

Eliska Antosova
10 South Colonnade
Canary Wharf
London
E14 4PU

Julie Hooper
Regulatory Reporting Manager
NGET
National Grid
julie.hooper@nationalgrid.com
www.nationalgrid.com

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Dear Eliska,

NGET response to Ofgem's consultation on proposed modifications to the Re-opener Guidance and Application Requirements Document published on 20 February 2025

This letter represents National Grid Electricity Transmission plc's (NGET's) response to Ofgem's consultation on proposed modifications to the Re-opener Guidance and Application Requirements Document published on 20 February 2025. It reflects our high-level, overarching comments and we have addressed the specific questions from the consultation in the appendix.

We have provided extensive feedback on two occasions on the proposed Redaction Policy and Re-opener Submission Template: on 18 March 2024 and 6 September 2024. Many of the points we raised then remain valid and it is disappointing (and concerning) that Ofgem appears not to have taken those comments from the informal consultation exercise into account. The points in this letter should be read alongside our previous feedback.

As we made clear in our 6 September 2024 letter, it remains our preference that there should be a single, over-arching redaction policy, unbound by price control periods and funding mechanisms. We suggested that such a policy be subject to periodic review (e.g. every three years). We also highlighted that there was inconsistency between RIIO-3 Business Plan Guidance (BPG) and the draft re-opener/Redaction Policy. The reasons for redaction in the BPG were given as commercial confidentiality and security whereas the re-opener draft Redaction Policy lists confidential information, commercially sensitive information and information that could pose a risk to national security as categories of information that can be redacted. It remains our view that it does not seem sensible to have inconsistency in this regard.

Against this backdrop, we remain unclear as to the purpose of introducing this policy now when its scope and application appears to be diminishing rapidly. Whilst we note from the notice proposing modifications to the Re-opener Guidance and Applications Document dated 20 February 2025¹ that the intention is that the same requirements will also apply to any equivalent RIIO-3 mechanisms, it seems that the Re-opener Guidance and Application Requirements Document will need to be updated (alongside relevant licences) in

¹ [Proposal to modify the Re-opener Guidance Application Requirements Document](#)

the light of those RIIO-3 decisions. As it stands, Appendix 1 to the Re-opener Guidance and Application Requirements Document is solely about RIIO-2 re-openers.

We note at paragraph 1.5 of the draft Redaction Policy it states that: *“Making relevant information publicly available in the context of re-opener application submissions, for example, ensures that our decisions serve consumers long-term interests and represent value for money. This approach helps to build trust among consumers/consumer advocacy groups regarding how energy networks are regulated”*. We do not agree that publication of information ensures that Ofgem’s decisions serve consumers’ long-term interests and represent value for money. Whether Ofgem’s decisions achieve these is determined by the substance of its decisions rather than publication of information in its own right.

At paragraph 1.6 of the draft Redaction Policy, it states that *“All relevant information is therefore deemed suitable for publication, unless its publication would result in unwarranted economic harm to the licensee or industry, negatively impact competition, harm to employees, identifiable individuals, or raise public safety/national security concerns. Where licensees request that we make redactions, the request must be sufficiently justified”*. As noted in our 6 September 2024 response, Ofgem cannot justify publishing inappropriate information by placing the onus on licensees to request and justify redaction. Incorrect redaction could cause economic harm, which would not be in line with Ofgem’s principal objective to protect the interests of existing and future consumers. We remain of the view that this policy should be drafted throughout to reflect the joint responsibility of Ofgem and licensees.

As noted above, we are disappointed that our previous extensive comments have not been taken on board in the draft Redaction Policy that is now being consulted on and neither have we received any response to those comments submitted through the issues log previously provided by Ofgem to licensees. The points in this letter should therefore be read alongside our previous feedback.

We hope that you find this feedback useful and constructive. If you would like to discuss or clarify anything in this letter, please do not hesitate to contact myself or Leo Micheltmore (leo.micheltmore@nationalgrid.com).

Please note that nothing in this response is confidential, so it can be published in full.

Yours sincerely,

A handwritten signature in a cursive script that reads "J Hooper".

