers becomes even more complex and, in the event of disputes, the difficulties are increased... »*



## REAL CASE

### THE PROPER USE OF DATA

Suppliers do not need daily data to establish a monthly invoice based on actual consumption. They must make better use of the tools at their disposal.

A Linky meter was installed on 6 December, 2017 at Ms. B's home. This consumer, who had previously opted for an annual billing with a monthly payment schedule, then decided to take advantage of the potential of the smart-meter: in February 2018, she asked her supplier to bill her each month, on the basis of her actual consumption. However, the latter gave her a strange answer. They first confirmed to Ms. B. that Linky had been transmitting data since 6 February and that the distribution system operator sent her the statement of her consumption every month, on a fixed date. But then they considered that this data was still too limited. They informed her that they will only be able to issue a monthly invoice once Linky « communicates 100% », « i.e. when it transmits «daily indexes every 30 minutes ».

The ombudsman is surprised by this argument to refuse to introduce a monthly billing based on actual consumption since the supplier already has a monthly statement. The supplier did not justify the reasons as to why they wanted to have daily data for a monthly invoice. Considering that this anomaly did not allow Ms. B. to benefit from a more detailed monitoring of her consumption, and given the confusing reasons given by the supplier, a compensation of €75 was recommended.



Recommendation n° D2018-13762

06

# KEY

## figures 2018



## INFORMATION

## &amp; COMMUNICATION

**2,132,000**Consumers informed by the  
national energy ombudsman**188,000**Calls to the toll-free  
number**1,944,000**

Visits to the internet sites



## Distribution of Calls

Freephone number:  
0800 112 212

List of Suppliers

**107,000**Calls handled  
by advisors**81,000**

## Breakdown of visits

energie-mediateur.fr**164,000**energie-info.fr

Price comparison tool

**662,000**

Other pages

**1,118,000****10,746**complex  
requests  
processed, 97%  
of which were  
within - 2 days

## Visits to the internet sites



## The ombudsman cited in the media





## The Ombudsman on social networks

  
**1,016**  
followers  
on Facebook

  
**3,887**  
followers  
on Twitter



  
**732**  
followers  
on LinkedIn



## Letters and videos



Electronic  
letters

**28**

each sent to  
**1,173**  
followers



Information  
letters

**5**

each sent to  
**2,800**  
people



Consomag  
broadcasts

**5**

each seen by  
**2,7 millions**  
viewers



Videos  
created

**37**

viewed by  
**46,000**  
internet users

## DISPUTES & MEDIATION



# 16,934

Disputes received



### Reception channel



Téléphone  
**6,616**



E-mail  
**1,603**



Mail  
**3,371**



SOLLEN  
**5,344**

including 5,530 admissible disputes in mediation

Professionals and non-professionals

**8 %**

Individuals

**92 %**

Of which...

**17 %**

Third parties (families,  
consumer associations,  
elected officials, etc.)

Of which...

