

Consultation

Statutory consultation on proposed electricity transmission licence modifications: Accelerated Strategic Transmission Investment (ASTI) Price Control Deliverable assessment

Response deadline:	18 September 2024
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This statutory consultation sets out the modifications to Special Condition (SpC) 3.41 Accelerated strategic transmission investment Re-opener and Price Control Deliverable term (ASTIRt) and SpC 9.3 Price Control Deliverable assessment principles and reporting requirements. This is to give effect to our decision¹ to include an ex-post allowance adjustment mechanism in respect of Accelerated strategic transmission investment (ASTI) projects as part of the Price Control Deliverable (PCD) assessment in cases where efficient outturn costs are greater than or equal to +/- 5% of total provided allowances. This consultation also sets out the proposed modifications to the Price Control Deliverable Reporting Requirements and Methodology Document to give effect to the modifications to SpC 9.3 and SpC 3.41.

We would welcome views from the Transmission Owners (TOs), people with an interest in the delivery of onshore electricity transmission infrastructure, other interested stakeholders and the public.

This document outlines the scope, purpose and questions of the consultation and how you can get involved. Once the consultation is closed, we will consider all responses. We want to be transparent in our consultations. We will publish the non-confidential responses we receive alongside a decision on next steps on our website at [ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations). If you want your response – in whole or in part – to be

¹ [Decision to modify the special licence conditions in the electricity transmission licences: Accelerated Strategic Transmission Investment | Ofgem](#) paragraph 3.43

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considered confidential, please tell us in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential, and if possible, put the confidential material in separate appendices to your response.

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1. Introduction

Background

- 1.1 In December 2022 we published our decision to introduce a new Accelerated strategic transmission investment (ASTI) framework (referred to within this document as our ASTI decision).² Within this framework, Ofgem will assess and approve funding for large, strategic onshore electricity projects that are required to deliver the Government's ambition, set out in its British Energy Security Strategy,³ to connect up to 50GW of offshore wind generation to the electricity network by 2030.
- 1.2 In May 2023 we consulted⁴ on and in August 2023 we published our decision⁵ on the licence modifications required to give effect to the ASTI decision and incorporate the ASTI framework into the Transmission Owners' (TOs) electricity transmission licences (referred to within this document as our ASTI licence modification decision).
- 1.3 Our ASTI licence modification decision made provision for an ex-post allowance adjustment as part of the Price Control Deliverable (PCD) assessment where the efficient outturn costs of delivering an ASTI output are greater than or equal to +/- 5% than provided allowances.⁶ We are now consulting on the modifications required to SpCs 3.41 and 9.3 in the TOs' electricity transmission licences and the Price Control Deliverable Reporting Requirements and Methodology Document⁷ (the PCD guidance) that will allow us to implement this policy decision.

What are we consulting on?

- 1.4 We are consulting on adding an additional Appendix to the PCD guidance to explain how we will undertake our assessment of the ASTI Output PCDs (as per Appendix 1 in SpC 3.41), specifically how we propose to make an ex-post allowance adjustment where the efficient outturn costs of delivering an ASTI Output are greater than or equal to +/-5% than allowances provided.

² [Decision on accelerating onshore electricity transmission investment | Ofgem](#)

³ [British energy security strategy - GOV.UK \(www.gov.uk\)](#)

⁴ [Statutory consultation to modify the special licence conditions in the electricity transmission licences: Accelerated Strategic Transmission Investment | Ofgem](#)

⁵ [Decision to modify the special licence conditions in the electricity transmission licences: Accelerated Strategic Transmission Investment | Ofgem](#)

⁶ Paragraph 3.43 of [our Decision](#).

⁷ [Price Control Deliverable Reporting Requirements and Methodology Document | Ofgem](#)

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- 1.5 We are also consulting on a proposed modification to SpC 3.41 (Accelerated strategic transmission investment Re-opener and Price Control Deliverable term (ASTIRt) and SpC 9.3 (Price Control Deliverable assessment principles and reporting requirements) that will allow us to implement any allowance adjustment.

Related publications

- 1.6 <https://www.ofgem.gov.uk/publications/decision-accelerating-onshore-electricity-transmission-investment> (ASTI decision)
- 1.7 [Accelerated Strategic Transmission Investment Guidance And Submission Requirements Document \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/publications/decision-accelerating-onshore-electricity-transmission-investment) (ASTI guidance)
- 1.8 <https://www.ofgem.gov.uk/publications/decision-modify-special-licence-conditions-electricity-transmission-licences-accelerated-strategic-transmission-investment> (ASTI licence modification decision)
- 1.9 https://www.ofgem.gov.uk/sites/default/files/docs/2021/02/final_determinations_et_annex_revised.pdf (RIIO-ET2 Final Determinations)
- 1.10 https://www.ofgem.gov.uk/sites/default/files/2023-08/Price%20Control%20Deliverable_Reporting_Requirements_and_Methodology_Document_v4.pdf (PCD guidance)

Consultation stages

- 1.11 This consultation opens on August 20, 2024 and closes on September 18, 2024. Following consideration of the responses we will publish our decision on the Ofgem website.

