

Respondent details		[Insert your contact details]			
No.	Electricity or Gas and NIC or NIA	Chapter Name	Page/Paragraph Ref	Comments	Suggested alternative drafting
1	Electricity NIA		Front page	<p>Licence Condition reference is correct as it stands but may be updated later.</p> <p>The third paragraph states this Governance Document sets out regulation, governance and administration arrangements surrounding the NIA which Network Licensees are required to comply with as if formed part of the licence. However it also states that the document is written in such a way as to be informative and accessible to third parties. It is essential that absolute clarity is provided in relation to those elements that a Licensee is required to comply with in order to ensure they are not in breach of Licence. At present we are concerned that several areas lack the required clarity.</p>	
		Context	Page 2	The Electricity NIA Governance Document does not need to refer to the Gas Act. It should also refer to all relevant Ofgem policy and strategy papers in this area.	
			Page 2 - Paragraph 4	Licensees are required to comply with this document as if it formed part of the Licence. However the document also provides an overview, background, policy intent and principles. They should not be applied as if they formed part of the Licence. We believe they need to set out separately from other elements that are clear instructions, obligations or responsibilities and more precisely defined.	
		1. Introduction	Page 6 – 1.6	<p>This states “we expect Licensees to whom this document applies to collaborate with each other, other licensees and non-network parties on Projects”. This is policy intent rather than an absolute obligation. It is not clear how it would be applied. Please see comment under Page 2 above.</p> <p>“non-network parties” is defined in the footnote. This should be defined with other terms in Chapter 8.</p>	
			Page 7 – 1.14	Defined terms are set out in Chapter 8 rather than Appendix 1.	

			Page 7 – 1.6	Development should read “activity focused on generating and testing Solutions...”	
			Page 7 – 1.6	Demonstration - “solutions” should be capitalised as it is a defined term.	
			Page 7 - Footnote	This does not make sense. The bracket should be removed. We believe it should read “Projects with a TRL of 1 or 9 will not be eligible for NIA funding” rather than “between 1 and 9”.	
			Page 8 – 1.14	Please see comments and concerns noted above under Page 2.	
			Page 8 – 1.16	This is missing.	
			Page 8 - 1.18	This states Ofgem will review the NIA after it has been in operation for at least 2 years. The NIA will be introduced in electricity at this time under ED1. While a review is necessary the timing may not be appropriate. Certainty will be required for ED1.	
		2. Collaboration and Project partner awareness	Page 9 - Chapter Summary and Paragraph 2.1	<p>This states “Licensees should collaborate with a range of parties” to develop and facilitate Projects and to collaborate with “Project Partners on many of the Projects”. We assume this is provided as guidance or as a policy intent but it is not clear how it would be applied if it was deemed to form part of the licence. Clarity is required. This should not be seen as an end in itself.</p> <p>Further clarity is also required in terms of referencing portals or websites. It needs to be clear which one is being referred to and whether there are single or multiple websites e.g. what is meant by a “collaboration website” as referred to in the Chapter Summary.</p>	
			Page 10 - 2.5	<p>This requires Licensees to ensure the portal is up to date at “all” times. This should be as far as is reasonably practicable e.g. to take account of exceptional circumstances that may be outwith the Licensee’s control or within one month.</p> <p>The portal has to be reviewed annually and this is to be informed by stakeholder consultation. It is not clear whether the intent is also to consult annually? It may be more appropriate to clarify that Licensees are expected to consult from time to time but review annually.</p>	

			Page 10 – 2.9	<p>Project Progress Information and Registration Information should be defined with reference made to the relevant Chapter.</p> <p>We believe the intention is to also include IFI projects that move over to NIA? This could result in a significant increase in reports and workload.</p> <p>The portal should be developed so that the following content is available “from” 1 October 2013 as Project Progress Information is not required until July 2014 under Chapter 6.</p>	
			Page 10 - 2.10	<p>This requires Licensees to ensure Project details published on the portal are up to date at all times. It is not clear how this will be applied but it appears to be extremely onerous. Does this just mean the portal should contain the most recent Project Progress Information report or does this require any details that change within the year to be updated immediately?</p>	
			Page 10 – 2.11	<p>Disseminating needs to be defined.</p>	
			Page 10 – 2.12	<p>This appears to be inconsistent with previous statements in this Chapter.</p>	
		3. Network innovation Allowance Projects	Page 12 - 3.3	<p>We note this was always intended to be a time limited package but we are concerned this may create an innovation gap towards the end of the price control period as there is a risk that new projects or projects that are delayed will not complete in time. We suggest this should be considered at the review.</p>	
			Page 12 - 3.4	<p>The intention is that projects funded under IFI will be able to transfer and receive funding under the NIA. We are concerned existing projects have not been designed or developed to meet the requirements set out in Chapter 3 and chapter 7. As obligations are more onerous they are also likely to increase resource and funding requirements. Further consideration is required to ensure existing projects can be completed under existing or more appropriate transitional arrangements rather than applying new more onerous arrangements retrospectively.</p>	
			Page 12 - 3.6	<p>3<sup>rd</sup> bullet needs tidied up.</p>	

