



Regulatory Instructions and Guidance modifications

Northern Powergrid's response to Ofgem's proposal to make modifications to the Regulatory Instructions and Guidance

KEY POINTS

- **Northern Powergrid has one material representation to make at this stage that Ofgem should address in its final modification to the RIGs. *Ofgem should reconsider its decision to omit proposed drafting in respect of the application of a reasonableness test for clock stopping from the Interruptions Guidance document.***
 - The current wording in paragraph 2.44 of Annex F (Interruptions) sets the DNO such a high bar to meet to justify the application of clock stopping that it, to all intents and purposes, would prevent clock stopping and render the scenarios in paragraphs 2.45 to 2.47 redundant.
 - The current drafting also places the onus on Ofgem to share its rationale with the DNOs for any decision where it has accepted the application of clock stopping such that it can be applied to future incidents. We do not believe that Ofgem has taken account of this when making its decision to omit the proposed drafting.
 - Ofgem should include a reasonableness test and redraft the second bullet of paragraph 2.44 to read "There is no reasonably practicable alternative means of Restoration available to the DNO". This concept is consistent with licence and places the onus on the DNO to justify to Ofgem why the stopping the clock on a particular interruption was appropriate.
- Over recent months Ofgem has taken positive steps to improve the consistency of the Customer Service Guidance for General Enquiries reporting. However, it must continue to work with DNOs over the next few months to close out this piece of work and resolve the current inconsistencies in DNO reporting. Its first task should be to complete the work to define what constitutes a service.
- Ofgem introduced the Regulatory Financial Performance Reporting (RFPR) RIGs which include a requirement for DNOs to publish the RFPR returns on 31st July every year. This is at odds with existing reporting in this sector and Ofgem should allow DNOs to publish the RFPR as part of the SLC50 report. We believe in publishing any information that our stakeholders could deem useful (providing it is not commercially sensitive) in a simple and accessible format at sensible intervals throughout the year; the requirements as currently drafted do not satisfy that criteria.
- Lastly, once this year's review is complete, and ahead of next year's review, we recommend that Ofgem:
 - Reviews the Guaranteed Standards and associated RIGs to address inconsistencies between the DNOs in reporting, as per Ofgem's commitment at the Quality of Supply Working Group;
 - Reviews the connections reporting requirements to help remove inconsistencies between DNOs. We recommend a greater level of disaggregated performance information; and
 - Works to remove duplication of content between the RFPR and the Strategic Performance Overview submissions.

1. Material Representations

Northern Powergrid has one material representation to make at this stage that Ofgem should address in its final modification.

Interruptions Guidance - Clock Stopping

1. In presenting paragraph 2.44 of Annex F – Interruptions, as drafted, Ofgem has chosen to omit the proposed wording that Northern Powergrid, supported by the other DNOs, put forward in the Quality of Supply Working Group meetings and in correspondence in respect of the application of a reasonableness test to the second bullet point in paragraph 2.44 i.e. “There is no alternative means of Restoration available to the DNO”. We understand that Ofgem considers that our view on this issue is “not universal”. However, when the issue was discussed on the last Quality of Supply Working Group conference call, none of the other DNOs disagreed with that view.
2. As worded currently, the second bullet point of paragraph 2.44 is an absolute test and presents the DNO with a very high bar to meet in order to justify to Ofgem that there were, indeed “no alternative means of Restoration available”. The bar is so high because it is extremely likely that there will always be “an alternative means of Restoration available”. That “means of Restoration” may just be very expensive, time consuming and/or disproportionate.
3. If the DNO cannot meet the test in paragraph 2.44, it cannot apply clock stopping. Consequently, if the wording remains the same, the outcome, to all intents and purposes, would be to prevent clock stopping and, therefore, all of the scenarios in paragraphs 2.45 to 2.47 would become redundant.
4. In its decision on changes to the arrangements for Clock Stopping of 22 January 2019 (the “Decision”), Ofgem clearly stated that it was “of the view that appropriate arrangements for clock stopping should be retained under the RIIO-ED1 price control” and went on to clarify the circumstances in which the DNOs would be able to apply clock stopping.
5. On page two of the Decision, Ofgem stated that the DNOs “may stop the clock when: a) the incident is a scenario that is eligible for clock stopping (see below)” and went on to discuss those scenarios. On page three of the Decision, Ofgem set out the scenarios that the DNOs should treat as a restoration and on pages three and four of the Decision, Ofgem set out the scenarios in which the DNOs may not stop the clock. At no point in its consideration of those scenarios did Ofgem state or even suggest that the absolute test that currently forms part of the revised paragraph 2.44 would be applied.
6. Reasonableness is a common legal concept, which already appears on multiple occasions in the electricity distribution licence. However, Ofgem has indicated that it is averse to the application of