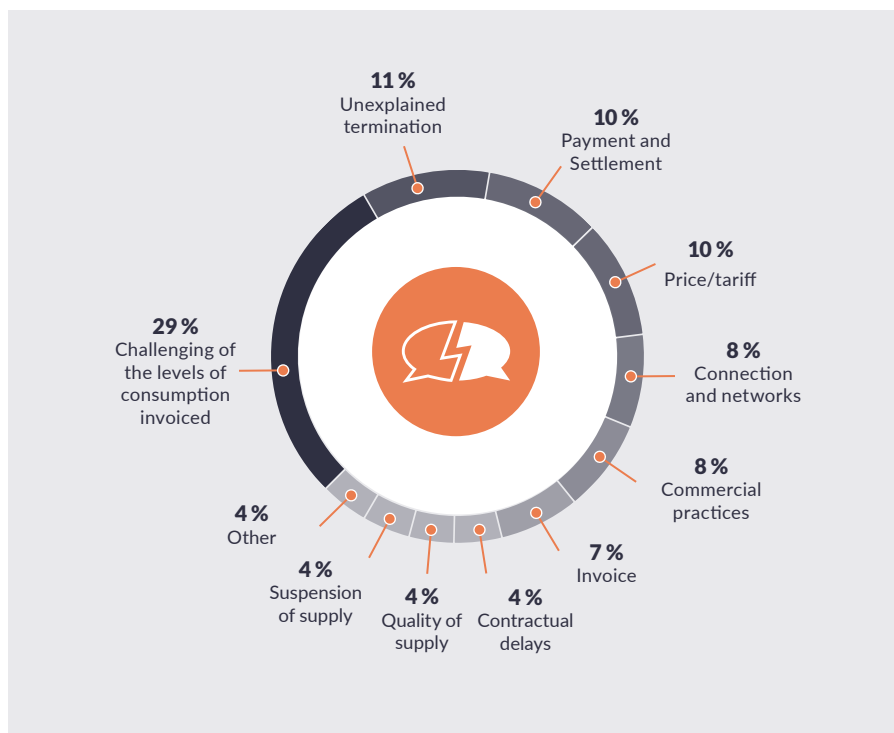
**83 %**

Direct consumers

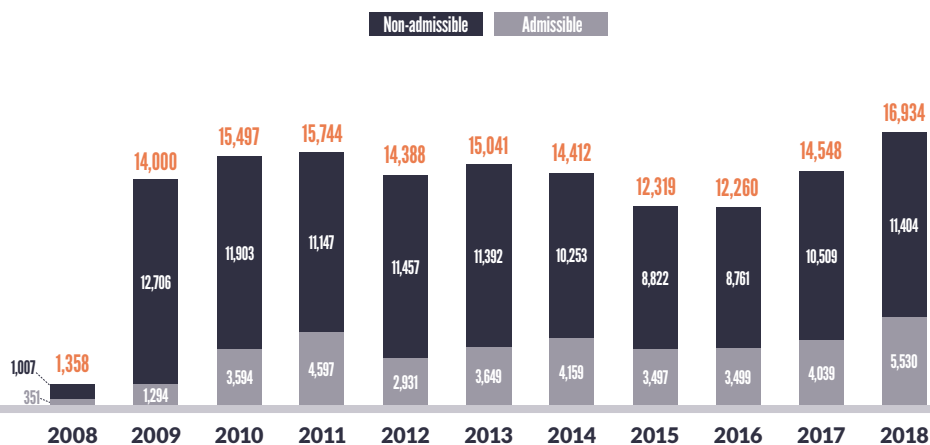
## Typology of inadmissible disputes



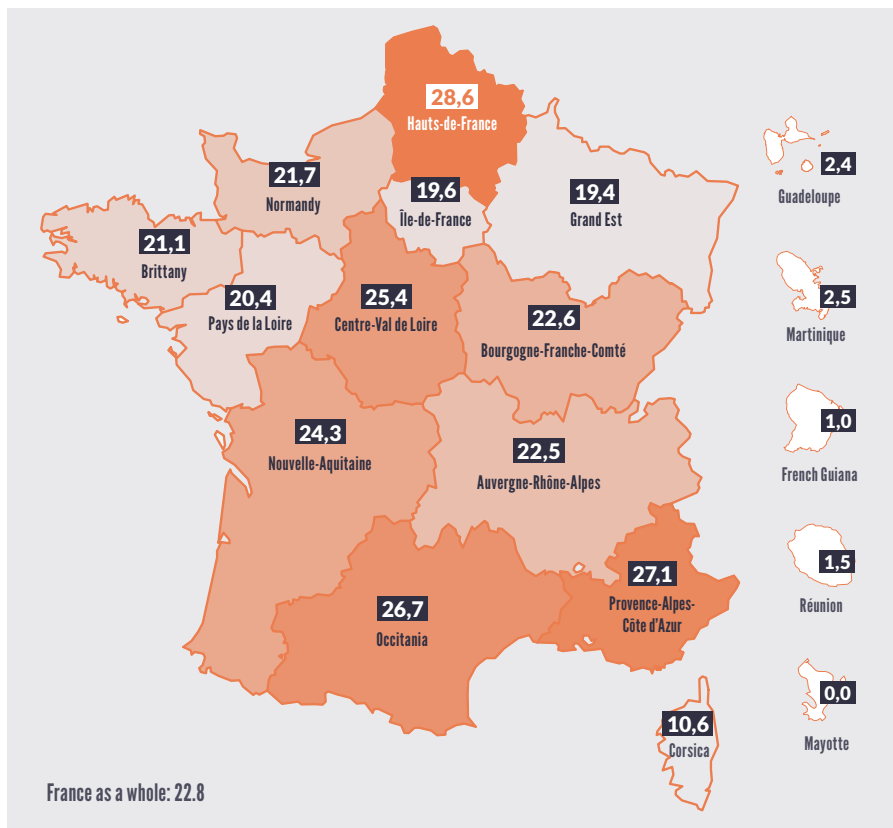
## Typology of disputes received



## Evolution of the number of disputes received

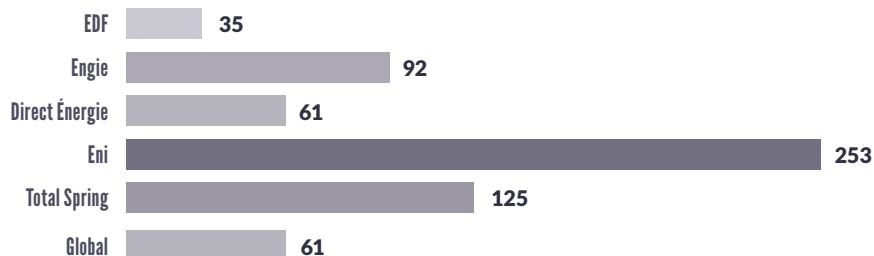


