

Eliska Antosova
RIIO Price Control Operations
Ofgem
10 South Colonnade
Canary Wharf
London E14 4PU

17 April 2025

Dear Eliska,

Re: Proposal to modify the Re-opener Guidance and Application Requirements Document

I am writing on behalf of National Grid Electricity Distribution (South Wales) plc, National Grid Electricity Distribution (South West) plc, National Grid Electricity Distribution (East Midlands) plc and National Grid Electricity Distribution (West Midlands) plc, collectively known as “NGED”, in response to Ofgem’s Statutory Consultation on proposals to amend the Re-opener Guidance and Application Requirements Document.

NGED welcomes this latest opportunity to comment on the proposed modifications to the documents published in the consultation. We support the high level objectives of standardising re-opener submissions and developing a clearer redaction policy; however we continue to have significant concerns with the proposed approach and template. We shared NGED comments with Ofgem on a previous version of the redaction policy and submission template¹ which we consider would assist with re-opener submissions, however, these do not appear to have been addressed in these latest proposals. We have therefore re-included these in our response to this consultation because they remain valid.

We think further significant work is required in consultation with network operators to develop the re-opener template before it is suitable for use in a submission. We do not believe that the one-size-fits-all approach is appropriate across the four sectors, or for the different scale and types of re-opener. It is important the requirements are fit for purpose and proportionate. We would welcome further discussion and collaboration with Ofgem to develop a template for the ED sector. At this time, the current format of the template would not facilitate a comprehensive and consistent submission for ED licensees, and would create an unnecessary inefficient regulatory burden if it was implemented. For example, the terminology and format are not consistent with ED RIGs, it does not adequately allow for an effective submission for companies with multiple licensees and it does not easily adapt to re-openers which are programmes consisting of multiple projects. These issues need to be addressed before the template and guidance are issued.

These concerns are laid out below in our responses to the consultation questions asked in Appendix 1 of Ofgem’s Proposal to modify the Re-opener Guidance and Application Requirements Document. Further detailed comments are also included in the Issues Log attached to the Appendix of this letter.

¹ Sent to Ofgem by email on 6th September 2024

Re-opener Guidance and Application Requirements Document

Question 1: Do you have any views on the proposed revisions to the Re-opener Guidance and Application Requirements Document?

NGED Response: We broadly support the revisions as these are high level amendments made in order to plug the three new Appendices 12-14 into the document.

The first bullet point in para 3.20 states that the re-opener template should be used “where relevant”. Ofgem should include clearer instructions or references when the template is “relevant”. This could be done by reference to para 1.11 in the Re-opener submission template instructions document.

Appendix 12: Redaction Policy

Please see items 1-12 in the attached Appendix to this letter for issues we wish to raise with regard to the Redaction Policy. Specific items in the attached Appendix are referenced in our responses to the consultation questions below as relevant.

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

NGED Response: Yes. We are supportive of the implementation of a clearer redaction policy, subject to the changes we require below.

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?

NGED Response: Yes. Please see item 3-5 in the Appendix attached to this letter.

Question 4: Do you agree with the three proposed redactable information categories? Are there any other categories that should be considered?

NGED Response: Please see item 2 in the attached Appendix.

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

NGED Response: Yes. Please see response to Q6 below and items 11 and 12 in the attached Appendix.

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)?

NGED Response: No. Annex 2 implies a disregard of Non-Disclosure Agreements (NDAs) held by NGED. Under a typical NDA, disclosures to Ofgem will be permitted, however, this will not include publication by Ofgem. Such publication would open NGED up to claims for breach of NDA. As such, we would require Ofgem to obtain our agreement prior to the disclosure of any information that NGED has requested is redacted, in order for us to obtain the consent of our NDA counter-parties. This applies to both the Re-opener submission and

associated Excel template(s).

Whilst the Solicitors' Regulation Authority has raised its concern in recent years with the misuse of NDAs in an employment-relationship context, in particular, it has nevertheless emphasised that NDAs are a legitimate means of preventing the disclosure of confidential and commercially sensitive information, stating that "in the vast majority of cases... NDAs provide a legitimate legal means for protecting the interests of a business or individual".²

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?

NGED Response: No. We agree that Cyber Re-openers should be excluded, but Physical Security Re-openers should also be excluded (see item 5 in the attached Appendix).

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?

NGED Response: No. NGED has concern over the ambiguous language of the proposed redaction policy. At several points throughout the draft redaction policy (e.g. 4.1.b and 4.1.c), when discussing the redaction process the word "may" is used in relation to Ofgem seeking clarity with regards to a proposed redaction, and in relation to Ofgem sharing drafts of a proposed redaction. This implies that licensees may not get the opportunity to discuss rejected or amended redaction(s) prior to publication by Ofgem. We do not agree with this approach – where a licensee has requested that information is redacted it is essential, particularly in cases of uncertainty on the part of Ofgem, that licensees are consulted on this prior to publication.
See also items 6-9 in the attached Appendix.

