

The background is a collage of images: a large white arrow pointing right, a blue gas flame, a white gas flame, and a close-up of a gas burner. The text 'Innovation Working Group' is centered over this collage.

# Innovation Working Group

12 October 2012

# Agenda

## **1. Introductions 10:00**

## **2. Progress Update**

- RIIIO-ED1/T1/GD1
- Governance documents
- Summary of ED1 strategy consultation proposals

## **3. ENA: Dissemination of Learning and Annual Conference** (Paul Fidler/Jenny Cooper)

## **4. Lunch 12:00 – 12:30**

## **5. Intellectual Property**



- Policy Principles
- Draft text
- Next Steps

## **6. A.O.B**

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# Progress Update

## RIIO-ED1

phase	year	month	milestone
Strategy Development	2012	February	Open letter consultation published (8 weeks consultation)
		September	Strategy Consultation published (8 weeks consultation)
Initial Business Plan Assessment and fast-track decision	2013	February	Strategy Decision published
		July	DNOs submit & publish business plans Invitation for comments (4 weeks)
		October	Initial Assessment and fast-track Draft Determination published (8 weeks consultation)
Draft and Final Determination and launch	2014	February	Fast-track Final Determination published
		March	Non-fast-track DNOs resubmit & publish business plans Invitation for comments (4 weeks)
		July	Non-fast-track Draft Determination published (8 weeks consultation)
		November	Non-fast-track Final Determination published
		December	Statutory Consultation (28 days) on licence modifications
	2015	April	Wednesday 1 <sup>st</sup> - new price control (RIIO-ED1) commences

Strategy consultation closes on 23 November 2012

## RIO-T1 and GD1

phase	year	month	milestone
Fast-Track Final Proposals	2012	April	Fast track decision made
Initial Proposals (Non Fast-Track)		September	First informal licence consultation closes Initial Proposals consultation closes
Final Proposals (Non-Fast Track)		October	Informal consultation on NIC and NIA Governance documents published (6 weeks) Second informal licence consultation published (4 weeks)
		November	Informal consultation on governance document closes Second informal licence consultation closes
		December	Final Proposals published Statutory consultation on licence conditions and associated documents
Price control period commences	2013	April	Start of GD1 and T1

Currently considering responses received to Initial Proposals

## NIC & NIA Governance Documents

- Informal consultation was published 9 October
  - Including a response template
  - Discussion of IPR clause to be discussed this afternoon
- Questions
  - We invite stakeholders to comment on the proposed drafted of the NIC and NIA Governance Documents. Does the drafting reflect our policy decisions?
  - Do you think there are any barriers within the current drafting that could prevent innovative energy efficiency solutions receiving funding?

Responses welcomed by the 21 November 2012

## NIC & NIA Governance Documents

- Points to note - NIC
  - Split into gas and electricity versions
  - Gas: Bracketed text is where text has been included to refer to “non-socialised” NIC (decision in Final Proposals)
  - Electricity: OFTOs need to signal intent to enter 2013 competition by 25 October
- Points to note - NIA
  - Split into gas and electricity versions
  - New presentation of criteria