Julie Hooper

Regulatory Reporting Manager, NGET
(by email)

Appendix – NGET consultation question response

Re-opener Guidance and Application Requirements Document

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

It appears that not all proposed changes have been shown as tracked changes, e.g. Table of Contents and paragraph 2.7 are only partly tracked. It would be helpful if all proposed changes were clearly shown as tracked. In addition, a sentence should be inserted after paragraph 1.8 that refers to the proposed new Appendices 12-14.

Paragraph 3.20 details the requirements for the provision of cost information and specifies that ‘where relevant’ the Re-opener templates at Appendix 13, in accordance with the Instructions in Appendix 14, are used. It is unclear who makes this assessment on relevance which potentially risks inconsistency between submissions - some using the defined template and some not. In addition, paragraph 3.20 goes on to say that cost evidence could be provided using ‘other relevant templates’ – it is not clear to us what these relevant templates are and why one template is more relevant than another. Existing drafting at paragraph 3.20 refers to *“any Re-opener specific templates that may have been developed...”* and we suggest that this is retained for clarity.

Appendix 12: Redaction Policy

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

This question is unclear; we have assumed it is asking “Do you agree that a more comprehensive Redaction Policy is required as explained in section 1 (Introduction) of the proposed Redaction Policy” and have answered on this basis.

We previously indicated (in our responses of 18 March 2024 and 6 September 2024) that we would welcome the application of a redaction policy more widely across all publications (e.g. to RIIO-3 Draft and Final Determinations) because the challenges of correct redaction apply equally across all published documents. This remains the case. However, it is unclear why other regulatory submissions are not within the scope of this redaction policy; this raises a concern that there will be inconsistency of the application of redaction principles.

Furthermore, at paragraph 1.1, the draft Redaction Policy indicates that it implements a consistent, standardised approach across all re-opener applications and publications, and thus helps ensure that any redactions are consistent and justified. However, this then seems to be qualified in paragraph 2.6 which indicates that it applies to all re-opener submissions with the exception of Cyber re-openers, and to both Ofgem and licensees' re-opener publications.²

However, this also appears to be at odds with the main guidance document which at Appendix 1 tabulates the re-openers to which the Re-opener Guidance and Application Requirements applies. This suggests that

² We expect that the Redaction Policy is intended to apply to Ofgem and licensees' re-opener publications and the drafting should be clarified accordingly.

the Redaction Policy does not apply to the Net Zero and LOTI re-openers. It is essential that the main guidance document and Redaction Policy set out clearly the re-openers to which that Redaction Policy applies.

In addition, we would welcome clarity on what duty is being referred to in paragraph 1.3. For example, is it referring to Ofgem's Principal Objective to protect the interests of existing and future consumers³, or to Ofgem's power to publish advice and information where it appears to it that doing so would promote the interests of consumers?⁴

As noted in our 6 September 2024 feedback, paragraph 1.6 does not accurately reflect the language in s.48 Electricity Act 1989 (EA89), which does not contain the concept of "unwarranted economic harm" and should be either amended or removed.

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?

As set out in our response to question 2, there is inconsistency between the main guidance document and draft Redaction Policy about what is within scope of the policy. This needs to be resolved.

In addition, paragraph 2.1 refers to the Authority's duty in s.48(2) EA89 to have regard to the need when publishing advice or information under s.48 EA89 for excluding any matter that might seriously and prejudicially affect the interests of the individual or body to whom that matter relates. However, the draft Redaction Policy fails to mention the Authority's duty in s.48(2A) EA89 to consult a particular individual or body of persons before deciding to publish under s.48 EA89 any advice or information relating to that individual or body of persons. This duty cannot be abrogated in any balancing exercise of the type contemplated in paragraph 2.2.

As regards paragraphs 2.3 and 2.4, we refer to our feedback of 6 September 2024 in which we suggested that rather than there being multiple categories of potentially redactable information, some of which could overlap, the Redaction Policy could instead refer to "Confidential Information" and provide a non-exhaustive list of examples of this, e.g. commercially sensitive information, third party information, information that may pose a risk to national security.

Footnote 5 to paragraph 2.3 seems to replicate wording that we have previously provided to justify our own approach to redaction. As we indicated in our September 2024 response, whilst we welcome recognition of this justification, it is not suitable for Ofgem to apply verbatim e.g. *"could reveal the cost data of our assets... that we source from third parties"*. The references to 'our' and 'we' require amendment.