that concept in these particular circumstances because it introduces ambiguity. It does not introduce ambiguity in a way that is any different to the numerous instances in the licence in which the application of that test is already required. In that respect, we have previously suggested to Ofgem that the second bullet point in paragraph 2.44 should read “There is no reasonably practicable alternative means of Restoration available to the DNO” but that suggestion has been disregarded thus far. An alternative wording could be “There is no course of action to enable an alternative means of Restoration available to the DNO that is proportionate in the circumstances, such as remote switching, and network reconfiguration and alternative LV generation is not economic.”

7. If either of the alternative forms of wording were to be incorporated into paragraph 2.44, the onus would be on the DNO to justify to Ofgem why those circumstances prevailed in a given incident such that the DNO was able to apply one of the clock stopping scenarios. We believe this would represent the “appropriate arrangements for clock stopping”, which Ofgem confirmed in the Decision that it would put in place.
8. If Ofgem retains the wording that is currently proposed, the effect will be to make it virtually impossible for the DNOs to apply clock stopping, given the absolute nature of the test, and, therefore, will frustrate an element of the RIIO-ED1 arrangements that are applicable to the Interruptions Incentive Scheme.
9. Ofgem has indicated its view that companies will be able to stop the clock in these circumstances but has not explained any practical scenarios in which it considers that the absolute test of no alternative means of Restoration being available to the DNO could be met. In addition, if Ofgem does retain the wording that is currently proposed, the onus would be on Ofgem to satisfy itself that, in circumstances where a DNO does apply clock stopping, there were, indeed, no alternative means of Restoration available to that DNO. We would expect Ofgem to share its rationale for that decision with all DNOs such that it can be applied to future incidents.

2. Other material comments

Customer Service RIGs - General Enquiries reporting

10. **Ofgem has made positive steps to improve consistency, however it must continue to work with DNOs over the next few months to close out this piece of work and resolve the current inconsistencies in DNO reporting.** We support the modifications to section 3 of Annex H and we strongly encourage Ofgem to continue the work with the Customer and Social Issues Working Group to arrive at a robust draft of the reporting guidance that ensures consistency across the industry. The first

task of the group must be to conclude the exercise to agree what constitutes a service and provide a clear definition in the guidance.

11. **Paragraph 3.7.** The previous RIGs mentioned the need to avoid bias in the survey but only mentioned the need to send all contacts that met the requirements to survey, which was undermined by the presence of various permissible exclusions. Paragraph 3.7 buttresses this pre-existing policy with sensible additional requirements, including a general requirement and four sub examples. These additions are in general an improvement on the current RIGs.
12. **Paragraph 3.11.** This additional text in the data administration section spells out requirements for inclusion in the survey that are otherwise not mentioned in the RIGs but which are requirements in the licence. This should help to reduce the risk that was present in the previous RIGs of DNOs taking alternative approaches when following the RIGs.
13. **Paragraph 3.9.** We support the expanded list of exclusions. Most of the additional exclusions relate to people performing roles as intermediaries; as such they will not have direct experience of the service provided from a customer perspective and their exclusion is appropriate. We also support the exclusion of contacts relating to electricity meters. While a DNO may own some legacy meters, the DNO's role is passive, as energy suppliers are responsible for metering.
14. **Glossary:** We continue to believe that the glossary definition of a customer, for the purposes of customer service reporting, should be aligned with the definition in SLC1 of the electricity distribution licence. Instead, in the RIGs the following sentence is added "In the case of unmetered connection this person is the Relevant Authority with responsibility for street lighting or street furniture." This is self-evident in respect of connections to the street furniture of any particular authority. It should be deleted as retaining an amended definition of a consumer could be a source of confusion

