

RIIO-ED2

Wayleaves & Diversions Re-opener submission

30/01/26

Abstract

SP Energy Networks (SPEN) submits this application under Special Condition 3.2 (Part M: Wayleaves and Diversions Re-opener) of the Electricity Distribution Licence to request an adjustment to allowances for Wayleaves and Diversions Costs in relation to Injurious Affection (IA) activity in SP Distribution (SPD) and SP Manweb (SPM). This is a single submission for SPEN with costs and working outlined for each licence throughout this document.

We are submitting this application because there has been a change in the Wayleaves and Diversions Costs we have incurred and expect to incur before the end of the ED2 period, relative to the baseline allowance we received as part of our ED2 agreement with Ofgem. This change relates to differences in both the volume and value of Injurious Affection (IA) claims – a component of Wayleaves and Diversions Costs - compared to those used as the basis for completion of our ED2 Business Plan Data Table (CV5).

This submission has been reviewed to ensure it is valid against all licence and reopener guidance detail, and where we have been unable to provide information, we have given justification as to why this is the case. We have met the requirements around Ofgem pre-engagement, having first notified Ofgem of our intention to make a submission in October 2025 and via subsequent engagement prior to the reopener application window in both November and December 2025. Appendix 1 includes a mapping table of all requirements and the location of relevant content within this submission with a glossary of terms located in Appendix 2.

The expenditure included in this reopener exceeds the relevant materiality thresholds, is all incurred after 1st April 2023 and represents additional activity which is over and above that already provided by relevant ex-ante allowances.

A redacted version of this submission has been provided separately for wider publication.

Any questions or requests for supplementary information should be directed as below:

**Caroline Ainslie,
Head of Distribution Regulation**

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1. Executive Summary

We are submitting this application because there has been a change in the Wayleaves and Diversions Costs we have incurred and expect to incur before the end of ED2, relative to the allowance we received as part of our ED2 agreement with Ofgem. This change relates to differences in both the volume and value of Injurious Affection (IA) claims compared to those used as the basis for completion of our ED2 Business Plan Data Table (CV5).

Injurious Affection (IA) claims arise where historic electricity distribution assets were installed under the industry's then-standard practices, which typically involved using short-term or temporary land rights and, in some cases, no formal recorded agreement at all. In these instances, landowners can seek compensation for the impact of existing network assets on property value or serve a Notice to Remove the apparatus. SPEN cannot avoid these claims and must respond in accordance with statutory obligations and established valuation principles.

SPEN rigorously validates and challenges IA claims to ensure they are justified, evidence-based and represent value to consumers. Settlements are agreed only following independent professional valuation, and critically, in exchange for permanent land rights over affected assets. These permanent rights remove long-term operational risk, reduce the likelihood of future disputes, and ensure SPEN can maintain, develop and grow the network efficiently.

The submission sets out the needs case, options assessment, costing methodology, delivery arrangements and supporting evidence demonstrating alignment with Ofgem's Re-opener Guidance.

¹ All values are 20/21 prices

² To 01/12/25

2. Context



2.1 Where IA is Defined as a Component of Wayleaves & Diversions Costs

The Wayleaves and Diversions Re-opener (Special Condition 3.2, Part M) can be used where there has been a change in Wayleaves and Diversions Costs relative to previous allowance awarded. These costs are defined within Annex B of Ofgem's Regulatory Instructions and Guidance documents (RIGs) and include the costs for Injurious Affection claims (recorded within data table CV5 of the regulatory reporting pack).

2.2 Why IA Claims Arise



As a result, SPEN today encounters properties where apparatus is:

- installed without a permanent right;
- operated under a terminable wayleave; or
- located on land whose ownership or usage has changed since installation.



