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for energy consumers

Network operators, consumer groups,
energy suppliers, Department for Transport,
Scottish Road Works Commissioner,
Transport for London and
any other interested parties.

Our Ref: SG&G/Costs & Outputs
Direct Dial: 020 7901 7416
Email: mick.watson@ofgem.gov.uk

Date: 22 October 2013

Dear Stakeholder

Consultation on our minded-to position for the determination of an income adjusting event claim associated with the Traffic Management Act and the Transport (Scotland) Act under the first gas distribution price control review

We are seeking your views on our minded-to position in respect of the income adjusting event associated with the Traffic Management Act¹ and the Transport (Scotland) Act under the first gas distribution price control review (2008-2013) (GDPCR1).

We would especially welcome responses to the specific questions which have been set out below:

Question 1: Do you agree with our assessment and the proposed adjustments associated with TMA for the three GDNs, Scotland, Southern and London?

Question 2: Do you agree with our assessment of costs associated with lane rental?

The deadline for response is 25 November 2013 and it should be sent to Mick Watson (mick.watson@ofgem.gov.uk).

Your response will feed into our final decision which we aim to publish in mid December 2013.

Our minded-to position

Subject to consideration of consultation responses, we are minded to allow £0.4 million against £12.5 million claimed and we consider that the additional revenue should be recovered over RIIO-GD1 in line with the modified licence condition relating to legacy issues². Full details of our minded-to position can be found in Appendices 3 to 5.

Introduction

The first gas distribution price control for 2008-2013 (GDPCR1) enables the gas distribution network operators to apply to Ofgem to adjust their revenues to accommodate costs

¹ This act was passed to make provision in relation to the management of road networks; to make new provision for regulating the carrying out of works and other activities in the street; to amend Part 3 of the New Roads and Street Works Act 1991 and Parts 9 and 14 of the Highways Act 1980.

² special condition 3A - Legacy price control adjustments.

associated with the Traffic Management Act 2004 (TMA)³ and the Transport (Scotland) Act 2005 (T(S)A)³. They can do this if the costs associated with the implementation of this new legislation are in excess of one per cent of their base revenues.

We previously consulted and made our decision⁴ on TMA in 2011 and as part of that process we gave the Licencees (ie holders of a gas transporter licence) an opportunity to make further claims at the end of GDPCR1 in line with the criteria set out in our decision paper (2011 Decision Paper). This consultation relates to the Licencees' supplementary and revised submissions.

Three gas distribution networks (GDNs), ie Scotland Gas Networks Plc (Scotland), Southern Gas Networks Plc (Southern) (the two GDNs owned and operated by Scotia Gas Networks (SGN)), and National Grid Gas Plc for their London network (London), have given Notice to the Authority⁵ of an income adjusting event (IAE) and have proposed a relevant adjustment to their allowed revenue. Having reviewed their submissions and following clarification meetings, two of these three GDNs adjusted their claims. The total gross claims⁶ are set out in Table 1.

This letter sets out our minded-to position and our proposed allowances for additional efficient costs.

Based on our analysis of the submissions and discussions with the GDNs we are minded to propose justified efficient additional costs for the TMA IAE for the three GDNs of £0.4 million as set out in Table 1. For Scotland our minded-to position on the proposed efficient costs fell below the price control threshold of one per cent of their base revenues, therefore we do not propose to allow any costs. For London and Southern the threshold does not apply for the reasons stated in the "Assessment approach" part of this consultation.

Table 1: Cost impact - GDN TMA IAE claims and proposed allowances⁷

GDN	TMA IAE claims/proposed allowances		
	Original Submission June 2013	Revised Submission Aug / Sept 2013	Ofgem proposed allowances
2010-11 prices			
SGN Scotland	£10.16m	£9.76m	zero
SGN Southern	£1.90m	£1.90m	£0.35m
NGG London	£1.76m	£0.88m	£0.07m
Total	£13.82m	£12.54m	£0.42m

The recovery of costs will be treated as a legacy GDPCR1 item⁸ and recovered over the RII0-GD1 period (2014-2021). Based on our proposed adjustment we consider it will have a negligible impact on customer bills.

³ Traffic Management Act 2004 and the Transport (Scotland) Act 2005 are referred to throughout this document collectively as "TMA" unless the context requires otherwise

⁴ [Notice of decision for the re-opener applications in respect of additional income associated with the Traffic Management Act \(and Transport for Scotland Act\) under the first gas distribution price control review](#)

⁵ Authority means the Gas and Electricity Markets Authority that is established under section 1 of the Utilities Act 2000. In this consultation, references to the Authority are used interchangeably with references to Ofgem and to the regulator.

⁶ The gross costs prior to any GDPCR1 adjustments for IQI or replacement incentive mechanism.

⁷ These claims and allowances are over and above those made in the 2011 TMA IAE reopener.

⁸ Modifications were made to several of the Special Conditions in gas transporter licences including the Price Control Financial Handbook - [Modification - Gas Transporter Special Conditions](#) - part 8 refers to IAE cost adjustments relating to the legacy period (special condition 3A legacy price control adjustments).