Regulatory Financial Performance Reporting (RFPR) Publication

15. **Ofgem's should allow DNOs the option of publishing the RFPR as part of its SLC50 report in line with good stakeholder engagement practices.** We believe in publishing any information that our stakeholders could deem useful (providing it is not commercially sensitive) in a simple and accessible format.
16. DNOs are currently required to publish the RFPR on their websites each year by no later than 31st July. The RFPR is currently formatted as an Ofgem-facing document and not in a format that is easily accessible for our stakeholders. We agree that some of the RFPR information would be of use to some of our stakeholders but it needs to be presented in a way that enables them to easily engage with it.

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17. Electricity Distribution already has a public-facing annual performance reporting requirement in SLC50 (Business Plan Commitments Report) and all DNOs produce a report that is specifically tailored to their stakeholders.
 18. It is also important that we provide appropriate context for performance information published without further duplicating information. To publish information about the returns that companies earn without setting it in the context of performance and services delivered over the same period is unhelpful. Each SLC50 report not only includes an Executive summary but also steps through what we set out to do in the year and in the ED1 period, the progress that we have made against those plans, our performance against key industry performance measures and the range services delivered for our customers.
 19. Publishing information about the returns that DNOs earn in this context provides our stakeholders with an appropriate and well-rounded view of DNO performance that has contributed to company returns. It also avoids publishing the same information at multiple times during the year – this is another opportunity to remove unhelpful duplication for stakeholders.
 20. We think it is more appropriate to extend the publication deadline for the RFPR information to 31st October to allow DNOs to use their SLC50 reports (and supporting annexes) as the vehicle for publishing this information. We trialled this for our 2017/18 performance (the report is available on our website).
 21. Publication in October also allows time to complete the supplementary questions process and DNO cost visits, which follow all July submissions, and for DNOs to address any issues identified in the information returns prior to publication.

RFPR reconciliation to regulatory accounts

22. The RFPR guidance needs to allow companies to use their regulatory accounts in place of statutory accounts when reconciling the RFPR.
23. We took the decision not to ask for derogation from the licence requirement to prepare regulatory accounts for 2018/19 in order to have an audited and published set of numbers with which to populate the RFPR, which we otherwise wouldn't have, given our 31 December year-end. We may revise our approach in the future, but we felt that it would be most appropriate from a data assurance perspective to retain the existing process for the 2018/19 return and avoid the need for reconciliations to December year-end accounts. The footnote on page 7 of the RFPR RIGs currently refers to a

reconciliation to be provided in the commentary, but doesn't explicitly allow the use of regulatory accounts in place of statutory accounts

Executive remuneration

24. We do not support the inclusion of narrative around executive remuneration within the RFPR commentary and we do not see the relevance of this to regulatory performance. This information is provided in the Statutory Financial Statements where it is subject to external audit and presented in a common format across the United Kingdom. The RFPR information would not be subject to the same reporting standards.

3. On-going development of the RIGs

Although these comments do not respond directly to the revised RIGs under consultation, we think that further work needs to be done in the following areas to improve the development of the RIGs in the future.

25. **Ofgem confirmed, at a meeting of the Quality of Supply Working Group, that it intended to carry out a review of the Guaranteed Standards and associated RIGs to address inconsistencies between the DNOs in the reporting of performance against the Guaranteed Standards, once the current process of reviewing the RIGs was complete.** We fully support inclusion of the new paragraph 2.50 in the Interruptions RIGs, which clarifies that clock stopping must not be applied for Guaranteed Standards. In that respect, we provided a significant number of comments on the drafting of the RIGs in relation to the Guaranteed Standards, which were put on hold pending Ofgem's review. We believe, therefore, that those comments provide a substantive starting point for that review, which should take place sooner rather than later and should not wait until the next overall review of the RIGs.

