

19 January 2015

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By email only

RIIO-ED1: statutory consultations for RIIO-ED1 – Charge Restriction Conditions, Standard Licence Conditions, Network Assets Workbook, PCFM and Price Control Financial Handbook

Dear Maxine,

Thank you for the opportunity to respond to the above consultation dated 17 December 2014. I am responding on behalf of the fourteen electricity distribution licensees who are Distribution Services Providers. This response is not confidential and can be published on the Ofgem website.

We recognise the significant amount of work that has gone into the development of the RIIO-ED1 licence documents. The process that Ofgem has operated in the development of these documents has proved helpful and has fostered collaborative working on some very complex topics. Ofgem has listened to and acted on much of our feedback throughout this process. The outcome of this has been a set of documents that leaves us almost ready for modifications to be formally made. However, we are conscious that the process is not yet complete. In particular, the large number of (generally typographical) issues we raise in our response need to be addressed and the small number of material issues we identify need discussion and resolution. We also recognise that a substantial amount of administrative effort will be required to combine the currently separate slow track and fast track documents into the single documents that will persist into RIIO-ED1, whilst maintaining the areas of legitimate difference between licensees' settlements. It is essential that we are given the opportunity to discuss, assist with and review these final changes prior to the formal making of the licence modifications, to mitigate against the risk of new issues being inadvertently introduced.

We have set out our main comments in the appendices to this letter:

- Appendix 1 sets out our main comments plus those for the PCFM;
- Appendix 2 contains a track-changed version of the Financial Handbook;
- Appendix 3 is a track-change of the Charge Restriction Conditions (CRCs); and
- Appendix 4 is a track-change of the Standard Licence Conditions (SLCs).

Where we have identified issues with cross-referencing in Ofgem's document we have corrected them wherever possible. However, we have not done this by updating Ofgem's paragraph linkages. If Ofgem makes further changes to the document, for example adding additional paragraphs, a full review of paragraph cross-referencing will be required across all documents.

Given the version control issues we have identified, the requirement to merge the fast-track and slow-track documents into one file and the volume of changes required to the Handbook, we also firmly believe that DNOs must be given advance notice of when files will be issued to ensure they can allocate resources appropriately to review the documents before the modifications are formally made. Specifically, we believe it is vital that Ofgem meets with DNOs to progress the outstanding issues as soon as possible after the closing of the consultation.

I hope the above and attached provide constructive feedback and we look forward to working with Ofgem to progress these in advance of the formal making of the modifications.

Yours sincerely,

A handwritten signature in cursive script that reads "David". The signature is written in dark ink and is positioned above a horizontal line that extends to the right.

David Smith
Chief Executive

Copy

Sarah Walls, ENWL
John France and Tony Sharp, Northern Powergrid
Susan Bradshaw and Stephanie Rogan, SPEN
Gwen MacIntrye, SSEPD
Paul Measday and Keith Hutton, UKPN
Natasha Richardson, WPD

Appendix 1

A) General Points

1. Merging of Fast- and Slow-Track documents needs managing carefully

We are unclear what process will be followed by Ofgem to produce combined licence and handbook documents that will apply to WPD licensees and to slow-track licensees. Given the legitimate differences between the current different versions, this will need careful attention to avoid errors being inadvertently introduced in the very short period of time available to accommodate changes recommended in responses to the statutory consultations. It would be helpful if Ofgem could inform DNOs of its anticipated process. It is essential that the process includes an opportunity for DNOs to check that no typographical or cross-referencing errors have been included prior to formal making of the modifications.

2. Significant volume of changes to be made

In respect of all documents, but specifically in respect of the Handbook (excluding the changes that will result from the merging of the two versions of the Handbook) there is a considerable volume of changes that need to be considered and implemented. Mindful of this, we firmly believe that DNOs must be given an opportunity to review the documents before the modifications are formally made.

3. Version control issues in Ofgem documents

We have provided a mark-up of our identified issues or proposed changes in the MSWord version of the documents that Ofgem kindly provided to us. Please note that we have identified a number of differences between this Word version and the pdf version issued as part of the statutory consultation. More concerning, however, is that we have also identified differences between the pdf version issued and published on Ofgem's website and the printed versions sent to Company Secretaries. We have not undertaken a full check across all three versions but, by way of an example, Handbook paragraph 14.23 refers to a number of different lines in the PCFM depending on whether you look at the MSWord, pdf or Company Secretary versions of the document. We recommend that Ofgem undertakes thorough checks to ensure any differences between versions are correctly resolved in the version issued for licence modification.

