

ET SECTOR	
REFERENCE NUMBER:	CATEGORY: Amendment
LICENCE CONDITION NUMBER: (if relevant):	SpC 4.2
TITLE:	Energy not supplied output delivery incentive
RELEVANT LICENCE CONSULTATION QUESTIONS (if any):	N/A
RELEVANT ISSUES LOG:	Specific LC issues log ENS V1.xlsx
POLICY ISSUES	
<ul style="list-style-type: none"> SpC 4.2.5 SpC 4.2.6(a) SpC 4.2.7 	<ul style="list-style-type: none"> In SpC 4.2.5, as raised previously in working groups, Ofgem must ensure that it has a robust process in place to ensure that proposed ENS Incentive Methodology Statements are capable of being approved by Ofgem before 1 April 2021. Please can Ofgem confirm the timetable. In SpC 4.2.6(a), it has also been raised previously that licensees cannot be certain what approach other transmission licensees will have taken in preparing their ENS Incentive Methodology Statements as there is no provision requiring the sharing of such information. Ofgem has noted in the issue logs that this will be considered. In SpC 4.2.7, We note that the obligation to apply the methodology has been changed from reasonable to best endeavours. No rationale has been provided for the change in the consultation and we suggest that the current standard is retained. See our response to question 1 of the consultation.
DRAFTING ISSUES	
<ul style="list-style-type: none"> SpC 4.2.2 SpC 4.2.3(a) SpC 4.2.4 	<ul style="list-style-type: none"> In SpC 4.2.2, The term “<i>energy not supplied incentive</i>” is not clear as it is not used elsewhere in the condition. We suggest “<i>energy not supplied output delivery incentive</i>” (as used in the heading and in SpC 4.2.1). In SpC 4.2.3(a), there is a risk of inconsistency between the introduction (which refers to a simple obligation) and the substantive provision (which has a best endeavours obligation). On the basis of the proposed change to best endeavours (noting our comment above), we suggest “<i>...to maintain and <u>use its best endeavours to comply with...</u></i>”. In SpC 4.2.4, to ensure that this is clear, we suggest that ENSAt should be defined as “<i>means the sum of the volumes of energy not supplied in all Incentivised Loss of Supply Events <u>as calculated by the licensee in accordance with this condition</u></i>”. The drafting approach should be consistent with the definition of ALEt in SpC 4.3.4.

<ul style="list-style-type: none"> • SpC 4.2.7 • SpC 4.2.8 • SpC 4.2.10(b) and (c) • SpC 4.2.13 • SpC 4.2.15 • Definitions 	<ul style="list-style-type: none"> • In SpC 4.2.7, the drafting does not make clear <u>when</u> the licensee must apply the methodology. We suggest “<i>apply the methodology in the ENS Incentive Methodology Statement <u>when calculating the volume of energy not supplied in an Incentivised Loss of Supply Event</u></i>”. • In SpC 4.2.8, “<i>ENSAt</i>” is defined only in SpC 4.2.4 and should not be used here. We suggest instead “<i>to enable the reasonable estimation of the <u>volume of energy not supplied in Incentivised Loss of Supply Events</u></i>”. • In SpC 4.2.10, our understanding is that Ofgem would still explain the reasons for the rejection, whether or not it gives recommendations. This should be made clear – we suggest “<i>reject the proposed revisions, <u>giving reasons</u></i>” in both (b) and (c). • In SpC 4.2.13(c), it is not at all clear what is intended by “<i>to the extent applicable...</i>”. Please can Ofgem clarify this? In addition, we suggest deletion of the words “<i>having due regard to safety and other relevant legal obligations</i>” – this wording could be interpreted as requiring licensees to provide evidence on health and safety and compliance matters which is not our understanding of what is intended. The reference to “<i>...reasonable...</i>” actions makes clear that the evidence to be provided is that the actions taken were reasonable (i.e. taking into account health and safety and compliance). • The words “<i>...on its Transmission System...</i>” can be deleted, since these are included in the definition of Incentivised Loss of Supply Event. • We suggest that the definition of ENS Incentive Methodology Statement should refer to “<i>use to <u>estimate</u> the volume of energy</i>”, for consistency with other provisions. • The definition of ENS Exceptional Event has been changed significantly from the current definition of Exceptional Event in SpC 1A. This makes the definition substantially less clear in changing from “<i>beyond the reasonable control of the licensee</i>” to causes external or internal to the licensee. The reason appears to be to align with wording used in distribution licences, but we suggest that this is no justification to adopt drafting which is less clear and request that the current wording is retained. It is particularly unclear what is meant by “<i>culpable error</i>”. (We agree that it is helpful to add in to the definition the reference to system operator requested load shedding.) • The definition of Incentivised Loss of Supply Event has an outdated condition reference.
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FINANCE ISSUES	
<ul style="list-style-type: none"> SpC 4.2.4 	<ul style="list-style-type: none"> The licence drafting refers to Ex-Ante Base Revenue for the purposes of calculating this incentive. We refer Ofgem to NGET's response to RIIO-2 Draft Determinations – Finance Annex FQ37 in which we disagree with Ofgem's definition of base revenue for the purpose of calculating ODIs.
SUPPORTING INFORMATION	
OFGEM ENGAGEMENT:	