

Consultation

Statutory consultation on the Electricity System Operator licence drafting modifications – reasons and effect

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This statutory consultation sets out the proposed modifications to National Grid Electricity System Operator Limited's (NGESO) licence conditions required to implement decisions made through our Business Plan 2 Final Determination and discussed with the ESO during this year's PCFM Working Groups.

This document outlines the scope, purpose and questions of the consultation and how you can get involved. Once the consultation is closed, we will consider all responses. We want to be transparent in our consultations. We will publish the non-confidential responses we receive alongside a decision on next steps on our website at [Ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations). If you want your response – in whole or in part – to be considered confidential, please tell us in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential, and if possible, put the confidential material in separate appendices to your response.

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1. Introduction

What are we consulting on?

- 1.1 We are consulting on our proposed modifications to the National Grid Electricity System Operator Limited's (NGESO) licence conditions related to decisions made in our Business Plan 2 (BP2) Final Determinations¹². We are also consulting on proposed modifications to the Price Control Financial Instruments (PCFIs), including the ESO Price Control Financial Handbook (PCFH) and the ESO Price Control Financial Model (PCFM) that relate to general issues discussed with the ESO during this year's PCFM Working Groups.
- 1.2 The modifications we are proposing to make are set out in annexes to this consultation.
- 1.3 Within this document, we set out the reasons why we propose to make these changes and their intended effect.

Context of these proposed licence changes

- 1.4 We are proposing changes to NGESO's licence.
- 1.5 These proposed changes are to the Special Conditions (SpC) and PCFIs. The PCFIs consist of the PCFM and the PCFH. We have summarised these proposed changes below.

Special Condition (SpC)

- 1.6 SpCs are conditions that apply to a particular licensee. However, the wording is often the same for all licensees of a particular type. The majority of the proposed changes set out in this document relate to SpCs, as most of these relate to RIIO and many contribute to the calculation of allowed revenue.

Price Control Financial Instruments

ESO Price Control Financial Handbook (PCFH)

- 1.7 The PCFH is one part of the licence instruments that forms part of SpC 5.1 (Governance of the ESO Price Control Financial Instruments) of NGESO's licence. The PCFH consists of:

¹ [Business Plan 2 Final Determinations - Electricity System Operator | Ofgem](#)

² Statutory consultation on modifications to the Electricity System Operator licence conditions and Price Control Financial Instruments

- a description of the PCFM and the Annual Iteration Process (AIP) for it, used to calculate the licensee's allowed revenue during the course of the Price Control Period;
- an overview of the variable values used during the AIP, in accordance with the SpCs of the licence; and
- details of how certain variable values are revised or calculated.

ESO Price Control Financial Model (PCFM)

1.8 The ESO PCFM is one part of the licence instruments that forms part of SpC 5.1 of NGESO's licence. The ESO PCFM is the model:

- that is represented by a workbook in Microsoft Excel® format maintained on the Authority's Website; and
- that the Authority will use to determine the value of the term SOIARt and ADJRt through the application of the AIP in accordance with the provisions of SpC 5.2 (Annual Iteration Process for the ESO Price Control Financial Model) and as modified from time to time in accordance with the provisions of SpC 5.1).

2. Proposed changes to Licence Conditions

Reason and effect for changes to the Electricity System Operator Licence Conditions

SpC 1.1 Interpretation and definitions	
Type of change	Amendment to existing licence condition
Relevant licensees/relevant sectors	NGESO
Associated Document	N/A

2.1 The reason for amending this condition is to improve the structure and clarity of SpC 2.12, and for housekeeping purposes.

2.2 The effect is to provide provisions of general interpretation necessary for efficient drafting.

SpC 2.12 Tax Reconciliation assurance statement	
Type of change	Amendment to existing licence condition
Relevant licensees/relevant sectors	NGESO

Associated Document	N/A
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- 2.3 The reason for amending this condition is to align it with RIIO-ED2 and other RIIO-2 sectors per the recent “Decision on modifications to the Price Control Financial Instruments and Licence conditions for Gas Transmission, Gas Distribution and Electricity Transmission” and the language used in the Regulatory Financial Performance Reporting (RFPR) Guidance and template³⁴.
- 2.4 The effect is to align this condition with other sectors and provide clarity regarding the tax reconciliation assurance statement.

SpC 4.2 System Operator Internal Allowed Revenue	
Type of change	Amendment to existing licence condition
Relevant licensees/relevant sectors	NGESO
Final Determination reference	N/A

- 2.5 The reason for amending this condition is to make minor housekeeping changes in SpC 4.2 Part I “Tax Allowance Adjustment”.
- 2.6 The effect of this modification is to provide additional clarity in SpC 4.2 Part I “Tax Allowance Adjustment”.