Figure 1: Consultation stages

Stage 1	Stage 2	Stage 3	Stage 4
Consultation open	Consultation closes (awaiting decision). Deadline for responses	Responses reviewed and published	Consultation decision/policy statement
20/08/2024	18/09/2024	TBD	TBD

How to respond

- 1.12 We want to hear from anyone interested in this consultation. Please send your response to the person or team named on this document's front page.
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- 1.13 We have asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.
- 1.14 We will publish non-confidential responses on our website at www.ofgem.gov.uk/consultations.

Your response, data and confidentiality

- 1.15 You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.
- 1.16 If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we will get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.
- 1.17 If the information you give in your response contains personal data under the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in domestic law following the UK's withdrawal from the European Union ("UK GDPR"), the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 4.
- 1.18 If you wish to respond confidentially, we will keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We will not link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

General feedback

- 1.19 We believe that consultation is at the heart of good policy development. We welcome any comments about how we have run this consultation. We would also like to get your answers to these questions:
1. Do you have any comments about the overall process of this consultation?

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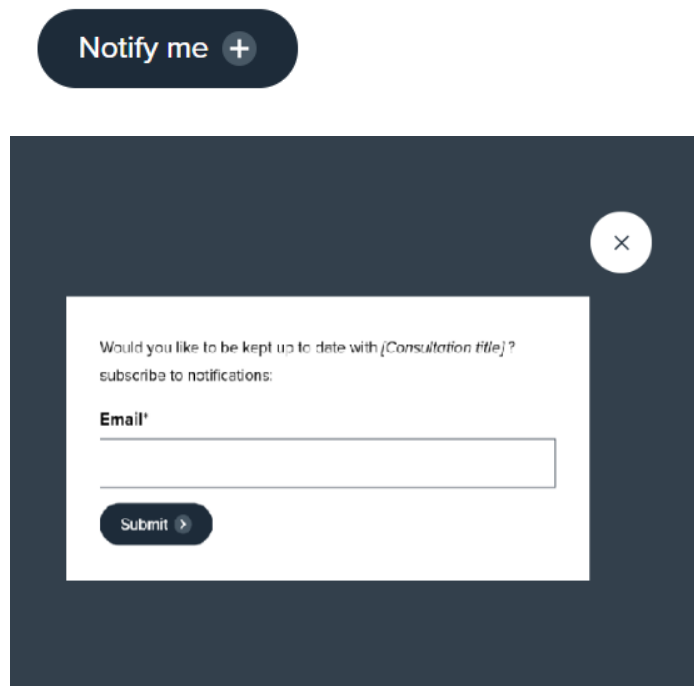
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Any further comments?

Please send any general feedback comments to stakeholders@ofgem.gov.uk

How to track the progress of the consultation

You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website.

[Ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations)



The image shows a dark blue button with the text "Notify me" and a plus sign icon. Below it is a dark blue modal window with a white background. The modal contains the text: "Would you like to be kept up to date with [Consultation title]?" followed by "subscribe to notifications:". There is an "Email" label above a text input field. At the bottom of the form is a dark blue "Submit" button with a right-pointing arrow. A white close button with an 'x' icon is in the top right corner of the modal.

Once subscribed to the notifications for a particular consultation, you will receive an email to notify you when it has changed status. Our consultation stages are:

Upcoming > **Open** > **Closed** (awaiting decision) > **Closed** (with decision)

2. ASTI Outputs – PCD assessment

ASTI Cost and Output Adjustment Event

- 2.1 Our ASTI decision included an ASTI Cost And Output Adjusting Event (ASTI COAE) re-opener to 'potentially adjust outputs, target dates and allowances should there be material changes to the output that is required to be delivered, or where efficient outturn costs deviate +/- 10% from provided allowances'.⁸ ASTI COAE means 'events outside of the licensee's reasonable control and which the licensee could not have economically and efficiently planned a contingency for which have a material impact on the scope or cost of an ASTI Output'.⁹
- 2.2 In May 2023 we published the ASTI statutory licence modification consultation, which included within SpC 3.41 (Accelerated strategic transmission investment Re-opener and Price Control Deliverable)¹⁰ provision for the ASTI COAE re-opener with a materiality threshold of 10% of project value. We also consulted on the (draft) Accelerated Strategic Transmission Investment Guidance and Submission Requirements Document, which included an allowance adjustment where efficient outturn costs deviate +/- 10% or more from provided allowances as an example of an ASTI COAE.
- 2.3 In response to this consultation, the TOs expressed concern that having a materiality threshold of 10% of project value before an ASTI COAE re-opener could be triggered exposed them to an unacceptable level of risk across the portfolio of ASTI projects, as a 10% threshold equates to around £2bn of potentially unfunded and unrecoverable costs. We agreed with the TOs, and our ASTI licence modification decision set the ASTI COAE threshold at 5% of project value rather than 10% threshold initially consulted on.¹¹

Ex-post allowance adjustment

- 2.4 Our ASTI licence modification decision also stated that an allowance adjustment based on efficient outturn costs may not meet the definition of an ASTI COAE (see paragraph 2.1 above), on the basis that efficient project expenditure is not