			Page 13 and 14 – Specific Requirements	<p>(a) Refers to learning that can be applied by all Relevant Network Licensees. This is reiterated in 3.8 but an exception is provided in the last sentence. It is important to be clear that (a) does not override the provisions set out at the end of 3.8 so that Licensees are able to address specific network challenges. This section may need reworded to avoid confusion or contradiction.</p> <p>3.9 Should refer to Relevant Network Licensee rather than Licensee.</p> <p>As discussed at the Innovation Working Group provisions we are concerned requirements to demonstrate how learning could be used by all other Relevant Licensees is onerous and may be difficult to demonstrate. We believe this could be simplified. For instance, we believe that rather than developing a common guide requiring Network Licensees to assess or convert potential benefits to all other Relevant Network Licensees, Licensees should be able to make a judgement based on their own network. Existing obligations may be difficult to fulfil with sufficient certainty.</p> <p>It needs to be much clearer what level of detail is required or expected and what is appropriate for a Network Licensee.</p>	
			Page 14 – 3.12 ii)	This should include Research	
			Page 14 - 3.12	Information may be uncertain at the start of a project.	
			Page 12, 13 and 14	<p>It is not clear how the NIA will work in practice where more than one party or Licensee is involved. Who is responsible for assessing the specific requirements set 1 and 2 if the project is a joint project amongst several Licensees? E.g. Will each Licensee have a PEA?</p> <p>3.16 refers to the Funding Licensee but this appears to be adopting terminology used for the NIC and trying to apply it in a different context as there is not a single bid under the NIA.</p>	

			Page 14 - 3.14	To avoid duplication should it not refer to any other Project by any other Licensee, not just Electricity Transmission Group?	
			Page 15 - 3.21	This could be problematic, particularly for IFI projects that are transferring under different criteria. See comments above.	
			Page 16 – 3.24, 3.35 and 6.4	This creates significant and unnecessary risk for Licensees. A process is required which allows Licensees to seek agreement from Ofgem in advance if not sharing information.	
			Page 16 - 3.26	Could be two or more Licensees.  It is not clear who does what where there is more than one Licensee funding a project.	
			Page 16 - 3.28	Given experience to date we are concerned timescales may be onerous, particularly where there are third party issues that may be outwith a Licensees control and that result in delay. Greater flexibility should be provided.	
			Page 17 - Table 3.1	As discussed at the Innovation Working Group, a significant amount of effort, time and resource is required to develop and agree the detail set out in this requirement table to allow a project to be registered. This creates additional risk for Licensees as funding can't be secured until a project is registered. Greater clarity is required around the level and quality of detail required at the outset versus detail that can perhaps more appropriately be developed as the project progresses. Alternatively project registration details may need to be more limited or a specific mechanism introduced to ensure costs incurred in getting a project to the registration stage are fully recoverable, particularly where a number of parties are involved in developing and agreeing scope, objectives and methods.	
			Page 17 - 3.30	Note provisions – do you think we would use this? Is it necessary? We would ever have a project that wouldn't involve cost?	

			Page 18 - 3.34	<p>This should refer to 3.32 rather than 3.33.</p> <p>Given experience under the LCNF we believe it may be beneficial to allow a Licensee to amend a Project following an unforeseen event e.g. a party pulls out or goes into administration.</p>	
			Page 18 - 3.35	See comment above.	
		4. Eligible Expenditure	Page 19	Eligible NIA Project Expenditure, Bid Preparation Costs and User need to be defined. Definitions should be consistent with Licence Conditions.	
			Page 20 - 4.7	<p>It is not clear which Licensee is responsible for submitting the Customer Protection plan to Ofgem.</p> <p>We believe Customer Protection Plan should be a defined term and used in place of plan.</p> <p>It would be helpful if there was greater clarity and certainty around when Ofgem would respond to the plan e.g. within 30 Working Days.</p> <p>It may be more appropriate for an expert in this area to review the plan.</p>	
			Page 20 – 4.8	<p>Which Licensee is responsible for publishing the plan where the Project is a collaborative one? The data protection strategy rests with the Funding Licensee.</p> <p>It may be more appropriate to have this on the portal rather than on the Licensee's own website?</p>	
			Page 21 - 4.9	This should be wider than the Licensee and Project Partners	
			Page 21 - 4.10	<p>This suggests responsibility for submitting a data protection strategy rests with the Funding Licensee, rather than the Licensee in the case of the customer protection plan.</p> <p>Who is responsible where there is more than one Funding Licensee under a collaborative Project?</p>	