We have been concerned with the standard of the claims and follow-up information submitted by the GDNs which has made the process in reaching our minded to position unnecessarily difficult when carrying out our assessment of the claims.

The GDNs are obliged, under their respective gas transporter licenses, to provide accurate information to the Authority at all times. As part of this it is essential that companies take full responsibility for the integrity of the data they collect, analyse and submit to us as the regulator. We consider that the GDN submissions for this claim fell below this expected standard.

We consider that the submissions lacked in clarity, sufficient and robust evidence and in the case of London and Scotland, their claims also included a number of errors and data inconsistencies. We also consider London's claim lacked evidence of any data assurance having been carried out. As a consequence, the GDNs' claims proved difficult to understand, reconcile and analyse.

Responses and consent to share information

Responses should be received by **25 November 2013** and sent to:

Mick Watson
Head of Gas Distribution, Costs & Outputs
Smarter Grids and Governance - Distribution
Ofgem
9 Millbank
London, SW1P 3GE

Tel: 020 7901 7416

Email: mick.watson@ofgem.gov.uk

Unless clearly marked confidential, all responses will be published by placing them in Ofgem's library and on its website www.ofgem.gov.uk. Respondents may request that their response, or part of response, is kept confidential and those who wish to do so should clearly mark their documents to that effect and include reasons for confidentiality. Ofgem shall respect this request, subject to any obligation to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004. It would be helpful if responses could be submitted electronically and/or in writing.

Background

When we were setting allowances for GDPCR1 (covering the period 2008-2013), the impact of the implementation of the TMA on the GDNs' costs was unclear and we were not in a position to make provision for an efficient level of cost for work carried out as a result of the TMA. (The exception was an expenditure allowance related to the systems which GDNs were putting in place in anticipation of its introduction, where we provided GDNs as a whole with a capital expenditure allowance of £13.3 million for 2008-09⁹ to cover these costs). For this reason we introduced a specific price control reopener mechanism so that any further TMA costs could be considered in isolation from the GDNs' financial performance within the price control period.

In 2010-11 three GDNs, Scotland, Southern and London, claimed an IAE which resulted in additional allowances of £41.6 million, 45 per cent of their original claim of £94.2 million. At that time we did not approve Scotland's claim as we concluded that there was insufficient evidence to support their claim. We did not allow some elements of Southern's and London's claims due to uncertainty and lack of evidence. However, in our decision paper in

⁹ This represents the allowance of £11.3 million set in 2005-06 and converted to 2010-11 prices

December 2011, we agreed that the three GDNs could make further claims at the end of GDPCR1 and set out the criteria for such claims. For London and Southern this included:

- new highway authorities¹⁰
- productivity costs for the final two years of GDPCR1
- lane rental (S74A)¹¹ and
- overstay charges (S74)¹²

For future claims for Scotland, we indicated that we required robust evidence that their costs relate to the implementation of T(S)A and not New Roads and Street Works Act 1991 (NRSWA).

Assessment approach

As part of the previous IAE we said we would approach our current assessment in the following way:

- Our assessment of the efficient overall level of costs associated with the TMA implementation would be based on our cost analysis and review of the GDNs' strategies and management structures to deal with the requirements of the TMA.
- Setting out our view on the appropriate amount of additional allowance for the impact of TMA as part of GDPCR1.
- Establishing the principles which may be used for any future notice for an IAE during RIIO-GD1.

Special Condition E7 of the gas transport licence¹³ sets out a mechanism under which GDNs can apply for their allowed revenues to be adjusted, together with a notice of costs or expenses incurred or likely to be incurred. Following consultation the Authority determines whether the threshold has been reached to trigger the reopener (which is only applicable to Scotland for this reopener as explained below) and whether any or all of the costs or expenses were or are likely to be efficiently incurred and any adjustment that should be made to their allowed revenue.

As outlined in Special Condition E7, the four areas of reasonable costs for inclusion in a TMA IAE are as follows:

- Permit costs;
- Fixed penalty notices (FPNs);
- Ongoing administration costs; or
- Other costs that the Authority directs should be treated as TMA costs.

Under the category of other costs, we included the impact on productivity associated with the implementation of permit schemes. We are also including overstay charges (S74) and lane rental (S74A). For lane rental, this will include efficient avoidance costs which are the costs of actions taken to avoid the lane rental charge.

Southern and London claims are supplementary to their previous claims in 2011 and are considered as "unfinished business" and consequently there is not a requirement to trigger the one per cent revenue threshold. However, for Scotland, there is a requirement for their submitted costs to trigger the threshold as in our 2011 Decision Paper, we did not approve

¹⁰ New highway authorities implementing the TMA since the last reopener in 2011

¹¹ Lane rental Section 74A of the New Roads and Street Works Act 1991 (NRSWA) – changes implemented June 2012.

¹² Overstay charges Section 74 NRSWA - charges for unreasonably prolonged occupation of the highway – changes implemented October 2012.

