

RIIO Price Control Operations

Ofgem

ReopenerConsultations@ofgem.gov.uk.

Thursday, 17 April 2025

Dear Eliska Antosova

Notice of proposed modifications to Re-opener Guidance and Application Requirements Document

We welcome the opportunity to respond to Ofgem's proposed modifications to re-opener guidance and the applications requirements document. This response is from Future Energy Networks (FEN) on behalf of National Gas (NG) and the four Gas Distribution Networks (GDNs), Cadent, SGN, Northern Gas Networks and Wales and West Utilities.

It is worth noting that there is a distinction in opinions between NG and the GDNs. The FEN response highlights both positions in this combined response, in addition we are aware that each company is submitting their own response to this consultation, further details and company specifics will be elaborated on in the individual responses.

We respond to 8 of the 14 questions set out in the notice document, we have not listed in this response questions which FEN are not answering. Member companies have gone into further detail in their individual responses.

Appendix 12: Redaction Policy

Question 2: Do you agree that a more comprehensive Redaction Policy is required purposes explained in section 1 (Introduction) of the proposed Redaction Policy?

In general, FEN and its members support processes which drive consistency and standardisation to ensure efficient, fair and effective regulation.

With regard to the Redaction Policy, FEN members have differing views.

NG believes that the existing guidance on redactions for licensees is sufficient and therefore Appendix 12 is not necessary.

GDNs are supportive of a redaction policy which ensures documents published add value to the public. They have some further challenges with specific elements of the policy which will be covered in other questions.

Question 3: Do you have any views on the proposed approach as set out in section 2 (Approach to Redacting Information) of the proposed Redaction Policy?

We agree that individuals or bodies of persons should be considered when deciding what information should be redacted or not, should publication impact the individual or body.

Having a clear policy to ensure the open and transparent dissemination of information is welcomed and ensuring confidential, commercially sensitive or national security information is redacted where necessary is vital.

Gas Networks (GNs) welcome the distinction between Ofgem's redaction policy and the policy for GNs. Separate policies clarify duties of each party. It should be noted that the Ofgem policy should not be imposed on GNs.

Question 5: Do you have any views on the redactable information category explanations set out in Annexes 1, 2, and 3?

Members are satisfied with Annexes 1 and 3. Please see question 6 for our feedback on annex 2.

Further clarification is required on NDAs. GNs suggest that another chapter in the policy to allow detail to be established could be helpful.

Question 6: Do you agree that the existence of a Non-Disclosure Agreement (NDA) should, in itself, not be sufficient reason for redaction or non-compliance with the policy (as explained in Annex 2)?

We do not agree that the existence of a Non-Disclosure Agreement (NDA) should, in itself, not be sufficient reason for redaction or non-compliance with the policy. We believe it is sufficient.

Members consider Non-Disclosure Agreements (NDA) to be sufficient justification for information to be redacted. Requiring licensees to provide additional information on the necessity of redacting information which is covered in an NDA puts unnecessary administrative burden on licensees. Information which is covered by NDAs meets the criteria of confidential or commercially sensitive so it would not be appropriate to share this information. Requiring information covered under an NDA to be published could put GNs in breach of contract and could also disadvantage GNs in future negotiations resulting in increased costs to the longer-term detriment of consumers. Additionally, it could deter other parties GNs work with from engaging with GNs in future if they are at risk of having information which they consider to be confidential being published. An NDA already sets out the principle of confidentiality having been established and this should not be contradicted by additional guidance on information disclosure from Ofgem.

In addition, members encourage Ofgem to include a challenge or appeals process should GNs not agree with an Ofgem decision to publish information which members want to see redacted.

Question 7: In your view, is the proposed scope of the redaction policy correct? Should it apply to all re-openers or should some mechanisms be excluded from scope?

Members do not believe the scope of the redaction policy is correct. They strongly believe that "Physical Security" should be excluded from the scope of this policy with no requirement to publish to prevent any risk to Critical National Infrastructure.

The current definition in the existing reopener guidance is sufficient as it includes physical security and refers to matters of risk to national security. Members note that the footnote refers only to electricity licenses not gas, which should be rectified. The existing re-opener guidance states "Where publishing an application would pose a risk to national security, the application should not be published at all and no explanation of the lack of publication needs to be published. This may be the case with applications relating to cyber resilience and physical security Re-openers". Members are satisfied with this definition and would not wish to see it removed in the proposed redaction policy.

Question 8: Do you agree with the process as set out in Section 4 (Process for Publications) for (a) Ofgem's publications, and (b) licensee's publications?

No, members do not agree with the process set out in Section 4. Members are not sufficiently clear why justification for redaction and redacted information is required at the time of submission of their applications.

When describing the process followed for Ofgem publication, paragraph 4.1a would require Licensees to submit with their applications a proposed redacted version of the application with reasons for the redactions. It would be helpful to understand the benefit of providing the redacted version at this point, as it creates additional pressure on licensees to have a redaction ready document at the point of submission. This is not in line with the Licensee publication process - the Re-

opener Guidance and Application Requirements (the Guidance) states documents should be published five working days from submission together with reasons for any redactions.

Members would like to understand whether it is Ofgem's intention to review proposed redactions ahead of Licensee publication as this is not currently referenced in the Licensee publication process. Should the five working days written into the Guidance stand, does this mean Ofgem would review and approve redacted documents within those five days in order for Licensees to still publish externally in line with the guidance? Members are concerned that requiring feedback and then subsequent challenge and amendments within the five days to ensure compliance with the guidance is unattainable and puts undue burden on both networks and Ofgem to achieve these timeframes.

Appendix 13: Re-opener Submission Template, and Appendix 14: Instructions

Question 13: Do you have any views on the overall structure and design of the Reopener Submission Template?

Members have differing views on the reopener template.

NG are satisfied with the current way of working and do not believe that an additional template will add value. There is a risk that mandating the use of a template will result in unnecessary administrative burden due to the subsequent duplication of effort between the working documents used within NG and the population of the proposed Ofgem template. NG also have concerns about version control and the reduced ability to monitor and track changes within excel documents which introduces risks to quality control and data assurance.

GDNs acknowledge that a template is a worthwhile addition in principle, but there are risks that the template as it stands will add burden and focuses on reopeners linked to building physical assets without recognition that some decisions on reopeners are not Cost Benefit Analysis (CBA) driven. GDNs suggest some amendments to the template to improve its overall usability and suitability for other types of reopener. GDNs suggest that it would be beneficial to align the cost categories in the reopener template to the categories used in other regulatory reporting submissions. For example, Table 1.01 may provide a suitable starting point for this.

GNs all note that tab 3.1 does not include all gas assets in this current iteration. This would need to be amended to ensure GNs could use the template.

Question 14: Do you have any views on the scope and content of the Re-opener Submission Template

Members are concerned that the content required in the re-opener submission template is not able to be used flexibly enough to be appropriate for all the different types of reopener. Based on the current example of the template, members would need to adapt the template to the type of submission each time e.g. Major Project vs an Asset Health submission. This will require different approaches and details to be provided, which undermines the purpose of a standard template.

NG note that the current version of the template is Major Projects focused and with a bias towards electricity projects making it unsuitable for other types of projects.

GDNs would encourage that completion of every tab in the template should not be mandated to be filled out as standard for every reopener. GDNs request flexibility in which elements of the template they fill out depending on the type of reopener. This is because as mentioned previously, not all reopeners are linked to CBA and therefore the current template has sections which are not appropriate for other types of reopener. Flexibility would mean the template could be adapted and used for more types of projects without the need for a different template for each reopener type or the creation of a complex template.

Conclusion

Members are split in their opinions of the need for both the redaction policy and the reopener submission template. The principles of consistency and transparency are welcomed; however, work needs to be done to ensure the policy and template are fit for purpose in that they do not drive additional administrative burden for licensees and can be adapted effectively for all types of reopener.

Should you wish to discuss the letter above please do not hesitate to contact myself or the team on the following email addresses: james.earl@futureenergynetworks.org.uk or gas@futureenergynetworks.org.uk.

Yours sincerely



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