⁸ Paragraph 5.41

⁹ Special Condition 1.1 (Interpretation and definitions)

¹⁰ [Statutory consultation to modify the special licence conditions in the electricity transmission licences: Accelerated Strategic Transmission Investment | Ofgem](#)

¹¹ Paragraph 3.43

'outside of the licensee's reasonable control'. We then stated that 'our view is that this policy intention is best implemented as part of the PCD assessment when outturn costs are known, and we intend to consult on making modifications to Special Condition 9.3 and the (PCD guidance) to enable this allowance adjustment in due course'.¹²

- 2.5 We consider it necessary to include an allowance adjustment mechanism for efficient outturn costs in order to protect both consumers and TOs. There is considerably more cost uncertainty for ASTI projects than we have typically seen for projects delivered through the Large Onshore Transmission Investment (LOTI)¹³ regulatory framework, due to factors such as a constrained supply chain, commodity and labour price volatility, and the requirement for new assessment approaches in order to streamline the regulatory assessment. This increases the risk of windfall gains or exposure to unfunded costs for TOs, which can be mitigated through an ex-post allowance adjustment.
- 2.6 We consider that the 5% ASTI COAE threshold is the appropriate threshold for an ex-post adjustment as it strikes a fair balance between protecting consumers and TOs from windfall gains or unfunded costs and financeability risk respectively, whilst still incentivising efficiency through the Totex Incentive Mechanism (TIM).
- 2.7 The rest of this consultation document sets out the modifications we are proposing to SpC 9.3 and the PCD guidance that will enable us to implement the policy intention to make an ex-post allowance adjustment where the efficient outturn cost delivering an ASTI Output are greater than or equal to +/- 5% from provided allowances.

¹² Paragraph 3.43

¹³ [Large Onshore Transmission Investments \(LOTI\) Re-opener Guidance | Ofgem](#)

2.8

3. Price Control Deliverable Reporting Requirements and Methodology Document

Questions

Q1. Do you agree with our proposed new Appendix 7 to the Price Control Deliverable Reporting Requirements and Methodology Document?

- 3.1 This chapter includes our proposed modification to the PCD guidance in order to demonstrate how we will make an allowance adjustment in respect of ASTI Outputs where efficient outturn costs are greater than or equal to +/- 5% from provided allowances.
- 3.2 Following publication of our ASTI licence modification decision¹⁴ we have been engaging with the TOs, through working group and bilateral meetings, regarding the specific details of how we intend to undertake an ex-post allowance adjustment and have been considering three potential approaches.

Approach 1 – True up allowances to actual expenditure

- 3.3 Under this approach, the allowance adjustment mechanism would operate in broadly the same way as the ASTI COAE mechanism. If the efficient actual outturn costs delivering the ASTI Output are greater than or equal to +/- 5% from provided allowances, as adjusted by any re-openers, allowances are then adjusted to reflect the actual expenditure.
- 3.4 If the efficient actual outturn costs are less than +/-5% from provided allowances, as adjusted by any re-openers, any over- or under-spend against allowances would be subject to the TIM.
- 3.5 For example, if allowances were £200m and efficient actual outturn expenditure was £250m, an additional £50m would be provided to the TO following the PCD assessment.

Our view

- 3.6 This approach is relatively straightforward to apply and is in line with our ASTI decision and the ASTI COAE approach. It ensures the TOs are not exposed to unacceptable levels of overspend risk that could give rise to financeability

¹⁴ [Decision to modify the special licence conditions in the electricity transmission licences: Accelerated Strategic Transmission Investment | Ofgem](#)

concerns, and also ensures consumers are protected against any potential windfall gains. It also provides an efficiency incentive on the TOs as the TIM would still apply to expenditure less than +/- 5% of allowances.

- 3.7 However, this approach creates a perverse incentive for the TOs to operate inefficiently and incur costs around the 5% margin. It also provides limited incentive for the TOs operate efficiently once it is apparent that outturn costs will be beyond the 5% margin.

Approach 2 – True up allowances to the +/- 5% margin and apply the TIM

- 3.8 Under this approach, if the efficient actual outturn costs delivering an ASTI Output are greater than or equal to +/- 5% of provided allowances, as adjusted by any re-opener, then allowances are adjusted only to the 5% margin, with any over- or under-spend up to the 5% margin subject to the TIM.
- 3.9 For example, if allowances were £200m and efficient outturn expenditure was £250m, an additional £40m would be provided to the TO following the PCD assessment, with the remaining £10m (5%) overspend being subject to the TIM.

Our view

- 3.10 Like Approach 1, this is a relatively straightforward mechanism to implement, however it removes the perverse incentive around the 5% margin highlighted above. Truing up allowances to the 5% margin rather than to actual expenditure still incentivises efficient expenditure to a limited degree if outturn costs are likely to be greater than or equal to +/- 5%, however it exposes the TOs to a greater degree of any overspends, while equally potentially benefiting them to a greater degree from any underspends.