¹³ [Gas Transporter Licence: Special Condition E7: Determination of any adjustment factor to be applied to MRt \(IAEt\)](#)

their original claim but we gave Scotland the opportunity to re-submit their claim at the end of GDPCR1.

Assessment of claims

For Scotland, we assessed their claim based on the evidence provided by Scotland and the Scottish Road Works Commissioner (SRWC). We also appointed consultants to review their submission and provide an independent view of the impact of T(S)A.

In our assessment of Southern's and London's claim for new highway authorities and overstay charges we were consistent with the approach used in our 2011 decision and our RIIO-GD1 final proposals¹⁴. To enable us to assess the impact of lane rental costs, we required robust evidence of their process in deciding whether it's more efficient to incur the lane rental charge or manage their streetworks to minimise or avoid the lane rental charge. We do not consider that such evidence was provided.

Review of GDN applications and supporting evidence

Following indications from the GDNs of their intention to submit a TMA IAE claim, we had a meeting with the three GDNs prior to the submission deadline to discuss and confirm the format of their proposed claims.

We employed the services of Les Guest Associates in order to provide an independent assessment of Scotland's claim. A link to this report can be found in Appendix 1.

We are publishing the GDN submissions¹⁵, links to these reports can be found in Appendix 2.

The GDNs are obliged, under their respective gas transporter licenses, to provide accurate information to the Authority at all times. As part of this it is essential that companies take full responsibility for the integrity of the data they collect, analyse and submit to us as the regulator. We consider that the GDN submissions for this claim fell below this expected standard.

We consider that the submissions lacked in clarity, sufficient and robust evidence and in the case of London and Scotland, their claims also included a number of errors and data inconsistencies. We also consider London's claim lacked evidence of any data assurance having been carried out. As a consequence, the GDNs' claims were difficult to understand, reconcile and analyse.

As part of the process we requested additional information and sought clarity in relation to the GDNs' claims. We did this through raising supplementary questions (SQs) and bi-lateral meetings with the GDNs. We also attended site meetings with Scotland and London to gain a practical understanding of the complexities and issues when executing work following the introduction of TMA and T(S)A.

Scotland's claim

Scotland submitted a claim for £9.7 million, of which 48 per cent relates to ongoing administration costs and 44 per cent to productivity related costs.

Scotland's submission was well structured, clearly referenced throughout and provided a context for their overall claim. However, it did not provide sufficient or robust evidence and additional information provided highlighted inconsistencies across their claim. In addition, Scotland included contractors and other related costs of £2.9 million which were not identified in their previous claim made in 2011. As a result of issues raised during our

¹⁴ [RIIO-GD1: Final Proposals - Supporting document - Cost efficiency](#)

¹⁵ All three GDNs have requested that their claims be redacted in parts as they consider that the claims contain confidential and commercially sensitive material.

review process, Scotland submitted a revised claim in August 2013 reducing their costs from £10.2 million to £9.7 million.

Southern's claim

Southern submitted a claim for £1.9 million, of which 41 per cent relates to lane rental and 37 per cent to avoidance costs associated with productivity.

Southern's submission was well structured and clearly referenced throughout. However, we were not satisfied with their evidence for lane rental costs and as a consequence requested additional information.

London's claim

London submitted a claim for £0.8 million, of which 63 per cent relates to lane rental.

We highlighted to London during our review process that their submission was disappointing and not at the standard expected which they are obliged to meet. We consider their claim contained a number of errors and data inconsistencies both within their submission and compared to their previous submission; there was no reference to their previous submission although there are significant variations from that submission; key areas were not supported by robust evidence and we consider there is no evidence of any data assurance.

These issues resulted in a substantial number of supplementary questions and a meeting with London, and as a result, they submitted a revised claim of £0.8 million reduced from the original claim of £1.7 million.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Paul Branston', with a stylized, looping flourish above the name.

Paul Branston
Associate Partner, Costs and Outputs

Appendices

- 1. Appendix 1 – Consultants' Report – Les Guest Associates**
- 2. Appendix 2 – GDN Submissions**
- 3. Appendix 3 – Detailed analysis of Scotland's claim**
- 4. Appendix 4 – Detailed analysis of Southern's claim**
- 5. Appendix 5 – Detailed analysis of London's claim**

Appendix 1 – Consultants’ Report – Les Guest Associates

We employed the services of Les Guest Associates in order to provide an independent assessment of Scotland’s claim. We requested an opinion on the following:

- Do you consider the costs claimed specifically relate to the introduction of the T(S)A or do they relate to NRSWA eg costs that are being incurred by other GDNs?
- Do you consider the claim to be reasonable in the following areas:
 - Fixed penalties
 - Ongoing administration
 - Other costs associated with the T(S)A (eg productivity)
- Do you consider the claimed increase in costs is consistent with other statutory undertakers in Scotland following the introduction of the T(S)A?

During the process, we shared all information relating to Scotland’s claim with the consultants, which included their submission, SQs issued, responses to SQs, and minutes from meetings held with Scotland.

