

Gas Transmission	
REFERENCE NUMBER:	CATEGORY: Associated Documents
LICENCE CONDITION NUMBER:	Associated Documents/ related to SpC 3.11, 9.13
TITLE:	Funded Incremental Obligated Capacity Re-Opener Guidance
RELEVANT LICENCE CONSULTATION QUESTIONS (if any):	Q4/5/20/21
POLICY ISSUES	
<ul style="list-style-type: none"> Overall 	<ul style="list-style-type: none"> Due to a combination of the complexity of the existing process, the introduction of a new mechanism and developments that have been shared as part of the informal licence consultation and this informal consultation on the guidance, we see the benefit in further bilateral engagement with the relevant Ofgem teams to discuss the intended operation of the reopener and ensure it dovetails efficiently with existing mechanisms for capacity release. Whilst the guidance document provides a significant increase in detail from the process outlined in draft determinations, there are still some sections that need further development and the opportunity for feedback ahead of the formal consultation on the guidance in December 2020. The structure of the suggested process and assessment points described appears inefficient when considered against the PARCA framework and other associated processes, the most significant of which are the potential impacts to the planning approvals process – the key reason for the PARCA process being developed. Equally, there are elements that appear to be either missing or which we would request are included in the guidance, such as: <ul style="list-style-type: none"> a lack of reference to contractual solutions in combination with or in place of network reinforcement solutions; no indication of timescales related to the submission and approval processes; no details of what the Ofgem assessment and decision process entails; and what process occurs in situations where Ofgem does not approve a submission. The lack of transparency around the timescales and assessment process highlighted above could impact on our ability to progress the project to PARCA timescales, but also on the projects being progressed on the customer side as this guidance is also for use ‘by any stakeholders with an interest in the regulatory treatment of Incremental Obligated Capacity gas transmission projects’. Following the review of this guidance document, we would reaffirm our proposal made in response to the Draft Determination document namely that the introduction of an initial needs case assessment earlier in the re-opener

	<p>design, potentially aligned to the Phase 2 Strategic Option Report. This would be delivered approximately 12 months after the PARCA phase 2 contract signature which again would be a trigger point for the Notification. We would then propose that any updates to the need case would be revisited during the Project Assessment submission, post planning consent.</p>
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<ul style="list-style-type: none"> • Need Case Assessment and Cost Assessment 	<ul style="list-style-type: none"> • There is no mention in the guidance of contractual solutions to incremental capacity. see for example paragraph 2.3 which only refers to reinforcement: 'In the event the request for additional capacity cannot be met through substitution and network reinforcement is needed, NGGT is able to request funding under the FIOC Re-opener'. Allowances for Funded Incremental Obligated Entry/Exit Capacity may be used to fund the construction of additional assets and/or contractual arrangements to facilitate the release of that capacity, depending on the most economic and efficient outcome determined by the methodologies in place. • Our views on the FIOCR mechanism and the timing and content of the associated assessment/s were set out in our response to Draft Determinations. Given the further detail made available through this guidance document, we have more concerns about the timing and timescales of such submissions and their interaction or impact on the associated processes, such as the PARCA framework. • Since Draft Determinations, the Need Case and Project Assessment have been split into separate events, however both occur in the timeline (Figure 1) after all material planning consents have been secured. The draft licence condition does not require planning consents to be secured before submission of needs case. There is no information given regarding the timescales for decision, both include consultation, which may have a significant impact on the delivery of projects within the defined PARCA timescales, especially for instances where a Development Consent Order (DCO) is required. It should be noted that the draft licence condition does not provide for consultation in respect of need case consideration. If there is to be consultation then this is a substantive provision which, in accordance with the Associated Document principles, should appear on the face of the licence and not simply in the guidance document. In order to deliver within PARCA Phase 2 timescale, the current position of the Need Case and Project Assessment in Figure 1 would likely result in their submission occurring so close that the separation only introduces further workload and consultation time. As in our response to the Draft Determinations we think an earlier Need Case assessment is the interest of all parties and consumers. It would also be a beneficial stage gate in order to progress a DCO application. • The overview states the Need Case assessment covers 'project need and options analysis' and the application of the related capacity methodology statements – these would be available at an earlier stage in the process than assumed here (para 3.2 'near the end of the phase 2 process'), once the Strategic Options Report has been developed. The requirements detailed for the submission of the need case go beyond what would be required to assess these two areas, however both a procurement and stakeholder engagement strategy would likely have been developed to some degree.