## Dispute rate by region (per 100,000 inhabitants)



## Dispute rate by supplier\*

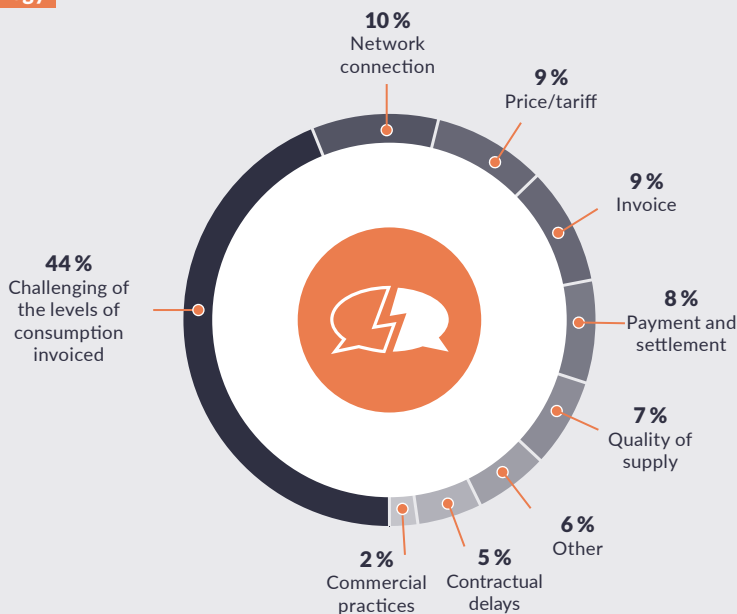
Disputes received in 2018 for residential customers, related to 100,000 gas or electricity contracts in their portfolios



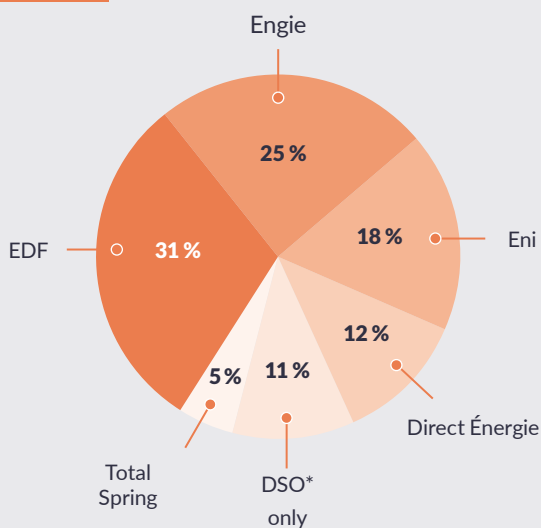
\*In the interests of equity, disputes received by the internal ombudsmen of suppliers who have them are recorded