Our consultant concluded that Scotland failed to provide robust evidence to substantiate their claim although it is recognised that there will have been an increase in costs due to both the T(S)A and the SRWC.

We broadly accept the consultants’ opinion for most cost categories, and agree and consider that the evidence provided is not sufficiently robust for us to make a judgement on the efficient costs we could allow.

The report can be accessed [here](#)¹⁶.

¹⁶ <https://www.ofgem.gov.uk/ofgem-publications/83927/lesguestassociates-reviewofsgntmare-openerclaim.pdf>

Appendix 2 – GDN Submissions

The GDN submissions are redacted for confidential and commercially sensitive material. Links to these reports can be found below:

- Scotland's submission is found [here](#)¹⁷.
- Southern's submission is found [here](#)¹⁸.
- London's submission is found [here](#)¹⁹ and their consultant's report is found [here](#)²⁰.

¹⁷ <https://www.ofgem.gov.uk/ofgem-publications/83612/scotlandgasnetworkstsasubmissionjune2013-redacted.v1.pdf>

¹⁸ <https://www.ofgem.gov.uk/ofgem-publications/83883/southerngasnetworkstmasubmissionjune2013-redactedv0.2.pdf>

¹⁹ <https://www.ofgem.gov.uk/ofgem-publications/83881/ngglondonstreetworksiae12-13.pdf>

²⁰ <https://www.ofgem.gov.uk/ofgem-publications/83880/ngglondon-echreportontmaincomeadjustingevent-redacted.pdf>

Appendix 3 – Detailed analysis of SGN - Scotland's claim

This appendix sets out the detailed analysis of the proposed adjustments against Scotland's application and the rationale behind this.

Scotland made an application in the reopener in June 2011 which we did not allow as we considered the evidence submitted was not sufficient to support that the costs related to the implementation of the T(S)A. In our October 2011 minded-to consultation²¹ we considered allowing costs for the Scottish Road Works Register (SRWR), however, having obtained further evidence we no longer hold this view. In our 2011 Decision Paper, we informed Scotland that they could re-apply at the end of the price control period if they were able to provide robust evidence that their costs relate to the implementation of T(S)A and not NRSWA. Scotland submitted a claim for £10.2 million which was subsequently revised downward to £9.7 million.

However, we again found that in many areas of Scotland's current application, that there is a lack of adequate evidence to support their claim for the impact of T(S)A. Although Scotland's submission was well structured, clearly referenced throughout and provided a context for their overall claim, it did not provide sufficient and robust evidence and the additional information provided highlighted inconsistencies across their claim. Whilst Scotland provided further evidence we still do not consider, based on their current claim and subsequent information provided, that their costs fully relate to the implementation of the T(S)A, which is consistent with our findings in our 2011 Decision Paper.

After assessing Scotland's submission and based on the evidence provided, we consider Scotland's additional efficient expenditure incurred would be £1.2 million of efficient costs. However, as this falls below their trigger level of £2.3 million we are minded not to allow any costs for this claim. Details of costs claimed and proposed are set out in Table A3.1 below.

Table A3.1 – Scotland's T(S)A IAE cost submission and proposed allowances

2010-11 prices	Scotland submission paragraph Ref	Re-opener submission June 2011	Current re-opener		Ofgem proposed allowances
			Original submission June 2013	Revised submission August 2013	
		£m	£m	£m	£m
Fixed Penalty Notices	8.1	0.01	0.10	0.10	0.07
Ongoing administration costs					
Back-office administration	8.3	1.26	1.25	1.25	0.62
Management	8.6	0.65	0.76	0.76	0.48
Training costs	8.4	0.48	0.28	0.28	0.04
IT running costs	8.5	0.21	0.17	0.17	0.00
Traffic management schemes	8.7.4	2.26	1.68	1.68	0.00
Scottish Road Works Register (SRWR)	8.2	0.51	0.54	0.54	0.00
		5.36	4.68	4.68	1.15
Other - Productivity					
Timing and Duration Conditions	8.7.1 & 8.7.2	0.65	0.71	0.71	0.00
Parking bay suspensions	8.7.8	0.29	0.06	0.06	0.00
Temporary traffic restriction orders	8.7.6	0.16	0.14	0.14	0.00
Additional reinstatement costs	8.7.9	0.40	0.16	0.16	0.00
Traffic separators/project revisions	8.7.7	0.12	0.07	0.07	0.00
Public advance noticing	8.7.5	0.38	0.27	0.27	0.00
Contractors TMA/T(S)A claims & Other Costs	8.7.10 & 11	0.00	3.32	2.91	0.00
		2.01	4.73	4.32	0.00
Other - avoidance costs (associated with productivity)					
Core & Vac	8.7.3	0.00	0.66	0.66	0.00
Total claim		7.37	10.16	9.76	1.22

²¹ [Consultation on our minded-to position for the determination of re-opener applications in respect of additional income associated with the Traffic Management Act \(and Transport for Scotland Act\) under the first gas distribution price control review.](#)

The key areas under review for Scotland are Fixed Penalty Notices (FPNs), Ongoing Administration Costs and Other Costs which include the impact on productivity and avoidance costs associated with productivity.