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	<ul style="list-style-type: none"> • The current timing of the approval stages may cause issues or conflict with the PARCA timescales. Significant costs could have been incurred, including the procurement of long lead time items, prior to a Need Case Assessment submission. • 3.5. Currently there is a placeholder for the consideration of competition models. As discussed in our response to the Draft Determinations, consideration must be given to the potential impact to timescales if developed here, along with visibility to how this is applied for gas transmission projects. Additionally, there is no detail provided in 2.9 on the application of LPD incentive mechanisms. Both of these issues are substantive policy issues and neither competition nor LPD are referred to in the draft condition 3.11 included in Ofgem's informal consultation. If these issues are relevant, then they must be provided for on the face of the licence condition and not simply in supplementary guidance. This is consistent with the principles for developing Associated Documents whereby substantive obligations must appear on the face of the licence. • 3.17. It is unclear if the requirements go beyond our current processes for CBA and NGGT's role to determine the most economic and efficient method to meet our capacity obligations. The evidence requirements for Long-term Consumer Value requirements would, where possible, already be part of the options analysis. Consideration of Net Zero is inherent in the use of the Future Energy Scenarios used for options analysis, plus our options appraisal is a robust and transparent process used by NG to compare options and to assess the positive and negative effects they may have across a wide range of criteria including environmental, socio-economic, technical and cost factors. Further clarity on how the scope of application or assessment of Net Zero will influence Ofgem's processes is required. As NGGT is obliged to connect requesting parties under the Act, such matters should be limited to the investment by NGGT only. Our CBA covers all 4 of the FES scenarios and the preferred option will be based on a least regret principle, where possible it will include costs to consumers and is used to assess the most economic and efficient way to provide the required capacity to the customer whilst providing value for consumers. This paragraph does not take into account the role of the mechanics of the NPV test which has a large role in determining the cost of the project that is recovered through requesting customer capacity bookings or shared amongst the wider industry and consumers. • Ofgem Assessment 3.20/21, 4.41 - There is a lack of transparency and detail provided in respect of the process that will be undertaken and the associated timescales.
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<ul style="list-style-type: none"> Funding application approach 	<ul style="list-style-type: none"> 4.1./5.1. The guidance (and SpC 3.11) has not been drafted with information on the possible outcomes of submission applications. The use of the word potential in terms of creation of an output and allowance is symptomatic of this – it should not be potential, a positive decision triggers the output and allowance. Negative decision triggers revised submission/alternative solution (as covered in the current licence in respect to the submission of the capacity notice)/authority veto of project, which in the last instance would trigger the recovery of costs - covered in SpC 6.1 TO Pass Through, PARCA Termination Value. The clarity of this process is missing. At the time of submission and in contrast to some other reopeners, there may have been significant historic costs incurred. There is no information on how these will be treated or assessed. Table x: [Details of the project cost types] items 4/5. The requirement for emails/minutes seems excessive. NGGT has introduced processes and systems to log the assumptions and variables used (logged in eHub). 4.15. To avoid unnecessary additional work and delay through resubmission, agreement of what constitutes a navigable format ahead of submission would be more appropriate. Table x: [Risk Register codes and ID]. Consideration should be given to NGGT's established risk process (risk tool in use, our risk framework, response strategy and risk allocation process). We would propose to use our framework which would cover all the requirements, without the need to convert to a different structure of codes.