We are concerned that at paragraph 2.5 Ofgem is proposing to consider publication of a summary of the redacted information. Given that the information has been identified as appropriate to redact, this could potentially undermine the need for and/or purpose of redaction. Any summaries of redacted information should be shared with the relevant licensee(s) prior to publication.

³ S.3A Electricity Act 1989

⁴ S.48 Electricity Act 1989

Paragraph 2.5 also calls into question how burdensome the redaction process is as a potential determinant of what, ultimately, is published. The acid test for redaction ought to be whether the information contains confidential information, (e.g. commercially sensitive information or information that may pose a risk to national security). As we explained in our September 2024 response, it is likely that this burdensome 'test' would be subjective in nature. Paragraph 2.5 could be interpreted to say that this burdensome test could trump other considerations, e.g. legitimate concerns about commercial sensitivity. This test cannot result in Ofgem breaching its legal duties. We would welcome Ofgem's clarification on how it will assess whether redaction is overly burdensome whilst complying with its obligations with respect to the publication of information.

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

We agree with the three principal categories, however, as explained above and in our 6 September 2024 response, there is a degree of overlap between these categories, e.g. "trade secrets is included as an example of both "confidential information" and "commercially sensitive information". We suggest simplifying this by having one term, "Confidential Information" that is used throughout the Redaction Policy, and in a single Appendix provide a non-exhaustive list of examples of what could constitute confidential information, (e.g. trade secrets, commercially sensitive information, personal details, critical national infrastructure information, national security information etc.) which could be based on text currently in Annexes 1, 2 and 3. This approach would be a more straightforward way of achieving the aim of the draft Redaction Policy.

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

We have some concerns with the explanation given for commercially sensitive information. We welcome the recognition that information that identifies or could reveal tendered unit costs of assets or services that licensees source from third party providers on a competitive basis (e.g. goods and services in relation to the construction, operation, and maintenance of the network, or consultancy costs) may be considered commercially sensitive. However, the proposal that some data may be published in "oversimplified/high level form" (e.g. by publishing aggregated cost estimates, instead of exact unit cost data, for example) would be of concern if the aggregated cost was published alongside volume which would enable unit costs to be calculable. It is also necessary to remember that other information (e.g. volumes) may be obtainable from other sources (e.g. known to the market via tendering processes, or extractable from publicly available data such as mapping systems). Ofgem should not lose sight of this.

We also disagree that "*Confidential Information shall not include information which:*

- *was in the possession of Ofgem without restriction as to its disclosure, before receiving it from the Licensee for the purpose to which redaction is sought; or*
- *is received from a third party (who lawfully acquired it) without restriction as to its disclosure."*

In our view, this does not align with the restrictions (subject to limited exceptions) on disclosure in s.105 Utilities Act 2000 (UA00) to which licensees and Ofgem are subject. It would be helpful if Ofgem could explain the rationale for the inclusion of this text.

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)?

As we indicated in our September 2024 letter, we remain of the opinion that the section headed “*Non-Disclosure Agreement (NDA) and legally privileged information*” should be removed. The policy deals with the redaction of confidential information, and it is for the licensee to assess what information is to be redacted in accordance with the policy. NDAs will apply in respect of the mutually agreed non-disclosure of confidential information shared between parties to such NDA and, where this is the case, such information can, as acknowledged by the draft Policy, be redacted. For this reason, we disagree with requiring licensees to justify why non-disclosure of information covered by an NDA would be in the consumer interest as this would essentially circumvent the purpose and intent of the NDA.

As regards legally privileged information, whilst this is not addressed explicitly in the body of the draft Policy (despite the heading in Annex 2), for the avoidance of doubt, we repeat the comments in our 6 September 2024 response, that it is difficult to envisage that legally privileged information would ever be contained within a re-opener submission. However, if this were ever the case, such information would be classified as confidential and could so be redacted under the policy. Licensees cannot be compelled to provide and / or publish information that is legally privileged (as acknowledged elsewhere in relevant industry legislation).

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?

The proposed scope of the redaction policy is, in our view, incorrect. It is internally inconsistent as currently drafted (as noted above) and we think a redaction policy should apply to all regulatory submissions and publications regardless of whether it is a re-opener or some other kind of submission (as noted in our response to question 2).