Fixed Penalty Notices

Scotland's submission

Scotland are claiming approximately 1400 FPNs over the GDPCR1 price control period stating that to avoid all potential FPNs would result in an excessive amount of additional costs in terms of management, supervision, administration and support on site. They claim that it is not efficient or justifiable to function in such a way and therefore a reasonable level of FPNs should be expected.

Our minded-to position

Scotland's FPN claim equates to less than one per cent of notices issued, which is below the levels considered efficient in the previous reopener for Southern and London. In the last reopener we set an efficiency rate of six per cent FPNs/Notices which reduced to three per cent for 2011-12 and 2012-13, in line with RIIO-GD1.

We stated in our 2011 Decision Paper that we expect all GDNs to target zero FPNs, but in doing so we have to consider the costs of achieving this and what is more efficient from the consumers view.

We are minded not to allow FPNs under Section 129 of NRSWA²² after reviewing the additional information provided as these appear to represent a management issue and are not purposely incurred as a result of considered efficiency. From the additional information provided, Scotland commented that "these instances are predominantly due to the difficulties in managing several different workstreams to efficiently and simultaneously complete works and report progress."

We are minded to allow the remaining level of workload accepting that the cost of achieving zero FPNs is likely to outweigh the lesser cost of FPNs at this level. We also recognise Scotland's good performance as reported in the SRWC's Annual Report²³.

We set a unit cost of £80 per FPN which is consistent with our 2011 Decision Paper.

We are therefore minded to allow £0.07 million against £0.1 million claimed.

Ongoing administration costs

The total costs claimed under this category are £4.7 million and we are minded to allow efficient costs of £1.1 million.

Scotland's submission

- Back office administration - additional nine FTEs (approx 1.5 FTE per depot)

²² Fixed Penalty Offences under Part IV of NRSWA 1991 - Section 129 - Failure to comply with requirements to give notice of completion of reinstatement.

²³ <http://www.roadworksscotland.gov.uk/Publications/AnnualReports.aspx>

- Management costs - includes the appointment of a specialist Streetworks Manager, a Performance Manager, six Depot Operational Planners and the allocation of costs for team managers and construction managers (across six depots, approx 90 FTEs)
- Training costs – training for management, staff and industrial staff
- IT costs - staff costs to support new IT systems and enhancing existing infrastructure (Eton 5, CLEARMAN and MAXIMO), which equates to one FTE.
- Traffic management schemes (TMS) - significant increase in the quality, scale and complexity of TMS since the implementation of the T(S)A and at the direction of the Local Roads Inspectors.
- SRWR – compulsory charges since April 2008

Our minded-to position

We are minded to allow partial costs for back office staff, management costs and training only. We are minded not to allow any costs for the other categories detailed under Ongoing Administration Costs due to a lack of robust evidence.

For back office staff, we recognise that there will be an increase in workload associated with the T(S)A, however Scotland has not presented sufficient evidence to support the recruitment of an additional nine FTEs, despite providing additional information. As stated in our 2011 Decision Paper, we consider the majority of costs highlighted in Scotland's claim have been allowed for in the price control and relate to NRSWA activities. However, we also acknowledge from the previous reopener for Southern and London that there is an additional burden for back office administration under TMA and on this basis we are minded to allow 50 per cent of Scotland's claim, which is broadly consistent with our view stated in 2011 Decision Paper and our consultants' view that an allowance should be made.

For management costs, we consider that Scotland has been unable to provide sufficient evidence to fully support their claim and we are minded to allow only elements of their claim, which is around 60 per cent of their costs and consistent with the view of our consultant:

- Streetworks Manager – we consider that this role was created to manage compliance on all streetworks related matters which includes both the T(S)A and NRSWA. We do not consider that more than 75 per cent of this resource is spent on T(S)A related activities and propose an allowance based on this maximum.
- Performance Manager – we have found it difficult to assess the full role of the Performance Manager during the period of the claim as Scotland has identified that time spent on T(S)A related activities starts at 75 per cent reducing to 20 per cent then increasing up to 100 per cent by the end of the price control period. The peaks in the early year appears to relate to the implementation of IT systems (Clearman) and in the later years relates to succession planning of the Streetworks Manager. We consider that the implementation of IT systems relates to the set-up costs which were funded as part of the GDPCR1 price control. For 2012-13 we do not consider funding of the succession planning as part of T(S)A related activities. Therefore we consider that a maximum of 25 per cent of the Performance Manager's time is spent on T(S)A related activities and are minded to allow 25 per cent of the total cost of this resource per year.
- Depot Operational Planners – we are minded to allow 40 per cent in 2010-11 as per Scotland's claim with a maximum of 75 per cent per year for the remaining two years of the price control period, consistent with our approach regarding the Streetworks Manager.

- Other Managers time allocated to T(S)A – we have not found sufficient evidence to support this claim and therefore we are minded to disallow these costs.