Approach 3 – Set variable TIM rates for costs above / below the +/- 5% margin

- 3.11 Under this approach, rather than making a direct allowance adjustment following the PCD assessment if efficient actual outturn expenditure is greater than or equal to +/- 5% from provided allowances, we would set different TIM sharing factors ex ante for expenditure above/below the 5% margin.
- 3.12 For expenditure up to the 5% margin, we would assume that the current TIM sharing factors, as per SpC 1.1 in the TOs' licences, would apply. Then for expenditure beyond the +/-5% margin, we would set a much lower sharing factor for the TOs so that consumers would assume a larger proportion of any over- or under-spend.
- 3.13 For example, assuming a current sharing factor of 50% and a sharing factor of 10% for expenditure greater than or equal to +/- 5% of provided allowances, as

adjusted by any re-opener, if allowances were £200m and efficient outturn expenditure was £250m, consumers would pay an additional £41m and the TO would be required to fund the additional £9m.¹⁵

Our view

- 3.14 This approach addresses both of the issues with Approaches 1 and 2 above, namely the perverse incentive around the 5% margin and the limited incentive for efficient expenditure beyond the +/- 5% margin. However, this approach is more of a departure from the ASTI decision than the other approaches and more complex in terms of how it could apply in the licence and the RIIO Price Control Financial Model. It is also not clear what an appropriate sharing factor would be for expenditure beyond the 5% margin and we have not consulted on this in any ASTI decisions.

Our proposal

- 3.15 Following careful consideration of the pros and cons of each approach, and the feedback received from the TOs, we propose to make any allowance adjustment following the PCD assessment in line with Approach 2. We consider this approach strikes a fair apportionment of risk between consumers and the TOs, protects against potential windfall gains or unfunded investment requirements, avoids the perverse incentive to increase costs around the 5% margin as seen in Approach 1, is a relatively straightforward mechanism, and maintains a strong incentive on the TOs to deliver the ASTI outputs as efficiently as possible.
- 3.16 We acknowledge that this proposal is a slight departure from the ASTI COAE mechanism, which adjusts allowances to reflect actual costs rather than to the 5% margin, however we consider this is justifiable given there are different drivers for ASTI COAEs and actual expenditure delivering ASTI Outputs.
- 3.17 We propose to incorporate the below as Appendix 7 to the Price Control Deliverable Reporting Requirements and Methodology Document which sets out how we propose to adjust allowances following the PCD assessment of ASTI Outputs.

¹⁵ 50% TIM applied to first 5% of overspend (£10m overspend, £5m following TIM application), 90% TIM applied to remaining overspend (£40m overspend, £36m following TIM application).

Appendix 7 – Electricity Transmission: ASTI Price Control Deliverables

With respect to:

- Special Condition 3.41 Accelerated Strategic Transmission Investment Re-opener and Price Control Deliverable (ASTIRt)
- Accelerated Strategic Transmission Investment Guidance And Submissions Requirements Document

The following paragraphs set out details of how the ASTI Outputs under Special Condition 3.41 will be assessed.

Assessment of delivery of ASTI Outputs will follow the principles set out in this document and in accordance with Special Condition 9.3 (Price Control Deliverable Reporting Requirements and Methodology Document) of the licensees' electricity transmission licences. All reporting requirements for ASTI Outputs are as per Chapter 6 of this document and the Accelerated Strategic Transmission Investment Guidance And Submissions Requirements Document.

PCD Assessment

Where an ASTI Output has not been Fully Delivered, or not been Fully Delivered With An Alternative Specification, the principles set out in this document will apply.

Where an ASTI Output has been Fully Delivered, or Fully Delivered With An Alternative Specification, an allowance adjustment will be made where the efficient actual outturn costs are greater than or equal to +/- 5% of total allowances provided. This is the allowance provided following an ASTI Project Assessment Decision (ASTIAt), as adjusted following any subsequent re-opener under Special Condition 3.41.

When assessing delivery of ASTI Outputs, before determining the efficient actual outturn costs upon which to calculate whether the +/- 5% of allowance margin has been exceeded, Ofgem will disallow any expenditure which is determined to be inefficient.

Ofgem's approach to disallowing inefficient expenditure will apply the following principles:

- Disallowance considerations will be initiated only if evidence of potential inefficiencies emerge.
- Expenditure that is consistent with policies approved by Ofgem will not be considered inefficient.
- Efficiency will be considered on the basis of the knowledge and the information that should have been reasonably available to the licensee at the time of incurring expenditure.
- Overspend against allowances does not equate automatically to inefficient expenditure.

Once the efficient actual outturn costs have been determined, Ofgem will calculate 5% of the total allowances provided. This will then be added to, and subtracted from, the total allowances provided to calculate the greater than or equal to +/- 5% overspend and underspend margins.

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Any efficient expenditure (following disallowance of any inefficient expenditure) in excess of the +5% overspend margin will be recovered in full by the licensees (net of any disallowances) and any unspent allowances below the -5% underspend margin will be returned to consumers in full. Both allowance adjustments will be directed under Special Condition 3.41 (ASTIRAt).

Any efficient actual outturn expenditure below the 5% over-/underspend margin will be subject to the Totex Incentive Mechanism (TIM) and no allowance adjustment will be made in regard to this expenditure.

