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Dear Jack

STATUTORY CONSULTATION ON PROPOSED CHANGES TO THE SPECIAL CONDITIONS (ALSO KNOWN AS THE CHARGE RESTRICTION CONDITIONS) OF THE RIIO-ED1 LICENCE AND THE ED1 PRICE CONTROL FINANCIAL MODEL

In response to the above statutory consultation, Northern Powergrid would make the comments in the table attached as an Appendix to this letter. We have no comments on changes that are not included in the table.

Yours sincerely



John Elliott
Head of Regulatory Compliance

NORTHERN POWERGRID

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Northern Powergrid (Northeast) plc (Registered No: 2906593) and Northern Powergrid (Yorkshire) plc (Registered No: 4112320)
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Proposed modifications to the Special Licence Conditions

The following changes apply to all holders of an electricity distribution licence:

Condition	Paragraph	Current text	Change required	Northern Powergrid Comment
3B	5	Totex Incentive Mechanism Adjustments are applied under the Annual Iteration Process for the ED1 Price Control Financial Model and calculation of these adjustments uses the Totex Capitalisation Rate Specified for the licensee in Appendix 1 of this condition which: (a) for all licensees other than SSEH applies for each Regulatory Year in the Price Control Period; and (b) for SSEH applies in relation to the relevant Regulatory Year, and which is a fixed value contained in the ED1 Price Control Financial Model.	Totex Incentive Mechanism Adjustments are applied under the Annual Iteration Process for the ED1 Price Control Financial Model and calculation of these adjustments uses the Totex Capitalisation Rate Specified for the licensee in Appendix 1 of this condition which for all licensees applies for each Regulatory Year in the Price Control Period and is a fixed value contained in the ED1 Price Control Financial Model	As a general rule, amending a capitalisation rate based on actual expenditure risks undermining the totex approach to regulation because a licensee's decisions could then affect the rate of RAV growth and, therefore, give the licensee an incentive to favour one solution (e.g. asset heavy) over another. Ofgem should, therefore, generally avoid such true-ups. However, if Ofgem concludes that this particular change is in the interests of both customers and the licensee, as it may be if it avoids excessive RAV growth (and thus higher long-term charges), then it warrants careful consideration.
3B	Appendix 1	SSEH: Totex Incentive Strength Rate (%) - 56.47 Totex Capitalisation Rate (%) - 62.00 for Regulatory Years 2015/16 to 2018/19 (inclusive) 70.00 for Regulatory Years 2019/20 to 2022/23 (inclusive)	For SSEH, in the column "Totex Capitalisation Rate (%)" all of the text after the figure "62.00" should be deleted.	The same principle applies, as noted in our comment above regarding paragraph 3B.5. However, the mechanics of the change are appropriate, as the correct text is being deleted.
3E	8		Continue the formula in this paragraph to Regulatory Year 2021/22 and 2022/23.	We would agree with this change but, as it stands, the wording reads as if the SMAE value for a particular regulatory year will use data from two years before. In reality, however, the two-year lag is just for including the updates to SMAE in allowed revenues. The general convention is to use t-2 to reference the fact that the adjustment to revenues (via MOD) in year t will relate to calculations relating to the year t-2,

				<p>with the revised values being directed in year t-1. We would, therefore, suggest that the wording is:</p> <p>“For each Regulatory Year t-2 of the Price Control Period, the annual value of SMAE will be derived in accordance with the following formula:”</p> <p>The title to Part B, immediately above paragraph 3B.5, should also be updated to read either:</p> <p>“Part B: Determination of SMAE values” or</p> <p>“Part B: Determination of SMAE values for the Regulatory Years 2015/16 to 2022/23”.</p>
3E	9		SMAE should not be set to zero in 2012/22.	Given the change to paragraph 3E.8, we assume that the proposed change is actually to delete the wording in paragraph 3E.9 and replace it with “Not Used”.
3F	8	(c) for all uncertain cost activities other than High Value Project Costs, constitutes a material amount as specified for the licensee in Appendix 2, 3, 4 or 5 (as the case may be) to this condition;	remove reference to appendix 5.	It is not immediately clear to us why the link box material amounts are being removed but those for rail electrification or enhanced physical site security are not being removed. Given other potentially redundant content is being retained (e.g. definitions for reopeners that have now passed), it may be sensible to leave all the relevant values in the licence until it is revisited for the purposes of ED2.
3F	10	Application window	Add new paragraph (c) ((b) for WPD’s licences) to include window for DNOs to submit for logged up costs under SSWC: “...; and (c) for Specified Street Works Costs, in addition to the application window under paragraph 3F.10(b) the application window that opens on 1 September 2023 and closes on 30 September 2023.”	LPN, EPN and SPN have a different condition 3F. Consequently, the change should be made to the relevant paragraph, i.e. 3F.11, for those licensees.