## 5,530 admissible disputes

### Typology



### Breakdown by supplier



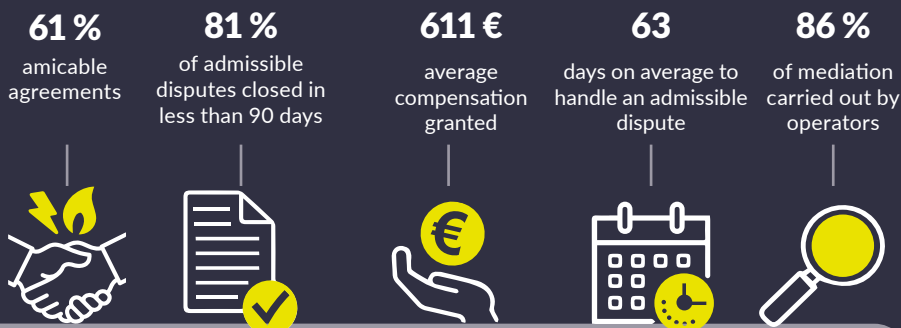
\*DSO = Distribution System Operator

## DISPUTES HANDLED

### IN MEDIATION

**5,086**

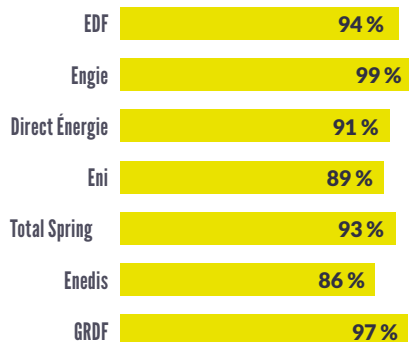
Recommendations  
and amicable agreements in 2018



### Follow-up of recommendations



#### Financial and non-financial

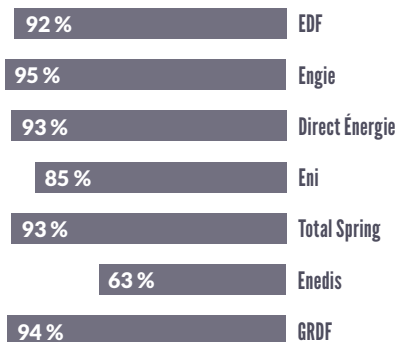


**GLOBAL 92 %**

(total follow-up)



