

Consultation

RIIO-ED1 Reopener Consultation – Rail Electrification

Publication date: Friday 2 August 2019

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Response deadline: Friday 30 August 2019

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Context

The RIIO-ED1 price control sets the outputs that the electricity distribution network companies need to deliver for consumers and the associated revenues they are allowed to collect for the eight year period from 1 April 2015 until 31 March 2023.

For cost categories where there was significant uncertainty about expenditure requirements at the time of setting allowances, the price controls include a “reopener” mechanism. The mechanism allows network companies to propose adjustments to baseline expenditure allowances for these costs when there is more certainty. The reopener mechanism specifies a window in May 2019 during which adjustments to allowances may be proposed.

We have received reopener submissions in the following cost categories:

- High Value Project Costs
- Rail Electrification Costs
- Enhanced Physical Site Security Costs
- Specified Street Works Costs

This document sets out our initial views on the applications under the “Rail Electrification” category of uncertain costs.

We welcome the views of interested parties on any of the issues set out in this document. Responses should be addressed to RIIO-ED1@ofgem.gov.uk no later than Friday 30 August 2019. Unless clearly marked as confidential, responses will be published on our website. We will consider responses as part of our final determination which we intend to publish in October this year.

Associated documents

[Informal consultation on RIIO-ED1 price control reopeners \(May 2019\)](#)

[RIIO-ED1 Price Control Financial Handbooks \(fast-track and slow-track licensees\)](#)

Contents

1. Executive Summary.....	5
Section 1: SSEN (SEPD) Great Western Railway Electrification.....	5
Section 2: SPEN (SPMW) High Speed 2 Railway Electrification.	5
2. Approach to assessment	7
3. SSEN (SEPD) Great Western Railway Electrification.....	9
Section summary	9
Application	9
Informal consultation responses.....	9
Our assessment	9
Minded to position: Amend.....	10
4. SPEN (SPMW) High Speed 2 Rail Electrification	11
Section summary	11
Application	11
Informal consultation responses.....	11
Our assessment	11
Minded to position: Reject.....	12
5. Appendix 1 - Feedback on this consultation	13

1. Executive Summary

What are we consulting on?

- 1.1 Ofgem introduced a number of uncertainty mechanisms for costs that were uncertain at the time of establishing the first RIIO electricity distribution price control (RIIO-ED1), which runs from 1 April 2015 to 31 March 2023. These uncertainty mechanisms include reopener mechanisms, which enable adjustments to electricity distribution network operators' allowances to accommodate costs associated with specific uncertain cost categories. These mechanisms are set out in Special Condition CRC 3F¹ of the Electricity Distribution Licences.
- 1.2 One uncertainty mechanism, put in place under RIIO-ED1, was to address costs associated with Rail Electrification. The reopener allows DNOs to apply for an adjustment to their expenditure allowances in relation to "costs that are incurred, or expected to be incurred (other than those recoverable from a third party) by the licensee that are associated with the diversion of electrical lines/plants to facilitate rail electrification projects approved for funding by the Secretary of State for Transport as may be further clarified in the RIGs", as per the SP Manweb (SPMW) Special License Conditions.
- 1.3 This uncertainty mechanism is designed to allow DNOs to recover costs of diverting electricity lines as a result of Network Rail's electrification programme.
- 1.4 In the May 2019 window, we received two submissions from DNOs requesting an adjustment to their expenditure allowances in relation to Rail Electrification Costs. We received one submission from Scottish and Southern Electricity Networks (SSEN) and one from SP Energy Networks (SPEN). Brief summaries of the two submissions are set out below:

Section 1: SSEN (SEPD) Great Western Railway Electrification.

- 1.4.1 We have received a submission from SSEN for additional allowances of £17.2m (in 2012/13 prices).² The submission relates solely to the Southern Electric Power Distribution (SEPD) licence area. SSEN's submission relates to the network diversions required to facilitate the electrification of the Great Western Railway line that runs through their licence area. In total, 59 diversions are required to LV, 11kV, 33kV, and 132kV lines, with 57 of these already completed. We are minded to amend this proposal.