2.3 Securing Permanent Land Rights

Compensation is paid in return for both parties agreeing to a legal deed—servitudes in Scotland and easements in England and Wales³—which provide long-term certainty for the network and the landowner. These rights:

- bind to the land through registration of burden on title and survive changes of ownership;
- ensure continued access for inspection, maintenance and emergency repairs;
- reduce the likelihood of future disputes or challenges;

³ See Glossary for an explanation of a servitude and an easement

- mitigate the risk of Notices to Remove⁴;
- protect SPEN customers from the risk of costly asset relocation;
- provide a permanent record of rights necessary for future network development.

[REDACTED]

2.4 Statutory Powers - [REDACTED]

As a statutory undertaker, SPEN may apply for a Necessary Wayleave under the Electricity Act 1989 where a landowner:

- terminates an existing wayleave; or
- requests SPEN to remove apparatus where no right of occupation exists.

A necessary wayleave provides SPEN with a statutory right to retain the apparatus for a specified period.

However:

[REDACTED] landowners remain entitled to compensation, [REDACTED]

- it places significant demands on SPEN's resources; and

[REDACTED]

2.5 SPEN's Process for managing IA claims

[REDACTED] This is described

in detail in section 7.

⁴ See Glossary for an explanation of Notice to Remove.

3. Needs case

SPEN is facing a material shortfall in funding for IA activity in both SPD and SPM [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3.1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3.2

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3.3 Operational, financial and reputational risks

If additional funding is not provided, SPEN will be unable to settle valid IA claims once current allowances are exhausted

[REDACTED]

These operational risks are even more significant in the context of increasing expectations around network resilience and the rapid growth in investment programmes anticipated for RIIO-ED3 and beyond. SPEN faces increasing demands to reinforce and adapt its network to support decarbonisation, electrification of heat and transport, and more frequent extreme weather events.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3.4

[REDACTED]

[REDACTED]

4. Options assessed and preferred

4.1 Options Assessment Methodology and Criteria

In assessing the options available to SPEN, we have applied a methodology that we believe reflects our primary obligation under the Electricity Act and the distribution licence to act in an efficient, co-ordinated and economical manner.

Our assessment methodology has been structured around the latest Ofgem ED3 Consumer Outcomes, which closely relate to ED2 outcomes and provides a balanced and transparent framework for evaluating the broader implications of each option. The methodology keeps consumer bill impact at the forefront of our minds as we consider the proportionality and practicality of each option. To support consistent and objective assessment, each outcome has been translated into a series of guiding questions:

Investing for the Energy Transition

- Does the option support the continued safe, reliable and co-ordinated operation of the existing distribution network?
- Does it maintain or enhance SPEN's ability to access, maintain and develop assets required to facilitate future network growth and network resilience?
- Does it avoid creating future operational or land-rights constraints that could impede delivery of network investment programmes in the transition to net zero?

Responsible and Sustainable Business

- Is the approach mindful of the impact of SPEN's activities on consumer bills?
- Does it support fair, transparent and consistent engagement with landowners?

Resilient Networks

- Does the option provide secure and enduring access rights, reducing the risk of disputes or Notices to Remove?
- Does it minimise exposure to operational disruption, delayed maintenance or additional statutory processes?
- Does it reduce long-term legal, operational or compliance risks for the network?

Smarter, More Efficient Networks

- Is the option practical to deliver at scale using SPEN's established processes and resources?
- Does it avoid repeated cycles of administrative workload or future IA claims?
- Does it support efficient governance, predictable workloads and consistent application of valuation and settlement processes?

These questions provide a clear and proportionate basis for comparing and differentiating options, and for identifying the approach that best enables SPEN to manage IA activity, efficiently and sustainably throughout RIIO-ED2.