#### Financial

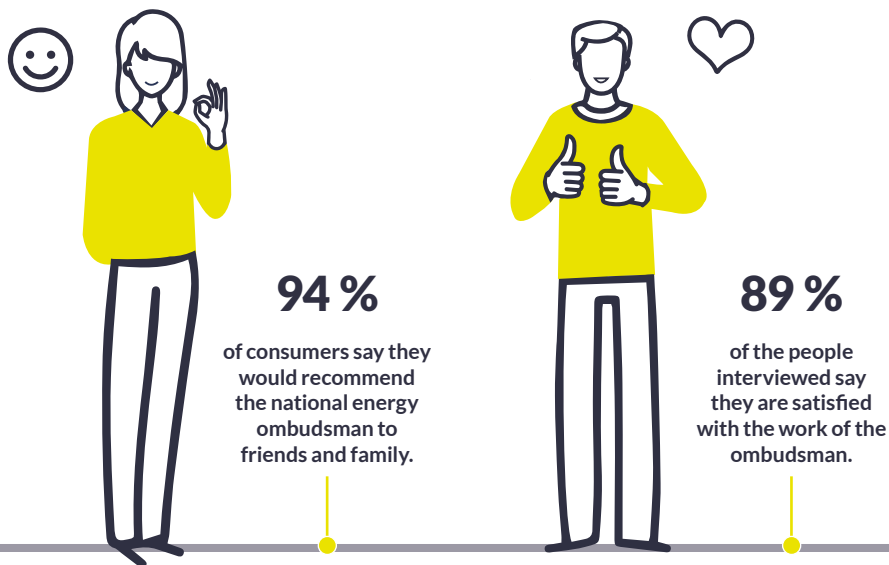


**77 % GLOBAL**

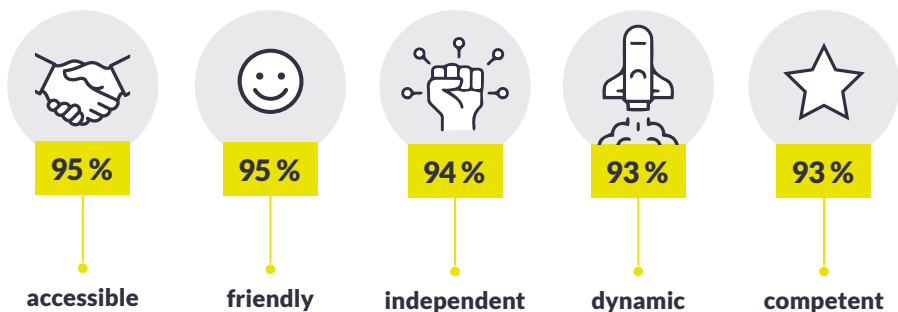
(% of amounts granted)

## Consumer satisfaction

(Telephone survey conducted by the Market Audit Institute between 5 and 7 February, 2019  
with a sample of 354 respondents who had referred matters  
to the National Energy Ombudsman)



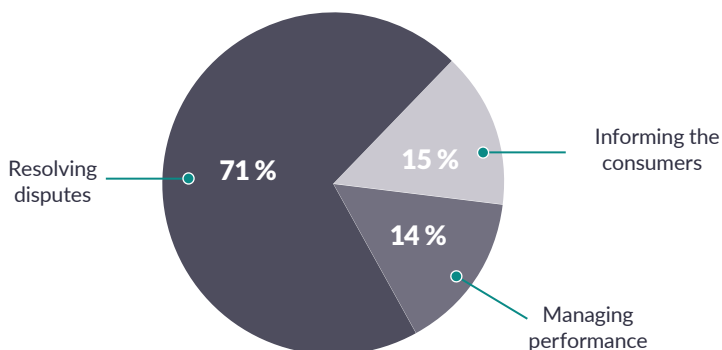
## The ombudsman teams are considered...



