

Mark Cassidy  
Commonwealth House  
32 Albion Street  
Glasgow  
G1 1LH

31 March 2023

Dear Mark,

**Proposal to modify the Regulatory Reporting Pack (RRP), Regulatory Instructions and Guidance (RIGs) and the Price Control Financial Model (PCFM) Guidance for RIIO-ET2**

I am pleased to enclose a response from SSEN Transmission to the above consultation. It provides our view on the proposed amendments outlined in the following two tables within the notice (see Table 1 and an updated issues log also submitted in support of our response):

1. Proposed data reporting amendments within the ET RRP pack and RIGs; and
2. Proposed amendments within the ET2 PCFM Guidance.

In relation to the specific changes Ofgem is proposing, we wish to draw your attention to two amendments SSEN Transmission is fundamentally opposed to.

**Amending the definition of totex**

Ofgem states that any legal challenge against an Ofgem decision would solely be in the interests of company shareholders rather than consumers. Whilst we strongly disagree with that view, it is used to support Ofgem's proposal to amend the definition of totex to exclude legal fees incurred because of such a legal challenge. There are wider implications to this assertion and the proposed change that must be carefully considered and we request that Ofgem consults on this proposal separately to capture the wider views of industry and stakeholders. The basis of our opposition is detailed further in Table 1.

**Removal of guidance which allows TO's to assign indirect costs to direct costs arising from activities and/or assets not explicitly costed in their invoice**

In relation to the proposed change to remove the guidance which allows TO's to assign indirect costs to direct costs, we disagree and see this as a deviation from the position as at RIIO-ET2 Final Determination. SSEN Transmission has outlined on several occasions to Ofgem that RIIO-ET2 baseline capex allowances were derived from cost estimates where **contractor indirects were categorised as Direct Activities**. Therefore, any recategorisation of contractor indirects from Direct Activities into CAI will result in a **mathematically flawed application** of the Opex Escalator (OE). This was most recently highlighted within the joint TO letter submitted to Jourdan Edwards on 2 March 2023, of which we are yet to receive a response.

The impact of a recategorisation of contractor indirect costs is material. Based on initial analysis of twelve of our RIIO-ET2 baseline approved schemes with total direct costs of £573m, **we estimate contractor indirects amount to £119m, 20%**. Assuming this is an allowed cost under Direct Activities, and the OE applies as agreed at Final Determinations:

- We would receive CAI allowance of £62m ( $£573m \times 10.8\%$ ) and a total allowance of £635m.

- Removing £119m contractor indirects from direct costs results in CAI allowance of only £49m ( $£454m \times 10.8\%$ ) and total allowance of £503m.
- Based on total actual forecast costs of £625m, we would be underfunded by c£122m.
- Extrapolating this across our RIIO-ET2 projects subject to uncertainty mechanisms where the OE will apply which have forecasted direct costs of c£260m, we will be underfunded by c£50m.

We will continue to assess the impact as we obtain further details from our supply chain on their actual indirect costs in delivering these projects. It should be noted, based on our analysis to date, there is a significant range (11-44%) in contractor indirects as a percentage of total direct costs, depending on project type and contracting strategy. Our ability to provide this data also relies on robust and consistent data from our contractors – to embed this reporting requirement within our current and future RIIO-ET2 contracts will take time.

It is evident that attempting to calculate the OE rate using one set of data and then applying inconsistently to future cost data is an error. We therefore encourage Ofgem to reconsider its approach ahead of any formal decision that will be based, wholly or partly, on an error of fact.

Yours sincerely,

Craig Molyneux  
**Senior Regulation Analyst**  
SSEN Transmission

Table 1: Proposed data reporting amendments within the ET RRP pack & RIGs

RRP Reference	SSEN Transmission comment
Scheme_C&V_Load_Actuals Scheme_C&V_NonLoad_Actuals	We are grateful Ofgem has taken on board the feedback from TOs to rationalise data inputs and we will continue to support Ofgem in enhancing the RRP throughout RIIO-ET2. We have included several additional enhancements within our updated issues log submitted as part of this response. These are minor but impactful formulae and structural enhancements we advise Ofgem take on board in future iterations of the RRP.
C2.22a Repairs	We agree with the additional categories for non-routine repairs; however we request additional categories for HVDC sites in addition to 132, 275, 400kV and General Other.
Analysis tabs to replace previous Cost Output tabs	We support the inclusion of the new red analysis tabs and have validated their functionality through our testing of the consultation pack (note issue identified on NOC summary in issues log). However, as noted during the bilateral on 20/03/23 we do not believe these tabs offer the sufficient analytical depth to allow us to construct meaningful narrative. We will therefore enhance these tabs with additional data breakdowns/graphical illustrations in our submission.
RIGs – design activity definition clarification and its reporting	We note the additional clarity in respect to manufacturing configuration design but suggest this needs to be extended to review the approach for contractor site and project management as part of a full review of the definitions in this area.
RIGs – removal of guidance which allows TO's to assign indirect costs to direct costs arising from activities and/or assets not explicitly costed in their invoice	We request that Ofgem work with TOs to review the impact of this change and carry out full impact assessment of erroneous application of the OE. We urge Ofgem reconsider their position to avoid significant project underfunding. We welcome targeted engagement on this and we will continue to assess the impact internally. Please refer to joint TO letter for further commentary.
Amending the definition of totex	We fundamentally disagree with Ofgem's assertion that any legal challenge against an Ofgem decision would be in the interest of company shareholders rather than the consumer. Parliament has provided that licensees have statutory rights to appeal Ofgem licence modifications and Price Control decisions to the CMA under the Electricity Act 1989 which forms an important element of the statutory regime governing the industry, with Judicial Review providing judicial oversight of non-licence modifying decisions that may be unlawful. The nature of the statutory appeals regime and the grounds upon which appeals can be brought include important checks and balances that are designed to ensure that Ofgem is carrying out its principal objective to protect the interests of consumers when making licence modification and Price Control decisions. Removing legal costs for statutory CMA appeals and Judicial Review and from totex will introduce barriers to these critical checks and balances processes designed to ensure the interests of consumers are protected. The proposed change and its implications are significant enough that they would warrant a separate consultation process to capture the wider views of industry and stakeholders rather than being a single line item raised within the annual RRP and RIGs modification process.
Pass-through, Inflation update, and PCFM Input Summary	We agree with the removal of the "inflation update sheet" with the understanding that its function is included in the pass-through sheets and PCFM input sheets of the RRP.

A2.1_Cost_Matrix_2022 to A2.1_Cost Matrix_2028, working 2	We Welcome the split by mechanism in these tabs and subsequent linkage to working 2. Please refer to our issues log regarding double counting of innovation costs across these tabs.
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Table 2: Proposed amendments within the ET2 PCFM Guidance

PCFM Guidance reference	SSEN Transmission comment
Amending the AIP timeline	We are content with the proposal to change the AIP to bring the publication more in line with tariff-setting for ET licensees, however additional clarity around the further dry run of the PCFM and RRP in December and January following the November inflation update would be useful. It is unclear whether whole RRP will need to be updated for these dry runs or whether it is purely the tabs that look at inflation.

### Commentary Requirements

We welcome the additional clarity Ofgem provided around the reporting of costs for RIIO-ET2 schemes forecast to have expenditure beyond the five-year RIIO-ET2 timeframe. We wish to highlight the obvious point that the bulk of known spend past the end of the RIIO-ET2 timeframe relates to ASTI schemes where forecasts are immature. We will endeavour to provide post RIIO-ET2 costs, and their associated narrative, on a best endeavour's basis.