Net Zero Pre-construction Work and Small Net Zero Projects Reopener Governance Document

Paragraph	Comments
1.5	The terms “Gas Distribution Licence” and “Gas Transmission Licence” do not exist in the licence and are not defined in the guidance document. Relevant entities hold transporter licences (in respect of gas distribution and gas transmission / NTS respectively). We suggest that reference here is instead made to a DN Operator and the NTS Operator as such terms are each defined in standard special condition A3 of the GT licence. Generally terms should either be defined in the guidance (as per chapter 4 of the NZARD UIOLI guidance) or terms should be defined by reference to defined terms in the GT licence.
1.6	The words “as if it formed part of their licence” should be deleted. Special Condition 3.9 states that the licensee must comply with this document but it does not state “as if it formed part of its licence”. The inclusion of these words elevate the obligation to comply with the document to a licence condition and this is not the status of the document. The document is not written with the precision and clarity of obligation that is consistent with a licence condition. In addition, the document falls within the definition of “Associated Document” under the licence. The PCFH sets out a hierarchy applicable to Associated Documents, which are lower in the hierarchy than licence conditions and do not have the same effect. This document is therefore distinguishable from the PCFM and PCFH where the licence (Special Condition 8.1.2.) states that these documents do form part of the licence.
2.2	Can NZASP be used for Hydrogen Grid R&D Programme (HGRD) work such as system transformation (system modelling) as these are not capex projects?
Table 1	Special condition 3.9.4 sets out the process for the Authority to direct an adjustment to the value of the NZP term. We understand that this adjustment direction is, effectively the reopener or the Authority trigger. However, this does not seem to align with Table 1 which contemplates an assessment phase (the licensee application, consultation and funding decision) all taking place after the Authority trigger. If the Authority trigger is not the NZP adjustment direction as contemplated by Special Condition 3.9.4 then the guidance should clarify what is the Authority trigger as contemplated in Table 1.
Table 1	Consultation Phase. Please can Ofgem clarify what is envisaged here? Is this a consultation on the proposed direction to make an adjustment to the NZP term (that must be conducted under Special condition 3.9.10) or another consultation in respect of the eligibility of the project to trigger the re-opener?
Table 1	How will the continuous engagement work? Will this be through scheduled meetings with network companies, and can an indicative timetable/funnel be developed? I.e., how much engagement/notice is required for a project before NZASP can be triggered?

2.1	2.1 Can this be extended to clarify that there is no defined window for the re-opener so it can be triggered at any time?
2.12	Special Condition 3.9.11 enables the Authority to direct an adjustment to the value of NZP and the regulatory Years to which that adjustment relates. 2.12 seeks to introduce a range of treatment in respect of the funding decision that is not provided for by the licence such as the use of a PCD (this would require a licence modification through statutory consultation), fast and slow money split, application of TIM etc. Special Condition 3.9 does not contemplate such matters and there is therefore no vires for such matters to be included in guidance that is provided for by this condition. These provisions should be removed from the guidance unless and until Special Condition 3.9 is modified to provide for such matters. Even if such matters are subsequently provided for then they should be on the face of the licence rather than in guidance; these matters associated with the funding decision are not matters that the licensee can “comply with” through guidance.