SpC 4.7 The RIIO-2 network innovation allowance	
Type of change	Amendment to existing licence condition
Relevant licensees/relevant sectors	NGESO
Final Determination reference	N/A

- 2.7 The reason for amending this condition is to reflect the decision made to increase Network Innovation Allowance (NIA) funding for RIIO-2 by £21.9m⁵.
- 2.8 The effect of this modification is to enable NGESO to access the full NIA funding set for RIIO-2.

³ <https://www.ofgem.gov.uk/publications/decision-proposed-modifications-riio-2-electricity-distribution-licences>

⁴ <https://www.ofgem.gov.uk/publications/decision-modifications-price-control-financial-instruments-and-licence-conditions-gas-transmission-gas-distribution-and-electricity-transmission>

⁵ <https://www.ofgem.gov.uk/publications/business-plan-2-final-determinations-electricity-system-operator>

SpC 5.1 Governance of the ESO Price Control Financial Instruments	
Type of change	Amendment to existing licence condition
Relevant licensees/relevant sectors	NGESO
Final Determination reference	N/A

2.9 The reason for amending this condition is for housekeeping purposes and to align the condition with the equivalent condition in Gas Distribution, Gas Transmission and Electricity Transmission per the recent “Decision on modifications to the Price Control Financial Instruments and Licence conditions for Gas Transmission, Gas Distribution and Electricity Transmission”.⁶

2.10 The effect is to provide additional clarity within the condition and remove unnecessary wording.

SpC 5.2 Annual Iteration Process for the ESO Price Control Financial Model	
Type of change	Amendment to existing licence condition
Relevant licensees/relevant sectors	NGESO
Final Determination reference	N/A

2.11 The reason for amending this condition is to align the AIP publication with the tariff-setting date, streamline the AIP and reduce administrative burden for both the NGESO and Ofgem. We have discussed these changes with the NGESO during this year’s PCFM Working Groups.

2.12 Where any forecasts change between the AIP cut-off date and the tariff-setting date, changes that have not been captured by that cut-off date can and will be included in the following AIP, with a time value of money true-up applied to the difference.

2.13 We have also made some housekeeping changes to this condition.

2.14 The effect is to remove the wording regarding a re-publication, as well as to provide further clarity in the condition. This is in-line with our approach in Gas

⁶ [Decision on modifications to the Price Control Financial Instruments and Licence conditions for Gas Transmission, Gas Distribution and Electricity Transmission | Ofgem](#)

Distribution and Electricity Transmission where we have removed the wording related to a re-publication of the AIP in our recent decision.⁷

⁷ [Decision on modifications to the Price Control Financial Instruments and Licence conditions for Gas Transmission, Gas Distribution and Electricity Transmission | Ofgem](#)

Appendix 1 Changes to the ESO Price Control Financial Model (PCFM)

A1.1 The PCFM containing the proposed modifications is attached as schedule to this consultation. The changes have been highlighted with red borders. A summary of the changes follows below.

Part A: Changes to the price base of pass-through terms in the PCFM for ESO

A1.2 The modifications made to the ESO PCFM are as follows:

- Amended the price base of Business Rates Payments (RB_t) pass-through costs in the "System Operator" sheet in the "Units" column to "£m nominal"; and
- Amended the formula in the "SystemOperator" sheet in cells AP193:AT193 to convert the RB_t pass-through cost line items to £m 18/19 prices, now that they are recorded as £m nominal in the input line item.

Part B: Added the pass-through term in the PCFM for ESO relating to FSO

A1.3 The modifications made to the ESO PCFM are as follows:

- Added a new pass-through input line item for FSO_t ; and
- Added one row which links to the new pass-through input line item per our current PCFM structure and converts from £m nominal to £m 18/19 prices.

A1.4 We are aware that the ESO may face tax liability in the 2023/24 Regulatory Year relating to the FSO transition costs on capital expenditure. In the PCFM, per the ESO BP2 WGs and the proposed licence modifications, the FSO costs will be a pass-through term subject to 100% tax relief as it is treated as Operating expense (Opex) for tax purposes, and will therefore not generate a tax allowance. We do not think it is appropriate to make any amendment to the PCFM to this affect given the uncertainty around the transition from ESO to FSO, as the final tax position (including any tax liability from costs relating to the FSO to ESO transition) of the ESO should be discussed and resolved within the commercial arrangement itself.

Part C: Formula corrections and general housekeeping in the ESO PCFM

A1.5 The modifications made to the ESO PCFM are as follows:

- Amended the formula in cell AP337 in the “SystemOperator” sheet to align correctly with the formula the other cells in this row relating to capex additions.

Appendix 2 Changes to the ESO Price Control Financial Handbook (PCFH)

A2.1 The PCFH containing the proposed modifications is attached as a schedule to this consultation. The changes are tracked. A summary of the changes and where they appear follows below.

Part A: Removal of the wording regarding re-publication of the ESO PCFM

A2.2 Proposed modifications to the PCFH can be seen in the attached schedule. We have removed the section titled “Re-publication of the ESO PCFM after 30 November”.

A2.3 The modifications made to the PCFH can be seen in:

- Chapter 2 “The ESO PCFM and the Annual Iteration Process”

Part B: Updating Chapter 5 to align with RIIO-ED2 and Regulatory Financial Performance Reporting (RFPR) Guidance and template

A2.4 In the tax chapter we have made updates to align the language with RIIO-ED2 and the language used in the RFPR Guidance and template.⁸

A2.5 The modifications made to the PCFH can be seen in:

- Chapter 5 “Tax Liability Allowances”

Part C: General Housekeeping

A2.6 Throughout the PCFH we have made amendments for general housekeeping purposes to improve clarity and additional detail where needed

A2.7 The modifications made to the PCFH can be seen in:

- Chapter 1 “Introduction”
- Chapter 2 “The RIIO-XX2 PCFM and the Annual Iteration Process”
- Chapter 3 “The PCFM Variable Values”

⁸ [Decision on the proposed modifications to the RIIO-2 Electricity Distribution licences | Ofgem](#)

- Chapter 4 “Cost of debt and cost of equity indexation”
- Chapter 5 “Tax Liability Allowances”
- Chapter 6 “Pensions”
- Chapter 7 “Legacy Adjustments”
- “Appendices”

Appendix 3 Privacy notice on consultations

Personal data

The following explains your rights and gives you the information you are entitled to under the General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the controller and contact details of our Data Protection Officer

The Gas and Electricity Markets Authority is the controller, (for ease of reference, "Ofgem"). The Data Protection Officer can be contacted at dpo@ofgem.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. ie a consultation.

3. With whom we will be sharing your personal data

We will not be sharing your personal data.

4. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for twelve months after the consultation has closed.

5. Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data

- get your data from us and re-use it across other services
- object to certain ways we use your data
- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3rd parties
- tell us your preferred frequency, content and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

6. Your personal data will not be sent overseas

7. Your personal data will not be used for any automated decision making.

8. Your personal data will be stored in a secure government IT system.

9. For more information on how Ofgem processes your data, click on the link to our "[Ofgem privacy promise](#)".

Appendix 4 How to respond

- A4.1 We want to hear from anyone interested in this consultation. Please send your response to the person or team named on this document's front page.
- A4.2 We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.
- A4.3 We will publish non-confidential responses on our website at www.ofgem.gov.uk/consultations.

Your response, data and confidentiality

- A4.4 You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.
- A4.5 If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you do wish to be kept confidential and those that you do not wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.
- A4.6 If the information you give in your response contains personal data under the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in domestic law following the UK's withdrawal from the European Union ("UK GDPR"), the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 3.
- A4.7 If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

General feedback

A4.8 We believe that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:

Do you have any comments about the overall process of this consultation?

Do you have any comments about its tone and content?

Was it easy to read and understand? Or could it have been better written?

Were its conclusions balanced?

Did it make reasoned recommendations for improvement?

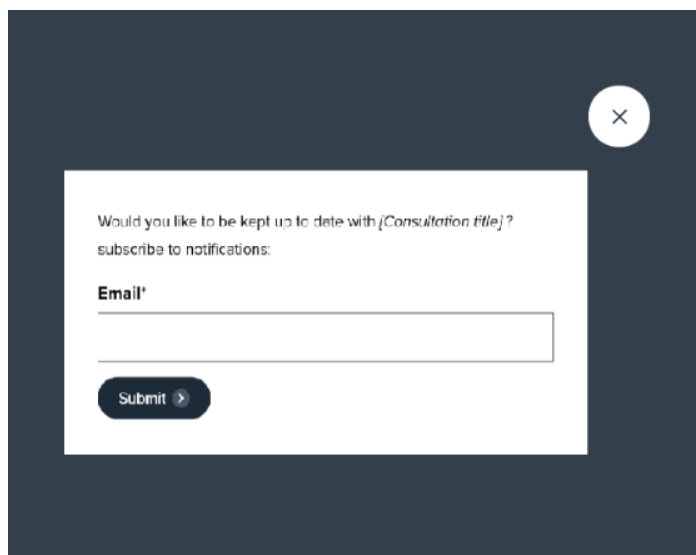
Any further comments?

A4.9 Please send any general feedback comments to stakeholders@ofgem.gov.uk

How to track the progress of the consultation

A4.10 You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website. [Ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations).

Notify me +

A screenshot of a notification subscription form. The form is white and centered on a dark blue background. It has a close button (X) in the top right corner. The text inside the form reads: "Would you like to be kept up to date with [Consultation title]?", "subscribe to notifications:", "Email*", followed by a text input field, and a "Submit" button with a right-pointing arrow.

A4.11 Once subscribed to the notifications for a particular consultation, you will receive an email to notify you when it has changed status. Our consultation stages are:

- Upcoming
- Open

Consultation – Statutory consultation on the Electricity System Operator licence
drafting modifications – reasons and effect

- Closed (awaiting decision)
- Closed (with decision)