Any initial views or comments welcomed

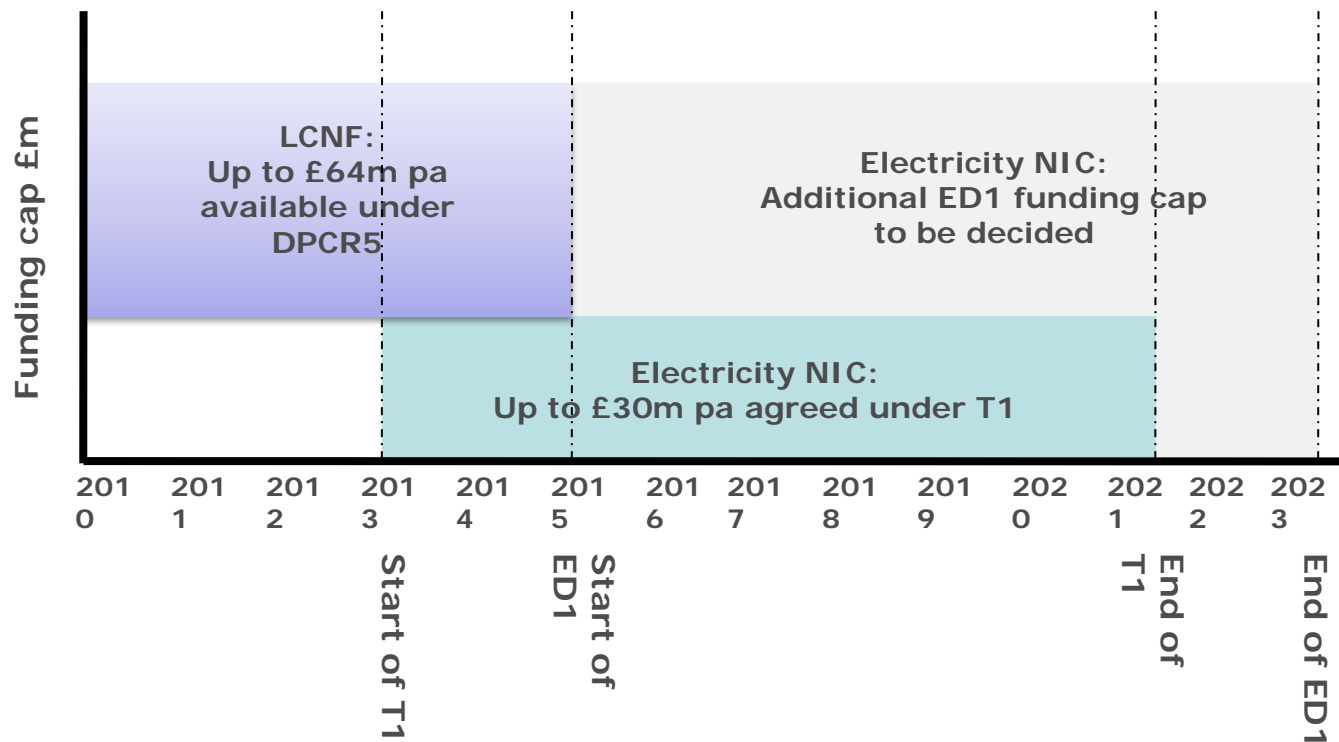
## **RIO-ED1 proposals**



## ED1 Strategy Consultation Proposals

### NIC

- DNOs join electricity NIC from 2015
- Funding between £60 and £90m for 2 years
- Review funding levels and duration during two year review



## ED1 Strategy Consultation Proposals

### NIA

- Between 0.5 and 1% AR revenues based on quality of innovation strategy
- Same eligibility criteria and rules as T1/GD1

### Innovation Strategy

- Set out minimum requirements expected from Innovation Strategy
- Proposing to introduce a requirement to regularly update strategy

### IRM

- Revenue adjustment mechanism
- Propose same as T1/GD1

## ED1 Strategy Consultation

- **Question 1:** Do you agree that the cap on funding for the electricity NIC should be within the range of £60m and £90m for 2015-16 and 2016-17? Please provide evidence to support your suggested level of funding.
- **Question 2:** Do you agree that the level of funding for the rest of the ED1 period should be reviewed in 2016 following a review of the LCN Fund?
- **Question 3:** What are your views on the information DNOs should provide in their innovation strategies? How can DNOs best demonstrate that their approach to innovation is sufficiently well justified and robust?
- **Question 4:** Do you agree that it would be valuable for DNOs to consult and update their innovation strategies regularly during the price control period?
- **Question 5:** Are there any aspects of the innovation framework for ED1, which you think should differ from the arrangements from RIIO-T1 and GD1? If yes, please explain why.

Any initial comments or views welcomed

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# **Dissemination of Learning and Annual Conference**

## Dissemination of Learning and Annual Conference

- Three aspects of our August NIA decision are specifically intended to facilitate knowledge transfer.
  - Publication of project registration, project progress information and a summary of annual NIA activity.
    - Allows other licensees and consumers to see what licensees are spending their NIA on and how projects are progressing.
  - Annual NIA Conference.
    - Allows licensees to sign post key new learning.
  - Default Treatment for Intellectual Property Rights (IPR) – afternoon agenda item.
    - IPR can act as a barrier to dissemination. We want learning developed by NIA projects to be shared as far as possible amongst all licensees.

Finally, the requirements of the Governance Document are not intended to limit the scope of dissemination activities undertaken by licensees, they are minimum requirements

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# Lunch

## 12:00 – 12:30

The background features a large, semi-transparent white arrow pointing from the left towards the center. Behind the arrow, there are two distinct images: on the left, a perspective view of solar panels; on the right, a close-up of a gas burner with a blue flame. The overall color palette is light and airy, with soft blues and whites.