4. A number of Associated Documents not yet consulted on or seen by DNOs

Mindful that the start of RIIO-ED1 is only approximately nine weeks away, DNOs are concerned over progress on the production of the associated documents. Progress on these ranges from very good (Stakeholder Engagement and Consumer Vulnerability, which was consulted on in parallel to this consultation) through to deeply concerning (losses discretionary reward guidance, of which DNOs are yet to see even an informal draft, let alone be able to participate in a formal consultation). We have set out below what we believe to be the status of the documents and would appreciate clarity on the timelines to finalise these documents.

Associated Document Name	Draft Released to DNOs	Consulted on
Environmental Guidance	Yes	Only in early draft form
Incentive on Connections Engagement	Yes	Yes
Time to Connect Guidance	Yes	No
Data Assurance Guidance	Yes	Yes
Stakeholder Engagement and Consumer Vulnerability Incentive Guidance	Yes	Yes

Associated Document Name	Draft Released to DNOs	Consulted on
Losses Discretionary Reward Guidance	No	No
Business Plan Reporting Guidance	No	No
Regulatory Instructions & Guidance	Not fully	No
NIA Governance	Yes	No
LCN Fund Governance Document (existing document brought forward)	Yes	No
NIC Governance Document	Yes	No

5. Poor processes for closing down of issues on the Ofgem issues log

Having reviewed the issues logs that Ofgem provided with the statutory consultation, we note that a substantial number of issues have incorrectly been categorised as 'closed'. Often these refer to actions that Ofgem will take outside the licence drafting process. Ofgem must ensure, where its log flags that Ofgem has further work to do or a decision to make, that a process is put in place to deal with issues raised and that the issues are not closed prior to this.

B) Licence Conditions

6. Misleading values for time to connect targets

The proposed appendices to CRC2F incorrectly include zeros for the values of Time to Connect targets for the later years of the price control period. These cells should be left blank until the mid-period process outlined in CRC3F has opined on the values to use. This correction would also align with the presentation in the WPD licences.

7. Requirement for clarity of street works costs included in opening base revenue

The Specified Street Works Costs uncertainty mechanism does not identify the level of relevant costs that have been included within each licensee's opening totex allowances. (It correctly identifies that the opening variable values in the PCFM are set at zero, but we believe that allowances are included for some licensees in opening totex allowances.) We assume that any adjustment calculation would need to take account of the levels provided for up front. As Ofgem's approach deliberately excluded some 'live' permit schemes from allowances (based on scheme commencement dates), and because it is very difficult to calculate the level of costs assumed in Ofgem's cost assessment models, we suggest Ofgem documents the levels included in the licence in order to avoid any future confusion.

8. RIGs changes and potential Common Network Asset Indices Methodology impacts

The ongoing work on the development of the RIIO-ED1 RIGs has recommended a number of changes to the categorisation of costs. In a few instances, these recommended changes would involve activities being moved into or out of the activities that are compared against Network Asset Secondary Deliverables (NASDs), for example it has been suggested that tower painting should be moved from being categorised as refurbishment (which is within scope of NASD) to be categorised as maintenance (which is not within scope). The work on RIGs development has also identified a number of instances where DNOs have interpreted the RIGs differently in populating their business plan tables, including Network Asset Workbooks. We support the Ofgem team in seeking to align reporting to ensure greater comparability by clarifying reporting requirements. It is possible that these clarifications of reporting rules could also result in a subset of DNOs reporting delivery of NASDs on a different basis from that used in the initial

population of their Network Asset Workbooks (NAW). If such changes are enacted as part of a change in RIGs, they could result in an inconsistency between the basis on which NASD targets were set and the basis of reporting against them. Such an inconsistency could result in distortions of the assessment of under- or over-delivery of NASDs at the end of RIIO-ED1 and not meet the 'equally challenging' criteria in CRC5D. These distortions could result in either gains or losses for DNOs, depending on the direction of the change.

We believe that the incorporation of the reporting consistency improvement in the RIGs into the Common Network Asset Indices Methodology (CNAIM) is consistent with the objective that the CNAIM will enable 'the comparative analysis of Network Asset Indices between Distribution Services Providers over time' [SLC51.11, incorporating proposed minor wording change from ENA]. It will also be essential that NASD delivery is reported on a consistent basis with cost reporting in order to support the process of assessing whether over- or under-delivery against the NASD was 'justified' and subsequently quantifying any adjustments required at the end of RIIO-ED1.

