

Legal Services

Northern Powergrid
Lloyds Court
78 Grey Street
Newcastle upon Tyne
NE1 6AF

Tel: 0191 223 5103

e-mail: john.elliott@northernpowergrid.com

Graham Craig
Ofgem
10 South Colonnade
Canary Wharf
London
EC14 4PU

27 January 2021

Dear Graham

RESPONSE TO OFGEM'S CONSULTATION ON THE RIIO-2 RE-OPENER GUIDANCE AND APPLICATION REQUIREMENTS DOCUMENT VERSION 1

We would comment on the above consultation as follows:

- Although we agree that a re-opener application should include high quality information, we would reiterate the comment made in our response to the previous consultation that the imposition in paragraph 2.1 of the absolute obligation that re-opener applications must be “accurate, unambiguous, concise and complete” is inappropriate and that obligation should be revised such that re-opener applications should “so far as is reasonably practicable, be accurate, unambiguous, concise and complete”.
- Ofgem should test whether all requirements in the Guidance make sense in the context of all reopeners. If there is a risk that they may not, Ofgem should apply a global proviso that, where a specific requirement does not seem appropriate in the context of a re-opener, it will be sufficient for a licensee to explain its rationale for not meeting that requirement.
- We would reiterate the comment made in our response to the previous consultation that the application of the usual data assurance requirements to reopeners should be sufficient assurance for Ofgem’s purposes such that paragraph 2.2 should be deleted in its entirety.
- Paragraph 1.8 states that Annex 1 sets out how Ofgem intends to manage the re-opener process but also states that it “does not form any part of the Guidance and may be modified and updated at any time without prior consultation”. In that respect:
 - As drafted, Annex 1 imposes obligations on the licensee. If that is Ofgem’s intent, it is not appropriate either for Ofgem to be able to change those obligations without consulting with the licensee or for them not to be subject to the usual change control process. Either Annex 1 should be made subject to consultation in its entirety or any obligations on the licensee contained therein should be carved out such that they are made subject to consultation; or
 - If it is Ofgem’s intent for Annex 1 not to be within the scope of the Guidance and, therefore, the licence condition, such that it does not impose obligations on the licensee, Ofgem should make that position unambiguously clear within paragraph 1.8 of the Guidance.

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- In the list of Cross Sector Re-openers (all network companies) in Appendix 1, it states that the guidance is not applicable to the Net Zero re-opener because that re-opener is triggered by the Authority only. Ofgem should prepare and consult separately on the guidance that will be applicable to the Net Zero re-opener.
- All of the other comments we made in our response to the previous consultation that have not been addressed in this Version 1 still stand.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Elliott', written in a cursive style.

John Elliott
Head of Regulatory Compliance