

Steven McMahon  
Ofgem Deputy Director, Electricity Distribution and Cross Sector Policy

By email to: RIIOED2@ofgem.gov.uk

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**Contact/Extension**

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Dear Steve,

### Proposal to issue Regulatory Instructions and Guidance (RIGS) for RIIO-ED2

This response is from SP Energy Networks (SPEN). SPEN owns and operates the electricity distribution networks in the Central Belt and South of Scotland (SP Distribution plc) which serves approximately two million customers, and North Wales, Merseyside, Cheshire and North Shropshire (SP Manweb plc) which serves approximately one and a half million customers. We also own and maintain the electricity transmission network in Central and South Scotland (SP Transmission plc). We welcome the opportunity to respond to this consultation.

We have been participating in the Ofgem RIIO-ED2 RIGs Working Groups and have already responded to Ofgem's informal consultation, raising issues via gitlab and tracked change MS Word files. Our list of outstanding detailed issues is attached, and we would like to highlight some specific concerns below:

**Cost, Volumes Revenue pack:** Broadly we agree with the approach taken by Ofgem in relation to the Revenue pack integration. We also welcome Ofgem's approach to use the proposed templates as part of an "unofficial" dry run later this year to help in setting distribution tariffs for 2025/26. This process will help identify any snagging issues and result in a better pack for the first year of official RIIO-ED2 reporting in 2024. However, we already foresee a major issue in relation to the splitting of actuals/forecast values into both Capitalisation rate 1 & 2 for population into the PCFM. We do not believe the current layout will work on an enduring basis, specifically when actual values are available containing both Baseline & Uncertainty Mechanism values, as these values will not flow through into the correct categories.

**Connections RIGs and Guaranteed Standards:** There is a proposed amendment to Annex G Connections (para. 3.39) which suggest that the Connections Guaranteed Standards would not apply in certain circumstances. However, the RIGs cannot amend the Electricity (Connection Standards of Performance) Regulations 2015 as this is secondary legislation, so any such suggestion should be removed to avoid confusion.

**Totex definition:** Ofgem is proposing to change the definition of totex to exclude any costs or legal fees incurred relating to an application for a Judicial Review or an appeal to the CMA in respect of a decision made by Ofgem. The reason given for this is that such legal challenges 'would be in the interest of

shareholders rather than the consumer”<sup>1</sup> This is incorrect as there are a broad range of circumstances in which a licensee might raise a legal challenge, including to protect consumers and the wider public interested by challenging wrong and unlawful decisions, and holding the regulator to account. We have considered the decision Ofgem made in relation to the same proposed modifications to the RIIO-ET2 RIGs and still consider that Ofgem is providing an overly simplistic view of the process and a company’s motivation to raise a legal challenge. We therefore continue to believe that the totex definition should not be amended as proposed due to the important role that legal challenges play in protecting consumers, other stakeholders and the wider public interest.

**PCB Interventions:** The policy intention is for the unit cost allowance for PCB Interventions to be awarded on a “per asset” basis and the formulas and definitions in the RIGS need to enable this; to avoid ambiguity we propose some amendments to the definition of Persistent Organic Pollutant change and the related rows within the CV22 Environment table.

We look forward to working with Ofgem to agree on a solution to the points raised above and within the attached log.

Yours sincerely,



Caroline Ainslie

Head of Distribution Regulation & Policy

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<sup>1</sup> [Proposal to modify the Regulatory Instructions and Guidance \(“RIGs”\) and Regulatory Reporting Pack \(“RRP”\) and the Price Control Financial Model \(PCFM\) Guidance for RIIO-GD2 and RIIO-GT2 \(ofgem.gov.uk\)](#)