Question 9: Do you have any views on the General Consideration set out in section 5 (General Considerations)?

NGED Response: Yes. Please see item 10 of the Appendix.

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

Please see items 13-35 in the attached Appendix to this letter for issues we wish to raise with regard to the Re-Opener template and instructions. Specific items in the attached Appendix are referenced in our responses to the consultation questions below as relevant.

Question 10: Please provide your views on the split between direct and indirect costs on each of the 2_Costs_Section worksheets.

NGED Response: The presentation of direct and indirect costs is not consistent with the ED RIGs. Please see items 26-28 of the attached Appendix.

Question 11: Please provide your views on the split between Company Costs and Contractor Costs on each of the 2_Costs_Section worksheets.

² [SRA | Thematic Review: The use of Non Disclosure Agreements in workplace complaints | Solicitors Regulation Authority](#)

NGED Response: The presentation of Company and Contractor costs is not consistent with the ED RIGs. Please see item 22 of the attached Appendix.

Question 12: In your view is specific instruction required for any of the individual worksheets? Please provide as much detail as possible on what is required. We also welcome suggested draft text.

NGED Response: We think that further clarity and amendments are required to the full workbook with regards to the ED sector. Please see items 13-35 across the attached Appendix for all matters relating to the template. These need to be addressed before a further review of the detailed instructions can be meaningfully undertaken by ED network operators.

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

NGED Response: Yes. We raise several major issues with regards to the overall structure and design of the template.

It is not clear, in either the template or associated instructions, how the template should be populated for companies with multiple licences (e.g. sheet 0.1_Submission_Info shows NGED as one licence instead of four, but Cadent is shown as four licences).

Having four separate templates for each NGED licensee is not practical or necessary (as projects will be applicable to all our licence areas in most cases), but the template does require amendment to deal with multiple licences. Licence level information is required when setting the allowances as an outcome of the re-opener decisions.

As a potential approach for your consideration, the template used for Electricity Distribution's October 2023 and April 2025 Cyber Re-openers stated costs at a company (NGED) level on a separate tab for each project; however, the Overview tab then contained cells which split the costs and stated them at DNO licence level. We also replicated a similar approach in the excel workbook we submitted as part of the Physical Security re-opener in June 2024.

It is unclear at this time how licensees should use the template for a programme containing multiple activities/projects, as the template appears to be structured around an individual project. However, for recent NGED re-opener submissions (Storm Arwen, Physical Security) these have encompassed a number of projects which make up a wider programme. The current proposed template does not appear to account for this type of presentation.

While the current structure and dropdown menus throughout the template provide uniformity, given the very wide range and scale of re-openers the template seeks to cover, there is a risk that the templates become too restrictive and don't serve their intended purpose to aid robust and efficient assessment.

None of the three options outlined in the Multiple Projects Submission section of the Re-

opener template guidance, para.1.13 satisfactorily resolves this issue. Please see item 21 of the attached Appendix for more detail on this.

The terminology used in the template is not reflective of ED's RIGs (which informs the RRP) for both cost types and activities (e.g. the use of terminology 'company costs' vs 'contractor costs', cost type of 'procurement' costs). This will cause problems in how the Re-opener submission reads across to ED reporting etc.

This also means we cannot comply with paragraph 1.12 point 10 of the proposed 'RIIO-2 Re-opener Submissions Template Instructions', to use the definitions set out in the relevant sector's latest RIGs.

We believe that a sector specific approach will be more appropriate to ensure alignment with sector specific RIGs and RRP.

Please also see all items 13-35 for all issues we raise regarding the template and associated instructions.

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

NGED Response: Yes. Please see all items 13-35 for all issues we raise regarding the template and associated instructions.

In summary, NGED has significant concerns regarding the language of the redaction policy and the structure and applicability of the submission template to ED and the ED re-openers.

Should you have any queries in relation to our response, please do not hesitate to contact me.

We would welcome a meeting to discuss the ED approach and required changes to help ensure the reporting achieves the required objective.

Yours sincerely,



DAWN BRODERICK

RIIO ED2 Regulation Manager
National Grid Electricity Distribution

Appendix: Detailed responses

We have attached an issues log with NGED's comments on Appendix 12-Redaction Policy, Appendix-13-Re-opener-Submission-Template-v0.4, Appendix 14-Re-opener - Submissions-Template-Instructions, and Reopener-Guidance-and-Application-Requirements-Version-3.1-(Tracked Changes).



NGED Appendix -
issues log 170425.xl: