Annex 2 - Load related conditions - detailed issues

Summary of issues:

The combined scope of the Load Related Expenditure Re-opener and the Load Related Expenditure volume drivers is unclear.

The boundary between the Load Related Expenditure Re-opener and the Load Related Expenditure volume drivers is unclear.

Text and calculations in SpC 3.9 are internally inconsistent and also inconsistent with inputs expected by the PCFM.

The process for potentially modifying the Load Related Expenditure volume drivers condition mid-RIIO-ED2 is not established correctly.

The Load Related Expenditure Re-opener "trigger" does not recognise the expected basis of RIIO-ED2 ex-ante allowances in the Final Determinations.

The process to be followed in the case of failed volume driver "check metrics" is unclear.

The boundary between pass-through and the Load Related Expenditure Re-opener is not clearly defined.

It is premature to assume that all Strategic Investment projects should be subject to evaluative PCDs.

The net to gross adjustment for Load Related Expenditure needs much more consideration.

The net to gross adjustment for Load Related Expenditure basis is unclear, double counts TIM adjustments and introduces a risk of unconstrained allowance modifications.

Important calculations required for net to gross adjustment for Load Related Expenditure are unclearly defined.

The submission requirements in the net to gross adjustment for Load Related Expenditure need to be reviewed to reflect the fact that baseline assumptions will be set by Ofgem.

SpC 3.11 Part B suggests that inappropriate expectations will be placed on DNOs.

Width of deadband for net to gross adjustment for Load Related Expenditure requires more consideration.

Timing of load uncertainty mechanism adjustments is inconsistent with Ofgem's recent proposal that baseline allowances will only be adjusted to take account of the Access SCR for the first two years of RIIO-ED2.

Interactions between load-related conditions and other RIIO-ED2 conditions also need to be considered.

	Reference 1	Reference 2 (for interaction/ conflict issues)	Issue	Consequence	Assumptions/ suggested fix/ alternative drafting
The combined scope of the Load Related Expenditure Re-opener and the Load Related Expenditure volume drivers is unclear					
1	Load Related Expenditure defined term	SpC 3.2.75 SpC 3.9.2 SpC 3.11.9(b)	The definition of Load Related Expenditure does not make it clear whether the various mechanisms that rely on this term operate on a gross or net of customer contributions basis.	Given the likely impact of customer contributions, this difference in basis could result in different calculations of Load Related Expenditure Re-opener allowances. Clarity regarding this issue is also required to inform any adjustment that Ofgem may direct under the net to gross adjustment for Load Related Expenditure. Any assumption that the Load Related Expenditure Re-opener allowances had been calculated on a gross basis could see materiality incorrect adjustments being directed.	Based on discussions with Ofgem, we assume that SpC 3.2 and 3.9 are expected to operate on a net of customer contributions basis. Define the connection element of this definition as “connections projects that are subject to the apportionment rules under the Common Connection Charging Methodology after deduction of Specific Customer Funded Reinforcement” The definition of Load Related Expenditure would, therefore, be: means expenditure in the following cost categories: (a) connections projects that are subject to the apportionment rules under the Common Connection Charging Methodology after deduction of Specific Customer Funded Reinforcement; (b) primary reinforcement; (c) secondary reinforcement; (d) fault level reinforcement; and (e) New Transmission Capacity Charges. We think this would also work for SpC 3.11.9(b) given the context in which it is used there.
2	Load Related Expenditure defined term	Gross Load Related Expenditure defined term (SpC 3.11)	The definition of Load Related Expenditure includes “connections” which could be interpreted as including sole user assets.	As the definition of Gross Load Related Expenditure relies on the defined term Load Related Expenditure this could suggest that sole user assets should be included in the net to gross calculations. This would be inappropriate and inconsistent with our understanding of baseline percentage calculations.	

3	Load Related Expenditure defined term		Policy intent in terms of inclusion of indirect costs unclear. Ofgem's recent consultation on Access SCR proposes including indirect costs associated with the Access SCR outcome for years 1 and 2 of RIIO-ED2 in LRE baseline allowances. Such indirect costs are not included in the definition of Load Related Expenditure. We understand that the indirect costs for other aspects of Load Related Expenditure have not been included in LRE baselines.	There is a risk that allowances for indirect costs get "over-written" in any re-opener modification resulting in no allowance being provided for these acknowledged costs. It is not clear which uncertainty mechanism will provide for the indirect costs associated with the Access SCR outcome for years 3 to 5 of RIIO-ED2. It is also not clear how extra indirect costs associated with increases in uncertain Load Related Expenditure more generally will be funded.	We are unclear as to the intended policy. We assume that the indirect costs associated with the Access SCR that are to be included in FD baseline allowances will be allowed on a basis that is internally consistent with the baseline allowances for direct costs associated with the Access SCR. Any further indirect costs resulting from the implementation of the outcome of the Access SCR, and those associated with uncertain load-related expenditure costs, should be allowed for via an uncertainty mechanism. If the additional indirect costs are to be provided via the Load Related UM "toolkit", the scope of the Load Related Expenditure defined term and the scope of the Load Related Expenditure volume drivers should be expanded to include indirect costs. If the indirect costs are, instead, to be allowed via a different mechanism (e.g. opex escalator). Ofgem should clarify where those costs will be allowed, and move baseline allowances to align with that process.
The boundary between the Load Related Expenditure Re-opener and the Load Related Expenditure volume drivers is unclear					
4	Secondary Reinforcement defined term	SpC 3.9 Appendix 1	The definition of Secondary Reinforcement appears to include all	It is, therefore, unclear which cost drivers are to be included within the volume driver calculations.	To fix all these:

			secondary network activities, not just load-related activities. Some of the "Definition of Capacity Delivered" descriptions could apply to work undertaken under several cost drivers e.g. volumes such as km circuit installed can be undertaken for multiple purposes. The terms in appendices define the activity but not the cost driver (i.e. the "what" but not the "why"). We understand from recent policy discussions that it is Ofgem's intention that only volumes associated with general reinforcement will be included in the volume driver calculations and that connections-related reinforcement volumes will be within the scope of the re-opener. We note that allowances for secondary volumes set out in the Draft Determinations did not include connections. The Secondary Reinforcement defined term also only relates to HV activities (between 22kV and 1kV). It excludes activities at LV, which are clearly included in the volume driver (for low voltage circuits).	It is necessary to define which cost drivers are relevant e.g. Just general reinforcement? Connections within price control? Fault level reinforcement? All circuits installed (e.g. inc diversions)? Confirmation of this is also needed so that DNOs are able to check the basis of ex-ante allowance apportionment. If ex-ante allowances are misaligned with the mechanisms that will operate, it may result in DNOs having unfunded costs or double counted allowances.	Redraft SpC 3.9.2 to avoid reference to the terms Secondary Reinforcement and Low Voltage Service and to reflect the intended operation in the PCFM (*for PCFM issue description see below*): "The effect of this condition is to update totex allowances to fund the licensee for Load Related Expenditure related to certain defined activities during the Price Control Period" Create defined terms for the volume drivers: Define "Secondary Reinforcement Volume Driver" as means "the value determined in accordance with Part A of Special Condition 3.9" Define "Low Voltage Services Volume Driver" as means "the value determined in accordance with Part B of Special Condition 3.9" Expand definitions of capacity types in SpC 3.9 Appendix 1 and Appendix 2 (or in the guidance document) to be clear about: • The scope of each "unit"; • Which cost drivers are to be included (i.e. general reinforcement, Specific Customer Funded Reinforcement);

5	Secondary Reinforcement defined term	SpC 3.9.2 SpC 3.2.75	Definition of Secondary Reinforcement is broader than the anticipated scope of the SpC 3.9.	When inferring the scope of the Load Related Expenditure Re-opener based on SpC 3.2.75 the reader may wrongly assume that all secondary network reinforcement activities should be excluded from Load Related Expenditure Re-opener calculations. This would result in activities such as secondary network fault level expenditure potentially being missed from LRE allowances.	• Which voltages are to be included; and • Whether net of associated Specific Customer Funded Reinforcement. Remove Secondary Reinforcement and Low Voltage Service terms from the definitions list.
6	Low Voltage Service defined term	SpC 3.9 Appendix 2	The definition of "Low Voltage Service" states that it "does not include the joint and associated components connecting the service line to the distributing main". However, work on these components would be expected to be included in service unbundling activities etc.	The definition suggests that only a sub-set of service unbundling activity costs etc would be funded via this volume driver. This is not consistent with our understanding of intent of the reinforced service capacity types.	
7	Capacity type definitions in SpC 3.9 Appendix 1 and Appendix 2	Load Related Expenditure Volume Drivers Governance Document	The capacity types are defined as "determined in accordance with Load Related Expenditure Volume Drivers Governance Document". However, the governance document does not provide this clarification.	There is potential ambiguity in the interpretation of "units".	
8	Capacity type definitions in SpC 3.9 Appendix 1		Some capacity type definitions refer to "high voltage" and "low voltage" without being clear what voltage levels are being referred to.	There is potential for confusion about which volumes are to be included against which unit costs.	
9	SpC 3.2.75	SpC 3.9	The following activities are currently not included in SpC 3.9 and are assumed to fall into the scope of the	Confirmation of this is needed to enable DNOs to check the basis of ex-ante allowance apportionment. If ex-ante allowances are misaligned	It is essential that Ofgem confirms the intended scope.

			Load Related Expenditure Re-opener for all voltages: • New transmission connection point charges; • fault level; • any work to manage constraints at grid and primary level; • traditional, non-traditional or innovative solutions to manage constraints caused by thermal, voltage, harmonics or reverse power flow issues; • any other service-related reinforcement work; • curtailment and flexibility payments; and • the installation of monitoring equipment to gain network visibility for the management of load-related constraints caused by thermal, voltage, reverse power, fault level or harmonic issues. We also understand that Ofgem is considering whether or not the following activities may be included within the volume driver: • fuse upgrade; and • upsizing of service cable.	with the mechanisms that will operate, it may result in DNOs having unfunded costs or double counted allowances once the mechanisms start to operate.	In particular, recent discussions with Ofgem advise that any connections driven work will sit in the Load Related Expenditure Re-opener and not the volume driver. Ofgem needs to formally confirm this and address via definitions.
Text and calculations in SpC 3.9 are internally inconsistent and also inconsistent with inputs expected by the PCFM					
10	SpC 3.9.2	PCFM	SpC 3.9.2 talks about calculations being “relative to baseline allowances” but calculations in the	There is a mismatch between description and calculation.	Redraft SpC 3.9.2 to avoid reference to the terms Secondary Reinforcement and

			PCFM are not undertaken on that basis. The PCFM seems to be expecting updated allowances i.e. that baseline allowances are "over-written".	It looks like the PCFM is expecting recalculated values and that, although the algebra in SpC 3.9 is correct, the description in SpC 3.9.2 is misleading.	Low Voltage Service and to reflect the intended operation in the PCFM: "The effect of this condition is to update totex allowances to fund the licensee for Load Related Expenditure related to certain defined activities during the Price Control Period" Undertake a consistency check between the licence and the PCFM variable values. Align ex-ante allowances to the ultimate split between SpC 3.2 and SpC 3.9.
11	SpC 3.9.4 SpC 3.9.6	PCFM	The PCFM currently includes variable values for Load: Transformers volume driver and Load: Circuits volume driver respectively, but these two items are combined in the Secondary Reinforcement Volume Driver term (SRVDt) in the draft SpC 3.9. The PCFM does not include a row in the DNO input sheets for the Low Voltage Services Volume Driver term (LVSVDt), but this is included in draft SpC 3.9.	There is a mismatch between the licence condition and the PCFM. The licence condition does not show how the values are expected to be calculated by the PCFM. The PCFM is missing a value that the licence anticipates being required. It is, therefore, unclear whether revenues will be adjusted correctly.	
12	SpC 3.9.5 SpC 3.9.7		SpC 3.9 is drafted to include two separate expenditure caps. This seems to be inconsistent with the policy position set out at 3.79 of Draft Determinations, which suggests that one combined cap would be introduced.		Ofgem should confirm whether its policy intent is to introduce one combined cap or two separate caps and, if necessary, adjust the drafting.
13	SpC 3.9.5 SpC 3.9.7		Ofgem has yet to consult on the policy for how the value of the caps will be determined.	DNOs cannot comment on whether the unit costs and cap are likely to interact appropriately. If the cap is set inappropriately low, it may frustrate the ability of this condition to operate as intended.	The policy for how the value of the caps will be determined should be shared with DNOs.

14	SpC 3.9.5 SpC 3.9.6		The wording of 3.9.5 and 3.9.6 suggests that identical caps will be included for all DNOs.	Paragraph 3.80 of the Draft Determinations suggests that different caps will be introduced for each DNO. We think that this would be sensible given the different network sizes and programme sizes of different DNOs.	We believe that the cap values by DNO should be included in a new appendix and reference should be made to the relevant value in the text of the licence condition. This approach would also assist with defining the missing self-modification process discussed below. (i.e. the self-modification process may modify the value in the appendix without any adjustment to the text of the licence condition being required.
The process for potentially modifying the Load Related Expenditure volume drivers condition mid-RIIO-ED2 is not established correctly					
15	SpC 3.9	Load Related Expenditure Volume Drivers Governance Document paragraph 4.7	The Load Related Expenditure Volume Drivers Governance Document refers to the potential to change the unit costs and caps after the “Review of LRE volume drivers” under the processes set out in SpC 3.9 or SLC 46 (presumably not SpC 46 as stated) processes. No modification processes are set out in SpC 3.9. There is also no process to modify SpC 3.9 included in SLC 46.	If an appropriate self-modification process is not set out on the face of SpC 3.9, modification of this condition would be via the statutory modification process.	An appropriate process needs to be included on the face of the licence in SpC 3.9 to allow modification of the licence after the “Review of LRE volume drivers” process.
16	LRE Volume Driver Governance Document section 4		It is not clear whether it is intended that this process can change licence values retrospectively or just for current and future years. The governance document implies that values could be amended for all	There is lack of clarity of the scope and impact of a future licence modification.	The scope of the review of LRE volume drivers and caps needs to be set out much more clearly. In any case, it would be sensible to set out annual values for each of the unit costs in appendices 1 and 2 of SpC 3.9,

			years – and the unit costs are only listed once to apply to all years.		allowing for unit costs to be modified for certain years.
The Load Related Expenditure Re-opener "trigger" does not recognise the expected basis of RIIO-ED2 ex-ante allowances in the Final Determinations					
17	SpC 3.2.75 (a)	Load Related Expenditure Re-opener Guidance	SpC 3.2.75(a) refers to "an increase in current or forecast demand on the Distribution System" being one of the triggers of the Load Related Expenditure Re-opener whereas the Load Related Expenditure Re-opener Guidance refers to changes in forecast demand relative to "the initial Forecast Demand that was used to set baseline allowances at the start of RIIO-ED2". The definition in the licence would also not allow for circumstances where the same or similar load-related constraints are forecast but DUoS customers will fund a greater proportion of the associated costs. Furthermore, the second part of SpC 3.2.75(a) refers to "a change in conditions on the Distribution System" which is unclear and could potentially be interpreted more broadly than load-related expenditure.	There is potential conflict between the licence and the guidance. We think the wording in the guidance document better reflects intended policy in terms of against which set of assumptions comparisons should be made. However, given the document hierarchy, the wording in the licence condition would need to be adhered to. Without this qualification in the licence condition itself and because Ofgem may set allowances on a different basis to the DNO's actual demand or forecast demand, it is possible that legitimate claims for allowances to be re-opened may be disallowed. Additionally, the trigger would not allow DNOs to re-open, if DUoS customers are expected to fund a much greater proportion of load-related expenditure than was assumed in baseline allowances. This scenario must be allowed for here, given Ofgem's proposal that it will not adjust baselines for years 3 to 5 of RIIO-ED2 to take account of the outcome of the Access SCR.	Amend the wording of SpC 3.2.75(a) to say "an increase in (i) current or forecast load-related constraints on the Distribution System relative to the constraints associated with the forecast demand used by Ofgem to set allowances that are in place at the time the licensee makes a Load Related Expenditure Re-opener application or (ii) the proportion of expenditure associated with load-related constraints on the Distribution System to be funded through Use of System Charges relative to the assumptions used by Ofgem to set allowances that are in place at the time the licensee makes a Load Related Expenditure Re-opener application". Forecast Demand and Actual Demand should be defined terms.

				Similarly, the trigger needs to allow DNOs to include extra expenditure, relative to baseline allowances, due to behavioural change associated with the outcome of the Access SCR, for example more connections on constrained parts of the network. Ofgem does not currently propose to reflect these in baseline allowances for any year of RIIO-ED2.	
18	SpC 3.2.75 (b)(ii)		This paragraph does not explain how the materiality assessment should be made for any second or subsequent re-opener process. This is particularly important given the expectation that there will be two DNO-triggered windows for this re-opener.	It is unclear whether the materiality threshold only needs to apply for the first re-opener application or whether any second application needs to be materially different to the first.	Further detail should be provided to clarify the necessary calculation.
19	SpC 3.2.77(a) Load Related Expenditure Re-opener Guidance paragraph 1.6		SpC 3.2.77(a) requires DNOs to "[give] details of the circumstances under paragraph 3.2.5 that exist". This paragraph should refer to paragraph 3.2.75. Paragraph 1.6 of the Load Related Expenditure Re-opener Guidance has a similar requirement. In the case of increases in load-related constraints, DNOs will only be able to comply with this requirement if they have access to the detailed information under-pinning the	DNOs will require data from Ofgem in order to comply with this requirement.	Amend paragraph to refer to paragraph 3.2.75. DNOs must be provided with the detailed assumptions used by Ofgem in setting baseline allowances.

			assumptions made by Ofgem in setting allowances. This is particularly important in light of Ofgem's proposal to only amend baselines for years 1 and 2 of RIIO-ED2 to take account of the outcome of the Access SCR. Ofgem effectively plans to use different assumptions for different components of the baseline.		
20	SpC 3.2.75	Load Related Expenditure Re-opener Guidance	The "Forecast demand" section of the Load Related Expenditure Re-opener Guidance does not make it clear that the relevant forecast demand to consider is that used by Ofgem to set allowances that are in place at the time of the re-opener application.		The Load Related Expenditure Re-opener Guidance should be updated to align with the licence condition, once the changes outlined above have been implemented.
21	SpC 3.2.77	Load Related Expenditure Re-opener Guidance	The "Application Requirements" section of the Load Related Expenditure Re-opener Guidance is inconsistent with the requirements of SpC 3.2.77. For example, it only refers to forecast demand, whereas details of actual demand may also need to be submitted.	There is confusion about the scope of the required re-opener evidence.	The Load Related Expenditure Re-opener Guidance should be updated to align with the licence condition, once the changes outlined above have been implemented.

22	Load Related Expenditure Re-opener Guidance		Paragraph 1.2 of the "Forecast demand" section of the Load Related Expenditure Re-opener Guidance inappropriately requires DNOs to explain how the forecast has been informed by the Future Energy Scenarios and Committee of Climate Change assumptions.	This requirement is inappropriate for a re-opener application.	This paragraph should be removed.
23	Load Related Expenditure Re-opener Guidance		The section "Access Reform costs" is not yet populated.	This is a key section for DNOs to have sight of in order to consider whether the allowance adjustment mechanisms and baseline allowances have been set in an internally consistent manner.	This section is very important and needs to be added to the document.
24	SpC 3.2.75(b)(i)		This paragraph only permits Ofgem to make allowance adjustments where the Load Related Expenditure is not provided for in baseline allowances.	Given Ofgem's approach to allowance setting, it is unclear whether Ofgem will have sufficiently granular information to confirm which activities have or have not been included in baseline allowances.	
The process to be followed in the case of failed volume driver "check metrics" is unclear					
25	Load Related Expenditure Volume Drivers Governance Document Check metrics		The volume driver mechanism places undue emphasis on "check metrics". These metrics are (a) imperfect indicators of the efficiency and efficacy of load related expenditure and (b) based on data that have not historically been reported and may be subject to reporting inconsistencies that may affect both the setting of target ratios and their application to different DNOs.	There is the risk that this process turns a mechanism that is intended to ensure that the networks are not blockers to net zero into a mechanism that materially delays or curtails essential funding. There is the risk of the metrics "failing", so leading to protracted/ intrusive discussions about efficiency of volumes and the risk of no allowances being provided.	Considerable further work is required to develop these metrics.

				There is the risk that this process operates differently for different DNOs due to differences in interpretation of metric reporting requirements, leading to regional differences in operation. There is the risk that DNOs delay investment due to concerns about whether volumes will be allowed.	
26	Load Related Expenditure Volume Drivers Governance Document Paragraph 2.32	SpC 3.9.4 SpC 3.9.6	This paragraph sets out that "If all checks produce green flags then costs and volumes will be rewarded" This suggests that the mechanistic calculations in the licence condition will be "over-ruled" and incurred costs awarded.	There is a potential conflict between the licence and guidance.	Rephrase the paragraph to say "If all checks produce green flags, the volumes will be used for volume driver calculations without any adjustment".
27	SpC 3.9.4 SpC 3.9.6 SpC 3.9 Appendix 1 SpC 3.9 Appendix 2	Load Related Expenditure Volume Drivers Governance Document Paragraph 2.33	The process to be followed if any check metric is "red flagged" is incomplete. It also assumes that one "red flag" metric results in all volumes being investigated, even if the metric only relates to a sub-set of volumes. The process ends with DNOs submitting further information to Ofgem, but the governance document does not explain what Ofgem will do with that data and how the values to be used in calculations for SpC 3.9 will ultimately be determined.	The process is disproportionate for a mechanism that is intended to be automatic. As the volume driver "over-writes" ex-ante allowances, the process could potentially be interpreted as suggesting the possibility of no allowances, or delayed allowances being provided in this key area.	As set out above, considerable further work is required to develop these metrics. Additionally, when drafting the associated process: Further investigation should be limited to relevant volumes, with any volumes associated with metrics that have been passed being automatically allowed; and The process needs to include details of how Ofgem will ultimately conclude on the appropriate volumes to use for volume driver calculations. This should include the circumstances under which