The 'rebasing' of the NAW, as set out in CRC5D, is intended to ensure that the targets that DNOs are measured against are consistent with the basis on which actual delivery will be reported. We agree with this intent. However, the criteria that must be achieved in rebasing do not allow account to be taken of any recategorisation or clarification of NASD reporting in RIGs that changes activity reporting and hence whether such activity falls within the scope of the NASD or not. We believe that the potential for such changes should be provided for within the licence to avoid any unintended gains or losses.

We recommend that the simplest way to allow for this is as follows:

- Within SLC51.11 – add wording '(including ensuring consistency with the latest Regulatory Instructions and Guidance issued under SLC46)' to the end of the paragraph to make it clear that a change in RIGs could be a prompt to consider a change in CNAIM.
- Within CRC5D.18(b) – add wording 'adjusted for any modification to RIGs or CNAIM that results in activities falling newly into scope or ceasing to be within the scope of asset replacement or refurbishment activities' to the end of the paragraph.

9. Misalignment between CRC5D and SLC51

There is conflicting drafting between the required timescales for modifying various documents related to DNOs' Network Asset Indices Methodology in CRC5D.17 and SLC51.2. CRC5D must be amended to allow the 26 weeks provided for in SLC51.2.

10. Clarity on which licence conditions apply to delivery of HVP outputs

As currently drafted, HVP output delivery is captured by both CRC5D and CRC3F (as detailed in the methodology in the Handbook). We seek clarity on which condition applies, so as to avoid any potential "double jeopardy".

11. SLC 50 Business Plan Commitment Reporting omitted from consultation

We note that SLC50 was not amended as a result of DNO comments in the previous licence consultation. DNOs are still required to report against March 2014 plans. We do not believe that Ofgem has intended for DNOs to report against commitments made in superseded business plans. This is not useful for stakeholders as some DNOs may no longer be capable of delivering particular commitments due to a reduction in allowed revenues.

12. Potential for confusion in respect of removal of DPCR5 CRCs

When read without reference to the accompanying Notices, the list of charge restrictions that are proposed to be removed is incomplete and therefore confusing. It suggests that conditions from DPCR5 that are potentially contradictory to RIIO-ED1 conditions remain in force throughout ED1. It is essential that the formal modification documentation should make it clear that all DPCR5 charge restriction conditions are to be removed.

13. SHETL read-across on ability to correct values

We are aware of a recent Ofgem decision related to in the SHETL licence that opined that previously directed CDE values could not subsequently be corrected without a change to the Handbook. It is essential that Ofgem confirms that it is content that the drafting of the processes for direction of all variable values in chapters 3 and 4 of Part 4 of the licence is sufficient to allow for manifest errors in data sources or calculations to be corrected in subsequent annual iteration processes. We note that the wording in the DNO licence is different from that in the TO licence and that our interpretation is that the current wording would allow revised values to be directed in any circumstances where errors in previous calculations had been identified.

C) Handbook

14. Structure of Chapter 7 does not correctly reflect licensee-specific arrangements

The structure of chapter 7 of the Handbook makes it impossible to determine which sections apply to which DNOs, given the cross-referencing in a single chapter to multiple versions of CRC3F. For example, the chapter references particular tests in particular paragraphs of the licence that are numbered differently in different versions of CRC3F, resulting in illogical references for some DNOs. There is a risk that this issue is further exacerbated when WPD's different mechanisms are incorporated into a consolidated Handbook. Furthermore, the Handbook is silent on how the within-period Authority-triggered reopeners for link boxes for UKPN and Authority triggered company-specific uncertainty mechanisms for SSEH should be calculated.

15. Variable Value terms in Handbook misaligned to those in licence

In a number of instances, the terms used to identify variable values in the Handbook issued as part of the statutory consultation do not align with those included in the licence. It is essential that these are aligned.

16. Full scope of CRC3E not catered for under Handbook

Chapter 8 Smart Meter Roll-out Costs will need to be revised if a delay to the smart meter roll-out plan is confirmed, as the chapter does not currently accommodate all of the associated changes that Ofgem can direct in CRC3E.

D) Price Control Financial Model

17. Variable Value terms in PCFM misaligned to those in licence

In a number of instances, the terms used to identify variable values in the PCFM issued as part of the statutory consultation do not align with those included in the licence. It is essential that these are aligned.