## ORGANISATION

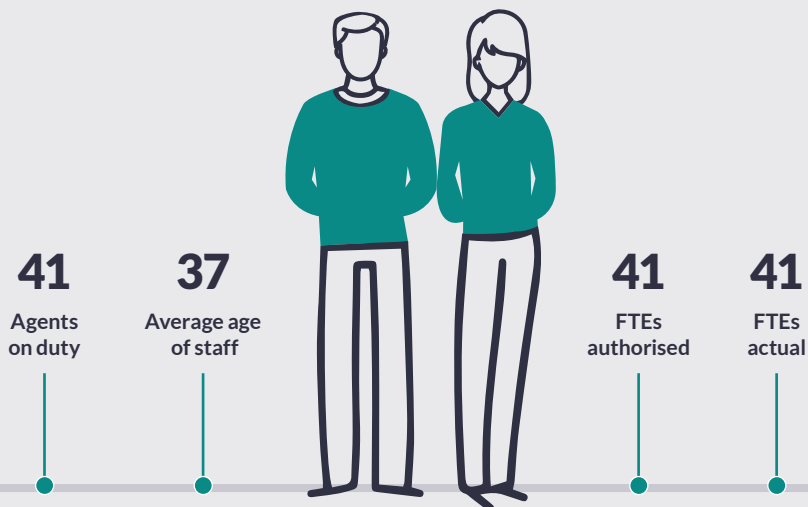


## Breakdown of staff by goals

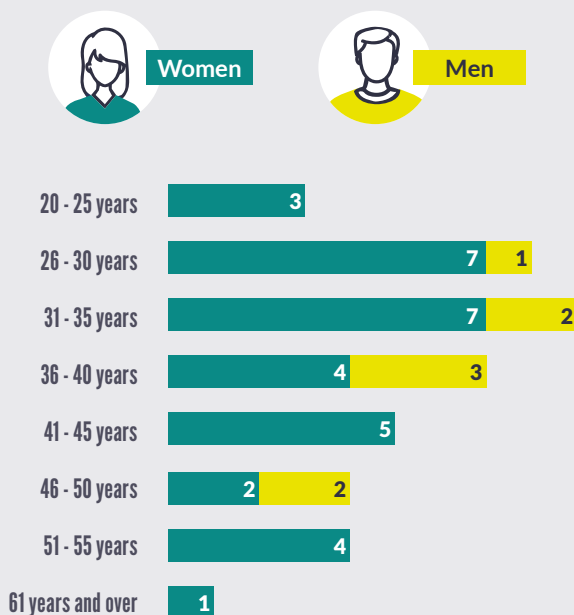




## The teams on 31 December 2018



## Age pyramid of the ombudsman's agents



## FINANCES

# - 28,7 %

Budget compared to 2009

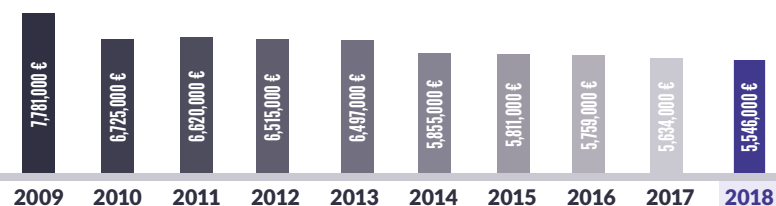
### Budget by programme

Objectives	Estimated budget	Budget achieved	% of execution
Resolving disputes	2,133,000 €	1,837,210 €	86 %
Informing consumers	1,264,000 €	1,154,130 €	91 %
Managing performance	2,149,000 €	2,092,750 €	97 %
<b>TOTAL</b>	<b>5,546,000 €</b>	<b>5,084,090 €</b>	<b>92 %</b>

### Breakdown of the budget by item

Posts	Amount in €	%
<b>Staff</b>	<b>2,753,211 €</b>	<b>54 %</b>
<b>Non-staff operations of which</b>	<b>2,156,840 €</b>	<b>43 %</b>
Rent and charges	913,889 €	18 %
Information activities for the general public	390,680 €	8 %
Other communication expenses	47,000 €	1 %
External services of the Energie-Info consumer information system	302,446 €	6 %
Other operating expenses	207,836 €	4 %
Training	30,471 €	0,6 %
Logistics and IT support	95,483 €	2 %
Depreciation charges and provisions for risk management	169,035 €	3 %
<b>Investment</b>	<b>174,039 €</b>	<b>3 %</b>
<b>TOTAL</b>	<b>5,084,090 €</b>	<b>100 %</b>

### Estimated budget



07

# APPENDIX

## General Recommendations



### 24 General recommendations

issued in 2018 by the ombudsman,  
thus 365 since its creation

**79 %**  
Followed  
in full

**365 general recommendations  
since 2008**

**13 %**  
Not followed

**6 %**  
Partial

**2 %**  
Under review

## General recommendations issued in 2018

Recipient	Contract	Recommendation	Reference
<b>Risers</b>			
Distribution system operator	Non Professional	In the event of a dispute over the renovation of a riser, inform co-owners of the final vote of the ELAN law and of the fact that as soon as the law is promulgated, it will be possible for them to transfer their building's riser, free of charge and consideration, to the benefit of the distribution system operator.	D2018-08950
Distribution system operator	Non Professional	Ensure that, each time a riser is replaced/reinforced in concession, there is no damage to the previous condition of the premises as a result of this work.	D2018-05205
<b>Meter malfunction/adjustment</b>			
Distribution company	Individual	Publish on the website the method used to evaluate the consumption to be adjusted after a meter malfunction.	D2018-03118
Distribution company	Individual	Establish a consumption adjustment before the half-yearly reading following the removal of the meter, otherwise this adjustment may be limited pursuant to Article L. 224-11 of the Consumer Code.	D2018-03118
<b>Termination</b>			
Supplier	Individual	Clarify the conditions for terminating contracts binding several holders jointly and severally liable for the payment of debts and inform the parties concerned as soon as they subscribe.	D2018-00219
<b>Quality of the supply of electricity</b>			
Distribution system operator	Individual	In the event of a fire originating in the service box, leave the filed items in their place until an expert appraisal has been carried out (including all structures, and equipment attached to indoor installations.)	D2017-08684
<b>General Conditions of Sale</b>			
Supplier	Professionnel	Inform customers of the parameters making it possible to determine precisely the amount of charges applied in the event of early termination of the supply contract.	D2018-00296
<b>Information/price offer</b>			
Supplier	Individual	Correct information relating to offers so as not to mislead consumers by letting them believe that the guaranteed fixed prices also applies to the subscription itself.	D2018-07389