			Page 22 - 4.15 & 4.16	As discussed at the Innovation Working Group, this could be difficult to quantify and implement and onerous to administer. If outputs are achieved under RIIO at reduced cost through innovation, the stimulus will have succeeded and benefits will be passed on to customers through other price control mechanisms. This should be sufficient. This clause is not necessary and could potentially stifle innovation.	
			Page 22 – 4.17	Internal expenditure should be 25%. However the transition to business as usual will involve much more business input towards the end of the programme. Licensees should be able to review and increase the level of internal expenditure as set out in the August decision document which referred to a year on year review.	
		5. Annual regulatory reporting for NIA	Page 23 - 5.1	We note reporting requirements are to be set out in the Licence Condition but details have still to be inserted.  We will comment separately on the RIGs.	
		6. Knowledge Transfer	Page 24 - 6.2	Licensees are required to publish Project Progress Information on the Awareness of Learning portal by 31 July each year. Greater distinction needs to be made between this and the Annual Summary of NIA Activity.	
			Page 24 – 6.3	This suggests information should be published where new learning has been developed. It needs to be clear how additional learning is to be reported if not through the Annual Project Progress Information.	
			Page 24 – 6.4	Please see comments above regarding risk where the Authority later considers information has been unreasonably withheld. Certainty is required in advance.	

			<p>Page 24 and 25 - Table 6.1</p>	<p>The term “approach” is used in the 5<sup>th</sup> section. Should this be method for consistency?</p> <p>The box in the middle starting “The following sections....” doesn’t make sense.</p> <p>Text appears to be missing from the end of the Planned implementation description.</p> <p>The term NIA Annual Report is used – is this the Summary of Project Progress?</p> <p>Lessons Learnt should include opportunities for additional research and trialling.</p> <p>It might be useful to include a section on project budget</p>	
			<p>Page 26 - 6.7</p>	<p>The Annual Summary should be a short executive summary of activities e.g. 2 to 3 pages as full details will be available in Project Progress Information. The Annual Summary should not duplicate activity. Greater clarity is required in terms of the level of detail required and the distinction between this and other reports.</p>	



		7. Intellectual Property	Page 27 - 7	<p>Please see draft enclosed.</p> <p>We believe the key objectives are to ensure:</p> <ul style="list-style-type: none"> <li>- arrangements are fair and proportionate</li> <li>- the administrative, resource and cost is not excessive (particularly legal expertise as this is a complex area)</li> <li>- arrangements do not discourage small to medium sized enterprises from taking part in projects</li> <li>- efficiency savings are passed on to customers through normal price control mechanisms and reduced future funding requirements</li> </ul> <p>We are concerned proposed arrangements may still be unnecessarily complicated, onerous and resource and cost intensive. As a network operator we are keen to ensure the focus remains on areas where we have expertise and can best add value. This should be ensuring lessons learned are shared and developed to deliver value to customers and to ensure there are no legal, commercial or financial barriers preventing other Licensees from replicating learning.</p>	
		8. Definitions		All defined terms used in the document need to be checked to ensure a description is included in Chapter 8 and to ensure the description is consistent with that set out in Licence conditions.	
				Definition of Allowable NIA Expenditure is circular. It should be consistent with the Licence.	
				Awareness of Learning Portal should refer to Chapter 2 rather than Section 2	
				Background IPR and Foreground IPR – please see draft provided.	
				Bid Preparation Costs – I think this should refer to the NIC Governance Document. Also is it Bid Preparation Costs or Bid Submission Costs?	
				Direct Impact – should not refer to distribution at this stage.	
				Electricity Transmission/Gas Transmission/ Gas Distribution Group – It is not clear what this is trying to achieve. This should only by Electricity Transmission Group at this stage as defined in Licence.	

				Funding Licensee – should be capable of being plural.	
				Definition of Innovation Strategy is required as this is used in 3.9	
				Licensee Partners – We are not sure this works. There can be more than one Funding Licensee and they would still be partners?	
				Relevant Year – should be 2013 not 2008	
				Project Method Costs and Method Costs are both defined. Are they both necessary?	
				Initial Screening Process – should refer to electricity not gas projects.	
				Definition of Licensee shouldn't include gas transporter	
				Related Undertaking – needs to be definition from the Licence which is also consistent with Companies Act.	
				RIGS should make reference to the licence condition that provides for the creation of RIGs. Licence condition does not refer to implementing or monitoring.	
			General	We are concerned the NIA is very narrow – focusing on specific projects aimed at tackling network Problems and Solutions that are replicable on all networks. We believe there is also a need for / role for centrally coordinated learning and knowledge exchange across the industry. We would like to see the NIA or alternative funding being used to fill this gap. We believe this would be efficient, more productive and help accelerate progress	

Response template for NIC and NIA informal governance consultation