			The process is unclear as to whether the volumes associated with metrics that have been passed will be automatically allowed.		volumes that are lower than actual volumes will be used in calculations.
28	Load Related Expenditure Volume Drivers Governance Document Paragraph 2.33		The wording "DNOs have exceeded the baseline LRE allowances set at the start of RIIO-ED2" is unclear. It does not explain which costs will be compared to which baselines. For example, are costs: • in year actuals; • cumulative actuals to date; or • actual spend or re-calculated allowances based on adjusted volumes (which could differ to actual spend)? And are baseline allowances: • in year baseline allowances; • cumulative baseline allowances to date; or • baseline allowances for the full 5 years of RIIO-ED2? We also do not understand why this test would apply to all LRE baseline allowances rather than just those within the SRVD scope of the volume driver. It is also unclear whether it is only those volumes that cause the relevant baseline allowance to be		We are unclear as to Ofgem's intended policy here.

			exceeded that will be subject to extra scrutiny or all volumes.		
29	Load Related Expenditure Volume Drivers Governance Document Paragraph 2.13 and 2.14		These paragraphs place a requirement on DNOs to provide independently validated audit of the methodology used prior to the start of the price control period. This requirement is not specified sufficiently clearly for DNOs to understand what they are obliged to do. We are also unclear why Ofgem believes that the application of DNOs' usual data assurance processes will be insufficient.		Ofgem needs to articulate why this is necessary, and provide more guidance on what is expected.
30	Load Related Expenditure Volume Drivers Governance Document Paragraph 2.16		The formula at paragraph 2.16 cannot be viewed.	DNOs cannot assess the intended operation of this metric.	Format formula so that the full formula is visible in document.
31	Load Related Expenditure Volume Drivers Governance Document		This paragraph requires DNOs to submit an ex-ante forecast estimated number of LCTs installed. However, the DNO's forecast will not have a direct relationship with the baseline allowances set by Ofgem at Final Determinations.		This requirement on DNOs should be removed. Ofgem should provide this data to DNOs.

	Paragraph 2.29				
The boundary between pass-through and the Load Related Expenditure Re-opener is not clearly defined					
32	SpC 6.1.3	Load Related Expenditure defined term	The pass through formula includes all Transmission Connection Point Charges (in the TBt term).	There is probably a partial double count of funding of transmission connection point charges.	Based on policy discussions, we assume that Ofgem's policy intent is for the RIIO-ED1 approach to continue. Adjust pass through formula to include Pass-Through Transmission Connection Point Charges Reinstate RIIO-ED1 term "Pass-Through Transmission Connection Point Charges" into the RIIO-ED2 licence. Alternatively, remove transmission connection point charges from the scope of Load Related Expenditure and added into the pass-through formula.
33	Load Related Expenditure defined term		The term "new transmission capacity charges" used in this defined term is not capitalised. It is unclear whether this is intended to match New Transmission Capacity Charges term that is a defined term for RIIO-ED1.	It is unclear whether all Transmission Connection Point Charges are picked up across the combination of the Pass-through and Load Related Expenditure Re-opener conditions. Consequently, there is the potential for unfunded costs or double counting of allowances.	Refer to "New Transmission Capacity Charges" in definition of Load Related Expenditure Reinstate RIIO-ED1 term "New Transmission Capacity Charges" into the RIIO-ED2 definitions list (updated for RIIO-ED2 dates)
It is premature to assume that all Strategic Investment projects should be subject to evaluative PCDs					
34	Strategic Investment defined term	Load Related Expenditure Re-opener Guidance paragraph 1.11	The definition of Strategic Investment is very broad. Taken literally it would potentially include even LV projects that are being deployed in anticipation of longer-term need.	If the literal interpretation of the Strategic Investment defined term is used, this would lead to disproportionate reporting and review processes being initiated.	As set out in our feedback on SpC 3.3, it is inappropriate for the licence to presume that an evaluative PCD will automatically be created as that may not be the most appropriate regulatory treatment. The introduction of any PCDs associated with Strategic Investment

			Paragraph 1.11 of the Load Related Expenditure Re-opener Guidance sets out that all Strategic Investment projects will be set as evaluative PCDs.		should be introduced via a modification made under section 11A of the Electricity Act. We recognise that DNOs may need to provide details of potential Strategic Investment in any re-opener application and so SpC 3.2.77(b) should be retained, but the requirements in SpC 3.2.77(d) and (e) and SpC 3.2.80(b) should be removed and Ofgem can then take the decision on a case by case basis as to what the appropriate regulatory treatment should be, and a PCD can be created if deemed appropriate. As Ofgem currently doesn't propose any ex-ante funded Strategic Investment projects, we think Ofgem's expectation is that there will be far fewer Strategic Investment projects than the defined term currently suggests. This term needs to be updated to better reflect the intent that Ofgem has verbally shared, which is that Strategic Investment projects are very material one-off projects that may merit being subject to a PCD mechanism.
The net to gross adjustment for Load Related Expenditure needs much more consideration					
35	SpC 3.11 general		The need for this condition has neither been justified nor subject to policy consultation.	Introduction of this condition is potentially unnecessary as it has not been considered in the design of other aspects of the toolkit of load-related mechanisms.	Ofgem's proposed continuation of the net to gross adjustment for Load Related Expenditure into RIIO-ED2 needs more consideration.

					Ofgem has not consulted on this proposal. This condition has not been drafted in a manner that is compatible with Ofgem's proposed approach to setting baseline allowances for years 1 and 2 of RIIO-ED2 on a different basis to years 3 to 5 in respect of the outcome of the Access SCR. There are a number of very material drafting issues with this condition.
36	SpC 3.11 general		Ofgem's proposal to adjust allowances relative to the baseline percentage of Gross Load Related Expenditure is flawed in the context of Ofgem's decision to only amend baseline allowances to take account of the outcome of the Access SCR for two of the five years of RIIO-ED2. The changes to the Common Connection Charging Methodology as a result of the Access SCR will inevitably lead to a much greater proportion of load-related expenditure being funded by DUOS customers.	If Ofgem only amends baseline allowances for years 1 and 2 of RIIO-ED2, it is likely that all DNOs will show a material deviation from the percentage assumed in those baselines. If the change also resulted in a material change in net expenditure, this will already have been subject to re-opener applications and changes to volumes recorded in the volume driver. It is, therefore, unclear what purpose this additional adjustment would serve.	
The net to gross adjustment for Load Related Expenditure basis is unclear, double counts TIM adjustments and introduces a risk of unconstrained allowance modifications					
37	SpC 3.11.1		The requirement that the directed value to adjust totex "receives neutral treatment by the Totex Incentive Mechanism" is misaligned with the treatment of associated costs and customer contributions in TIM.	As customer contributions are treated as "negative totex" for TIM purposes, any adjustment that does not correctly interact with the TIM mechanism would seem to partially double count the adjustment e.g. in the event of materially lower customer contributions than expected, DNOs would recover ~50% from customers through TIM and then have a NGLREt adjustments applied on top of that (up to a further 100%).	It would seem much cleaner to adjust totex allowances to ensure that relevant interactions operate correctly rather than to write the calculations to determine a totex neutral value that reflects the differing TIM values etc. This drafting assumes this approach. (But if Ofgem prefers to continue with totex neutral we can consider the necessary algebra). Amend paragraph 3.11.1 to include the standard wording "This contributes to the calculation of the Totex Allowance

38	SpC 3.11.9		The paragraph places no constraint on the quantum of adjustment that Ofgem can direct.	DNOs face the risk of unconstrained allowance adjustments following a subjective review of a report.	(in relation to which see the ED2 Price Control Financial Model)." Paragraph 3.11.9 needs to (a) constrain the maximum quantum of adjustment and (b) better explain how the directed value will be calculated/the factors that will be considered. We do not have sufficient understanding of Ofgem's intended approach to calculating allowance adjustments to propose the text or algebra required to achieve this. There needs to be a clear record of the basis of the LRE calculations on both a gross and net basis at Final Determinations, including unit costs used in SpC 3.9 to understand what is "provided for" in baseline allowances.
39	SpC 3.11.7 SpC 3.11.9		Neither the information to be provided by DNOs, nor the basis on which Ofgem may modify allowances makes reference to the fact that the percentage funded by connecting customers will change for years 3 to 5 of RIIO-ED2 due to Ofgem's proposal to not amend baseline allowances to take account of the outcome of the Access SCR.		
40	SpC 3.11.9		Ofgem's policy for what level of adjustment to totex allowances would be merited if the actual percentage falls outside the Specific Customer Funded Reinforcement Percentage Band is unclear. A number of very different interpretations could, therefore, be made e.g.: • adjustment for amount outside deadband or from baseline; • adjustment to reflect actual net expenditure; • adjustment to reflect actual percentage; or • adjustment to reflect actual levels of customer contributions.	The subjectivity in the possible interpretations of the various adjustment calculations that could be inferred from current wording leads to a very material range of possible outcomes. DNOs cannot predict from the information in the condition how their allowances may be modified.	

41	SpC 3.11.9(a)		The intended interpretation of the phrase “has not justified” in this sentence is unclear.	This suggests that, provided the DNO can explain what has driven the change in percentage customer funded, that no adjustment will be required. This does not seem to align to Ofgem’s articulation of intended policy.	
42	SpC 3.11.9(b) SpC 3.11.2	SpC 3.2 SpC 3.9	It is unclear how Ofgem will determine whether costs have “been provided for” for under volume driver / re-opener when assessing the need for and quantum of any net to gross adjustment for Load Related Expenditure. Similar unclear words are used in introductory paragraph 3.11.2.	The most likely scenario that would lead to a DNO triggering this mechanism results from Ofgem’s proposal that it will only adjust baseline allowances for the outcome of the Access SCR for years 1 and 2 of RIIO-ED2. This has the effect of setting a baseline percentage of Gross Load Related Expenditure expected to be delivered via Specific Customer Funded Reinforcement that is much higher than is actually expected to be the case. In this scenario, it is likely that DNOs will have already triggered the Load Related Expenditure Re-opener to seek allowances for the net costs. In the case of any increased recovery from connecting customers, the costs will often have been provided for. Also, as the volume driver mechanism operates annually, adjustments will have already been made to reflect actual activity.	
Important calculations required for net to gross adjustment for Load Related Expenditure are unclearly defined					

43	SpC 3.11.6 (a) SpC 3.11.7 SpC 3.119		The condition relies heavily on the term “Relevant Expenditure”, which is defined as a percentage rather than as expenditure. In turn, this definition relies on the defined term Actual Percentage of Gross Load Related Expenditure, which is not defined.	There is confusion over the scope of key calculations.	The term “Actual Percentage of Gross Load Related Expenditure” should be used instead of “Relevant Expenditure” in all instances in this condition (i.e. use a term that is clearly expected to be a percentage). (see below for comments on how this should be defined) Delete the defined term Relevant Expenditure.
44	Gross Load Related Expenditure defined term		The term is defined as baseline costs (appendix 5) but (a) this references the incorrect appendix and (b) it needs to be applied as an actual calculation in some instances. The definition also refers to SpC 3.13 rather than 3.11.	The definition of a key calculation input value is confusing and could imply that the denominator of key percentage calculations should always be the baseline costs rather than actual costs.	Define Gross Load Related Expenditure as means “the total amount of expenditure incurred by the licensee in respect of cost areas that make up Load Related Expenditure before the deduction of Specific Customer Funded Reinforcement.” This can be prefixed with “baseline” or “actual” to differentiate between key values referred to in calculations and appendices.
45	Actual Percentage of Gross Load Related Expenditure defined term		This key calculation needs to be defined.	The key metric on which this mechanism is expected to operate is not defined. Different interpretations of this calculation are possible and could result in materially different answers. For example, it is not clear that the calculation is made across the 5 years of RIIO-ED2.	Add the defined term Actual Percentage of Gross Load Related Expenditure: Means “actual expenditure on Specific Customer Funded Reinforcement for the Price Control Period expressed as a percentage of actual Gross Load Related Expenditure (including any expenditure on Strategic Investment projects) for the Price Control Period”. Capitalise this term in SpC 3.11.2.

					Use this term instead of “Relevant Expenditure” (as explained above).
46	Specific Customer Funded Reinforcement Percentage Band defined term		The definition incorrectly refers to Appendix 2 rather than appendix 4. Also, it states that it “represents the licensee’s Baseline Specific Customer Funded Reinforcement expressed as a percentage of Gross Load Related Expenditure.” Baseline Specific Customer Funded Reinforcement is not a defined term so should have a lower case B. There should also be reference to baseline in relation to the Gross Load Related Expenditure.		Define Specific Customer Funded Reinforcement Percentage Band as: means the interval between the upper and lower threshold percentages set out against the licensee’s name in Appendix 4 where the relevant percentages represent the licensee’s Baseline Specific Customer Funded Reinforcement expressed as a percentage of baseline Gross Load Related Expenditure.
The submission requirements in the net to gross adjustment for Load Related Expenditure need to be reviewed to reflect the fact that baseline assumptions will be set by Ofgem					
47	Part C SpC 3.11.6		Part C of paragraph SpC 3.11, and paragraph 3.11.6 in particular, seem to be phrased assuming that this adjustment will reduce allowances. However, the more likely scenario is that DNOs will recover a lower proportion from connecting customers and an increase to allowances will be justified - because of Ofgem’s proposed approach to setting allowances to take account of the Access SCR.	There is a risk that this condition is inappropriately interpreted to be an asymmetric adjustment.	Amend paragraph 3.11.6 to read: The licensee must report to the Authority by 31 July 2028 whether: (a) its Actual Percentage of Gross Load Related Expenditure has fallen inside or outside the Specific Customer Funded Reinforcement Percentage Band; and if its Actual Percentage of Gross Load Related Expenditure has fallen outside the Specific Customer Funded Reinforcement Percentage Band, whether there is a justified reason for an adjustment to be made under Part D
48	SpC 3.11.6		The paragraph is unclear as to whether DNOs are required to submit a report if their percentage falls within the deadband.	The obligation is unclear. We assume that Ofgem would require the details of the outturn percentage from all DNOs.	

49	SpC 3.11.7		Paragraph 3.11.7 requires DNOs to provide detailed information about changes relative to the baseline assumptions. Baseline assumptions will be set by Ofgem at Final Determinations. It is unclear to DNOs whether Ofgem's allowance setting approach will provide details such as insourcing/ outsourcing assumptions for the notionally efficient DNO that would be required to meet this.	It is unclear whether DNOs will have sufficient information about Ofgem's assumptions in setting baseline allowances to meet the specific requirements of this paragraph. It also does not require details of some factors that are more likely to drive such a change in the customer funded proportion, such as the impact of the move to the Access SCR basis of charging for connections for years 3 to 5 of RIIO-ED2, or differences between demand assumptions made by Ofgem and actual demand.	Submission requirements should be taken up a level to allow the DNOs to provide the most relevant evidence to Ofgem. Amend paragraph 3.11.7 to read: "Where the licensee's Actual Percentage of Gross Load Related Expenditure has fallen outside its Specific Customer Funded Reinforcement Percentage Band, the licensee must include reasons why the proportion of Gross Load Related Expenditure that was to be delivered through Specific Customer Funded Reinforcement is materially different to the proportion assumed at the outset of the Price Control Period." Ofgem must provide DNOs with sufficient detail regarding its assumptions at Final Determinations to allow the DNO to do this.
50	SpC 3.11.7(b)		The statement in SpC 3.11.7(b) is illogical. This sub-paragraph is worded: "reasons why reinforcement that was forecast to be funded through Gross Load Related Expenditure at the outset of the Price Control Period has in fact been delivered through Specific Customer Funded Reinforcement;" By definition, Specific Customer Funded Reinforcement is always included in Gross Load Related Expenditure.	This requires the licensee to report on a scenario than cannot occur. This may also create confusion regarding the interpretation of key terms that are used in calculations.	
SpC 3.11 Part B suggests that inappropriate expectations will be placed on DNOs					

51	SpC 3.11 Part B SpC 3.11.5		This title and paragraph are misleading. SpC 3.11.5 "The baseline percentage of Gross Load Related Expenditure that it is anticipated the licensee will deliver via Specific Customer Funded Reinforcement" is misleading because DNOs are not funded to deliver a percentage of Gross Load Related Expenditure. They are funded to deliver Load Related Expenditure.	This Part is confusing and misleading. It suggests an inappropriate target on DNOs. In particular, it may suggest a conflict with DNOs' charging obligations under the Common Connections Charging Methodology.	Suggest Part B is completely deleted. No equivalent text has been deemed required in SpC 3.2 or SpC 3.9 so not needed here either. If Ofgem believe some text should be retained (perhaps to introduce appendix 2?), the following could work: The Specific Customer Funded Reinforcement assumed in baseline allowances expressed as a percentage of Baseline Gross Load Related Expenditure is set out in …"
Width of deadband for net to gross adjustment for Load Related Expenditure requires more consideration					
52	SpC 3.11 Appendix 4		While Ofgem has not consulted on the issue, we understand that Ofgem proposes that any "deadband" would be set to ± 5% from percentage assumed when setting baseline allowances. This percentage has not been subject to consultation elsewhere.	Thought needs to be given to how the deadband should be established in this condition. A number of factors have changed since the ±5% deadband used in RIIO-ED1 was set: (1) For years 1 to 2 of RIIO-ED2, the change to connections charging rules as a result of the Access SCR mean that much tighter rules have been established to determine what connecting customers pay. This removes uncertainty associated with interpretation of connection charging rules, as well as meaning that many more projects will be DUoS funded than was the case in RIIO-ED1.	We suggest that more consideration is given to the width of the deadband, especially in light of Ofgem's approach to setting allowances to reflect the Access SCR.

				(2) Ofgem's proposal that baseline allowances will only be amended for years 1 and 2 of RIIO-ED2 means that much lower percentage contribution rates than baseline assumptions are likely to be seen for years 3 to 5 of RIIO-ED2. (3) Ofgem's proposal to base baseline allowances on a relative low load growth scenario will result in the same percentage representing a much bigger value in pounds than would have been the case if a more central scenario had been chosen. (4) The introduction of the load-related expenditure volume driver means that allowance adjustments for many of the lower voltage activities are made automatically, rather than subject to the wide deadband of the RIIO-ED1 re-opener.	
Timing of load uncertainty mechanism (UM) adjustments is inconsistent with Ofgem's recent proposal that baseline allowances will only be adjusted to take account of the Access SCR for the first two years of RIIO-ED2					
53	Load UM conditions general		Ofgem's recent consultation position proposing to only amend baseline allowances for the first two years of RIIO-ED2 to take account of the outcome of the Access SCR means that all DNOs are now more likely to trigger allowance modifications through all load UMs during RIIO-ED2.	The re-opener windows in draft SpC 3.2 do not align to those proposed in the Access SCR consultation. The timing of potential allowance modifications means that DNOs will not have certainty of year 3 allowances in time for the commencement of that year.	Ofgem should review the timings of the various triggers in light of its Access SCR outcome proposals.

			That consultation also proposed that two re-opener windows would be required for the Load Related Expenditure Re-opener. The load uncertainty mechanisms are not currently designed to provide for modification of year 3 allowances in time for the commencement of that year. Furthermore, the timing difference between the Load Related Expenditure Re-opener window and the adjustment to Load related expenditure volume driver caps means that Ofgem will not be able to take account of both components at the same time.	Given the material changes to required expenditure that are anticipated, this creates a risk of delays in sufficient funding meaning that distribution networks become a blocker to LCT uptake.	
54	SpC 3.2.76		Dates do not correspond with the windows proposed in the recent Access SCR consultation.		
Interactions between load-related conditions and other RIIO-ED2 conditions also needs to be considered					
55	Load “toolkit” conditions	Other conditions	Once the issues in the core “toolkit” of documents have been resolved, further work will be required to ensure that the core mechanisms interact correctly with other RIIO-ED2 conditions. We have identified the following further conditions that need to correctly interact with the toolkit of load-related UMs.		We have focussed our attention primarily on identifying issues with the core “toolkit” of load-related conditions. Once issues identified with the core conditions have been resolved, we are happy to move on to support the resolution of these wider issues.

56	Load "toolkit" conditions	SpC 3.2 Storm Arwen Re-opener	The boundary between conditions needs to be clearly defined. The Storm Arwen Re-opener may result in fundamental changes to planning standards which could include, for example, changes to interconnection standards, which would normally be categorised as LRE.		
57	Load "toolkit" conditions	SpC 3.2 West Coast of Cumbria Re-opener (ENWL)	The boundary between conditions needs to be clearly defined. The West Coast of Cumbria Re-opener will result in new assets, including new GSPs, resulting in amended LRE (inc TCP) requirements. It may remove assets that were previously scheduled to be subject to LRE.		We note the additional re-opener guidance considers interaction with any other UM.
58	Load "toolkit" conditions	SpC 3.6 Net Zero	The boundary between conditions needs to be clearly defined. The definition of Net Zero Development includes "*new investment arising from the agreement of a Local Area Energy Plan*" – commonly these would result in LRE.		
59	Load "toolkit" conditions	SpC 3.7 Co-ordinated Adjustment Mechanism	The boundary between conditions needs to be clearly defined.		

			The Co-ordinated Adjustment Mechanism may transfer LRE projects (including Strategic Investments) between DNOs or between ED and T. Costs may also be moved from TCP to LRE or vice versa.		
60	Load “toolkit” conditions	SpC 3.8 Green Recovery	The boundary between conditions needs to be clearly defined. Some Green Recovery Agreed Schemes may deliver load-related outcomes.		
61	Load “toolkit” conditions	SpC 3.12 Off-gas grid mechanistic Price Control Deliverable (UKPN)	The boundary between conditions needs to be clearly defined. The Off-gas grid mechanistic Price Control Deliverable relates to provision of capacity ahead of need to Off-Gas Grid Customers.		
62	Load “toolkit” conditions	SpC 9.X Whole System Strategies	The boundary between conditions needs to be clearly defined. Policy and the draft condition not yet available, but may affect expenditure that could be categorised as LRE.		