3F	13 (14 in some licences)	<p>"... (b) requesting the licensee to provide that further or reformatted information or analysis, the application window will be treated as remaining open for the purposes of this Part A until the later of the closing date referred to in paragraph 3F.10 and the date on which such further or reformatted information or analysis is provided."</p>	<p>"... (b) requesting the licensee to provide that further or reformatted information or analysis, the Authority will have a period of four months the date specified in the Notice for receipt of that further information or analysis to determine any revisions that are to be made to the licensee's allowed level of expenditure for the uncertain cost activities concerned and the Regulatory Years to which those revisions relate in accordance with the methodologies set out in the sections of chapter 7 of the ED1 Proce Control Financial Handbook set out above at paragraph 3F.12."</p>	<p>The change would allow the Authority to indefinitely extend its timeframe for analysis of reopener information by specifying a longstop date in its notice for the receipt of further information. This is problematic for licensees, as it removes the assurance afforded by the current licence condition that the Authority will undertake the assessment promptly. The modified licence condition could even operate such that the Authority could avoid ever performing the assessment.</p> <p>We understand the intent was to avoid keeping the application window open to companies. If so and to avoid negative unintended consequences, the change could include phrasing similar to that in the current licence i.e. "...the Authority will have a period of four months from the date on which such further or reformatted information or analysis is provided to determine any revisions...".</p> <p>Alternatively, a time limit on the date specified in the Notice should be included, e.g. "the Authority will have a period of four months from the date specified in the Notice, which must not be more than 15 working days from the date of that Notice, for receipt of that further information or analysis to determine any revisions..."</p>
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3F	22	3F.22 Revised PCFM Variable Values for the licensee, as determined under paragraph 3F.20, will be directed by the Authority by: (a) 30 November in Regulatory Year 2018/19 in respect of Link Box Costs; and (b) 30 November in Regulatory Year 2019/20 in respect of all other uncertain cost activities.	Add new part (c) to note the date for directing revised SSWC values: “...; and (c) 30 November in Regulatory Year 2023/24 in respect of an application for Specified Street Works Costs made during the application window available under paragraph 3F.10 (b). For WPD’s licensees, add a new part (b) to note the date for directing revised SSWC values: “...; and (b) In respect of Specified Street Works Costs, revised PCFM Variable Values for the licensee will be directed by the Authority by 30 November in Regulatory Year 2023/24.”	LPN, EPN and SPN have a different condition 3F. Consequently, the change should be made to the relevant paragraph, i.e. 3F.23, for those licensees.
3F	Appendix 5		Remove material amount box and references to this.	As with our comment regarding paragraph 3F.8 above, it is not clear that this change is necessary and it may be sensible to leave it in the licence until it is revisited for the purposes of ED2.
3G	11 (c)	“... (c) on a net basis, which offsets customer contributions against gross expenditure;	Provide consistency with the text in CRC 5G by updating the text in part (c) of 3G.11 to align with CRC 5G: “(c) net of any customer contributions against gross expenditure which changes the Specific Customer Funded Reinforcement Percentage Band specified in Table 2 at paragraph 5G.3; and”	The necessity for the change to sub-paragraph (c) is not clear to us. The original drafting ensures that the reopener is considered on a net basis for both allowed and actual expenditure i.e. expenditure after customer contributions. The proposed change would limit the customer contributions that are deducted to those which change the percentage bands in table 5G.3 and could change the entire assessment of the reopener. Ofgem should not make this change without further discussion so that the inconsistency being addressed can be fully explained.
3G	11 (d)	(d) net of an adjustment for any expenditures avoided, or that may reasonably be expected to be or to have been avoided, as a result of demand-side response or other non-traditional solutions to load related issues; and”	Update the text in part (d) of 3G.11 for clarity, to read: “(d) net of an adjustment above the level specified in the Final Determination for the licensee for any expenditures avoided, or that may reasonably be expected to be or to have been avoided, as a result of demand-side response or the use of other non-	The change is being made to bring about consistency between paragraph 3G.11 (which mentions an adjustment that can act in licensees’ favour for demand side response/innovative cost savings) and paragraph 3G.21 (which requires Ofgem to consider the value of such savings only above

			<p>traditional solutions to load related issues;"</p>	<p>and beyond the level specified in the final determination for the licensee). Given the two are inconsistent, it seems reasonable to align them. However, it is not entirely clear as to what "the level" refers to but, presumably, it is to the smart grids adjustment.</p> <p>We assume the level specified in the final determination must mean the smart grids adjustment, as no other potentially relevant value was "specified". Also, Ofgem's drafting is somewhat confused and does not appear to achieve what is intended. It seems that the new wording has been inserted in the wrong place such that it imposes a minimum value on the adjustment (i.e. above the level specified) rather than creating a hurdle that the savings need to exceed. Consequently, the inconsistency with paragraph 3G.21 persists.</p>
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Modification to the ED1 Price Control Financial Model

Licensee(s)	Sheet reference	Cell reference	Current Text	Change Required	Northern Powergrid Comment
SSEH	SSEH	AN69:AQ69	70%	62%	Noting our comments above regarding the proposed changes to Condition 3B, i.e. amending a capitalisation rate based on actual expenditure, this change to the PCFM should follow those changes to the licence.