For training, we consider that this is necessary but also consider this to be a diminishing cost over time as staff become trained in T(S)A and we see this trend in Scotland's numbers where the costs are higher in the early years reducing to zero in the last two years.

After considering the evidence presented in their claim we are minded to allow T(S)A training costs only for managers and staff and are minded not to allow any costs associated with training industrial staff. The hours claimed for training industrial staff appear to be excessive given the training materials provided as evidence and we consider that this can be delivered during periods of unproductive time eg incorporated into team briefings and tool box talks. We expect that unproductive time as a result of restricted working could be utilised for briefings and training of this nature. We consider this is a similar process for all other GDNs.

For IT, we are minded not to allow any costs claimed due to a lack of evidence. It is not clear from Scotland's submission what proportion of their claim relates to set-up costs and what relates to ongoing costs. We consider that set-up costs were funded as part of the GDPCR1 price control. It is also not clear why Scotland refer to costs being allocated to the Scotland network for the Eton5 system when they confirmed that they do not use this system within their network. As we consider the ongoing costs to be unclear, we are minded not to allow any costs for this claim.

For traffic management schemes (TMS), we are minded not to allow any costs claimed due to a lack of sufficient and robust evidence. It is not clear that Scotland has the processes in place to illustrate the costs and workload for TMS. We recognise that Scotland has mitigated the impact of these costs in 2011-12 and 2012-13 by bringing this service in-house, as this is considered more efficient, although there is no evidence of increased full-time equivalents. As the overall impact of TMS is not clear and not supported by robust evidence then we are unable to propose an allowance for this claim.

For the SRWR, we considered allowing costs at the previous reopener, however following discussions with the SRWC we have established that the SRWR is a long established system which has been used for many years and financed by the road authorities and utility companies on a voluntary basis until it became a statutory requirement under T(S)A, and as a result the funding of the SRWR became compulsory from April 2008. Scotland's claim reflects their annual usage costs of approx £100k per annum, which is largely consistent with their costs prior to the introduction of T(S)A. Therefore we consider these costs to be previously allowed as part of GDPCR1 and are now minded not to allow any costs for this claim.

Other Costs – Productivity

Scotland's submission

Scotland are claiming incremental operational costs in addition to a general reduction in production rates associated with gas mains replacement. These include costs for Scotland's direct labour and contractor costs.

The costs under this category are:

- Extended working hours – costs for working outside normal working hours and/or extended hours on replacement projects as directed by local roads inspectors;
- Restricted working hours – costs for restricted working and/or additional resources;
- Contractors and other related costs – Scotland has identified a premium cost that relates to an increase in their contract activities and consider that this increase is for mobilisation, urbanity and T(S)A. They have calculated the mobilisation and urbanity elements with the balance assumed to be T(S)A related costs; and
- Other operational costs – costs for parking bay suspensions, temporary traffic restrictions orders, additional reinstatement costs, traffic modelling and special signage costs.

Scotland has requested that we redact information relating to Contractors and other related costs due to commercial confidentiality.

Our minded-to position

The total costs claimed under this category are £4.3 million and we are minded to disallow all these costs. There is a lack of robust evidence to support Scotland's claim, particularly in respect of Contractors and other related costs (ie £2.9 million and which represents 67 per cent of costs in this category and 30 per cent of their total claim).

We noted that Scotland did not include any costs for Contractors and other related costs in their previous claim in 2011. We challenged Scotland on this and they claimed that this was an error as they had not considered these costs as part of their previous claim in 2011.

For extended working hours and restricted working hours, we agree with our consultant that costs relating to these categories are fundamental to the principles of the T(S)A. However, we do not consider that Scotland has provided sufficient or robust evidence or identified opportunities to optimise periods of unproductive time, to support allowing any costs, and therefore we are minded not to allow any costs for this claim.

For contractor costs, we are not convinced that Scotland has provided robust evidence to support the calculations for both mobilisation and urbanity. We do not support the assumption that the remaining balance of the premium rate should be assumed to be solely T(S)A. Based on this we are minded not to allow any costs for Contractors and other related costs claimed.

For other operational costs, we have not found sufficient evidence to support these claims and therefore we are minded to disallow all costs. For additional reinstatement, this is associated with the direction from the roads authority to carry out full width or half width reinstatement when opening a road subject to a section 117 notice²⁴. The change from a one year to a three year embargo in March 2008 will have caused this increase in cost although it is not brought about by T(S)A. The mandatory one year embargo is part of NRSWA legislation.

Avoidance costs

Scotland's submission

Scotland are claiming costs for the use of vacuum excavation machinery within traffic extensive areas of the network due to the increased pressure to maintain and improve activity in the highway enforced by the T(S)A and the SRWC.

²⁴ Section 117 of NRSWA – restriction following substantial works.

Our minded-to position

We are minded to disallow these costs as we believe that these are “business as usual” costs and we expect the GDNs to adopt more efficient work practices when and where possible. This technique is also increasingly being used by all GDNs to improve the efficiency of streetworks activities and is not considered a direct requirement following the implementation of TMA or T(S)A.

