



Making a positive difference  
for energy consumers

**All distribution network operators and interested connection stakeholders**

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Dear all,

**Outcome of our assessment under the 2017 RIIO-ED1 Incentive on Connections Engagement**

We expect the distribution network operators (DNOs) to provide a high quality service to all customers who are seeking a connection. Helping new customers connect to the electricity network is one of the most important services provided by DNOs. It enables new homes to be built and occupied, new businesses to start trading, and new forms of generation to produce energy.

The RIIO-ED1 price control contains a package of connections incentives to focus DNOs on providing a better service for connection customers.<sup>1</sup> As part of this, the Incentive on Connections Engagement (ICE) is designed to ensure that DNOs commit to identify, engage with and respond to the reasonable needs of their larger connection customers. If they fail to do so, they face a penalty in particular segments of the connections market.<sup>2</sup>

The incentive is designed to drive continuous improvement in DNO performance and in each year we will also revisit any issues from previous years. Our expectations, and those of connection customers, will increase over time and DNOs must respond.

We have now concluded our assessment for the second year of the incentive – assessing the DNOs' performance in regulatory year 2016/17. The overall trend among DNOs is one of good progress and improved stakeholder engagement. At the same time, some DNOs appear to be making better progress in stakeholder engagement than others. In some cases, engagement may not be translating fully into improved customer experience for all stakeholders. This is something we will continue to monitor through next year's ICE process and expect to see addressed by the DNOs.

Having considered the position in the round, we have decided not to apply any penalties this year. This decision is based on input provided by connections stakeholders who, for the most part, have reported that they are satisfied with DNOs' engagement and service, and on further details provided by the DNOs in response to specific incidents. The reasons for our decision are explained in this letter.

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<sup>1</sup> The full package of connections Outputs and Incentives under the RIIO-ED1 framework are set out in our RIIO-ED1 Strategy

Decision [https://www.ofgem.gov.uk/sites/default/files/docs/2013/02/rriioed1decoutputsincentives\\_0.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2013/02/rriioed1decoutputsincentives_0.pdf)

<sup>2</sup> See Electricity Distribution Licence – Charge Restriction Condition 2E (Incentive on Connections Engagement) <https://www.ofgem.gov.uk/ofgem-publications/92964/crcslowtrackmaster.pdf>

## Reasons for our decision

In reaching our decision, we evaluated the evidence against the assessment criteria. This involved reviewing each DNO's ICE submission for 2016-17; considering stakeholders' feedback to our Stakeholder Consultation; and considering all representations and objections received from stakeholders and DNOs in response to our Penalty Consultation.

Under the ICE, we can apply penalties where a DNO has failed to meet the assessment criteria in particular market segments.<sup>3</sup> We consulted from 21 August to 18 September 2017 on applying penalties against all six DNOs.<sup>4</sup> We consulted on a number of specific areas for each DNO where we considered there was evidence that the DNOs may have failed to meet the assessment criteria. We identified these areas of concern based on our own review of the DNOs' ICE submissions and views provided by stakeholders.<sup>5</sup>

Based on stakeholder responses to our August Penalty Consultation and the evidence overall, we have concluded that all DNOs met the assessment criteria. We will therefore not apply any penalties this year. However, we expect continuous improvement and we also have some areas of concern, which we will monitor through the ICE in future. For the avoidance of doubt, we would not impose a penalty on a DNO in one regulatory year on the basis of feedback on performance in the previous year. However, where we have concerns from the previous year, we will follow up on these through the ICE consultation process to ensure that the issues have been addressed.

There was initially some evidence that DNOs had not responded to elements of stakeholder feedback; had missed KPIs or delivery of commitments; or had not addressed stakeholder issues effectively. However, when we highlighted these issues in our Penalty Consultation, the majority of feedback indicated that -

- Stakeholders do not consider themselves to have been adversely affected where DNOs missed deadlines or targets in their plans,
- Stakeholders are generally satisfied with the engagement and services they get from the DNOs, and
- Stakeholders consider that their needs are largely being met.

