

Working document: RIIO-2 Indicative Re-opener application assessment process

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This working document provides licensees with information on the process we intend to follow when reaching our decisions on Re-opener applications. It is directed at gas and electricity transmission network companies and gas distribution network companies who are subject to the RIIO-2 price control (for the purposes of this document 'licensees').

This indicative process will continue to develop over the price control period and remains flexible to serve the wide range of Re-opener mechanisms available in the RIIO-2 price control. We welcome ongoing feedback from licensees as they engage with this Re-opener application assessment process.

This document is not intended to be binding on Ofgem or the licensees. We recognise that given the diversity of Re-opener mechanisms, we may need to adjust or diverge from this indicative process in particular circumstances.

This document complements, and should be read alongside, our Re-opener Guidance and Application Requirements Document¹ that sets out how licensees must prepare their Re-opener applications and provides guidance on the structure of Re-opener applications.

¹ <https://www.ofgem.gov.uk/publications-and-updates/re-opener-guidance-and-application-requirements-document-0>

Version	Changes	Effective From
Version 1.0 – 16 June 2021	First live published version following consultation on draft process and workshops with licensees.	17 June 2021

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Introduction

- 1.1 This document supports a framework that is intended to ensure that our decision making process for Re-openers is as agile, efficient and proportionate as is reasonably practicable. We are using a number of tools to do this, including:
- publishing a Re-opener Guidance and Application Requirements Document²
 - establishing a Re-opener application pipeline log
 - providing for pre-application engagement with licensees
 - pre-acceptance screening of applications
 - a process for supplementary questions
 - a proportionate approach using Assessment Tiers with differing levels of scrutiny for individual applications
 - a gateway style approach where appropriate.³
- 1.2 Our objective is to make Re-opener decisions in accordance with our principal objective and statutory duties that can be reflected in the Annual Iteration Process (AIP) of the calendar year in which the application was received. Our assessment process is designed to deliver the majority of decisions within six months after a Re-opener application has been received. However, we recognise this may not always be possible.
- 1.3 A separate chapter at the end of this document provides information on Additional Re-opener windows and Authority Triggered Re-openers.
- 1.4 The following Re-openers have their own specific processes and timescales set out in separate documents that should be read in conjunction with this document:
- Net Zero Pre-Construction and Small Projects Re-opener,⁴
 - Large Onshore Transmission Investments (LOTI) Re-opener,⁵ and
 - RIIO-2 Funded Incremental Obligated Capacity (FIOC) Re-opener.⁶

² <https://www.ofgem.gov.uk/publications-and-updates/re-opener-guidance-and-application-requirements-document-0>

³ For example gas transmission compressor and major asset health projects will follow a four step Project Assessment Process (GT PAP). Details of this approach can be found in paragraphs 3.58-3.80 of the Draft Determinations – NGGT Annex – <https://www.ofgem.gov.uk/publications-and-updates/riio-2-draft-determinations-transmission-gas-distribution-and-electricity-system-operator> and paragraphs 3.27-3.38 of the Final Determinations – NGGT annex REVISED – <https://www.ofgem.gov.uk/publications-and-updates/riio-2-final-determinations-transmission-and-gas-distribution-network-companies-and-electricity-system-operator>. The process set out in this Re-opener application assessment process document aligns with the gateway process, where used.

⁴ <https://www.ofgem.gov.uk/publications-and-updates/net-zero-pre-construction-work-and-small-net-zero-projects-re-opener-governance-document>

⁵ <https://www.ofgem.gov.uk/publications-and-updates/large-onshore-transmission-investments-loti-re-opener-guidance>

⁶ <https://www.ofgem.gov.uk/publications-and-updates/riio-2-fioc-guidance-and-submissions-requirements-document-0>

Stages in the indicative assessment process

1.5 Table 1 below summarises the various stages of our assessment process. The rest of this chapter explains each stage of the process in greater detail.