<ul style="list-style-type: none"> LOTI Alignment 	<ul style="list-style-type: none"> The FIOCR shares some alignment in policy/process with the LOTI re-opener mechanism, but ignores some others (see our response to the Draft Determinations regarding initial needs case timing/requirement). Careful consideration should be given regarding what is appropriate and works with the frameworks that are already in place and may differ between sectors.

DRAFTING ISSUES	
<ul style="list-style-type: none"> • <u>Cover page</u> • <u>Context section</u> 	<ul style="list-style-type: none"> • National Grid Gas plc is the licence holder and owner / operator of the NTS. This entity can be referred to throughout as NGGT but National Grid Gas Transmission is not a legal entity as implied by the second paragraph. • Second paragraph should refer to NGGT as the owner and operator of the NTS. • “It is the responsibility of NGGT to decide what information is necessary”. Is this not the purpose and intent of the guidance document to clarify and set out what information is <u>necessary</u>? Furthermore, if this cover page is to cite NGGT’s responsibilities we propose it should also cite Ofgem’s responsibilities; namely to make timely decisions in relation to FIOC applications in order to facilitate the efficient functioning of the competitive wholesale energy market. • As drafted this page 3 does not give any context for the FIOC guidance. It needs an additional third paragraph as per the LOTI guidance document in order to set the context of FIOCR. We suggest this could also provide context about the key role the FIOC process plays in facilitating the operation of the competitive wholesale energy markets through the provision of relevant transmission capacity which allows UK gas consumers to access the cheapest sources of gas.
<u>Chapter 1: Introduction</u> <ul style="list-style-type: none"> • 1.1 • 1.3 	<ul style="list-style-type: none"> • Currently Special Condition 3.11 Part G only provides for the guidance to apply to Part C and not Part D. Part G needs to clarify that it applies to C and D. Please see our comments in the informal licence condition response to 3.11. • Part G of 3.11 provides for the existence of the guidance • The same points as made above on the cover page apply to 1.3 re NGG being the owner and operator of the NTS.
<u>Chapter 2: Re-opener overview and assessment process</u> <ul style="list-style-type: none"> • The roles of NGGT and Ofgem 	<ul style="list-style-type: none"> • 2.1 should refer to “..to provide gas entry and exit capacity...” • 2.2: line 2 should refer to “obligated capacity” • 2.3. As raised in the policy points above, reference to solutions other than reinforcement. Update to: “In the event the request for additional capacity cannot be met through substitution of existing obligated capacity and network reinforcement and/or contractual arrangements are required to facilitate, NGG is able to request funding for such proposed solution under the FIOC Re-opener.” • 2.4 should be further expanded. Ofgem’s role is broader than assessing the application. We suggest reference is made to the giving of various direction in accordance with the provisions of Special Condition 3.11. The role of Ofgem in considering the FIOC reopener application should be clarified including the nature of the potential actions and decisions to be taken: e.g. assurance that NGGT has followed the relevant capacity processes, approval of need

