

– The Land Compensation Agent Group –
Property Compensation Consultants Limited, Sherwill Forbes Limited,
Thomson Broadbent Property Compensation Limited
c/o Thomson Broadbent, Unit 2, Brisbane House, Corby Gate Business Park, Priors Hall Road, Corby NN17 5JG

James Veaney
Network Price Controls
Ofgem
10 S Colonnade
Canary Wharf
London E14 4PU

Wednesday 30th September 2020

Dear Mr Veaney,

Re: Response to the RIIO-ED2 Sector Specific Methodology Consultation

The Land Compensation Agent Group consists of three RICS regulated firms of Chartered Surveyors, Property Compensation Consultants Limited, Sherwill Forbes Limited and Thomson Broadbent Property Compensation Limited. These firms operate in the specialist land compensation sector, acting on behalf of landowners whose property is affected by the installation of electricity apparatus belonging to one or other of the UK's Distribution Network Operators.

As the hosts of the country's electricity distribution apparatus, landowners are important stakeholders in the electricity distribution industry and in the DNOs' business. They are usually ordinary homeowners members of the public, acting in a private and non-commercial capacity to protect their property interests. The three firms that make up the Land Compensation Agent Group ("Agent Group") are the landowners' professional representatives.

Three sections of the consultation and the associated questions are relevant to the interests of the Agent Group and the homeowners they represent. They are:

1. Annex 1 – Delivering value for money services for consumers, paras 4.40 – 4.58 – Complaints metric
2. Annex 2 – Keeping bills low for customers, paras 7.84 – 7.88 – Closely associated indirect costs
3. Annex 1 – Delivering value for money services for consumers, para 2 – Approach to setting outputs and incentives – Price Control Deliverables

Annex 1 – Delivering value for money services for consumers, paras 4.40 – 4.58 – Complaints metric
OUT Q5: Do you agree with our proposed approach to setting complaints metrics targets in RIIO-ED2?

The Agent Group generally agrees with Ofgem’s proposed approach to setting the complaints metric target in RIIO-ED2. However, the Group notes from paragraphs 4.52 to 4.58 of Annex 1 of the RIIO-ED2 Methodology Consultation that earlier in the process stakeholders were given the opportunity to put forward suggestions and proposals as to new indicators and changes to existing indicators to ensure that DNOs maintain, *and continue to improve*, complaints handling performance in RIIO-ED2. The Agent Group would like to use this consultation as an opportunity to add to the proposals already made, and to put forward a proposal of their own for a slight modification to the Complaints Handling Workbook and the way in which DNOs report complaints handling performance.

Though the modification we propose is only minor in itself, we believe that it would be likely to have significant positive impact on the DNO’s complaints handling performance and the quality of the data Ofgem is able to gather on this area of DNO activity.

Current position –

Currently, the Complaints Handling Workbook is structured so that DNOs are required to record complaints in one of four categories. The first three of those categories are for customer complaints received at, and relating to, different stages of the provision of services by the DNO. The fourth category is a “catch-all” category within which DNOs must record all complaints not falling within the first three categories. This category is described in the RIGS as covering “[any complaint] concerning other issues not relating to loss of supply or connections [...]”.¹

Therefore, as the requirements currently stand, any complaints received from landowners are to be recorded by DNOs in this fourth “catch-all” category, and complaints in this category can include those received both from electricity customers and from landowners.

Proposed modification –

The Agent Group proposes that the appropriate modifications are made to the Regulatory Instructions and Guidance and to the Complaints Handling Workbook so that DNOs are required to record and report information on complaints from landowners concerning the DNO’s product and / or service, including the DNO’s service during landowner negotiations, as a distinct category of complaint.

Justification for the proposed modification –

The RIGS refer explicitly to landowners as a distinct category of consumer with a distinct type of relationship with the DNO. Further, the RIGS makes explicit mention of landowner complaints and the requirement for DNOs to record and report them.² The Land Agent Group would say that the creation of a separate category of complaint for the landowner complaints would add consistency to the rules

¹ See: RIIO-ED1 regulatory instructions and guidance: Annex H – Customer Service, and see also the RIIO-ED1 Complaints Handling Workbook.