We would welcome the application of a single redaction policy more widely across all publications (e.g. all re-openers, RII0-3 Draft and Final Determinations) because the challenges of correct redaction apply equally across all documents published by Ofgem (and those required to be published by licensees).

It is unclear why other regulatory submissions (aside from a sub-set of re-openers) are not within the scope of this redaction policy.

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?

Paragraph 4.1 indicates that Ofgem will redact information that it considers necessary in line with the policy and may share draft documents with licensees ‘where necessary’. As set out in our 6 September 2024 response, this does not go far enough and is unsatisfactory. If Ofgem is minded not to redact information a licensee has identified for redaction, it is essential ahead of publication that there is a dialogue between the licensee and Ofgem. That licensees have requested redaction of information ahead of publication is indicative that licensees believe that publication would be prejudicial to their own, customers’ or consumers’ interests. In addition, as noted above, before deciding to publish any advice or information relating to an individual or body of persons under s.48 EA89, Ofgem is duty bound under s.48(2A) EA89 to consult that particular individual or body of persons. The draft Policy should be amended accordingly.

On the question of licensee publications, we note that there is a commitment from Ofgem to provide guidance following a licensee request. It would be helpful to set out the timeframe in which Ofgem aims or expects to respond to such requests.

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

At paragraph 5.1, it states that 'In the interest of transparency, even when certain information is redacted, Ofgem will aim to publish high level details (e.g. the total re-opener value, figures, and values against each work package)'. As we indicated in our September 2024 response, whether or not publication is appropriate depends on the nature of the work packages, and what is meant by "figures". In general, all asset volumes and physical work scopes must be redacted if high-level costs are provided to prevent the two pieces of information being joined to reveal commercially sensitive unit costs. Costs cannot generally be published for work packages that are clearly identifiable to a single contract.

At paragraph 5.2, it states that *"Information that relates to, or has been provided, or produced by an identifiable third party (individual or business) can be disclosed with the consent of the individual or the person for the time being carrying on the business"*. This does not accurately reflect the full purpose and intent of s.105 Utilities Act 2000.

At paragraph 5.3, it provides examples of third-party information that may be redacted in accordance with the Utilities Act 2000. As we explained in our September 2024 response, it is incorrect to refer to what can be *"redacted in accordance with the Utilities Act"*. The Utilities Act does not provide for what can be redacted but imposes a general restriction on disclosure of information save in limited and defined circumstances (some of which are partially referred to in paragraph 5.1). The draft Policy should be amended accordingly.

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

We welcome the intent of this template, bringing greater consistency across submissions by Licensees. However, we request further clarity on the extent to which the template will also apply to RIIO-T3 reopener submissions and, if so, (i) at what point this will be updated to reflect the T3 framework, and (ii) when Licensees will be given the opportunity to comment on the proposed updates. If the scope is restricted to T2 reopener submissions only, we note that its application will be very limited. We would also be grateful for confirmation that this template is intended to replace the cost models currently included in reopener submissions.

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

We would expect the direct/indirect split reportable in the reopener template to be consistent with the RIGs and RRP. It would be helpful if Ofgem could clarify whether it expects an indirect/direct split for those reopeners that are submitted on a gross cost basis.

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

We would find it helpful if Ofgem provided more detailed definitions/examples of company and contractor costs. For example, are company costs mostly staff costs? What should happen if a project is to be developed, designed and delivered by a licensee's in-house resources, i.e. there are no external 'contractor' costs?

We are concerned about the need to split contractor costs between the categories listed. At the moment we don't gather data in that way and so whilst we could potentially ask for the information as part of future tenders, we don't have any historic data to base any forecasts on. However, this depends on what is meant by "contractor costs". Most Main Works Contractor costs would fall under asset direct costs and so wouldn't need splitting out based on the proposal.

In our view, it is more relevant to split costs by activity rather than who undertakes that activity. Notwithstanding this, we would expect any split of costs between direct and indirect cost to be aligned to the RIGs and the RIGs Glossary.

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.

In general, we support the instructions set out in Chapters 2 to 9, but with some minor comments.

The instructions for 'Tab 0.4.1_LkUp_Assets' are not included in the guidance. Whilst it is self-explanatory what this tab is used for, for completeness the guidance should be updated to include this tab.

