

To all stakeholders

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RIIO-ED1 Green Recovery Scheme – Decision on potential extension for accelerated removal of polychlorinated biphenyls

On 9 February 2022 Ofgem¹ published a Call for Input² on the potential to extend the RIIO-ED1 Green Recovery Scheme mechanism ("GRM") to include some of the costs for accelerated removal of polychlorinated biphenyls (PCBs) within the current RIIO-ED1 price control that ends on 31 March 2023. The Call for Input consultation window closed on 9 March 2022.

Today we are confirming our decision not to extend the GRM to include some of the costs for the accelerated removal of PCBs within the RIIO-ED1 price control. The reasons for this decision are set out below alongside our expectation that the Distribution Network Operators (DNOs) remain compliant with their statutory obligations as set out in the PCB Regulations.³

Overview of Call for Input responses

We received four responses to the Call for Input, three from DNOs and one from Citizens Advice. Non-confidential responses have been published alongside this decision.

Reviewing the case for accelerated investment, including improved deliverability of statutory obligations and increased efficiency for consumers.

¹ In this letter the terms "we", "us", "our", "Ofgem" and "the Authority" are used interchangeably and refer to the Gas and Electricity Markets Authority. Ofgem is the office of the Authority.

² [Call for Input \(ofgem.gov.uk\)](https://www.ofgem.gov.uk)

³ See regulation 4(4) of Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000; Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (Northern Ireland) Regulations 2000; and Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (Scotland) Regulations 2000.

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All respondents recognised the updated statutory obligations and the requirements placed on the DNOs to identify and, remove from use, equipment containing PCBs above the prescribed amount by 31 December 2025.

The absence of specific allowances within the current RIIO-ED1 price control was highlighted by some respondents as creating an incentive for some DNOs, specifically those which are utilising their full allowances in RIIO-ED1, to delay PCB-related activities to the RIIO-ED2 period. Respondents further highlighted the potential for improved deliverability and increased supply chain efficiency resulting from accelerated delivery of the compliance programme.

Appropriateness of the GRM

Respondents expressed different views on the appropriateness of extending the GRM to fund the costs for accelerated removal of PCBs.

One respondent believed this was an established mechanism that would allow the funding to be confirmed in a timely and transparent way, thus providing regulatory certainty.

Other respondents, however, raised a number of concerns, including:

- the potential for different impacts on incentive properties depending on the financial performance of DNOs under RIIO-ED1, including the potential to undermine the strength of the totex incentive.
- the potential impacts to consumers' interests from different regulatory treatment of revenues across the RIIO-ED1 and RIIO-ED2 price controls.
- the fair treatment of all DNOs and their ability to access additional allowances and their ability to accelerate PCB removal where this was in consumers' interest.

Mitigating unintended consequences

Respondents set out a range of views regarding the potential mitigation of unintended consequences should the GRM be extended to include accelerated PCB removal. This included the use of clawback mechanisms to ensure consumers do not pay for under-delivery; ensuring any activities, targets, allowances and incentive mechanisms relating to PCB removal within the RIIO-ED2 Determinations were adjusted to reflect any decisions on accelerated removal in the RIIO-ED1 period; ensuring fixed outputs (for example, the volume of transformers for replacement in RIIO-ED1) to ensure full delivery for consumers;

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and the use of appropriate uncertainty mechanisms within RIIO-ED2 to adjust delivery and associated expenditure.

Other respondents stated their expectation that the regulatory treatment for any DNOs not eligible for funding for accelerated PCB removal under the proposed GRM should be consistent with any DNOs who had applied for funding. This included: Ofgem setting a 'high bar' in its assessment of additional allowances for eligible DNOs that met the qualifying criteria; that consideration of the qualifying criteria should include consideration of all mechanisms within the RIIO-ED1 framework that may result in adjustments to allowances either in period or at the end of the price control period; and that any additional allowances in RIIO-ED1 would be clearly delineated from the regulatory determinations for RIIO-ED2.