Table 1: Stages in the indicative assessment process

Stage 1: Engagement	
1a. Re-opener application pipeline log	<ul style="list-style-type: none"> • Re-opener application pipeline log to be updated at least annually. • Discussions expected at least three months before an application window opens. • The nature and timeframe of engagement will depend on the specifics of the Re-opener under discussion.
1b. Pre-application engagement	
Stages 2 – 5: Assessment	
2. Application window for submission opens	<ul style="list-style-type: none"> • The level of scrutiny applied to an application will be proportionate to the materiality of the application and the complexity of the decision. • We have developed three Assessment Tiers: <ul style="list-style-type: none"> ○ Fast Track Assessment ○ Standard Assessment ○ Additional Scrutiny. • Our default position is that all applications will be subject to the Standard Assessment Tier unless we have sufficient evidence to adopt an alternative.
3. Screening checks	
4. Assessment, including:	
4a. Assigning the Assessment Tier	
4b. Supplementary question process	
5. Policy consultation	
Stages 6 – 7: Direction	
6. Proposed Direction	<ul style="list-style-type: none"> • Content of proposed and final direction set out in licence conditions. • Direction published at the time it is made (not at the time of the AIP)
7. Direction issued	
Stage 8: Annual Iteration Process	
8. Publishing allowed revenue	<ul style="list-style-type: none"> • Direction must be issued by 31 October to be reflected in Annual Iteration Process of that year.

Stage 1a: Re-opener application pipeline log

- 1.6 We intend to include the Re-opener application pipeline log as part of the annual Regulatory Reporting Pack.⁷ Licensees will be required to provide, so far as is reasonably practicable, forecast information about applications they anticipate submitting during RIIO-2.
- 1.7 The principal purpose of the Re-opener application pipeline log is to allow us to forecast the likely pattern of Re-opener applications over the RIIO-2 period. This will assist us in planning the appropriate internal and external resources to process these Re-openers in a timely and efficient manner. Not only will we gain an understanding of the flow of applications but also the likely materiality and complexity of these applications, which are factors that influence the Assessment Tier applied to individual applications.
- 1.8 In addition, the Re-opener application pipeline log will provide licensees with an opportunity to forecast Re-opener Variable Values in the Price Control Financial Model (PCFM).⁸ As a consequence, Allowed Revenue forecasts for future years are intended to reflect the likely impact of Re-opener applications prior to the submission of an application or a Direction being issued.
- 1.9 These forecast Re-opener Variable Values will be updated each year following submission of the Regulatory Reporting Pack until final values are assigned by the issue of Directions or not as the case may be. Final Re-opener Variable Values will be adjusted to take account of the effect of an appropriate measure of the time value of money⁹ on the variance between forecast values and any Direction.
- 1.10 Licensees are encouraged to update their Re-opener pipeline log submission at any point in the year should there be material changes that would impact the principal purpose of the pipeline log. However, if updated outside of the annual Regulatory Reporting Pack submission, these updates cannot be reflected in the PCFM.

⁷ Information, including on how to complete the Re-opener application pipeline log, will be provided as part of the Regulatory Instructions and Guidance document for RIIO-2, which is still to be consulted on and published.

⁸ A licensee will have the option of individual forecast values provided in the Re-opener application pipeline log not being reflected in the PCFM due to the level of uncertainty associated with the forecast.

⁹ Time value of money has the definition given in the glossary of the PCFM Handbooks for ET2, GT2 and GD2.

Stage 1b: Pre-application engagement

- 1.11 The objective of the pre-application engagement process is to:
- enable us to get a clear understanding of how effective a future Re-opener application is likely to be with respect to answering each of the questions set out at paragraphs 1.19 and 1.20
 - allow us to get a clear understanding of the appropriate Assessment Tier for the application, and discuss this with the licensee
 - allow us to get a clear understanding of the internal and external resources necessary to process the application
 - enable the licensee to test the evidence intended for inclusion in the application against the questions set out in paragraphs 1.19 and 1.20.
- 1.12 The appropriate timing, and extent, of the pre-application engagement will vary depending on the specific nature of the Re-opener application being discussed. We expect licensees to initiate discussions with us no later than three months prior to an application being submitted. We expect that the information provided in the Re-opener application pipeline log will provide a starting point for these discussions.
- 1.13 None of the discussions during this pre-application engagement will commit either party during the later stages of the assessment process.
- 1.14 Should experience from pre-application engagement suggest that it would be helpful we may develop a more structured engagement process.

Stage 2: Application window for submission opens

- 1.15 The licensee must submit their Re-opener application during the application window as set out in licence conditions. This should also be published on its website in accordance with the Re-opener Guidance and Application Requirements Document.¹⁰

¹⁰ <https://www.ofgem.gov.uk/publications-and-updates/re-opener-guidance-and-application-requirements-document-0>, paragraphs 2.4 – 2.6.