² See generally: section 2, RIIO-ED1 regulatory instructions and guidance: Annex H – Customer Service.

and better align the recording and reporting workbook with the terms of the Regulatory Instructions and Guidance.

Further, the introduction of the suggested new category would have the effect of providing DNOs and Ofgem with more detailed information on the DNO's complaints handling activity and so improve the quality of the data collected by DNOs and by Ofgem. We suggest that such an improvement in the quality of the data collected under the complaints metric would help drive DNOs to improve their overall complaints handling performance.

Finally, it was recognised earlier in the ED1 price control that DNOs were not taking a consistent approach to the handling of complaints received from landowners and that this may have led to discrepancy and inconsistency in the reported data. The agents suggest that the introduction of this new reporting category would help encourage all DNOs to ensure that complaints which are captured by the RIGs are appropriately handled, recorded and reported.

Should Ofgem consider the Group's proposal worthwhile, then it would ask that Ofgem considers making the suggested modifications to the RIGs and to the Complaints Handling Workbook at the earliest opportunity and in advance of the start of the ED2 price control.

Annex 2 – Keeping bills low for customers, paras 7.84 – 7.88 – Closely associated indirect costs

COQ30 – Do you agree with our proposal to maintain the RIIO-ED1 approach to assessing CAIs in RIIO-ED2?

As a preliminary point, we note that the way in which consultation question COQ30 is framed suggests that Ofgem does not plan to make any changes to the way in which allowances for CAIs are assessed in RIIO-ED2. However, we understand from paragraphs 7.86 and 7.87 of Annex 2 of the consultation documentation that Ofgem considers that changes to CAIs – and therefore to the approach to assessing CAIs – in RIIO-ED2 will be necessary. At paragraph 7.87 Ofgem states that, “identifying and understanding these costs more will inform debate and ultimately delivery of any future alternative arrangements.” We therefore approach our response to the question on the basis that Ofgem is inviting representations on alternative approaches to assessing CAIs in RIIO-ED2.

Wayleave payments are one of the five activities which in RIIO-ED1 made up the Closely Associated Indirect Costs category. The Agent Group sees no problem with wayleaves remaining in the same costs category in RIIO-ED2. However, the group takes the view that changes are required to the way in which wayleave costs are assessed so that allowances better reflect the real future cost to DNOs of ensuring that network registers are up to date and that the network is secured by valid wayleave consent throughout.

We refer to the table at Appendix 3 at page 155 of Annex 2 of the consultation documentation – Disaggregated Costs Assessment – and we see that the allowance for wayleave payments was determined with reference to the *industry median unit costs calculated using 13 years of data and the number of supports as a costs driver*.

We suggest that the use of industry median unit costs is currently flawed as a “costs driver” or costs indicator since unit costs for wayleaves vary greatly among DNOs. Further, experience tells us that the wayleave unit cost for any given DNO depends not so much on the efficiency of the company’s operation, but rather on the extent to which it is prepared to discriminate in its approach to the payment of compensation to landowners. The more discriminating the DNO in its payments, the lower the DNO’s unit costs are likely to be. Therefore, an allowance which is set according to an industry average will benefit the DNO with the most discriminatory policies and prejudice those that are prepared to be fairer in their payments. To illustrate the point, DNO A may choose to pay compensation to the homeowner on equipment up to only 40 metres from the dwelling, whereas DNO B may be prepared to compensate for equipment up to 80 metres away, meaning that the overall unit cost of wayleave acquisition is higher for DNO B than it is for DNO A. This discrepancy in unit cost to the DNOs would ultimately lead, we assume, to DNO B’s consumers paying more over time for their electricity than those of DNO A.

Consequently, we suggest that if the allowance is to be determined with reference to industry level averages then consideration should be given to standardising, within the regulatory framework, the approach which DNOs take to the payment of wayleaves. One possible means for achieving this is set out below in *Section 3*.