During the Penalty Consultation the DNOs were also given an opportunity to respond to our areas of concern. The DNOs provided further evidence on the actions they had taken which we considered to be reasonable and justified. Therefore, while there initially appeared to be a possible case that DNOs had not met the criteria, further input from the stakeholders and the DNOs satisfied us that no penalties should apply.

In two cases, responses to the Penalty Consultation were mixed. While we do not consider that, overall, the evidence supported a conclusion that the relevant DNOs had failed to meet the criteria, we remain concerned by the issues raised in relation to the engagement activities of these two DNOs. We are raising these concerns with the DNOs and expect both DNOs in these cases to take action to address these areas.

This year, our assessment of the available evidence was that the DNOs met the minimum acceptable level under the assessment criteria. However, this does not mean that there is not room for improvement. We expect to see ongoing evidence of DNOs continuing to strive to better engage with and meet the needs of their connections customers. We will also be actively monitoring areas of concern and will expect to see evidence that DNOs are

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<sup>3</sup> The ICE assessment criteria are set out in Chapter 3 of the ICE Guidance Document [https://www.ofgem.gov.uk/sites/default/files/docs/2015/03/ice\\_guidance\\_doc\\_010415\\_0.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2015/03/ice_guidance_doc_010415_0.pdf)

<sup>4</sup> You can find more information in our Penalty Consultation <https://www.ofgem.gov.uk/publications-and-updates/consultation-penalties-distribution-network-operators-under-incentive-connections-engagement>

<sup>5</sup> We invited stakeholders' views on the DNOs' ICE submissions. All non-confidential responses are published <https://www.ofgem.gov.uk/publications-and-updates/incentive-connections-engagement-consultation-distribution-network-operators-2017-submissions>

addressing these areas - by incorporating actions into their future work plans and following through on these actions.

## **Our response to views expressed by the DNOs**

In their responses to the Penalty Consultation, the DNOs raised a number of points about the ICE review process, the scope of the incentive, and the calculation of penalties. We do not agree with the arguments made and have taken the opportunity to address these below.

### *Review process*

Some suggest that the assessment process does not give DNOs sufficient opportunity to justify the activities they have undertaken and to respond to stakeholder concerns. However, the ICE process is designed to give the DNOs multiple opportunities to justify their activities, and the focus of our assessment is to gather input from stakeholders on the DNOs' performance.

The DNOs first submit their plans for the coming year in May and have an opportunity to update them in October based on their ongoing engagement with stakeholders. At the end of the year the DNOs submit their Looking Back report. We expect this report to set out the activities they have undertaken to deliver their plans and justify these in relation to stakeholder requests. We seek stakeholders' views on the DNOs' performance through our Stakeholder Consultation. If we consider it necessary we may gather additional information through other channels.

Where we consider that the licensee has failed to meet the assessment criteria, we will issue a Penalty Consultation specifying the reasons why we propose to issue a penalty. This gives the DNOs an additional opportunity to justify their activities, with specific reference to the concerns raised. We also consult stakeholders on the issues we have identified and their views on whether a penalty should apply.

If we decide that a licensee has failed to meet the assessment criteria, we will issue a direction setting the level of any penalty and giving our reasons. Before issuing a direction, we must issue Notice to the licensee giving them 28 days to make any representations and must take into account any representations when making our final decision.

### *Scope*

Some suggested that aspects of the areas we consulted on were outside the scope of the ICE. However, the scope of the incentive is broad by design and not limited to activities where the DNOs have existing obligations.

The ICE is designed to replicate the effects of competition and drive licensees to understand and meet the needs of larger connection customers. The ICE Guidance at paragraph 1.3 clarifies that this may involve improving timeliness of connections, extending the provision of information or enhancing the overall customer experience. This incentive should drive innovative connection solutions for customers which may include, among other things -

- improved coordination with other utility connection providers and between connection customers,
- innovative commercial arrangements with customers, or
- the introduction of new technologies that reduce connection charges for customers.

