



Response by Northern Powergrid (Northeast) plc and Northern Powergrid (Yorkshire) plc to the statutory consultation on a proposal to enable the re-opener allowances under special condition 3.2 to be subject to a Price Control Deliverable

KEY POINTS

- Ofgem should not implement these proposed licence modifications.
 - Ofgem has not consulted on the changes that are being applied to all DNOs.
 - The policy position that underpins these modifications is contrary to the position taken in the ED2 Final Determinations.
- The purpose of a re-opener consultation should be to consult only on the value of the allowance adjustment, and not to vary the funding mechanisms that were set out in the ED2 Final Determinations and the licence at the start of the price control period.
- Ofgem's ED2 Final Determinations were clear that, under the load-related expenditure (LRE) reopener, PCDs were only – potentially – applicable to “strategic investment”.
 - Ofgem's decision here applies PCDs to LRE where Ofgem is explicit it is *not* strategic investment.
 - The licence already reflects the ED2 Final Determinations and allows Ofgem to apply PCDs to strategic investment.
- Ofgem's modifications for all DNOs appear to go even further, allowing for this blanket PCD-approach to be applied to the outcomes of **all** Uncertain Costs Reopener applications in future.
- If utilised, this would represent a material and unjustified change to the price control settlement.
- If Ofgem continues to act in such a manner, it will inevitably impact on investor confidence in respect of ED3.

1. In this consultation Ofgem proposes to modify the existing special conditions of all electricity distribution licences.

2. Ofgem explains that:

The effect of these proposed modifications is to enable the re-opener allowances under SpC 3.2 to be subject to a Price Control Deliverable ('PCD') in line with our Final Determinations for the Load Related Expenditure (LRE) Re-opener and Hebrides and Orkney Re-opener dated 12 December 2025

We are proposing to modify the licence to enable PCDs to be set for all re-opener mechanisms under SpC 3.2

Further details on the reasons for the proposed modifications can be found in our RIIO-ED2 2025 Re-openers Final Determinations.¹

3. However, the only reference to PCDs being applied to LRE funding provided through this reopener in the RIIO-ED2 2025 Re-openers Final Determinations is that "[Ofgem] also intend to consult on licence modifications to allow us to set Price Control Deliverables (PCDs) for both mechanisms".
4. We are not aware of any such consultation.
5. Furthermore, Ofgem took its policy decision in respect of when to apply PCDs to additional re-opener funding when it set the price control, explaining that for additional Load Related Expenditure PCDs may only be considered for strategic investment:

Final Determination summary

3.21 The table below provides a summary of our Final Determination position.

Output Parameter	Final Determination	Draft Determination
<i>UM type</i>	<i>Re-opener</i>	<i>Same as FD</i>
<i>Re-opener Window</i>	<i>January 2025 and January 2027</i>	<i>April 2025</i>
<i>Trigger</i>	<i>Licensee and authority triggered</i>	<i>Same as FD</i>

¹ Notice of statutory consultation on proposals to modify the special conditions of the electricity distribution licences, p. 1-2.

<i>Materiality threshold</i>	<i>RIIO-ED2 common materiality threshold of 0.5%.</i>	<i>RIIO-ED2 common materiality threshold of 1%.</i>
<i>Additional requirements</i>	<i>DNOs must comply with the LRE Re-opener Guidance.</i> <i><u>PCDs may be set for proposed works that the Authority considers are Strategic Investments.</u></i> [Emphasis added]	<i>Same as FD</i>
<i>Licence condition</i>	<i>Special Condition 3.2, Part K</i>	<i>New to FD</i>

....

3.24 Strategic Investment can also be assessed under the LRE Re-opener, and where we decide to fund Strategic Investment, we will consider setting a PCD for its delivery to ensure that DNOs are held to account for delivery on these ore anticipatory types of work.²

6. The LRE Re-opener Guidance also only references PCDs in relation to strategic investment.³
7. Then, in Ofgem's RIIO-2 Re-opener Applications 2025 Final Determinations – ED Annex, Ofgem is explicit that the additional funding it has approved is *not* strategic investment⁴:

<i>Regulatory reporting table</i>	<i>Cost Category</i>	<i>Ofgem's DD (£m)</i>		<i>Adjustment from DD to FD (£m)</i>	<i>Ofgem's FD (£m)</i>
<i>CV1</i>	<i>Primary reinforcement</i>	<i>60.438</i>		<i>35.170</i>	<i>95.607</i>
<i>CV2</i>	<i>Secondary reinforcement</i>	<i>-2.100</i>		<i>5.516</i>	<i>3.416</i>
<i>CV3</i>	<i>Fault level reinforcement</i>	<i>-6.610</i>		<i>-</i>	<i>-6.610</i>
<i>CV4</i>	<i>New Transmission Capacity Charges</i>	<i>-</i>		<i>-</i>	<i>-</i>

² RIIO-ED2 Final Determinations Core Methodology Document, p. 21-22.

³ Re-opener Guidance and Application Requirements Document: Version 4, p. 47,

⁴ RIIO-2 Re-opener Applications 2025 Final Determinations – ED Annex, p.17.