Example allowance adjustments following PCD assessment

Example 1 – Overspend in excess of +5% overspend margin

Total allowances	£200m
+5% overspend margin	£210m
-5% underspend margin	£190m
Efficient actual outturn expenditure	£250m
Allowance adjustment	+£40m
Expenditure subject to TIM	£10m

Example 2 – Overspend below the 5% overspend margin

Total allowances	£200m
+5% overspend margin	£210m
-5% underspend margin	£190m
Efficient actual outturn expenditure	£205m
Allowance adjustment	£0
Expenditure subject to TIM	£5m

Example 3 – Underspend in excess of the -5% underspend margin

Total allowances	£200m
+5% overspend margin	£210m
-5% underspend margin	£190m
Efficient actual outturn expenditure	£160m
Allowance adjustment	-£30m
Expenditure subject to TIM	£10m

Example 4 – Underspend below the -5% underspend margin

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Total allowances	£200m
+5% overspend margin	£210m
-5% underspend margin	£190m
Efficient actual outturn expenditure	£195m
Allowance adjustment	£0m
Expenditure subject to TIM	£5m

Example 5 – Overspend in excess of +5% overspend margin including £10m inefficient expenditure.

Total allowances	£200m
+5% overspend margin	£210m
-5% underspend margin	£190m
Efficient actual outturn expenditure	£250m
Actual outturn expenditure (inc. £10m inefficient expenditure)	£260m
Allowance adjustment	+£40m
Expenditure subject to TIM	£20m

4. Special Condition 9.3 Price Control Deliverable assessment principles and reporting requirements

Questions

Q2. Do you agree with our proposed modification to SpC 9.3?

- 4.1 SpC 9.3 (Price Control Deliverable assessment principles and reporting requirements) currently makes provision for ex-post allowance adjustments in circumstances where a TO has not 'Fully Delivered' or has not 'Fully Delivered With An Alternative Specification', an Evaluative PCD output in Appendix 1 of SpC 3.41.
- 4.2 However, it does not currently allow for an allowance adjustment where an Evaluative PCD has been Fully Delivered, or Fully Delivered With An Alternative Specification, and therefore a modification to SpC 9.3 is required in respect of ASTI projects to allow for an allowance adjustment where the PCD output has been delivered in these circumstances.
- 4.3 The reason for the proposed modification is to give effect to our policy decision to make an allowance adjustment where the efficient outturn costs delivering ASTI Outputs deviate greater than or equal to +/- 5% or more from provided allowances (adjusted by any re-opener under SpC 3.41).
- 4.4 The effect of this proposed modification will be the ability to adjust the ASTIRT allowance term in SpC 3.41 following the PCD assessment.
- 4.5 The proposed modifications to SpC 9.3 are double-underlined to show the proposed additions, and use strike-through to show any proposed deletions.

Special Condition 9.3 Price Control Deliverable assessment principles and reporting requirements

Introduction

- 9.3.1 The purpose of this condition is to set out the assessment principles the Authority will apply in deciding whether to make a direction ~~where an Evaluative PCD has not been Fully Delivered,~~ and in deciding the contents of such a direction, where either:
- (a) an Evaluative PCD has not been Fully Delivered; or
 - (b) an ASTI Output under Special Condition 3.41 has been Fully Delivered or Fully Delivered With An Alternative Specification and the efficient cost of delivering the output is greater than or equal to +/- 5% of the allowance provided.

- 9.3.2 This condition requires the licensee to report to the Authority on the delivery of its Evaluative PCDs and provides for the issuing and amending of the PCD Reporting Requirements and Methodology Document.

Part A: Evaluative PCD assessment principles

- 9.3.3 In deciding whether to make a direction ~~to adjust allowances where an Evaluative PCD has not been Fully Delivered~~ in accordance with paragraph 9.3.1 and in deciding the contents of such a direction, the Authority will apply the following assessment principles:

- (a) where an output is Fully Delivered With An Alternative Specification and the licensee demonstrates that any underspend against the associated allowances are attributable to Efficiency or Innovation, the Authority will not make any adjustment to the associated allowance except as provided for by paragraph 9.3.3(e);
- (b) where an output is Not Delivered, the Authority may direct a reduction to the associated allowance up to the total amount of the allowance, save that the Authority will allow the licensee the costs of undertaking reasonable and necessary work until the decision to not deliver the output, where the licensee demonstrates that such costs were reasonable, necessary, incurred efficiently and not otherwise funded by the special conditions of this licence;
- (c) where an output is Delayed, the Authority may direct a re-profiling of the associated allowance to match the profile of the actual delivery of work or expenditure, where re-profiling would have a material impact on allowances;
- (d) where the output is Partially Delivered or Partially Delivered With Alternative Specification, and:
 - i. the licensee demonstrates that any underspend against the associated allowances are attributable to Efficiency or Innovation; and
 - ii. the licensee provides a justified estimate of the proportion of the output or Consumer Outcome associated with the work delivered,

the Authority may direct an adjustment to the associated allowances only in accordance with the following formula:

$$\text{Adjustment to allowances} = ((1 - \text{proportion of output or Consumer Outcome delivered}) * \text{associated allowance})$$