Stage 3: Screening checks

- 1.16 Upon receipt of an application, we will conduct screening checks to ensure that it is valid and can proceed through the subsequent stages. An application that has been rejected may be submitted during another application assuming it fulfils the relevant criteria. An application will be deemed to be invalid if it does not:
- comply with the requirements of relevant licence conditions
 - comply with the Re-opener Guidance and Applications Requirements document including relevant Appendices.
- 1.17 During the screening checks we will assess whether the application should be assigned an Assessment Tier other than the Standard Assessment Tier (see Stage 4a: Assigning the Assessment Tier).
- 1.18 We will write to the licensee setting out the outcome of these screening checks setting out the reasons for our decision should we determine that the application is invalid, or if we consider that an Assessment Tier other than the Standard Tier is appropriate.¹¹ In addition we will provide an indication of when we intend to publish our Proposed Direction (Stage 6) and Direction (Stage 7).

Stage 4: Assessment

- 1.19 In the Re-opener Guidance and Application Requirements Document we stated that any application had to answer two questions:¹²
- Why an adjustment is justified?
 - What that adjustment should be?
- 1.20 These two questions can be broken down into a number of sub-questions that we intend to consider:
- has sufficient evidence been provided to demonstrate that an intervention is justified in principle

¹¹ This assignment should not be regarded as definitive and it may be that during the detailed assessment of the application it becomes appropriate to assign a different Assessment Tier.

¹² <https://www.ofgem.gov.uk/publications-and-updates/re-opener-guidance-and-application-requirements-document-0>, paragraph 3.1.

- has sufficient evidence been provided to demonstrate that the proposed intervention is the right intervention, including:
 - has the proposed intervention been subject to a rigorous option assessment process, informed by stakeholder engagement
 - does the proposed intervention align with wider policy objectives, including facilitating the transition to net zero and following a whole systems approach to network development and operation
 - does the proposed intervention comply with legal and regulatory requirements including whether it is appropriate to be funded through the price control¹³
 - is there a clear and implementable delivery plan for the proposed intervention, including the consideration of whether any associated outputs are needed
- has sufficient evidence been provided to demonstrate that an efficient level of costs has been requested to implement the intervention, representing good value for consumers over the long term?

1.21 Each of these questions may be regarded as a hurdle to be cleared by the application before a final decision to adjust allowances, outputs or delivery dates can be made. How much scrutiny we will apply in assessing an application will be influenced by the various factors listed at paragraph 1.25.

1.22 In making our assessment we will take account not only of the evidence presented in the application itself, but any other relevant evidence available to us including:

- evidence received in response to the supplementary question process, Stage 4b
- evidence received from any policy consultation process, Stage 5
- evidence received following publication of our proposed direction, Stage 6.

¹³ For example it would not be appropriate to fund an intervention that was not compliant with health and safety regulations.

Stage 4a: Assigning the appropriate Assessment Tier

1.23 We have developed a Re-opener application assessment process that ensures each application receives an appropriate level of scrutiny. These Assessment Tiers are designed to allow flexibility in the level of scrutiny applied and the time taken to assess individual Re-opener applications. It may be necessary to change the Assessment Tier during the course of the full assessment.

1.24 The table below summarises the differences between the three Assessment Tiers:

	Fast Track	Standard	Additional Scrutiny
Policy Consultation	No	Optional	Optional
Estimated time to decision	Under 3 Months	3-6 Months	Over 6 Months

1.25 Our default position is that all applications will be subject to the Standard Assessment Tier unless there is a clear justification for adopting an alternative Assessment Tier. Any decision to adopt an alternative Assessment Tier will be based on reasons including:

- whether the application very clearly does, or does not, contain the quantity and quality of evidence that we require to answer the questions set out in paragraphs 1.19 and 1.20
- the size of adjustment sought measured as a multiple of the Materiality Threshold (as defined in Special Condition 1.1 of the licence).
 - where the size of adjustment sought in the Re-opener application is up to 1.5 times the Materiality Threshold, it may be considered suitable for the Fast track Assessment Tier
 - between 1.5 and 5 times the Materiality Threshold may be considered suitable for the Standard Assessment Tier
 - above 5 times the Materiality Threshold may be considered suitable for the Additional Scrutiny Assessment Tier

(The ranges mentioned here are indicative only, and just one factor we will consider when assigning the assessment tier.)

- the alignment of the proposed intervention with relevant policy objectives and precedent as well as any implications for other regulatory mechanisms
- the quality of pre-application engagement and the clarity with which the application is presented
- other factors that we determine are relevant when reaching our Assessment Tier decision.