Statutory consultation on a proposal to enable the re-opener allowances under SpC3.2 to be subject to a Price Control Deliverable

February 2026

<i>C2</i>	<i>Connections</i>	<i>41.377</i>		<i>-</i>	<i>41.377</i>
	<i>Load Related Strategic Investment</i>	<i>-</i>		<i>-</i>	<i>-</i>
	<i>Access SCR Adjustment</i>	<i>-</i>		<i>15.223</i>	<i>15.223</i>
	<i>Totex Adjustment</i>	<i>-</i>		<i>1.734</i>	<i>1.734</i>
	<i>Total</i>	<i>93.105</i>		<i>57.642</i>	<i>150.747</i>

8. For other Uncertain Costs re-openers that Ofgem now proposes be brought in scope of the PCD regime, the ED2 Final Determinations were clear that PCDs were not to be applied to funding provided via those mechanisms.
9. Ofgem should only reopen the price control in very limited circumstances. That high bar has clearly not been met in this case. In addition, Ofgem must consult properly before changing its policy and modifying the licence.
10. More substantively, Ofgem should consider carefully whether it is actually in customers' interests to apply PCDs to such funding. The fungibility of allowances is a key aspect of the regulatory regime, allowing DNOs to respond to new requirements, and to find synergies and savings for customers.
11. If Ofgem acts in the manner proposed in this consultation on an enduring basis, it will inevitably impact on investor confidence in respect of ED3.
12. We have, in any event, made some comments regarding Ofgem's drafting of the proposed licence modifications in Annex 1 and Annex 2.

Annex 1: Proposed modifications to Part A of Special Condition 1.2 by all holders of the electricity distribution licence

Evaluative Price Control Deliverable	means a Price Control Deliverable specified in Special Condition 3.2, Special Condition 3.3 (Evaluative Price Control Deliverables), the Cyber Resilience OT PCD Table, the Cyber Resilience IT PCD Table, Special Condition 3.6 (Net Zero Re-opener and Price Control Deliverable) or Special Condition 3.17 (Storm Arwen Re-opener and Price Control Deliverables).
Price Control Deliverable	means the outputs, delivery dates and associated allowances specified in Special Condition 3.2, Special Conditions 3.3 (Evaluative Price Control Deliverables), the Cyber Resilience OT PCD Table, the Cyber Resilience IT PCD Table, Special Condition 3.6 (Net Zero Reopener and Price Control Deliverable), Special Condition 3.17 (Storm Arwen Re-opener and Price Control Deliverables) and other bespoke special conditions setting out Mechanistic Price Control Deliverables.
Uncertain Costs Re-openers	means all the reopeners established under Special Condition 3.2 (Uncertain Costs Re-openers and Price Control Deliverable (UCRt)).

**Annex 2: Proposed modifications to Special Condition 3.2 of the Licence held by all holders of the
electricity distribution licence**

Special Condition 3.2 Uncertain Costs Re-openers (UCRt) and Price Control Deliverables

Introduction

3.2.1 The purpose and effect of this condition are to:

- (a) set out the value of the allowance for each of these Uncertain Costs Re-openers terms; and
- (b) ~~to~~ calculate the term UCRt (the Uncertain Costs Re-openers term), which contributes to the calculation of the Totex Allowance (in relation to which see the ED2 Price Control Financial Model);
- (c) establish Uncertain Costs Re-openers triggered by the licensee or the Authority in relation to Uncertain Costs;
- (d) specify the outputs, delivery dates and associated allowances for the any Price Control Deliverable associated with an Uncertain Costs Re-opener; and
- (e) provide for an assessment of the any such Price Control Deliverable.

Commented [JE1]: "Uncertain Costs Re-openers" is a new defined term in SpC1.2 and to be consistent with the heading.

Commented [JE2]: To clarify that this relates only to these PCDs.

Part T: Formula for calculating the Uncertain Costs Re-openers term (UCRt)

3.2.120 The value of UCRt is derived in accordance with the following formula:

$$UCRt = UCt - UCRPCDt$$

where:

UCt means the sum of allowances in Appendix 1; and
UCRPCDt has the value zero unless otherwise directed by the Authority in accordance with Part V.

Part U: What is the licensee funded to deliver

3.2.121 Appendix 3 specifies the Price Control Deliverables that the licensee is funded to deliver, the associated delivery dates for those Price Control Deliverables and the allowances associated with those Price Control Deliverables.

Part V: Assessment of the Price Control Deliverables

3.2.122 The Authority may, in accordance with the assessment principles set out in ~~Part~~ paragraph 3.3.15 of Special Condition 3.3 (Evaluative Price Control Deliverables), direct a value for UCRPCDt where the licensee has not Fully Delivered a Price Control Deliverable specified for the licensee in Appendix 3.

Commented [JE3]: Para 3.3.14, which is in Part C, does not include Uncertain Costs Re-openers so this should specify paragraph 3.3.15 which is actually the assessment process.

Commented [JE4]: To clarify that that it relates to the actual licensee.

Part W: What process will the Authority follow in making a direction?

3.2.123 Before making a direction under paragraph 3.2.122, the Authority must send to the licensee and publish on the Authority's Website:

- a) the text of the proposed direction;
- b) the reasons for the proposed direction; and
- c) a statement setting out the period during which representations may be made on the proposed direction, which must not be less than 28 days.

3.2.124 A direction under paragraph 3.2.123 must set out:

- a) the delivery status of any Price Control Deliverables that have not been Fully Delivered;
- b) the value of the UCRPCDt term and the Regulatory Years to which that adjustment relates; and
- c) the methodology and data that have been used to decide the delivery status of any Price Control Deliverables that have not been Fully Delivered and the value of any adjustments to the UCRPCDt term.

Appendix 1

Uncertain Costs Re-openers allowances (£m)

	23/24	24/25	25/26	26/27	27/28	Total allowance (all years)