4.2

4.3 Summary of Option Scoring

Impact:

✓✓ = Strongly Positive

✓ = Moderately Positive

✗ = Negative

✗✗ = Strongly Negative

Option	Networks for Net Zero	Responsible & Sustainable Business	Resilient Networks	Smarter Networks	Overall Assessment
[REDACTED]	✗✗	✗	✗✗	✗	Discounted
[REDACTED]	✗✗	✗	✗✗	✗	Discounted
[REDACTED]	✗✗	✗✗	✗✗	✗✗	Discounted
[REDACTED]	✓✓	✓✓	✓✓	✓✓	Preferred

4.4 Explanation of Scoring

The scoring presented in the table above reflects a comprehensive assessment of how each option performs against our assessment criteria.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Conclusion: Discounted: Option 1 introduces inefficiencies, increases operational and legal risk, and does not support an efficient, co-ordinated or economical system of distribution.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Conclusion: Discounted: Option 2 is neither practical nor sustainable and does not offer a durable or efficient

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Conclusion: Discounted: Option 3 is impractical, inefficient and disproportionate relative to [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Conclusion: Preferred Option: Option 4 provides the most practical, proportionate and enduring approach [REDACTED]
[REDACTED]

5. Cost information

5.1 Summary of costs and allowance requested

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

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[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

5.2 Driving Efficiency

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5.3 Consideration of avoided or reduced costs

[REDACTED]

[REDACTED]

[REDACTED]

6. Cost Benefit Analysis and Engineering Justifications

6.1 Why CBA and EJPs are not applicable

Ofgem's re-opener guidance refers to tools such as Cost Benefit Analysis (CBA), Engineering Justification Papers (EJPs) and the Infrastructure and Projects Authority (IPA) Cost Estimating Guidance, but we do not believe these frameworks are suitable for the analysis of IA activity.

Population of a CBA would not be credible or appropriate for this type of reopener submission and details of the tradeoffs of each option are instead contained within the optioneering section of this submission (section 5).

Similarly, EJPs are designed for engineering interventions supported by technical assessments, risk modelling and asset condition data.

and therefore an EJP would not provide meaningful insight or capture the essential decision-making considerations.

The IPA Cost Estimating Guidance is also unsuited to IA activity. The guidance is structured for infrastructure projects with defined scopes, construction activities, engineering programmes and quantifiable construction risks.

activities that do not align with the assumptions underpinning IPA guidance.

Given these limitations, SPEN has adopted a methodology based on the ED3 consumer outcomes, which provide a balanced and regulator-aligned framework for evaluating options. Each option is assessed in terms of its impact on:

- long-term consumer cost;
- fairness and responsible stewardship of consumer funds;
- operational resilience and secure access; and
- the efficiency, sustainability and governance of the processes required to support it.

This approach has allowed us to evaluate options objectively while clearly demonstrating why the preferred option outlined in Section 4 delivers the best long-term value for consumers.

7. Deliverability

7.1 Resource

[REDACTED]

[REDACTED]

[REDACTED]

7.2 SPEN's IA Process

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[Redacted text block]

7.3 Roles and Responsibilities

[Redacted text block]

[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]

[Redacted text block]

[Redacted text block]

7.4 Project Delivery Programme

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

7.5 Risk Management

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8. Stakeholder engagement and whole system opportunities

8.1 Overview

[Redacted content]

This section summarises SPEN's engagement to date and the broader whole-system considerations relevant to this re-opener application.

8.2

[Redacted content]

[Redacted content]

[Redacted content]

8.3

[Redacted content]

[Redacted content]

8.4 Engagement with Ofgem

We have engaged with Ofgem ahead of submitting this re-opener, explaining the reasons for the material increase in IA claims, the statutory drivers underpinning expenditure and the efficiency measures we have

embedded in its process. This ongoing engagement aims to ensure transparency and to support Ofgem's assessment of this submission.

8.5 Internal Stakeholder Engagement



9. Summary of further evidence submitted

9.1 Modelling

As part of this re-opener submission, SPEN has provided the underlying modelling spreadsheet used to derive the additional allowance requested for both SPD and SPM. The model sets out the methodology, assumptions and input data supporting our forecasts of IA claim volumes, settlement values and expected expenditure for the remainder of RIIO-ED2. It also demonstrates how these forecasts have been translated into the funding request presented in Section 5. This transparency is intended to support Ofgem's review by providing a clear audit trail from raw dataset to final funding requirement.