Stage 4b: Supplementary question (SQ) process

- 1.26 The SQ process is intended for clarification purposes only. Licensees should not expect to use it as a means of submitting additional information that the original Re-opener application should have included and is missing. It is not our intention to use the SQ process as a means of working up weak or poor-quality applications. We have published a Re-opener Guidance and Application Requirements Document to assist licensees in preparing their applications. In combination with pre-application engagement this provides licensees with the assistance they require to submit high quality applications.
- 1.27 To aid the agility of the process, licensees are expected to respond to an SQ within five working days unless otherwise specified by us.

Stage 5: Policy consultation (optional)

- 1.28 We anticipate that a separate policy consultation stage will be unnecessary for most Re-opener applications. However, a policy consultation stage will likely be used when a Re-opener application raises an issue, not previously considered, that is likely to have a material impact on our decision.

Stage 6: Proposed direction

- 1.29 As set out in the relevant licence condition for each Re-opener mechanism, before making a direction, we will publish on our website:
- the text of the proposed direction
 - the reasons for the proposed direction¹⁴
 - a period during which representations may be made on the proposed direction, which will not be less than 28 days.¹⁵

¹⁴ Our reasons will generally include our assessment of the needs case for the proposed project, our assessment of the options and justification for the proposed project and our assessment of the efficient costs of the proposed project, as set out in paragraph 1.20.

¹⁵ The process we are describing here is the self-modification direction process which is used for most Re-openers in the RIIO-2 price control. However, there are some Re-opener decisions that are subject to statutory consultation e.g. in relation to Special Condition 3.13 (Large onshore transmission investment Re-opener) of the electricity transmission licence, where our proposed decision is significantly different to that requested by the licensee. The statutory process is set out in the Electricity Act 1989 and the Gas Act 1986.

Stage 7: Direction

1.30 We will issue a direction, setting out our decision, following consideration of consultation responses received in Stage 6. As set out in the relevant licence condition for each Re-opener mechanism, we will publish on our website:

- the text of the direction
- the reasons for the direction.

1.31 The direction will be issued as soon as reasonably practicable to provide certainty to the licensee and will not be withheld until the time of the Annual Iteration Process.

Stage 8: Annual Iteration Process

1.32 Each year we will run the Annual Iteration Process (AIP), which is the process of annually updating the variable values in the Price Control Financial Model (PCFM) to calculate and publish updated Allowed Revenue and Adjusted Revenue values.

1.33 The Direction will be used to assign a final value to the relevant Re-opener Variable Value within the PCFM at the next available Annual Iteration Process which is completed by 30 November each year. To be reflected in the Annual Iteration Process the Direction must be issued by 31 October.¹⁶

¹⁶ Please see the PCFM Guidance for ET2, GD2 and GT2 for further information on this process:
<https://www.ofgem.gov.uk/publications-and-updates/decision-riio-2-pcfm-guidance>

Additional Re-opener windows and Authority triggered Re-openers

- 1.34 The Re-opener licence conditions may provide either or both of two relevant options.
- 1.35 The first option is to direct additional Re-opener windows, allowing licensees to submit applications. Where this happens, the process for assessing any application submitted during this window will be as per Stages 2 to 8 of this Re-opener application assessment process document. It may be appropriate to exercise this option in situations where we believe that it is in the consumers' interests to provide licensees with an additional opportunity to submit Re-opener applications. Prior to any such direction we would discuss the option with relevant stakeholders. For example in a situation where external factors have led to the relevant project not being sufficiently advanced to allow a well evidenced application to be made during the window specified in the licence and we consider it is in the interest of consumers to allow a later submission.
- 1.36 The second option is an Authority triggered Re-opener. The licence conditions stipulate the specific circumstances in which we can choose this option. With this option we would be likely to use our existing information gathering powers¹⁷ to obtain any further evidence we deem necessary to make a decision whether or not it is appropriate to issue a direction amending outputs, delivery dates or allowances. Should this option be utilised we would, where appropriate, follow the principles on which this indicative Re-opener assessment process is based. In particular, a proportionate approach to the information requested and level of analysis. We may also follow the various stages set out in Table 1 above.

¹⁷ The Authority may gather information under powers set out in section 47A Electricity Act 1989 or section 34A Gas Act 1986. The Authority may also request information from the licensees under the RIIO-2 licence conditions for ET, GT and GD and the current RIIO-1 licence condition for Electricity Distribution: "Provision of information to the Authority". These are set out in RIIO-2 licence conditions: Condition B4 of the Electricity Transmission Standard Conditions, Condition 24 of the Gas Transporter Standard Licence Conditions, and the RIIO-1 licence condition: Condition 6 of the Electricity Distribution Standard Licence Conditions.