

Appendix 4 - Gaps in published consultation

The consultation on the proposed RIIO-ED2 licence is incomplete. It is important that DNOs are able to view all parts of the licence and its Associated Documents together to be able to understand how the price control components will work together and have a clear and complete set of expectations and obligations. It is not possible for DNOs to assess this when significant aspects have not yet been incorporated.

The consultation acknowledges that further licence conditions may be added prior to the statutory consultation in December. However, it only provides one example of a missing condition (the Smart Optimisation Strategy) making it difficult to assess whether Ofgem is aware of other gaps in the suite of documentation.

The following important licence conditions were not included in the consultation:

Missing licence condition(s)	Significance
Opex escalator uncertainty mechanism SpC 3.X	Ofgem has signalled at cost assessment policy meetings that a condition similar to the RIIO-T2 condition will be implemented for RIIO-ED2, but no discussions have yet been held on the drafting of the condition. Assuming that the intention is to mirror the RIIO-T2 condition, it will need to be drafted in a way to correctly interact with all other uncertainty mechanisms, including the associated algebra.
Smart Optimisation Strategy SLC X	The consultation acknowledges the absence of this licence condition from the suite of documents. Elsewhere in this response we highlight a number of important issues with the way that the suite of conditions that relate to load-related activities interact. This condition is likely to introduce obligations that impact on the same set of load-related activities. It will, therefore, be necessary to carefully draft this condition to ensure that it interacts appropriately with all other relevant conditions. It is also unclear what interaction (if any) this new condition will have with the existing SLC 7A whole system licence condition and the accompanying Associated Document. Ofgem's policy needs to be confirmed as soon as possible so that licence drafting can be concluded in time for the statutory consultation.
Absence of modifications to enact Access SCR changes SLC 14 SLC 12	Three areas of the licence have previously been identified as requiring modification to enact the outcome of the Access SCR: <ul style="list-style-type: none"> • SLC 14: Ensuring consistency between the license and the new voltage rule implemented via the CCCM; • SLC 12: Giving effect to the policy intent to enable DNOs to strategically reinforce the network; and

	<ul style="list-style-type: none"> • Introduction of obligations on DNOs to offer curtailable connections to customers. <p>We understand from recent working group meetings that Ofgem plans to make these modifications separately to the RIIO-ED2 modifications as housekeeping changes.</p> <p>Such modifications are not consistent with the definition of “Housekeeping Modification” under Standard Condition 3A. To implement the proposed modifications in this way would be unlawful..</p> <p>Additionally, we believe that the modifications should come into force at the start of the price control, allowing alignment between charging rules, and how uncertainty mechanisms are established.</p> <p>It is unclear why Ofgem is not taking this opportunity to make these changes at this time. Ofgem should revisit this decision and act without delay in order to incorporate them into the RIIO-ED2 licence at the start of the price control period.</p>
<p>Ongoing Network Innovation Competition (NIC) projects with RIIO-ED2 spend</p> <p>SpC 9.X</p>	<p>The draft licence does not include any provision to permit income from the System Operator in respect of NIC projects that were approved in RIIO-ED1 and will continue into RIIO-ED2.</p> <p>An extra condition is required that mirrors the relevant sub-set of in CRC5A of the RIIO-ED1 licence.</p>
<p>RIIO-ED2 Price Control Financial Model (PCFM)</p>	<p>The PCFM forms part of special condition 8.1. The PCFM that will operate during RIIO-ED2 was not included with the consultation. This is a key omission. Without the PCFM, DNOs cannot fully understand how the mechanisms set out in licence conditions will flow through to allowed revenues.</p> <p>Additionally, an early draft of the PCFM that was shared separately with DNOs some weeks before the consultation showed misalignment with the way in which many of the conditions have been drafted. For example, several of the variable values anticipated in the proposed special conditions were not included within the PCFM and, conversely, a number of variable values that are included in the PCFM are not described in the draft special conditions.</p> <p>A significant piece of work is required to ensure that the PCFM is fully aligned with the intended licence conditions and operates as expected.</p>
<p>Several important chapters are missing from the Price</p>	<p>The PCFH forms part of special condition 8.1. Several chapters were not included in the consultation, including the calculations of the cost of capital and allowances for real price effects.</p>