*Note: The general recommendations issued in 2018 all concern electricity or natural gas.*

Recipient	Contract	Recommendation	Reference
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### Specific tariffs (VGR, EJP, Cuisson)

Supplier	Individual	Offer alternative information methods to users of the Tempo or EJP tariffs who do not have internet access or a mobile phone, to enable them to find out the status of the coming days (due to the obsolescence of some Tempo boxes).	D2017-09771
Supplier	Individual	Inform customers with a «standby signal» box (Tempo or EJP), connected to the meter, of the upcoming obsolescence of the system (with the deployment of Linky meters) and the proposed methods of keeping informed of the status of the upcoming days.	D2017-09771

### Outstanding

Supplier	Individual	Do not suspend the electricity of consumers residing in Guadeloupe between 1 November and 31 March each year.	D2018-02628
Supplier	Individual	Do not request a power reduction without notifying consumers equipped with a "Linky" smart-meter a few days before and without informing them of the restrictions on use to be respected.	D2017-07315

### Billing/information

Supplier	Individual	Precisely answer the questions of customers who wish to obtain details of the rate adjustment calculations resulting from the decisions of the Council of State.	D2018-00817
Supplier	Individual	Alert customers of power overrun penalties as soon as the first billing is made, according to the terms and conditions it will have to define.	D2017-08240

### Counting/pricing option

Supplier	Individual	Do not refuse the consumer's request to change their tariff option when this refusal is due to the optimisation of the Public Electricity Network User Tariff (TURPE) requested by the supplier the previous year.	D2017-09352
Supplier	Individual	Renew information on the changes to off-peak time slots with new customers, especially when this information has already been provided to the previous occupant but is not yet effective on the date of signature of the new contract.	D2017-09487

Recipient	Contract	Recommendation	Reference
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### Reminder of the regulations

Supplier	Individual	No longer refuse a payment by direct debit or transfer in euros on the grounds that the consumer's bank account is domiciled in a state of the European Union (in accordance with Article 9 of European Regulation 260/2012).	D2018-01806
Supplier	Individual	No longer round off (to the nearest megawatt/hour) the basis for calculating the Domestic Tax on Natural Gas Consumption (TICGN) charged to the consumer and no longer round off the amount due to the nearest euro.	D2018-04651
Supplier	Individual	Display the prices per kWh and per subscription on its invoices, including transmission.	D2018-10157
Supplier	Individual	In the general terms and conditions, specify the methods and any coefficients used to allocate consumption in the event of a price change, or, in the future, apply an allocation method based on a simple prorata temporis calculation	D2017-07315
ELD	Individual	Immediately notify the Energy Regulatory Commission of the calculation methods used to establish the connection schedule, in accordance with article L.342-10 of the Energy Code.	D2017-05624
Supplier	Individual	On invoices, include the time slots for off-peak hours, payment terms (account mandate), terms of referral to the national energy ombudsman in accordance with the decree of 12 April 2012 on electricity or natural gas bills.	D2017-07884

### Information/Other

Supplier	Individual	Do not charge "registration fees" on invoices under the heading "activation fees" in order to avoid any confusion with those charged for activation by the distribution system operator.	D2017-10756
Distribution system operator	Individual	Remind providers that it is necessary to notify consumers of the Linky meter installation period at least 3 days before the week of the call-out, when the meter is available.	D2017-08604

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