Section 2: SPEN (SPMW) High Speed 2 Railway Electrification.

- 1.4.2 We have received a submission from SPEN for additional allowances of £12.06m. The submission relates solely to the SPMW licence area. SPEN's submission relates to the network diversions required to facilitate the construction of Phase 2a and Phase 2b of the High Speed 2 (HS2) railway line that will run through its licence area. In total, 14 diversions are required to 11kV, 33kV, and 132kV lines, with none so far completed. We are minded to reject this proposal.
- 1.5 In this consultation, we set out our assessment and minded to positions on the above applications.

¹ Charge Restriction Condition 3F: Arrangements for the recovery of uncertain costs.

² Unless otherwise stated, all prices in this document are in a 2012-13 price base.

Next steps

- 1.6 This consultation will close on Friday 30 August 2019. Please send in your response by emailing us at RIIO-ED1@ofgem.gov.uk.
- 1.7 In proceeding with a 28 day consultation we welcome engagement from interested stakeholders during the consultation period. We will publish non-confidential responses on our website at www.ofgem.gov.uk/consultations.
- 1.8 Our decision will be implemented through the 2019 Annual Iteration Process, which will mean that any adjustment to DNOs' allowed revenues will take place from 2020/2021.

2. Approach to assessment

- 2.1 We have assessed the submissions in accordance with CRC 3F of the Special Licence Conditions and the ED1 Price Control Financial Handbook.

Compliance with CRC 3F

- 2.2 Charge Restriction Condition (CRC) 3F of the Special Conditions Licence sets out what constitutes a proposal for a relevant adjustment by the licensee.
- 2.3 Under CRC 3F.8, the licensee may propose a relevant adjustment to the allowed level of expenditure on Rail Electrification Costs, for any Regulatory Year during the Price Control Period, provided that the proposed change to the level of allowed expenditure:
- is based on information about the actual or forecast level of efficient expenditure on the uncertain cost activity that was either unavailable or did not qualify for inclusion when the licensee's Opening Base Revenue Allowance was derived
 - takes account of any relevant adjustments previously determined under CRC 3F
 - constitutes a material amount as specified for the licensee in Appendix 4 to CRC 3F
 - relates to costs incurred or expected to be incurred after 1 April 2015
 - constitutes an adjustment to allowed expenditure that (excluding any Time Value of Money Adjustment) cannot be made under the provisions of any other condition of the licence.
- 2.4 In addition, CRC 3F.9 sets out that a proposal must include statements setting out:
- The uncertain cost activities to which the proposal relates
 - The changes to the licensee's allowed level of expenditure that are proposed and the Regulatory Years to which those changes relate
 - The basis of calculation for the changes to the licensee's allowed level of expenditure.
- 2.5 "Rail Electrification Costs" is defined in CRC 3F.25. That definition depends in part on the RIIO-ED1 Regulatory Instructions and Guidance (RIGs), to which licensees are pointed.
- 2.6 In our assessment of the licensees' proposals we have reviewed CRC 3F and the RIGs to ensure relevant requirements have been met.

Price Control Financial Handbook considerations

- 2.7 In accordance with the ED1 Price Control Financial Handbook we have assessed the proposals to determine whether the proposal by the licensee represents an efficient level of expenditure.

- 2.8 We have then reached a minded to position in relation to rejection, acceptance or amendment of the relevant adjustment proposed by the licensees.

Informal consultation

- 2.9 On 7 June 2019, we published an informal consultation seeking early views on all the ED1 reopener submissions received in the May 2019 window. This informal consultation closed on 21 June 2019.
- 2.10 We received five responses and have taken these and other relevant factors into consideration in our assessment of the proposals. The informal consultation responses have been published alongside this consultation.

3. SSEN (SEPD) Great Western Railway Electrification

Section summary

This section sets out our assessment and minded to position for SSEN's Great Western Railway electrification submission. These are our current views, which are subject to consideration of consultation responses.