Control Financial Handbook (PCFH)	<p>Without these chapters DNOs cannot fully understand how their allowed revenues will be calculated. We urge Ofgem to share drafts of these chapters as soon as possible so they can be discussed no later than the November LDWG.</p> <p>We also note that there is no placeholder in the draft PCFH for the new guidance expected in respect of circumstances where the forecasting penalty under Part G of special condition 2.1 will not be applied. This is a very important new section of the PCFH given the changed basis to the operation of the PCFM and the calculation of Allowed Revenue for RIIO-ED2. The DNOs must be able to review and comment on the wording of this section prior to the statutory consultation.</p>
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We recognise that policy discussions are ongoing on a number of these topics and that policies need to be clear to enable licence drafting. However, we are concerned about the extent of work that is likely to be involved in drafting these in a way that operates correctly.

There is a very significant amount of work remaining to be done in a short period of time to correct issues in the published documents and introduce further conditions that interact appropriately with them. It is important that DNOs are provided with adequate opportunity to review these proposed conditions prior to the statutory consultation. We do not believe that the single day currently set aside in November for the LDWG meeting will be sufficient to achieve this and suggest that further dates be scheduled.

In addition to the licence conditions themselves, we note that the consultation only includes a subset of the Associated Documents that will be required to implement the price control. Some of those that are included in the consultation are incomplete. These Associated Documents form an integral part of the price control. In particular:

Associated Document issue	Significance
Several important chapters are missing from the PCFM Guidance	<p>The PCFM Guidance is an important document that allows DNOs to better understand how the price control will operate and the processes that they will need to have in place to implement new procedures and obligations.</p> <p>This is particularly applicable in respect of our discussions with Ofgem regarding our concerns about the proposed new obligations in and operation of special condition 2.1 in respect of using best endeavours to forecast allowed and recovered revenues, the forecasting of variable values and the recalculation of historical Allowed Revenue. It is clear that the instructions for populating variable values in the PCFM are very important aspects of the price control that DNOs will need to assess when making final decisions about the acceptability of this new obligation. These instructions are not included in the draft document.</p>

Some published Associated Documents are incomplete	<p>We note that, for new incentives in particular, the published Associated Documents do not contain all of the information needed by DNOs to fully understand the regulatory mechanism or area that the Associated Document is meant to be describing e.g. survey details and appeals processes.</p> <p>This information must be provided as soon as possible.</p>
No progress in developing the RIGs	<p>We note that there has been no progress to date in developing the RIGs that will be needed to ensure that all necessary data is captured from start of the RIIO-ED2 period. It takes time to implement the process changes required to capture the data and the systems changes required to record the data. This work needs to be prioritised if DNOs are to be able to capture the data from the start of the RIIO-ED2 period.</p>
Unnecessary delays to consulting on Associated Documents	<p>Ofgem proposes that a very large number of Associated Documents will be consulted on in “<i>first quarter 2023</i>”.</p> <p>It is unacceptable for so many of these to have been delayed to this late stage in the process. DNOs need to be able to review the requirements of these documents in parallel to reviewing the licence condition in order to understand the intended operation of the price control.</p> <p>We believe that a number of these should be available to be consulted on in autumn 2022 including:</p> <ul style="list-style-type: none"> • Digitalisation Strategy and Action Plan Guidance • Data Best Practice Guidance • SIF Governance Document <p>We urge Ofgem to accelerate work on all Associated Documents, including consideration of all feedback previously provided by DNOs, so that consultation can be undertaken as soon as possible.</p>