26. **Once the Time-To-Connect target setting for the second half of ED1 is complete, Ofgem should begin reviewing the connections reporting requirements.** Currently Ofgem is working to set the targets, and incentive rates, for the Time-to-Quote and Time-to-Connect incentives for the remaining four years of the price controls. There has been a wide spread in time-to-quote and time-to-connect performance across the DNOs in ED1 to date. However, it is not clear that the wide range in lead times indicates genuine performance differences between the DNOs, especially as customer service scores for connections have generally been consistently improving.

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27. The policy decision at RIIO-ED1 was for the time to quote/connect incentive to allow no 'exemptions', to maintain simplicity and for consistency with the data on which targets were being set. The reporting rules in the RIGs that were eventually created however effectively allow DNOs to create their own exemptions for the incentive by cancelling contracts or quote requests or distorting their average measured times by encouraging customers to request re-quotations. The ability of companies to create exemptions or distort their performance data is directly contrary to Ofgem's policy decision.
28. If Ofgem wishes to continue to weight this incentive as heavily as it has so far in ED1, reinforcing its confidence that the methods that the RIGs currently allow for reducing measured times to quote and connect are genuinely worth significant incentive rewards, more detailed performance data is required so that everyone can have confidence that the results reflect genuine performance improvements and that incentive rewards are proportionate to genuine improvements being seen by customers.
29. **Changes are required to Annex C (Revenue) to take account of the recent Supplier of Last Resort Licence Modifications.** Following Ofgem's final decision on licence modifications relating to the appointment of a supplier of last resort, primarily the treatment and recovery of bad debt that distributors face in the event of supplier default, the RIGs templates need to be updated to collect the necessary information. In response to Grant McEachran's request (14th March 2019), we have provided a list of amendments in the attached issues log.
30. However, we have previously agreed with Ofgem that the 2018/19 packs are fit for purpose as the changes will impact the 2019/20 returns. Therefore, Ofgem has the time to review these changes over coming months to ensure that the RIGs are sufficiently robust, and well understood, so that DNOs can consistently report against them next year. This process could start now and should not prevent companies from collecting information in line with the guidance as it is largely settled. Ofgem should avoid rushing to implement the changes as part of this review and risk introducing errors due to a false deadline.
31. **There is significant duplication between the RFPR and the Strategic Performance Overview; Ofgem should rationalise its reporting requirements.** Due to the delays in the development of the RFPR RIGs, the exercise to streamline the reporting requirements of both the RFPR and the Strategic Performance Overview did not take place as planned. The result of which is that both reports, due for submission to Ofgem on 31st July 2019, will duplicate information, in particular RoRE performance. Ofgem should not wait until next year's RIGs modification processes to start working on removing the clear overlap.
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4. Minor comments

32. The R8a section of the RIGs (page 23) states that book value of debt in tables B-M 'should exclude unamortised issue costs'. If adjustments to book value (as reported in statutory/regulatory accounts) are made at this stage in table R8a, the total in row 23 of R8 ('Total Debt per Statutory Accounts') will not equal the book value in the statutory/regulatory accounts; this is likely to be confusing to users of the RFPR. We believe that unamortised issue costs should be a reconciling item in rows 26 to 40 of R8 (via rows 283 to 298 of R8a), as they were in the packs submitted for 2017/18, rather than a direct adjustment to book value in table R8a, and that the guidance should be amended accordingly.
33. Ofgem has chosen to standardise the 'inflation in interest charge' calculations, using financial year average RPI as its basis. As previously stated, we believe that using year-end RPI as the basis of calculations is a better method, as it uses RPI values relevant to the reporting period and is consistent with receiving compensation for the inflation element of the cost of debt via RAV indexation.
34. We believe that 'inflation in interest charge' calculations should be based on net debt and that the exclusion of 'cash, short term deposits and overdrafts' is incorrect in principle. Interest rates applicable to these items (receivable or payable) will have an element of inflation compensation built in, therefore we see no logical reason to exclude these from the calculation

We have reflected our comments in the issues log attached. Annex A and C have been updated, the cells have been shaded orange.