10. Appendix 1- Guide to this submission

We have drafted and reviewed this submission according to Plain English principles. In stating our case, we aim to present our content in a logical way, provide evidence which is proportionate and avoids duplication.

To assist Ofgem's review against the relevant within licence and guidance, the tables below maps each relevant Distribution licence and Ofgem reopener guidance requirement to a section of this submission.

Ofgem Reopener Guidance reference	Description of Guidance content	Content location within this submission
Assurance & publication requirements		
2.1	Overall quality – <i>high quality application which is accurate, unambiguous, complete and concise.</i>	Entire submission
2.2	Assurance confirmation from suitable senior person – <i>application is accurate and robust, financeable and good value for money. Quality assurance processes were in place and application was subject to internal governance and sign off at an appropriate level. Covered by outline abstract.</i>	Appendix 5 and covering letter
2.3	Point of contact	Abstract
2.4 – 2.7	Redaction – <i>publish within 5 working days on website with explanation of any redactions.</i>	Following submission
Content requirements		
3.1	Two key questions	Section 1 and full submission
3.2	Minimum requirements	Full submission
3.3	Justification if information not provided	Section 6
3.4	Licence and Guidance Mapping table	Appendix 1
3.5	Links to Licence conditions	Appendix 1
3.6	One submission per DNO, with detail per licence	Abstract
3.7	Materiality threshold	Abstract and Section 5
3.8 & 3.9	Needs Case	Section 3
3.10	Needs case – business strategy	Section 3
3.11	Needs case – problem statement	Section 3
3.12	Level of efficient expenditure	Section 5

3.13 (i)- (iv)	Options considered	Section 4
3.13 (v) – (vi)	Options assessment methodology	Section 4
3.13 (vii) – (ix)	Options assessment	Section 4
3.14	Preferred option features, benefits, feasibility	Section 4
3.15	Project delivery and monitoring plan	Section 7
3.16 – 3.18	Stakeholder engagement and whole system opportunities	Section 8
3.19 (i)	Cost information – additional to ex ante or other reopeners	Sections 1 and 5
3.19 (ii)	Cost information – efficiency	Section 5
3.20	Cost evidence detailed requirements	Appendix 3a
3.21	Projects Authority Cost Estimating Guidance	n/a see section 6
3.22 & 3.23	CBA and EJP requirements	n/a see section 6
Style & Structure of applications		
4.1. 4.2 and 4.4 – 4.8	Overarching guidance on style and structure	Full submission
4.3	Table of Contents	Contents page
4.3	Glossary of Terms	Appendix 2

Licence reference	Description of licence content	Content location within this submission
3.2.81	For Ofgem – N/A in this context	N/A
3.2.82	Reopener scope	full submission
3.2.83	Valid application dates	full submission
3.2.84(b)	Options considered and discounted, include cost and benefits	Section 4
3.2.84(c)	WDVt modification values sought	Section 5
3.2.84(d)	Explanation of calculations and profiling	Section 5 and excel file
3.2.84(e)	Detailed supporting evidence	Full submission
3.2.85)	Further scope detail on dates of costs	full submission

11. Appendix 2 - Glossary of terms

This glossary contains descriptions of terms used in this document. Definitions contained in the licence are also used but not replicated in this glossary.

Temporary Wayleave Agreement

[REDACTED]

Necessary Wayleave Agreement

[REDACTED]

[REDACTED]

Servitude

[REDACTED]

Easement

[REDACTED]

Injurious Affection

[REDACTED]

Notice To Remove

[REDACTED]

12. Appendix 3: Cost detail compliance

Our separate excel spreadsheet has been designed in compliance with 3.20 below, with the exception of 3.20 (i) as we have used our own template.