- (e) where an ASTI Output is Fully Delivered or Fully Delivered With An Alternative Specification, the Authority will make an adjustment to the associated allowance as follows:
 - i. where efficient outturn costs against the associated allowances is greater than or equal to 5% more than the allowance provided, in accordance with the following formula:
Adjustment to associated allowances = Efficient outturn costs - (105% of associated allowance)
 - ii. where the efficient outturn costs against the associated allowances is greater than or equal to 5% less than the allowance provided, in accordance with the following formula:
Adjustment to associated allowances = Efficient outturn costs - (95% of associated allowance)

- (f) where none of the circumstances described in sub-paragraphs (b) to (e) applies, the Authority may direct an adjustment to the associated allowances such as to allow only the efficient costs of any work carried out that contributes to the delivery of the output. When deciding on the value of any such adjustment, the Authority will:
- i. have due regard to the particular characteristics of the output;
 - ii. have due regard to any factors that are outside of the licensee's control and that may have affected the ability of the licensee to Fully Deliver the output; and
 - iii. establish efficient costs using the following methods:
 - (AA) where these are available, using benchmarking against historical cost data;
 - or
 - (BB) where historical cost data is not available, using bespoke engineering and cost assessment, employing qualitative techniques to supplement technical methods;
- (g) except as provided for at 9.3.3(e), the Authority will not direct an increase to allowances for an Evaluative PCD that has not been Fully Delivered;
- (h) any adjustment to an associated allowance will proportion that allowance to Regulatory Years in accordance with the profile of actual expenditure reported by the licensee; and
- (i) the split between fast money and the RAV for any adjustments will be as set out in the ET2 Price Control Financial Model.

Part B: Reporting requirement

- 9.3.4 The licensee must by 31 July of each Regulatory Year, or such later date directed by the Authority, send to the Authority a Basic PCD Report on each Evaluative PCD output for which the delivery date specified in the relevant licence condition was in the previous Regulatory Year.
- 9.3.5 On receipt of a Basic PCD Report, the Authority will decide whether to direct the licensee to submit to it a Full PCD Report.
- 9.3.6 The Authority will not direct the submission of a Full PCD Report where the Basic PCD Report demonstrates that the output has been Fully Delivered.
- 9.3.7 Where directed to do so by the Authority the licensee must send to the Authority a Full PCD Report.
- 9.3.8 The Authority will use the Basic PCD Report, Full PCD Report, responses to supplementary questions and any other relevant information to decide the delivery status of the outputs for the purposes of Part A in accordance with the definitions of those terms in Special Condition 1.1 (Interpretation and definitions). The Authority may decide to assign more than one delivery status to any output.

Part C: PCD Reporting Requirements and Methodology Document

- 9.3.9 The licensee must comply with the PCD Reporting Requirements and Methodology Document when preparing a report required by Part B.
- 9.3.10 The Authority will issue and amend the PCD Reporting Requirements and Methodology Document by direction.

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- 9.3.11 The Authority will publish the PCD Reporting Requirements and Methodology Document on the Authority's Website.
- 9.3.12 The PCD Reporting Requirements and Methodology Document will set out:
- (a) how the licensee must prepare the reports required by Part B; and
 - (b) further guidance about, and worked examples of, the methodology the Authority will use when deciding:
 - i. whether to direct a value to reduce allowances for Price Control Deliverables that have not been Fully Delivered; and
 - ii. the value to direct.
- 9.3.13 Before issuing the PCD Reporting Requirements and Methodology Document by direction, the Authority will publish on the Authority's Website:
- (a) the text of the proposed PCD Reporting Requirements and Methodology Document;
 - (b) the date on which the Authority intends the PCD Reporting Requirements and Methodology Document to come into effect; and
 - (c) a period during which representations may be made on the content of the PCD Reporting Requirements and Methodology Document, which will not be less than 28 days.
- 9.3.14 Before amending the PCD Reporting Requirements and Methodology Document by direction, the Authority will publish on the Authority's Website:
- (a) the text of the amended PCD Reporting Requirements and Methodology Document;
 - (b) the date on which the Authority intends the amended PCD Reporting Requirements and Methodology Document to come into effect;
 - (c) the reasons for the amendments to the PCD Reporting Requirements and Methodology Document; and
 - (d) a period during which representations may be made on the amendments to the PCD Reporting Requirements and Methodology Document, which will not be less than 28 days.

5. Special Condition 3.41 Accelerated strategic transmission investment Re-opener and Price Control Deliverable (ASTIR_t)

Questions

Q3. Do you agree with our proposed changes to SpC 3.41?

- 5.1 SpC 3.41 (Accelerated strategic transmission investment Re-opener and Price Control Deliverable (ASTIR_t)) currently makes provision for ex-post allowance adjustments in circumstances where a TO has not 'Fully Delivered' an Evaluative PCD output in Appendix 1 of SpC 3.41.
- 5.2 However, it does not currently allow for an allowance adjustment where an Evaluative PCD has been Fully Delivered, or Fully Delivered With An Alternative Specification, and therefore a modification to SpC 3.41 is required in respect of ASTI projects to allow for an allowance adjustment where the PCD output has been delivered in these circumstances.
- 5.3 The reason for the proposed modification is to give effect to our policy decision to make an allowance adjustment where the efficient outturn costs delivering ASTI Outputs deviate greater than or equal to +/- 5% or more from provided allowances (adjusted by any re-opener under SpC 3.41).
- 5.4 The effect of this proposed modification will be the ability to adjust the ASTIR_t allowance term in SpC 3.41 following the PCD assessment.
- 5.5 The proposed modifications to SpC 3.41 are double-underlined to show the proposed additions, and use strike-through to show any proposed deletions.