Whilst the instructions for tabs 2.2 and 2.3 have only been included to illustrate the format of the tabs included in section 2, the remainder of tabs (2.4-2.11) should be included for completeness.

With respect to paragraph 6.4 of the guidance, *"Licensees are free to use any CBA template to populate the CBA tabs within the submission template. The latest CBA template for the relevant sector should be used"*, this appears to be contradictory. Please can Ofgem clarify if licensees are required to use the Ofgem-issued CBA template for the relevant sector to populate the CBA tabs, and the circumstances in which licensees are free to use any CBA template, e.g. where no Ofgem-issued CBA template exists for the relevant sector.

We would find it helpful if Ofgem would provide definitions and examples of the different cost categories. For example, is procurement the cost of the procurement team, or of items National Grid has procured directly, or both? Whilst we note that Ofgem will provide worksheet specific instructions if necessary following consideration of the consultation responses, it would be helpful if Ofgem set out the cost categories it envisaged for example in the 2_2 procurement worksheet. Also note, in the "purpose and use by Ofgem" for 2.1 and 2.2 Ofgem has defined this to include direct and CAI costs, however only direct cost can be entered in 2.1, and only CAI can be entered in 2.2.

As with our response to Question 11, we would expect any split of costs to be aligned to the RIGs and the RIGs Glossary.

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

We welcome the intent of the Re-opener Submission Template to ensure consistency in requirements across Re-opener submissions. This should promote efficiency internally and reduce the requirement for licensees to clarify submission requirements with Ofgem pre-submission. However, clarity is needed on how this will be updated to reflect the RIIO-T3 framework, when determined, and Licensees must be given the opportunity to comment on that updated template. We also have some specific suggestions for the re-opener template:

- We think that additional columns are needed to capture prior and subsequent years. We would suggest a 'prior years' column to capture pre-T2 costs and subsequent years would ideally extend to the end of T4 (and include a 'later years' column to capture 100% of costs).
- The colour coding of cells should be consistent, for example, in worksheet '1.1_Costs' cells are in a pale grey that does not feature in the Colour Key section of the 0.1_Submission_Info worksheet.
- In the summary worksheet 1.1_Costs, the costs from worksheets 2.5_Detailed Design & 2.10 Business Support Costs are not being pulled through.
- For ease of completion and assurance, we recommend having a tab for staff costs rather than splitting costs between multiple cost categories.
- We recommend additional categories and tabs for Third Party costs and Contract Inflation to reduce the amount of costs included in tab 2.11 Other Costs.
- We would prefer to allocate between direct and indirect costs within the cost category tabs rather than splitting direct and indirect costs across tabs. For example, in the current template, main works contractor costs would be split between Asset Direct Cost, Project Management and Design tabs. To make completion easier and assurance, it would be simpler to have all main works contractor costs in one tab.

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

We note our overarching request for clarity on the application of this template to RIIO-T3 reopeners, as well as our opportunity to comment on any proposed further updates. We also have a number of concerns about how Ofgem is planning to collect the information which makes us question whether the template will provide the detail needed to allow a cost assessment to be made:

- Direct costs can only be input in the Asset Direct Cost and Commissioning worksheets. In the Asset Direct Costs worksheets, costs are input in one line per asset category therefore Ofgem will lose significant amounts of detail on cost. If Ofgem think this will give them the level of detail they need to streamline their decision making, we are happy to accept this. If Ofgem expect this detail to be included in the supplementary tabs, TOs will take different approaches, ultimately not resolving the concerns Ofgem has raised in their rationale for introducing the re-opener submission template.
- We are also concerned that if Ofgem intends to use the re-opener template to show an asset view like in RRP, this could be misleading and cause confusion as the template does not capture asset data in the same way as it is captured in our RRP submissions as illustrated in the table below:

Cost	RRP category	Re-opener Template category
Procurement	SGT	Procurement (if indirect) or SGT (if direct)
Foundations	Civils	SGT? No obvious place for civils in template
Installation	SGT	SGT

We also have the following questions:

- Are there any specific data tables that Ofgem would find useful to be included in the submission narratives?
- Is it mandatory for licensees to provide P75 risk (Column U in tab 5.1 Risk Register)? Typically, we have provided P80 following industry best practice rather than P75 for risk.