<ul style="list-style-type: none"> • A2O Connection Process • Overview of re-opener stages 	<p>case, consequences and next steps in the event Ofgem does not approve, etc as referenced elsewhere in this response.</p> <ul style="list-style-type: none"> • Footnote 1 and Figure 1. Include note ‘where relevant’. The A2O process is not required in all PARCA submissions. • 2.5: Reference to Special Condition [XX] should be to Special Condition 9.13 • 2.6: suggest line 1 refers to “notification under Special Condition 9.13” • 2.6: Insert “relevant” in front of “material” in line 2 • 2.6: line 2, as per comment above, suggest amend to read “NGGT must seek our approval of the need for the network reinforcement and/or contractual arrangements to which its prospective application...relates”. • 2.6: line 6, suggest delete “application of the CMRS” and replace with “the methodologies in the relevant statements maintained under Special Condition 9.17 (see 9.13.7(a)). • 2.6 line 7, please provide clarity of which obligations will be considered when stating - “has fulfilled its obligations around Entry Capacity”. We think it would be helpful for the guidance to refer to specific licence conditions etc here in order to provide the necessary clarification as to what obligations around Entry Capacity will be under consideration • 2.7: There is a lack of text and explanation of events in the case of non-approval by Ofgem of the needs case. There is also no provision around this in the licence. For instance, can the needs case be resubmitted if Ofgem does not initially approve it? How will consequences upon customer programme and PARCA process/timeline be handled? This should be clarified. • 2.8: Wording here, would suggest moving to ‘If FIOC Project Assessment is approved this will lead to the creation of the relevant output, delivery date and allowance within Appendix 1 of Special Condition 3.11 in the licence’. Again, clarity is needed on the process in case of non-approval as neither the licence condition nor the guidance deal with this scenario. • 2.8 refers to a FIOC PCD. Please see out comments on Special Condition 3.11 made in response to the informal licence consultation where reference to FIOC as a PCD was introduced for the first time. This is also inconsistent with paragraph 4.41 which contemplates Ofgem specifying a FIOC Output and FIOC Delivery Date (similar to a LOTI output – the condition on which FIOC was originally modelled). • 2.8 final line refer to “Part F of Special Condition 3.11”. • 2.9. Suggest removal of the word reinforcement in order to cover all projects.
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<ul style="list-style-type: none"> Figure 1. Stages Overview 	<ul style="list-style-type: none"> 2.9 LPD Incentive Mechanisms. More detail should be provided or link to relevant documents, with explanation of how these are relevant to FIOCR projects. As referred to in our policy comments above, the draft licence condition included in the informal consultation made no reference to LPD. If LPD is to be applied in relation to FIOC then this is a substantive policy development and provision must be made for it on the face of the licence condition and not simply in supplementary guidance. This is consistent with the principles for developing Associated Documents whereby substantive obligations must appear on the face of the licence. 2.10 Clarification of ‘certain circumstances’. If this is COAE then should reference relevant licence condition (I.e. Part D of Special Condition 3.11) 2.11 remove ‘a network reinforcement specified as’ Planning/Consent box only appears in A2O column – although this may apply to customer side of projects, the box also needs to appear in the PARCA process. Both customer and NGGT works may be subject to land use planning consents processes, the requirements for which may be onerous and may have important interdependencies. In circumstances where NGGT works require Development Consent Order approval pursuant to the Planning Act 2008 the process and timescales associated with this will be a significant diver for the timing of FIOC reopener application and decision timescales. A2O box in Phase 3 row states design and build – may just be relevant here to state build. Phase 3 box: Refer to network reinforcement and/or contractual arrangements FIOCR column: It may be helpful for relevant boxes to refer to the paragraphs of Special Condition 3.11 that drive the submission / consultation etc.