Special Condition 3.41 Accelerated strategic transmission investment Re-opener and Price Control Deliverable term (ASTIR_t)

Introduction

- 3.41.1 The purpose of this condition is to specify the value of the term ASTIR_t (the accelerated strategic transmission investment Re-opener term). This contributes to the calculation of the Totex Allowance.
- 3.41.2 The effect of this condition is to:
- (a) specify the ASTI Outputs, delivery dates and allowances for the Price Control Deliverable;

- (b) establish a Re-opener for the licensee to apply for an adjustment to the ASTI Outputs, delivery dates and allowances in Appendix 1 and the Minimum circuit availability standard after delivery in Appendix 2;
- (c) provide for an assessment of the Price Control Deliverable; and
- (d) establish the Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document.

3.41.3 This condition also sets out the process the Authority will follow when making changes to Appendix 1 as a result of the Re-opener.

Part A: Formula for calculating the accelerated strategic transmission investment Re-opener term ($ASTIR_t$)

3.41.4 The value of $ASTIR_t$ is derived in accordance with the following formula:

$$ASTIR_t = ASTIA_t - ASTIRA_t$$

where:

$ASTIA_t$ means the allowances in Appendix 1; and

$ASTIRA_t$ has the value zero unless otherwise directed by the Authority in accordance with Part G.

Part B: ASTI Outputs

3.41.5 The licensee must deliver the ASTI Outputs no later than 12 months after the delivery dates specified in Appendix 1.

3.41.6 After the ASTI Output has been delivered it must be operational and available for use by NGESO for the period specified in Appendix 2 after application of the exclusions set out in Chapter 4 of the Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document.

Part C: Early Construction Funding

3.41.7 The licensee may, in respect of any ASTI Output, apply for an Early Construction Funding decision to adjust $ASTIA_t$.

3.41.8 Unless the Authority directs otherwise, the aggregate allowances provided under paragraph 3.41.7 for any ASTI Output may not exceed 20% of the total forecast project cost listed in the ASTI Confidential Annex.

3.41.9 The licensee must notify the Authority in writing of its intention to make an application under 3.41.7 at least 8 weeks before making an application, unless the Authority directs otherwise.

3.41.10 A modification under this Part will be made under section 11A of the Act.

Part D: ASTI Project Assessment Decision

3.41.11 The licensee may, in respect of any ASTI, apply for an ASTI Project Assessment Decision and an associated modification of Appendices 1 and 2 to:

- (a) specify or amend an ASTI Output, a delivery date and associated allowances; and

- (b) specify the minimum circuit availability standard after delivery for the relevant ASTI Output.
- 3.41.12 Unless the Authority otherwise directs, the licensee may only apply for an ASTI Project Assessment Decision after submission of all material planning consent applications.
- 3.41.13 A modification under this Part will be made under section 11A of the Act.

Part E: ASTI Cost And Output Adjusting Event

- 3.41.14 The licensee may apply for a modification to the ASTI Outputs and allowances in Appendix 1 where it considers that there has been one or more ASTI Cost And Output Adjusting Event.
- 3.41.15 The licensee may only apply under this Part to modify allowances in Appendix 1 where:
- (a) expenditure has been caused to increase or decrease by at least the percentage specified in, or in accordance with, paragraph 3.41.17, calculated before the application of the Totex Incentive Strength, relative to the relevant allowance in Appendix 1 by the event or if there has been more than one event:
 - i. by each event;
 - ii. if the Authority has directed that the events in relation to the relevant ASTI Output should count cumulatively towards the percentage threshold; and
 - (b) the increase or decrease in expenditure is expected to be efficiently incurred or saved.
- 3.41.16 The licensee may apply under this Part to modify the ASTI Outputs in Appendix 1 only where there is a material change to the scope of the relevant ASTI project.
- 3.41.17 The percentage referred to in paragraph 3.41.15(a) is:
- (a) 5%; or
 - (b) such other percentage as the Authority may specify by direction.
- 3.41.18 An application under this Part must be made in writing and must:
- (a) include detailed supporting evidence that an ASTI Cost And Output Adjusting Event meeting the requirements set out in paragraphs 3.41.15, or where applicable 3.41.16, has occurred;
 - (b) set out the modifications requested to the ASTI Outputs or associated allowances in Appendix 1;
 - (c) explain the basis of the calculation for any proposed modification to the allowances in Appendix 1, which must be designed to keep, so far as is reasonably practicable, the financial position and performance of the licensee the same as if the ASTI Cost And Output Adjusting Event had not occurred; and
 - (d) include a statement from a technical adviser, who is external to and independent from the licensee, whether, considered in the context of the value of the ASTI Output, the proposed modification to the ASTI Output or associated allowances fairly reflects the effects of the ASTI Cost And Output Adjusting Event.
- 3.41.19 The Authority may make a modification under this Part where:

- (a) there has been an application under this Part;
- (b) there has been an ASTI Cost And Output Adjusting Event in relation to the relevant ASTI;
- (c) the requirements of paragraphs 3.41.14 to 3.41.18, where applicable, have been met; and
- (d) the proposed modifications to Appendix 1 have the effect so far as is reasonably practicable of keeping the financial position and performance of the licensee the same as if the ASTI Cost And Output Adjusting Event had not occurred.

