

| CROSS SECTOR | |
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| REFERENCE NUMBER: CS6 | CATEGORY: Addition |
| LICENCE CONDITION NUMBER: <i>(if relevant):</i> | SpC 3.2 |
| TITLE: | Cyber Resilience operational technology Re-opener and Price Control Deliverable |
| RELEVANT LICENCE CONSULTATION QUESTIONS <i>(if any):</i> | Q19. What are your views on the proposed changes to the SLCs, SSCs and SpCs outlined in this cross sector chapter? |
| RELEVANT ISSUES LOG: | Cross Sector Sept Issues Logs_Cyber_BusinessIT_issues_log_updated.xls provided on 02/10/20 |
| POLICY ISSUES | |
| <ul style="list-style-type: none"> • Introduction • Part C: Requirement to submit a Cyber Resilience OT Plan. • Part D: Cyber Resilience OT Re-opener | <ul style="list-style-type: none"> • SpC 3.2.1 introduces CROtT (the Cyber Resilience Price Control Deliverable term). It is stated that “this contributes to the calculation of the Totex Allowance”. We note there is a lack of clarity and potential for confusion here because in accordance with Ofgem’s SSMD and DD position, Cyber OT shall be subject to UIOLI treatment and therefore not be subject to the Totex Incentive Mechanism. The PCFM and PCFH would appear to be incomplete since e.g. PCFH table 3.1 of variable values does not include the term CROtT. We suggest two courses of action to improve clarity: <ul style="list-style-type: none"> (i) the definition of Totex Allowance should be amended to refer to the explicit terms that feed into it, and (ii) the way UIOLI allowances and associated totex spend are handled in the PCFM and PCFH should be set out fully in these Associated Documents and correctly interfaced with the relevant licence conditions (see also Finance Issues section below). • We seek clarification that in circumstances where we have already submitted a Cyber Resilience Plan the submission in April 2021 need only comprise amendments and new annexes to the original plan not a complete plan. • SpC 3.2.8 We do not support the concept of an open-ended period for Ofgem to arrive at its reopener decisions. See our response to DD Core Document Q12 and Q16. • SpC 3.2.10 ends “unless the Authority by direction permits applications during specified later periods.” Please explain the circumstances & considerations the Authority would have regard to in making such direction. If the possibility is to be reserved for the Authority to permit applications at other times, we do not see a reason to pre-empt and restrict circumstances by confining the alternative period to later than January 2023. NGGT has already |

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| <ul style="list-style-type: none"> • Part E: Authority triggered re-opener. • Part F: Assessment of outputs (CRORt). | <p>flagged circumstances to the Ofgem Cyber Team whereby our workplan is expected to result in new information being available at the end of 2021 that could provide the driver to reopen much sooner than 2023. The consequence of not being able to reopen at the optimal time and having to “wait” until the next available fixed reopener window would be to delay the delivery of cyber resilience improvements on behalf of consumers. We propose the drafting should not preclude such flexibility. We propose the drafting should be changed to “... during specified later <u>alternative</u> periods”. (where the convention adopted is to use strikethrough for deletions and underline for proposed insertions)</p> <ul style="list-style-type: none"> • Please see also our separate comments on the draft Re-opener Guidance and Application Requirements Document including Appendix 1 Cyber Resilience IT and OT Re-opener Application Guidance, which we will submit by 9 November 2020 as requested. • In the draft GT Licence SpC 3.2.13 & 3.2.14 appear to be rough drafting with out of date references to XX9 and incomplete sentences which don’t make sense. The drafting in the draft ET licence does not suffer in the same way and we assume the intention is that the ET form of wording should also be substituted into the GT licence. • SpC 3.2.15. contains no details of the proposed Use it or Lose it adjustment process which Ofgem presumably intends to be a key vehicle to determine the value of the CRORt term. This is unsatisfactory because it is therefore not clear in what circumstances, how, when and with what impact upon revenue such adjustments are contemplated. We have repeatedly asked for further clarification and we propose that the key details should be set out on the face of the licence not embedded in separate guidance documents. See also our comments on definition of UIOLI Adjustment below. • Taken together SpC 3.2.15 and the equation in SpC 3.2.4 do not give sufficient clarity as to how allowances will be adjusted. For example, the intent should be that allowances are fungible between projects within the programme so that underspend in one project offsets overspend in another. This is appropriate because some allowances are based upon long term unit cost averages where it is to be expected that outturn costs for individual projects will exhibit variance to the average. Similarly, changes in the temporal profile of actual spend versus initial allowances should be allowed without detrimental impact to network companies provided the relevant outputs are delivered inside the RIIO2 period. • Final adjustment to allowances should be performed on an aggregate basis looking at the sum of total spend across all projects/outputs across the RIIO2 period. The final adjustment to allowances will also likely need to take account of work in progress. This is relevant because some of our work will straddle price control periods e.g. with some costs commencing in RIIO2 in respect of which outputs will not be fully delivered until RIIO3. Please refer also to our confidential “Response to RIIO-2 Draft Determinations – NGGT Cyber Resilience Operational Technology” and “Response to RIIO-2 Draft Determinations – NGET Cyber Resilience Operational Technology”. |