Appendix 4 – Detailed analysis of SGN - Southern’s claim

This appendix sets out the detailed analysis of the proposed adjustments against Southern’s application and the rationale behind this.

Southern’s claim is supplementary to their previous claim in 2011 and consequently there is no requirement to trigger the one per cent revenue threshold. In our 2011 Decision Paper we agreed that the three GDNs could make further claims at the end of GDPCR1 and set out the criteria for such claims. For Southern and London this included:

- new highway authorities;
- productivity costs for the final two years of GDPCR1;
- lane rental (S74A); and
- overstay charges (S74)

Southern submitted a claim for £1.9 million, of which 41 per cent relates to lane rental and 37 per cent to avoidance costs associated with productivity.

Southern’s submission was well structured and clearly referenced throughout. However, we were not satisfied with their evidence for lane rental and as consequence requested additional information. Although we recognised that there would be costs arising in this area as a result of TMA there was a lack of sufficient and robust evidence to support their claim.

After assessing Southern’s submission and based on the evidence provided, we are minded to allow an additional £0.4 million of efficient costs as set out in Table A4.1.

Table A4.1 – Southern’s TMA IAE claim and proposed allowances

2010-11 prices	Southern submission paragraph reference	Original submission June 2013	Ofgem proposed allowances
		£m	£m
TMA permits	2	0.02	0.02
Fixed Penalty Notices		0.01	0.00
Ongoing administration costs	6	0.15	0.15
Other costs			
productivity		0.00	0.00
lane rental (S74a)	4	0.78	0.00
overstay charges (S74)	3	0.24	0.18
Total costs		1.20	0.35
Other - avoidance costs (associated with productivity)	5	0.70	0.00
Total costs		1.90	0.35

The key areas under review for Southern are TMA Permits, Ongoing Administration Costs and Other Costs.

Southern’s submission

- New highway authorities – costs relating to new Highway Authorities
 - TMA Permits
 - FPNs
 - Ongoing administration
 - Productivity

- Other costs:
 - Lane Rental (S74A) – the charges for working in traffic sensitive locations during traffic sensitive times and for the cost of dedicated teams to manage lane rental matters
 - Overstay charges (S74) – the charges for prolonged occupation of the highway
- Other avoidance costs (associated with productivity) - the cost of vacuum excavation machines to enable rapid keyhole excavation

Our minded-to position

For new highway authorities that have implemented TMA since 2011 the last reopener decision, we consider the costs claimed for permits, ongoing administration and productivity to be within what we allowed as part of our 2011 decision and we propose to allow their claim in full. For FPNs their claim is greater than the three per cent considered efficient as part of the 2011 decision and we will only allow costs consistent with this.

For lane rental we disallowed all claims in our 2011 decision, due to the uncertainty associated with these costs, but these costs could be included in any IAE claim at the end of GDPCR1. However, as part of the evidence to support claims for lane rental, we also discussed and agreed, prior to submissions of their current claims, that the GDNs should demonstrate that they have processes in place for deciding on the most efficient/optimal course of action ie, to pay the daily charge or avoid it.

We consider that Southern did not provide sufficient and robust evidence to support both parts of their claim for lane rental, ie £0.38 million for lane rental charges and £0.36 million for a newly established team dedicated to managing lane rental matters.

Despite providing additional information, Southern were unable to demonstrate that they had processes in place to help to decide on the optimal course of action and therefore we are minded not to allow any costs for this claim.

For overstay charges, we are minded to allow £0.18 million of efficient costs. This is consistent with the methodology used as part of RIIO-GD1 assessment of S74 overstay charges.

For other avoidance costs, we are minded not to allow any part of these costs as we believe that vacuum excavation is "business as usual" as we expect the GDNs to adopt more efficient work practices when and where possible. This technique is also increasingly being used by all GDNs to improve the efficiency of streetworks activities and is considered a direct requirement following the implementation of TMA or T(S)A.

Appendix 5 – Detailed analysis of NGG - London’s claim

This appendix sets out the detailed analysis of the proposed adjustments against London’s application and the rationale behind this.

London’s claim is supplementary to their previous claim in 2011 and consequently there is no requirement to trigger the one per cent revenue threshold. In our 2011 Decision Paper we agreed that the three GDNs could make further claims at the end of GDPCR1 and set out the criteria for such claims. For London and Southern this included:

- new highway authorities;
- productivity costs for the final two years of GDPCR1;
- lane rental (S74A); and
- overstay charges (S74)

During our review process we highlighted to London that their submission was disappointing and not of sufficient quality to be submitted to the Authority. It is essential that companies take full responsibility for the integrity of the data they collect, analyse and submit to us as the regulator. We consider that NGG’s submission for London fell below this expected standard.

Their reports contained a number of errors and data inconsistencies both within their submission and compared to their previous submission; there was no reference to their previous submission although there are significant variations from that submission; key areas were not supported by robust evidence and we consider there is no evidence of any data assurance.