3.41.20 A modification under this Part will be made under section 11A of the Act.

Part F: Modification of delivery date in Appendix 1 further to an ASTI ODI Penalty Exemption Period decision or ASTI ODI Target Date decision under Part B of Special Condition 4.8 (Accelerated strategic transmission investment output delivery incentive)

3.41.21 The Authority will modify the delivery dates in Appendix 1 where it decides under Part B of Special Condition 4.8 (Accelerated strategic transmission investment output delivery incentive) to make a modification to the ASTI ODI Penalty Exemption Period or ASTI ODI Target Date in Appendix 1 of Special Condition 4.8.

3.41.22 A modification under this Part will be made under section 11A of the Act.

Part G: Assessment of the Price Control Deliverable (ASTIRA_t)

3.41.23 The Authority will, in accordance with the assessment principles set out in Part A of Special Condition 9.3 (Price Control Deliverable assessment principles and reporting requirements), consider directing a value for ASTIRA_t where either:

- (a) the licensee has not Fully Delivered an output in Appendix 1; or
- (b) an output in Appendix 1 has been Fully Delivered or Fully Delivered With An Alternative Specification and the efficient costs of delivering the output are greater than or equal to +/- 5% of the allowance provided.

Part H: What process will the Authority follow in making a direction?

3.41.24 Before making a direction under Part G the Authority will publish on the Authority's Website:

- (a) the text of the proposed direction;
- (b) the reasons for the proposed direction; and
- (c) a period during which representations may be made on the proposed direction, which will not be less than 28 days.

3.41.25 A direction in respect of Part G will set out:

- (a) either:
 - i. the delivery status of the ASTI Output that has not been Fully Delivered; or
 - ii. the efficient costs of delivering an ASTI Output where these are greater than or equal to +/- 5% of the allowance provided for any outputs that are Fully Delivered or Fully Delivered With An Alternative Specification.
- (b) the value of the ASTIR_t term and the Regulatory Years to which that adjustment relates; and

- (c) the methodology and data that has been used to decide the delivery status and value of any adjustments to the $ASTIR_t$ term.

Part I: Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document

- 3.41.26 The licensee must comply with the Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document.
- 3.41.27 The Authority will issue and amend the Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document by direction.
- 3.41.28 The Authority will publish the Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document on the Authority's Website.
- 3.41.29 The Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document will make provision about the detailed requirements for Parts C, D, E and F.
- 3.41.30 The Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document will also make provision about the detailed requirements under Special Condition 3.40 (ASTI Pre-Construction Funding Re-opener, Price Control Deliverable and Use It Or Lose It Adjustment) and Special Condition 4.8 (ASTI output delivery incentive).
- 3.41.31 Before directing that the Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document comes into effect, the Authority will publish on the Authority's Website:
 - (a) the text of the proposed Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document;
 - (b) the date on which the Authority intends the Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document to come into effect; and
 - (c) a period during which representations may be made on the text of the proposed Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document, which will not be less than 28 days.
- 3.41.32 Before directing an amendment to the Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document, the Authority will publish on the Authority's Website:
 - (e) the text of the amended Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document;
 - (f) the date on which the Authority intends the amended Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document to come into effect;
 - (g) the reasons for the amendments to the Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document; and
 - (h) a period during which representations may be made on the amendments to the Accelerated Strategic Transmission Investment Guidance and Submissions Requirements Document, which will not be less than 28 days.

Appendix 1

ASTI Price Control Deliverable

ASTI Output	Delivery Date	Allowance (ASTIA_t, £m)	ECF/PA
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Appendix 2

ASTI Output availability standard

ASTI Output	Minimum circuit availability standard after delivery (%)		
	0-6 months	6-12 months	12-24 months

Appendix 1 – Privacy notice on consultations

Personal data

The following explains your rights and gives you the information you are entitled to under the General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the controller and contact details of our Data Protection Officer

The Gas and Electricity Markets Authority is the controller, (for ease of reference, “Ofgem”). The Data Protection Officer can be contacted at dpo@ofgem.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

4. With whom we will be sharing your personal data

We will not be sharing your personal data.

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for twelve months after the consultation has closed.

6. Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data
- get your data from us and re-use it across other services
- object to certain ways we use your data

Consultation -

- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3rd parties
- tell us your preferred frequency, content and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

7. Your personal data will not be sent overseas

8. Your personal data will not be used for any automated decision making.

9. Your personal data will be stored in a secure government IT system.

10. More information For more information on how Ofgem processes your data, click on the link to our "[ofgem privacy promise](#)".