Application

- 3.1 We received a submission from SSEN for additional allowances of £17.2m. The submission relates solely to the Southern Electric Power Distribution (SEPD) licence area.
- 3.2 SSEN gave Notice of its proposal during the reopener window, which ran from 1 May to 31 May 2019.

Informal consultation responses

- 3.3 We received five responses to the informal consultation we published on 7 June 2019, three of which responded specifically to SSEN's application for an adjustment to allowances for its Great Western Railway Electrification submission. These respondents were Centrica, Citizens Advice and SPEN. As SSEN's submission contained commercially sensitive information, we uploaded a redacted version of SSEN's submission as part of this informal consultation.
- 3.4 Centrica asked whether a decision had been made about how diversions should be funded and whether it had been confirmed that electricity consumers should fund these costs. They also recommended that Ofgem reserve the right to return funding to consumers if it is found that a third party should cover the costs.
- 3.5 Centrica also stated separately that the redacted submission appeared to meet the qualifying criteria set out in Special Licence Condition CRC3.F of the network companies' licences.
- 3.6 Citizen's Advice stated that the redacted submission did not present adequate evidence that the planned expenditure is economic and efficient. However, they were unsure whether the confidential version would meet this test.
- 3.7 Both SPEN and Centrica stated that the information available in the redacted submission was too limited to form an informed opinion; with SPEN going on to say that some of the redacted information was otherwise available in the public domain.

Our assessment

- 3.8 We have assessed SSEN's submission in accordance with CRC 3F of the Special Licence and the Price Control Financial Handbook.

Compliance with CRC 3F

- 3.9 We consider that in its application, SSEN has demonstrated that it complies with all the requirements under CRC 3F.

- 3.10 We accept that the costs incurred or expected to be incurred in the diversionary works are associated with an existing railway line within the National Rail service that has been approved for funding by the Secretary of State for Transport. We further accept that all costs within the submission are non-recoverable from a third party, as per the invocation of the Master Wayleaves agreement.

Price Control Financial Handbook considerations: cost efficiency assessment

- 3.11 The proposal relates to 59 diversions, of which two are still to be completed. We understand that 57 of the diversions were subject to tendering processes, which we consider to have been carried out in an efficient and economic manner.
- 3.12 Two proposed diversions are still in the planning stage and they will also both be subject to a competitive tendering process. In response to our supplementary questions, SSEN identified a more efficient solution at a cost of £1.2m less to consumers for one of the diversions that is still to be completed. This more efficient solution involves SSEN choosing to raise the conductors for the diversion as opposed to pursuing an undergrounding option.
- 3.13 Our initial assessment indicates that we are satisfied with the efficiency of the costs they have submitted, including the alternative solution proposed for one diversion.

Minded to position: Amend

- 3.14 Based on our initial assessment, we consider that this submission satisfies the requirements of licence condition CRC 3F. Taking account of SSEN’s responses to supplementary questions, we consider that the costs included in the proposal represent an efficient level of expenditure. We are therefore minded to amend the amount requested in SSEN’s proposal.

Table 1. Proposed adjustment to allowance (12/13 prices)

	<i>Ofgem proposed adjustment</i>	<i>SSEN’s proposed adjustment</i>	<i>Difference</i>
	<i>£m</i>	<i>£m</i>	<i>£m</i>
Completed diversions	8.5	8.5	0
Proposed diversions	7.5	8.7	-1.2
Total	16.0	17.2	-1.2

Do you agree with Ofgem’s assessment and our proposal to amend SSEN’s request for an adjustment?

4. SPEN (SPMW) High Speed 2 Rail Electrification

Section summary

This section sets out our assessment and minded to position for SPEN's High Speed 2 Rail Electrification submission. These are our current views, which are subject to consideration of consultation responses.

Application

- 4.1 We have received a submission from SPEN for additional allowances of £12.06m. The submission relates solely to the SPMW licence area. SPEN gave Notice of its proposal during the Rail Electrification application window, which ran from 1 May to 31 May 2019.

