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23 February 2021

Dear Graeme

### **RIIO-2 NIA Governance Document**

Thank you for the opportunity to respond to the above consultation. This response is on behalf of UK Power Networks' three distribution licence holding companies: Eastern Power Networks plc; London Power Networks plc; and South Eastern Power Networks plc. We are Great Britain's largest electricity Distribution Network Operator (DNO), dedicated to delivering a safe, secure and sustainable electricity supply to 8.3 million homes and businesses.

We have reviewed the draft RIIO-2 NIA Governance Document published on 25 January 2021, and have set out our comments in the appendix to this letter.

I hope that you will find this information helpful. If we can assist further, please do not hesitate to contact David Pang.

Yours sincerely,



James Hope  
Head of Regulation & Regulatory Finance  
UK Power Networks

Copy: Ian Cameron, Head of Customer Service & Innovation, UK Power Networks  
Paul Measday, Regulatory Returns & Compliance Manager, UK Power Networks  
Ian Cooper, Innovation Lead, UK Power Networks  
David Pang, Regulation Analyst, UK Power Networks

## Appendix

We have structured our comments in the below table with a corresponding paragraph reference.

Paragraph reference	Comment
General	This NIA governance document does not appear to mention the ESO licensee, as the RIIO-2 Final Determinations appear to include the ESO for NIA consideration.
Context	We believe it should reference that it is Ofgem's intention for this to apply to RIIO-ED2 from 2023 but the document would need updating at that time to reflect this.
1.5	We suggest this paragraph should also include reference to electricity distribution licensees.
1.7	At the time of this document becoming effective the statement "The RIIO-1 price control ended on 31 March 2021" will not be accurate. We suggest using "The RIIO-1 price control for gas transporters and electricity transmissions will have ended on 31 March 2021".
1.10	There is a typo "as unrecoverable" not "is".
1.10	"If Ofgem considers that the Gas Transporter and Electricity Transmission licensee still does not comply with this RIIO-2 NIA Governance Document, Ofgem may reduce the Gas Transporter and Electricity Transmission licensee's Total NIA Expenditure" – "the" should be replaced with "a", "and" should be replaced with "or" in both instances.
2.11	We require the Gas Transporter and Electricity Transmission licensees to ensure that Project details published on the ENA Smarter Networks Portal are always up to date. As currently worded, the Portal would need to be updated instantaneously. In the spirit of the being updated, we suggest "are kept up to date".
2.13	There is inconsistency in Ofgem's use of "de-sensitising" and "de-sensitising".
2.15	There is a "best endeavours" requirement to comply with Ofgem data best practice. We believe "reasonable endeavours" would be more proportionate in this case.
3.1	Within the table, in the Scope line there is use of e.g. and etc. in one place – only one is needed.
3.3	Is there an "and" missing in between "deliver de-risk"?
3.5	How would licensees know Ofgem have been satisfied? This is vague and open to dispute, something related to "provide evidence" would be preferable.
3.7	There are two different usages of the word "potential" within the bullets points, we would suggest these be consistent, i.e. "the potential" or "potential".
3.17	This refers to needing to justify to Ofgem's satisfaction but does not then say how licensees will know Ofgem have been satisfied.
3.20	We would prefer "a senior network manager" rather than "the senior network manager" for flexibility as per current arrangements in RIIO-1.
3.21	On the point of consistency, Ofgem should keep in mind that at the very least RIIO-ED2 will use a different price base compared to the earlier RIIO-2 price controls, and will reflect RIIO-ED2 particulars such as CIs, CMLs and losses.
3.24	We suggest that "financial benefit" be changed to "net benefit" to make it consistent with eligibility criteria.

3.29	There is a question of how the licensee is able to judge that Ofgem would not have approved it? We believe that the paragraph should include the wording “in the licensee’s opinion” somewhere in the paragraph?
3.30	As currently worded, the condition on which Ofgem’s decision on NIA Expenditure (or Unrecoverable) will be set out on, is quite open. That is, Ofgem should consider replacing “might have had a bearing” with more definitive language.
5.2	“below we set out requirements for Gas Transporter or Electricity Transmission licensees to publish annual <b>summarises</b> of NIA activities” – “summarises” should be “summaries”.
5.3	Given that a number of licensees belong to groups, this needs to allow for one annual summary report per group of licensees.
5.7	This paragraph points to requirements in paragraph 5.5 but 5.5 has a similar comment about requirements in paragraph 5.3. We think the referencing is incorrect, we would welcome Ofgem to clarify on this.
5.8	This paragraph has “rules” twice.
5.11	As a suggestion to simplify and consolidate NIA governance, it may be worth building in the Rules for Innovation Good Practice into the NIA Governance Document. As it currently stands, it appears that we are creating rules from rules from rules i.e. licence conditions to NIA governance document to innovation rules.
6.7	It should be made clear that this conference does not necessarily need to be a physical event and could be held digitally as has taken place during the pandemic.
7.1	<p>This is in principle different from the NIC IPR requirements – NIA references “protect consumers from excessive payments” while NIC references “provide a valuable revenue stream from royalties earned” – we believe that it is too late to revise these to align but Ofgem should bear this in mind with the SIF development. There would be benefits for both governance documents to match when SIF is developed. NIA has:</p> <ul style="list-style-type: none"> <li>- No requirement to licence background IPR necessary to use relevant foreground IP;</li> <li>- IP ownership is split by funding and work done, not just work done;</li> <li>- No right for third parties to request a licence to relevant foreground IP (there has never been a requirement to respond/contract, so this is a moot point); and</li> <li>- No requirement to protect IPR.</li> </ul>
7.5	Does the PEA cover the expected foreground IPR as inferred here? If this is a PEA requirement it should be in table 3.1, if it is not a requirement it should be made clear.
7.7	We think all licensees should be allowed to have relevant foreground IPR freely. This would support cross-vector work and learning on consumer vulnerability and other energy system transition topics.
8	<p>In the Definitions section, should there be definitions for:</p> <ul style="list-style-type: none"> <li>- Gas Transporter Licensee; and</li> <li>- Electricity Transmission Licensee?</li> </ul>
8	RIIO-2 NIA Governance Document – the definition includes licence spelt incorrectly. It is currently spelt “license”.

8	The Strategic Innovation Fund or SIF definition talks about high value projects but this NIA governance document does not put an upper limit on the value of NIA projects so they could also be high value – we believe it would be better to refer to the SIF governance document.
PEA	Table 3.1, under Method, there is a new requirement for a Measurement Quality Statement and Data Quality Statement. The reader would benefit with further details or a reference.