Further, should annual historic averages continue to be used as a means of determining the annual allowance, consideration should be given to using the last three years’ worth of data rather than the last thirteen years. This, we suggest, would provide Ofgem with a more accurate estimate of the likely volume of settlements the industry will need to agree over the period of the next price control.

We would further propose that Ofgem considers adopting a method of assessing ED2 wayleave costs with reference to the forecast future liability of each DNO for the period of the price control as an alternative to the use of historic averages. The Agent Group would say that such a method of assessment would more accurately reflect the likely future cost of wayleaves during the period of the price control for each individual DNO.

Whichever approach Ofgem eventually decides to apply in the determination of DNO allowances for the payment of wayleaves in RIIO-ED2, the Agent Group looks forward to playing a full part in the discussions and to having the opportunity to provide their expert input.

Annex 1 – Delivering value for money services for consumers, para 2 – Approach to setting outputs and incentives – Price Control Deliverables
A proposal for a new Price Control Deliverable

We refer to paragraphs 2.1 – 2.7 of Annex 1 – Delivering Value for money services for consumers, and we note that network companies must deliver on three Consumer Facing Output Categories. Those categories are as follows:

1. a safe and resilient network that is efficient and responsive to change;
2. meet the needs of consumers and network users; and
3. deliver an environmentally sustainable network.

We further note that Ofgem proposes to regulate DNO delivery of each output category using three tools: Licence Obligations (LOs); Output Delivery Incentives (ODIs) and Price Control Deliverables (PCDs). Price Control Deliverables capture and regulate those outputs which are directly funded through the price control. Their aim is to provide clarity on the delivery of funded outputs and to ensure that DNOs deliver certain outputs without delay and in compliance with certain standards.

As is noted in the section above, the acquisition of wayleaves is categorised as a Closely Associated Indirect Cost and it is an output which is directly funded through the price control settlement. As such, it would appear to us that delivery of wayleave acquisition would qualify as an output to which a Price Control Deliverable could be attached. Any such PCD, we note, could have specific standards of delivery attached to it.

We propose that in advance of the start of the next price control and in consultation with the Land Compensation Agent Group and DNOs, Ofgem considers making DNO acquisition of wayleaves subject to a Price Control Deliverable. In raising this proposal within our response to the consultation, we acknowledge that we are not responding to a particular consultation question but thought it helpful nevertheless to propose it here.

A well-designed Price Control Deliverable attached to the acquisition of wayleaves could have significant beneficial effect.

At present and as illustrated in the example above, DNOs adopt a variety of different policies to the acquisition of wayleaves, which means that the overall unit cost of wayleave acquisition is higher for some DNOs than it is for others. Standardising aspects of the delivery of the output would help create the conditions for DNOs to operate on a level playing field and this, we suggest, would lead to fairer regulatory competition among DNOs.

The variation in wayleave acquisition unit costs according to the DNO leads, we assume, to some consumers paying more for their electricity than others over time, depending on the part of the country in which they happen to live. If we are right, then we suggest that the introduction of a PCD would help minimise differences in the costs of electricity for electricity consumers living in different parts of the country.

As noted above in section 2, variations in the unit costs of wayleave acquisition arise not from the DNOs' relative abilities to operate efficiently, but depend rather on the extent to which DNOs are prepared to discriminate in their payments to landowners. As to this discrimination in payments, we refer Ofgem to the written and oral submissions we have made in the past which detail how DNOs may leverage their monopoly position when dealing with landowners, and which set out the detrimental impact which certain payment policies have on landowners. We further refer Ofgem to the submissions we have made as to the DNOs' duties to landowners as *consumers* under certain consumer protection regulations.

In light of the matters we have disclosed within those submissions, we ask Ofgem to consider whether it is desirable for the cost of electricity to depend on the extent to which the DNO is prepared to discriminate in its payments to landowners and whether such an impact should be minimised by regulation.

Yours sincerely,

Robert Price

For and on behalf of The Land Compensation Agent Group