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| <ul style="list-style-type: none"> Part G Reporting Requirements. (Absence of Rationale) Part G Reporting Requirements. (Elements to be included) | <ul style="list-style-type: none"> In issue log entry 65 of 03.08.20 National Grid asked Ofgem to explain its rationale for quarterly reporting. In the updated logs provided on 02.10.20 Ofgem has marked up the log with the comment “Ofgem to consider” and has marked the issue as “Closed”. No further information is given to explain Ofgem’s position. Furthermore, we can find no description of Ofgem’s reporting rationale in the September Consultation Document nor the draft determination core document. We consider it unsatisfactory for the purposes of consultation that no rationale has been provided and inappropriate that the issue should have been marked as closed. SpC 3.2.17 sets out the proposed elements (a) to (f) that must be included in quarterly reporting. We provide comments below in respect of each element: <ul style="list-style-type: none"> (a) a summary of progress against Improvement Plan key milestones; NG Comment: We propose this part (a) is of limited relevance and should be removed. We note that our Improvement Plans for GSO, GTO, ET date from June 2019, and their focus was to record objectives for attainment in May 2020 and May 2021. As such these Improvement Plans do not detail key milestones through the five-year RII02 period out to 2026. We therefore suggest the Improvement Plans are of limited relevance for the RII02 period and have extensively been superseded by the more detailed RII02 Cyber OT and Cyber IT scopes of work for which RII02 PCDs are to be implemented. (b) a summary of developments against the licensee's Price Control Deliverable project plans; NG Comment: We agree a key function of reporting is to track progress of the PCD. However, it is not clear from the description “a summary of developments” what format, level of detail, narrative or numbers Ofgem may envisage to be included. We therefore request that Ofgem sets out its thinking by clarifying details of the key fields it would want to see included. (c) the licensee's assessment of the impact of the progress and developments referred to in sub-paragraphs (a) and (b) on improving cyber resilience in relation to OT, including risk reduction or improved CAF Outcomes; NG Comment: instead of “improved CAF Outcomes”, we propose it would be more accurate to refer to “attainment of CAF Outcomes”. See also our comments on point (e) below (d) a description of how the licensee has considered any guidance provided by the Authority; NG Comment: we propose this should be qualified by referring to any <u>relevant cyber</u> guidance. (e) a summary of updated CAF Outcomes; NG Comment: this language appears imprecise. The CAF Outcomes are the 39 outcomes set by NCSC and it is not the role of network companies to “update” NCSC’s outcomes. The goal should be that network companies report the current status of our achievement in relation to the CAF Outcomes. In this regard, part (c) above would already appear to capture this requirement, so this part (e) appears not to be required. and (f) detailed supporting evidence. NG Comment: Please clarify what nature of supporting evidence is sought e.g. is it expected that actual or forecast costs incurred should be included in the reporting? |
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| <ul style="list-style-type: none"> Part G Reporting Requirements. (Process) Appendix 2 Definitions | <ul style="list-style-type: none"> The reporting concept appears to be for quarterly reporting throughout RIIO2, where each report covers project progress and outcomes relating to the immediately preceding 3 month period. This would appear to imply that the overall appraisal of progress at the end of the five year RIIO2 period could require the assimilation of twenty discrete quarterly reports. We suggest this proposed high frequency of reporting would be cumbersome for NG to produce and the plethora of backward looking only reports may be of limited value to the reviewer. Furthermore, if the content of the reports is confined to a historical look back on the preceding three months, then the absence of any forward looking aspect e.g. to re-forecast dates for attainment of future milestones, may again limit the usefulness of the reports. We propose that less frequent but more relevant rolling reporting would be more helpful for both parties. E.g Biannual reports that both look back at what has actually been achieved so far in RIIO2 period and look forward with updated forecasts for delivery in the remaining RIIO2 period. This format of reporting would provide a rolling, cumulative view, where each report essentially supersedes the last. This would mean that the reviewer would always get a full picture of RIIO2 programme status by looking at the single, most recent report. A reporting frequency of once every 6 months would be consistent with the practice adopted for enhanced reporting in relation to the outputs from the 2018 Enhanced Security Reopener. In our view 6 monthly strikes the right balance between sufficient frequency to meaningfully track progress on a five year plan without creating an undue administrative burden on reporter and recipient. We also propose that there ought to be a requirement upon Ofgem to provide a written view back to NG in relation to each report. For example, as elements of scope and milestones are reported as complete, Ofgem should use its written responses to confirm its acceptance. This is appropriate so that there is a meaningful “handshake” and it mitigates against the possibility of a mismatch of expectations building up through the RIIO2 period or stemming from changes in personnel during the five-year period. Please also refer to the further comments we will make in our separate response to the draft Associated Document “PCD Reporting Requirements and Methodology Document”. (In the meantime, please refer to our previous comments of 11 September on Ofgem’s draft “RIIO-2 PCD framework – Further information and guidance”). Rather than requiring submission of reports on a specific single date, we propose a degree of flexibility should be incorporated so that eg it is acceptable for the report to be submitted a day earlier. Suggested amended drafting: “Dates on <u>by</u> which reports must be submitted annually from 31 July 2021 to 30 April 2026.” We propose the maximum frequency of reporting is once every 6 months. Totex Allowance is defined as “means the amount of costs, approved by the Authority, that is used to form a Price Control Financial Model Variable Value (PCFM Variable Value).” This is not sufficiently clear because the constituent parts of totex will now include PCD and reopener elements, plus UIOLI elements (where TIM is not intended to |