# **IPR and the Governance framework**

IWG - 12 October 2012

## Intellectual Property Rights - Background

- Previous discussions with IWG
- Summer Policy Consultation
- August Policy Decision: Include default IPR arrangements for NIA (aligned with previous NIC decision), but determine detailed drafting through further consultation.
- Informal review of IPR clauses, demonstrates some stakeholder concerns.
- Seeking to discuss concerns and reach greater consensus prior to the informal consultation on the IPR clause



## Intellectual Property Rights – Principles (1)

- Innovation funding in RIIO represents a significant commitment by the customer to support companies in innovating to meet their challenges.
- Aim of funding is to provide lower costs or improved delivery of outputs.

Our concerns:

- 1) That IPR acts as a barrier to the dissemination of learning that has been generated through NIC or NIA projects.
- 2) That products are developed through NIC or NIA projects, which consumers have funded, are then sold to network companies at a premium price.
- 3) That the IPR clause in the governance document acts as a barrier to entry for project partners which prevents the NIC/NIA delivering intended benefits.

## Intellectual Property Rights – Principles (2)

### ■ Background IPR:

- Owner of a background IPR should retain all rights, both during and following the NIC/NIA project.
- Project partners need to be able to access during the project

### ■ Relevant Foreground IPR

- Commercial products may be developed (or rather further developed) through the project. Each participant will own IPR that it independently creates, or where jointly created it should be owned in shares equal to contribution.
- All network licensees have right to use relevant foreground IPR for use within their network royalty free.
- Currently carve out for commercial products at lower TRLs.

However – we recognise that there are practical challenges

# Intellectual Property Rights - Practicalities

## General Points

- 1) These are commercial arrangements which require negotiation to ensure that optimal arrangements are reached (balance between project inputs and outputs).
- 2) Ofgem should not become a party to these discussions

## The Challenge

- Developing IPR conditions which deal with concerns, but are sufficiently flexible to generate best value.
- Today's meeting – focus on finding this balance through a discussion of the detail of the drafting.

## Default IPR Clause – Key points made

- Challenge to joint projects including funding through government, EU or research associations (general comment)
- Detrimental impact of on-sale clause on value 3<sup>rd</sup> parties see in the proposition (para 7.8-7.9).
- Requirement for project partner to licence background IPR on arms length basis is barrier to 3<sup>rd</sup> party participation (para 7.11).
- Link between access to Relevant Foreground IPR and Background IPR (para 7.16)

## Background IPR – Key clauses?

7.10. Where access to a Participant's Background IPR is required to undertake the Project, the Participant shall grant a non-exclusive licence to this Background IPR (Relevant Background IPR) to the other Participants, solely for the purposes of the Project during the term of the Project.

7.11. Once the Project is over, Relevant Background IPR will be licensed for use by the Participants in connection with another Participant's Foreground IPR solely to the extent necessary to use that Foreground IPR, upon terms to be agreed. We do not anticipate that these terms will be on arms-length terms or include provision for payment of a royalty.

### Questions:

- Does clause 7.11 currently deter collaborators?
- Does it prevent level playing field across network companies?
- Would it be practical to negotiate an access price or discount basis for background IPR before the project commences?
- Do answers change across TRLs?

## Foreground IPR – Key clauses?

7.12. Foreground IPR that other Licensees will need to utilise in order to implement the Method(s) being trialled in the Project is classed as Relevant Foreground IPR. This will be identified in the Project Progress Information in sufficient detail to enable others to identify whether they wish to licence that IPR. For clarification it is not expected that the confidential details of IPR would be disclosed in the Project Progress Information, only sufficient information to enable others to identify whether the IPR is of use to them. Where Background IPR is required to use the Relevant Foreground IPR, this must also be clearly stated. For the avoidance of doubt, Foreground IPR within commercial products where those products have a technology readiness level (TRL) of three or less is not deemed Relevant Foreground IPR. Where the commercial product has a TRL of four or higher it will be deemed Relevant Foreground IPR.

### Questions:

- Does this clause currently deter collaborators?
- Would it be practical to negotiate an access price for foreground IPR before the project commences?
- How should the project partners contribution to the project influence IPR treatment?



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