Informal consultation responses

- 4.2 We published an informal consultation on 7 June 2019, seeking early views on submissions received in the May 2019 window. We received five responses, three of which responded specifically to SPEN's application for an adjustment to allowances for its High Speed 2 Rail Electrification submission. Two respondents were Centrica and Citizen's Advice, and the third respondent requested that their response remain confidential.
- 4.3 Centrica said that 'Rail Electrification' is defined as: 'electrification of an existing railway line' and that it did not believe HS2 met this definition, instead considering HS2 a new infrastructure project.
- 4.4 Centrica also stated that the submission did not provide adequate evidence that the planned expenditure is economic and efficient from the consumer perspective. It also stated that it does not believe this reopener mechanism can be used to fund diversions associated with new railway lines.
- 4.5 Centrica went on to ask whether a decision had been made about how diversions should be funded and whether it had been confirmed that electricity consumers should fund those costs.
- 4.6 In a separate response, Centrica recommended that Ofgem retain the ability to return funding to consumers in the event that the funding is no longer needed.

Our assessment

- 4.7 We have assessed SSEN's submission in accordance with CRC 3F of the Special Licence Conditions and the Price Control Financial Handbook.

Compliance with CRC 3F

- 4.8 We do not consider that in its application, SPEN has demonstrated that it complies with all the requirements under CRC 3F.

- 4.9 Licence condition CRC 3F.25 defines 'Rail Electrification Costs' as meaning "costs incurred, or expected to be incurred, other than those recoverable from a third party, associated with the diversion of electrical lines or electrical plant to facilitate rail electrification projects approved for funding by the Secretary of State for Transport, as may be further clarified in the RIGs."
- 4.10 In the RIGs, a 'Rail Electrification project' is defined as "A Network Rail project for the electrification of a discrete rail route". HS2 Ltd is a separate legal entity to Network Rail and, therefore, HS2 is not a 'Network Rail project'.
- 4.11 Furthermore, the RIGs define 'rail electrification' as the "electrification of an existing railway line". HS2 is a new infrastructure project and, therefore, is not an existing railway line.
- 4.12 As a result, we do not consider the proposal to be for a relevant adjustment.
- 4.13 In addition, CRC 3F.25 states that Rail Electrification submissions should not include costs "recoverable from a third party". Ofgem's understanding is that the Master Wayleave Agreement between Network Rail and SPEN cannot be invoked, requiring SPEN to bear the costs, as HS2 is not a Network Rail project and that there are substantial funds set aside to cover the diversion of utilities for the purposes of HS2.

Price Control Financial Handbook considerations

- 4.14 Ofgem have not carried out a cost assessment for SPEN's submission as it failed to meet the requirements in CRC 3F.

Minded to position: Reject

- 4.15 Following our analysis, we propose to reject the submission by SPEN based on our assessment that this submission does not satisfy the requirements of licence condition CRC 3F.

Do you agree with Ofgem's assessment and our proposal to reject SPEN's request for an adjustment?

5. Appendix 1 - Feedback on this consultation

How to respond

- 5.1 We want to hear from anyone interested in this consultation.
- 5.2 Please send your response to the person or team named on this document's front page. We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.
- 5.3 We will publish non-confidential responses on our website at www.ofgem.gov.uk/consultations, and put it in our library.

Your response, data, and confidentiality

- 5.4 You can ask us to keep your response, or parts of your response, confidential by clearly marking it confidential and providing reasons. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.
- 5.5 However, we would like to publish as much of your response as we can. To help us achieve this goal we would appreciate it if confidential material could be provided in a separate appendix to your response. This should also be clearly marked and reasons provided.
- 5.6 If the information you give in your response contains personal data under the General Data Protection Regulations 2016/379 (GDPR) or domestic legislation on data protection, the Gas and Electricity Markets Authority will be the data controller. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations.³

³ <https://www.ofgem.gov.uk/consultations/our-consultation-policy>