London’s submission (including their consultant’s report) was therefore difficult to understand, reconcile and analyse, which resulted in us meeting with NGG and issuing a substantial number of supplementary questions. As a consequence, London submitted a revised claim in September 2013 of £0.9 million down from £1.8 million originally claimed.

Following assessment of London’s submission and based on the evidence provided, we are minded to allow £0.07 million of efficient costs against £0.9 million claimed as set out in Table A5.1.

Table A5.1 – London’s TMA IAE claim and proposed allowances

2010-11 prices	North London's submission paragraph reference	Original submission June 2013	Revised submission Sept 2013	Ofgem proposed allowances
		£m	£m	£m
TMA permits	3.4	(0.03)	0.00	0.00
Fixed Penalty Notices	3.8	0.01	0.00	0.00
Ongoing administration costs		0.00	0.00	0.00
Other costs	3.10			
productivity	3.11	0.10	0.10	0.00
productivity - true-up historic years & data assurance	3.11/3.30	1.06	0.16	0.00
lane rental (S74a)	3.26	0.55	0.55	0.00
overstay charges (S74)	3.23	0.07	0.07	0.07
Total costs		1.76	0.88	0.07

The key areas under review for London are Other Costs which include the impact on productivity, lane rental and overstay charges.

London's submission

- Productivity – costs claimed are for productivity unit costs greater than the £18 per metre allowed at the last reopener. London is claiming £0.1 million costs which is the net of a true-up for additional costs of £1.2 million for 2011-12 and an underspend of £1.1 million for 2012-13. London's original submission included a true-up of costs for 2009-10 and 2010-11 although this was later withdrawn as it is outside the scope of the reopener.
- Lane Rental (S74A) – the charges for working in traffic sensitive locations during traffic sensitive times
- Overstay charges (S74) – the charges for prolonged occupation of the highway

Our minded-to position

We are minded to allow costs for overstay charges of £71,000 and are minded to disallow all other costs under this claim for reasons discussed below.

For productivity, London did not provide sufficient and robust evidence to support their claim. We consider the evidence provided was also inconsistent with London's previous submission in 2011. These differences were not clarified in London's current claim and only explained later in response to our SQs. London stated that they changed their methodology from a top down to a bottom up approach. We consider London's process for calculating additional costs, and ultimately the additional cost per metre over and above the £18 per metre allowed in the last reopener, to be unsubstantiated and flawed. There are several elements included in this calculation which we consider to be insufficiently evidenced, despite the submission of additional information.

These key elements are

- pre productivity rates – productivity rates before the impact of TMA;
- post productivity rates – productivity rates after the impact of TMA;
- unit costs per metre; and
- cost per metre of abandoned length for parking bays/bus stop suspensions.

London's submission shows the calculation of additional productivity costs by zone using each of these elements. It is fundamental that each area is supported by robust evidence as a small change to these numbers would result in significant changes to their claim.

- pre productivity rates – the data provided was inconsistent with the post productivity rates as it was not broken down by zone. London claim that the impact across the zones varies significantly which they also highlight in costs in other areas (eg parking bay suspensions), however, in this calculation they apply one rate across all zones which we do not accept and which is inconsistent with other areas of their claim. They also have not provided sufficient evidence to explain or support their various assumptions stated as part of these workings.
- post productivity rates – the data provided was inconsistent with the pre-productivity data as it provided for 2012-13 only yet applied across all years in their calculations. We are not convinced that the post-productivity levels are the same for 2009-10 and 2012-13.
- unit cost per metre – there was no evidence provided to substantiate how London's submitted the unit costs were derived. Unit costs were also significantly higher in 2011-12 which were not clearly explained or justified even after providing additional information.

- cost per metre of abandoned length for parking bays/bus stop suspensions – there was no bottom up analysis to verify the additional costs claimed and which formed the basis of their unit cost calculation. The evidence was only provided for 2012-13 yet applied across all years in their calculations. We do not consider using 2012-13 costs is representative of the costs for the previous years. We also consider that this is inconsistent with their previous claim in 2011, when they said that this information was available from their accounting systems and that the costs were zero for 2010-11.

We disallowed all claims for lane rental in our 2011 Decision Paper, due to the uncertainty associated with these costs. We told the GDNs that these costs could be included in their IAE claims at the end of GDPCR1. However, as part of the evidence to support claims for lane rental, we also discussed and agreed in advance of the submissions that the GDNs should be able to demonstrate that they have processes in place for deciding on the most efficient/optimal course of action.

London did not provide sufficient and robust evidence to support their claim and were unable to demonstrate that processes are in place for taking the optimal course of action for lane rental. However, we do recognise that London are starting to put in place a process that may demonstrate this, this should be clearly evidenced as part of any reopener claim for lane rental during RIIO-GD1.

We are therefore minded not to allow any costs for lane rental.

For overstay charges, we are minded to allow the full amount of £71,000 claimed. This is consistent with the methodology used as part of RIIO-GD1 assessment of S74 overstay charges.