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| | <p>apply to the latter). We propose that a more explicit definition is adopted with additional defined terms if necessary. The intent should be to support clear distinction between intended regulatory treatment for the different elements and aligned interface with the PCFM.</p> <ul style="list-style-type: none"> • In keeping with the UIOLI principles previously communicated to us by the Ofgem team, there is not intended to be any ex-post efficiency assessment aspect to the UIOLI adjustment. Therefore, we propose the definition for Use it or Lose it Adjustment is simplified as follows: “means an adjustment to allowances where they have not been spent, or have not been spent in a way that is proportionate, appropriate and efficient to improving cyber resilience in relation to OT, including measured risk reduction or improved CAF Outcomes on the licensee’s network”. The Ofgem team has previously described that the UIOLI instrument is intended to be asymmetric; underspend of UIOLI allowances is to be returned to consumers, while overspend is to be met by network companies. • We propose the definition of OT for ET sector be amended as follows “means a licensee's operational technology and information systems that monitor and control physical devices and processes of operations which relate to electricity/gas transmission. • We propose the definition of OT for GT sector be amended as follows “means a licensee's operational technology and information systems that monitor and control physical devices and processes of operations which relate to electricity/gas transmission. • We note that the term Fully Delivered is defined differently for the gas sector and the ET sector. We propose that a consistent definition is used across sectors. We prefer the ET definition because it is anchored in the terms on the face of the licence rather than by reference to the PCD Guidance Document. • We note that the term Improvement Plan is defined differently for the gas sector and the ET sector. We propose that if this term is retained then a consistent definition is used across sectors. Moreover, we have commented that we do not consider it relevant that this term is referred to in the licence. |
| DRAFTING ISSUES | |
| <ul style="list-style-type: none"> • 3.2.2(d) • 3.2.3(a) • Headings • 3.2.7(b) • 3.2.11 | <ul style="list-style-type: none"> • This provision refers to the UIOLI mechanism but there is no further reference to this mechanism or how it is intended to operate within the condition. • Replace “explains” with “sets out” for consistency with other PCDs. • Headings should be framed as statements not questions. Part A heading should read “What the licensee must deliver” and Part H heading should read “Authority process in making a direction”. • This provision refers to information specified in the re-opener guidance. However, is Part C (submission of Cyber resilience OT Plan) in fact a re-opener as contemplated by the licence and that guidance? • Insert “to the Authority” after “writing” for consistency with other PCDs. |

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| <ul style="list-style-type: none"> Part E 3.2.17 3.2.17(d) | <ul style="list-style-type: none"> The drafting in Part E of the GT licence needs to be aligned with that in Part E of the ET licence When and where will the form of report contemplated here be approved by the Authority? Will this form part of the PCD reporting requirements and methodology document? Where will the guidance contemplated by this provision be set out? |
| FINANCE ISSUES | |
| <ul style="list-style-type: none"> PCFM (Comments also included in PCFM template) | <ul style="list-style-type: none"> There are no specific blue box Variable Value inputs for a Cyber resilience operational technology Re-opener and Price Control Deliverable CROTT (SpC 3.2) or Cyber resilience information technology Re-opener and Price Control Deliverable CRITT (SpC 3.3). However, there are a number of input boxes for resilience. These resilience inputs are not specifically referenced within a licence condition or algebraic term therefore we cannot assess whether they are treated correctly in the PCFM. The UIOLI allowance is included with the totex allowances which we consider appropriate as the allowed totex will result in revenues through the Fast Money and inclusion in the RAV. However, we require further clarification of the mechanisms around the assessment of UIOLI allowances to determine how these allowances and associated totex spend should be reflected in the PCFM. The formula in NGET's Actual totex for UM's on the TIM tab is linked to the uncertain non-load projects re-openers. In the GT2 PCFM the linkage is to the resilience re-opener (UIOLI). We require further clarification on the purpose of these adjustments and assume they should be aligned and consistent across the sectors. It is unclear how the PCFM interfaces with those Totex Allowance terms within the licence which include both PCD and re-opener elements. The licence states that any re-opener will result in an update to the appendix that feeds into the formula for calculating PCD element. We require further explanation from Ofgem as to how this mechanism will work in practice without causing circularity of calculation. Without sight of the PCFM Guidance document, it is also unclear how PCDs work with regards to baseline allowances i.e. in the blue box inputs is it the incremental change we are required to enter or the full allowance amount. This additional information is required before we assess whether the inclusion of the separate elements as individual Variable Values and their treatment through the TIM mechanism within the PCFM will be compatible with the UIOLI allowance calculations. |
| SUPPORTING INFORMATION | |
| OFGEM ENGAGEMENT: | |