<p><u>Chapter 3: Needs Case Assessment</u></p> <ul style="list-style-type: none"> Need Case Assessment 	<ul style="list-style-type: none"> 3.1 remove ‘reinforcement’ in front of ‘project’. Change ‘preferred network reinforcement option’ to “preferred strategic option” 3.3: As per the policy response above, we think the need case assessment should occur prior to the planning consent process, therefore this paragraph should be moved to Chapter 4: Project Assessment with the following comments: Suggest delete “from the appropriate local authority (or S of S)” so as to leave flexibility. It is for NGGT to secure all relevant material consents from all appropriate authorities on a case by case basis. Suggest “must have been given” can be removed as first line refers to consents having been secured. Therefore we are not sure what this adds? 3.4: “The quality of evidence presented by NGGT will affect our assessment” is vague and subjective. Ofgem / the guidance should clarify what is meant here. 3.5: Competition Model placeholder. As referred to in our policy comments above, the draft licence condition included in the informal consultation made no reference to competition and no competition drafting was consulted on in the context of the GT licence. If competition models are to be applied in relation to FIOC then this is a

	<p>substantive policy development and provision must be made for it on the face of the licence condition and not simply in supplementary guidance. This is consistent with the principles for developing Associated Documents whereby substantive provisions must appear on the face of the licence.</p> <ul style="list-style-type: none"> • 3.10, 3.11, 3.12 should cross refer to Special Conditions 9.13,9.18 and 9.17 respectively • 3.13. Project delivery timing and timescales. We propose the bullet point list should be expanded to include: “Validity period, deadlines or assumptions in relation to key dates by which Ofgem’s FIOC decisions are required to enable adherence to the submitted programme, including outline of consequences if such dates are not met”. • 3.20: The draft licence condition 3.11 makes no provision for a needs case submission being sent back for resubmission; it should do so. • 3.21: As noted in our policy comments above, the draft licence condition 3.11 does not provide for consultation in respect of need case consideration. If there is to be consultation then this is a substantive provision which, in accordance with the Associated Document principles, should appear on the face of the licence and not simply in the guidance document.
<p><u>Chapter 4: Project Direction Submission and Assessment</u></p> <ul style="list-style-type: none"> • Project Direction 	<ul style="list-style-type: none"> • 4.1: Suggest adding “by applying for a FIOC Project Direction” at the end of the first sentence. Clarity is needed regard the decision Ofgem is making at this stage and how it will be assessed – see other comments regarding transparency of this part of the process in this response. • 4.3: Suggest this paragraph is moved to the top of the section. “Once approval of the need case for the project is given NGGT may submit an application for a FIOC project Direction” • 4.4. Subheadings referenced do not exist in the document: ‘Further detail can be found under the subheadings ‘Relevant information’ and ‘Structure of the submission’. • More information is given on Ofgem assessment process in 4.4. and 4.5 than in Ofgem Assessment section (4.41). • 4.10: “suitable narrative” is subjective and vague. This should be clarified. • 4.13: We are not clear what this provision is aimed at. Please could Ofgem clarify. For instance, if there are other sources of revenue outside of the price control mechanisms that are envisaged here perhaps these could be given as examples in order to give clarification. • 4.20/31: Procurement strategy + Delivery plan/schedule. We propose the bullet point list should be expanded to include: “Validity period, deadlines or assumptions in relation to key dates by which Ofgem’s FIOC decisions are required to enable adherence to the submitted programme, including outline of consequences if such dates are not met”. • 4.37 refers to the RIIO-GT2 efficiency sharing factor. This is not a defined term. Please explain what factor is contemplated here

	<ul style="list-style-type: none"> • 4.41: As drafted this is inconsistent with Appendix 1 of Special Condition 3.11 which refers to a FIOC PCD. Please see our comments made on Special Condition 3.11 in our response to the informal consultation where we suggested use of the terms as referred to in 4.41 to reflect an approach similar to LOTI rather than a PCD output approach.
<u>Chapter 5: Implementation, delivery and adjustment to outputs</u> <ul style="list-style-type: none"> • Implementation into licence 	<ul style="list-style-type: none"> • 5.1: The same point made above in relation to 4.41 also applies to 5.1 • 5.2: Please see our comments above on 4.41 and 5.1. The guidance is not clear as to whether FIOC is a FIOC Output or a PCD. This provision 5.2 seems to assume that it is a PCD but that is inconsistent with 4.41 and 5.1. If this provision envisages FIOC output reporting outside of the PCD reporting framework then such reporting needs to be provided for on the face of the licence as a substantive obligation and not just in the Associated Document guidance.
FINANCE ISSUES	
SUPPORTING INFORMATION	
OFGEM ENGAGEMENT:	LDWG for related conditions. Western Gas Network Upgrade (Milford Haven) PARCA project engagement