We do not consider that the ICE obliges DNOs to implement every action requested by stakeholders. However, where a relevant connections stakeholder seeks action from a DNO, we do expect the DNO to be able to demonstrate how it has engaged with the stakeholder to understand their requests and concerns and provide a response. Where the DNO does not intend to undertake any action in response, it needs to provide reasonable justification.

We are encouraged to see innovative and ambitious activities in the ICE plans and expect to see this continue in line with the requirements and expectations of stakeholders. If stakeholders consider that the DNOs' plans are not ambitious enough, we would expect this to be reflected in their responses to us. We have clarified before that failure to meet an ambitious target does not necessarily mean that a DNO has failed to meet the criteria - as long as the risks of failure were understood and the DNO can reasonably justify the actions it took to deliver its commitment.

#### *Taking into account positive feedback*

In responses to our Penalty Consultation, it was argued we should take into account the ratio of positive to negative feedback in reaching our decision. Some suggested that it would be unreasonable or disproportionate to apply a penalty on the basis of a small number of responses.

We are pleased to see positive feedback on many areas of the DNOs' activities and certainly encourage the DNOs to continue with activities that are benefitting their connections stakeholders. We also expect each DNO to look at positive feedback received by others in order to identify whether there are examples of best practice that they can learn from and deliver improvements for their own customers.

However, under the ICE, DNOs must demonstrate that they are engaging with and meeting the needs of a broad and inclusive range of stakeholders. The needs of stakeholders vary and we must take into account the feedback from all stakeholders. Positive feedback from one group of stakeholders does not necessarily imply that the needs of other groups of stakeholders are being met.

Moreover, in some relevant market segments there may be a very small number of participants. Where this is the case, negative responses from a small number of respondents could still imply that the needs of a large proportion of that market segment are not being met.

Finally, in assessing the evidence we must also consider nature and substance of feedback provided by stakeholders. One, or a small number of, negative responses that indicate a big issue with significant impact could be sufficient for us to judge that a DNO has not met the assessment criteria.

Therefore, we do not agree that a small number of negative responses is insufficient for us to apply a penalty, or that a large number of positive responses automatically means that a DNO has satisfied the assessment criteria.

#### *Calculating the level of a penalty*

In relation to the level of the penalties we consulted on, it was argued that the penalty values were disproportionately high.

Penalty amounts under the ICE are calculated according to the formula set out in the DNOs' licence condition. The calculation is based on the number of market segments in which we deem the DNO to have failed to meet the criteria and on the level of each DNO's allowed revenue. This mechanism was developed in consultation with the DNOs as part of the RIIO-ED1 price control. In determining whether to apply a penalty under the ICE, we assess the DNOs against the assessment criteria, taking into account all evidence received from stakeholders and the DNOs. If we judge that a licensee has failed to meet the assessment criteria, we will issue a direction setting out the level of any penalty in accordance with the DNOs' licence and giving reasons for our decision. In making any decision we have regard to our statutory and wider duties.

## **Next steps**

This document concludes our assessment of the DNOs' performance under the ICE in 2016-17. We have decided that no penalties will be applied.

In July we consulted stakeholders for their views on the DNOs' ICE submissions, including their plans for the coming year (2017-18). We published all non-confidential responses on our website and expect the DNOs to review these and identify where they can improve or learn from each other. The DNOs may publish revised Looking Forward plans for 2017-18 by 31 October 2017. In our ICE assessment next year, the DNOs will be assessed against their delivery of these updated plans.

By 31 May next year, the DNOs must submit their Looking Back reports on their delivery of their plans for 2017-18. At the same time, they must submit their Looking Forward plans for the following year, 2018-19. As we did this year, once we receive the submissions from the DNOs we will publish a consultation to seek stakeholders' views on both the Looking Back report and the Looking Forward plans.



**Andrew Burgess**  
**Associate Partner, Energy Systems Integration**  
**Duly authorised on behalf of the Authority**

**25 October 2017**