One respondent stated that to preserve the efficiency incentives under the current RIIO-ED1 framework, Ofgem could either (1) provide additional funding to all licensees for PCB removal, regardless of their current financial performance, or (2) consider alternative adjustments for any DNOs that do not meet the qualifying criteria (ie where a clear benefit to consumers was identified and where all existing RIIO-ED1 allowances are, or are expected to be, exhausted in full by the end of the current control period) as part of their RIIO-ED2 determinations.

Potential discrepancy between the PCB regulations and the Environment Agency guidance

A respondent raised a separate issue regarding a potential discrepancy between the PCB Regulations and the Environment Agency guidance⁴ which could have a material impact on the number of transformers containing PCBs that need replacing. Specifically, whether the 50ml threshold in the PCB Regulations refers to the volume of PCBs or the volume of any fluid/oil containing PCBs. Ofgem has consulted with DEFRA and the Environment Agency on this interpretation and DEFRA has confirmed that the Regulations were intended to give effect to the following position: any equipment reasonably assumed to meet the following criteria must be removed from use by 31 December 2025:

- the fluids contain more than 0.005% but no more than 0.05% by weight of PCBs; and
- there is a total volume of more than 0.05dm³ (0.05 litres) of PCB containing fluid

⁴ [Polychlorinated biphenyls \(PCBs\): registration, disposal, labelling - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/polychlorinated-biphenyls-pcb-registration-disposal-labelling)

The timescales for the amendments of the PCB Regulations are not yet known, but DEFRA are amending the regulations at the earliest opportunity to give clear effect to the above policy intent.

Overall consideration of responses

We have taken account of all responses. We have explained our decision in more detail below.

Reason for our decision

The objective of the RIIO-ED1 GRM Scheme was to accelerate investment in low regrets, shovel ready network projects during the remainder of the RIIO-ED1 price control period. This was to stimulate economic recovery from the Covid 19 pandemic, and support faster delivery of decarbonisation benefits for consumers as well as Government's climate change ambitions. While we accept there are potential benefits from accelerated PCB removal, including supply chain efficiencies and expedited progress towards ensuring compliance with the environmental legislation, we do not believe an extension to the GRM to fund such activities would be consistent with the original objectives of the Scheme.

We accept the issues around fair treatment of DNOs set out by some respondents given that this is a statutory requirement that applies to all licensees with an overhead network. Accordingly, we do not believe that the use of the GRM would be an appropriate funding mechanism for these activities during the remainder of the RIIO-ED1 period.

Whilst not material to our decision, we also note the current inconsistency between the wording of the PCB Regulation and the DEFRA Guidance regarding the application of the volume threshold. As set out above, DEFRA has acknowledged this inconsistency and has confirmed it intends to amend the Regulations at the earliest opportunity to ensure that the legislation matches the original policy intent.

Consideration of necessary and efficient PCB removal costs in RIIO-ED1

Ofgem is not required to introduce a new funding mechanism under the RIIO-ED1 control to address PCBs and, under their existing licence, each DNO must manage their network risk according to their existing allowances.

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The existing regulatory framework should not act as a barrier to ensuring DNOs' compliance and any necessary expenditure through the remainder of the RIIO-ED1 price control should be incurred efficiently in line with the existing funding framework.

We may, subject to further consultation on the methodologies that apply, use the process to close out the RIIO-ED1 price control to consider any revisions to the RIIO-1 Legacy Financial Model to account for necessary expenditure on PCB removal not covered through existing RIIO-ED1 allowances where this can be demonstrated to be in consumers' interest. The financial effect would flow into RIIO-2 revenue and RAV values via the Special Conditions on "Legacy".

Next steps

We will set out our RIIO-ED2 Draft Determinations in the summer, including any decisions regarding the appropriate funding and mechanisms to support PCB removal during RIIO-ED2.

Yours faithfully,

Steve McMahon

Deputy Director, Onshore Networks – Price Control Setting

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