Ofgem Re-opener Guidance and Applications Requirements Document - Cost Information: SPEN submission review		
3.20	The cost evidence included in the Re-opener application must be provided in accordance with the following requirements, subject to paragraph 3.3:	
i	using any Re-opener specific templates that may have been developed and issued for capturing cost information	SPEN comment No specific template provided
ii	on the same cost basis as allowances in the licence (2018-19 prices for GD, GT and ET and 2020-2021 prices for ED)	Y
iii	on a gross basis including both direct and indirect costs except where the Re-opener mechanism is listed under the opex escalator (for GT and ET) or indirects scaler (for ED) term, where only direct costs should be included. For the Load Related Expenditure Re-opener, Wayleaves and Diversions Re-opener and Specified Street Works Costs Re-opener (all ED) the cost evidence must also include costs on a net before and after Non-Price Control Allocation basis, with a sufficient level of detail to clearly demonstrate how the gross to net before Non Price Control Allocation and net after Non-Price Control Allocation values were derived	Costs before Non Price Control Allocation and net after Non-Price Control Allocation values are the same
iv	in excel format with all data tables etc clearly labelled and set out in a logical manner , including, where appropriate, instructions on the operation of workbook functionality	Y
v	in a sufficient level of detail to clearly demonstrate how overall values were derived and in a way that can be easily replicated , including the use of transparent formulae	Y
vi	in a way that is easily comparable with other benchmarks , where applicable, or other data provided by the licensee to Ofgem	Y
vii	with all relevant assumptions and sources of data used provided and clearly justified	Y
viii	with key cost drivers explicitly identified and justified	Y
ix	with uncertainties in forecast cost levels and any potential mitigations clearly identified. These uncertainties should form the basis of any sensitivity analysis using appropriate techniques and, where appropriate, a register of these uncertainties must be included	Y
x	outturn data for similar projects	No similar projects to compare with
xi	a risk register for the specific project , for any allowances requested for project risk	No allowances requested for project risk
xii	to demonstrate that cost efficiency measures have been identified and their impact fully accounted for	Y

- xiii to **demonstrate additionality** (ie demonstrating the additional expenditure required in addition to that already provided through ex ante allowances, or that will be provided through other mechanisms) Y
 - xiv **actual costs and forecast costs including Real Price Effects are also to be provided**, with a sufficient level of detail to clearly demonstrate how the actual costs and forecast costs reconcile to the cost evidence submitted in the relevant price base. Y
- 3.21 Further guidance on how to meet these requirements can be found in the Infrastructure and Projects Authority Cost Estimating Guidance¹¹, which is a best practice approach to producing project cost estimates. The Authority expects companies to follow the principles of this guidance when generating cost estimates for RIIO-2 projects and programmes. Where companies do not consider this to be practical or cost effective, they should provide a justification of why the alternative approach they have adopted is more appropriate.
SPEN comment: see section 6.1

¹¹ Cost Estimating Guidance - GOV.UK (www.gov.uk)

13. Appendices 4-7: excel model and source documents

Our detailed costs and volume modelling is contained within a separate excel file: W_D Jan 26 Re-opener model (app4).xlsx

It refers to 3 source files and these are also attached:

- WD Source 1: Input Data and Calculations (app5).xlsx
- WD Source 2: ED2 BPDT sub CV5 (app6).xlsx
- WD Source 3: CV5 RRP 2024_25 (app7).xlsx

14. Appendix 8: Assurance

In drafting this submission, we have engaged across all relevant business departments, discussing options with senior technical experts, subject matter experts and heads of department.

The wider business is supportive of the initiatives detailed in this reopener and is confident in the ability to deliver them alongside all other required outputs within the RIIO-ED2 period. As outlined in the letter submitted alongside this reopener document, this application is accurate and has been quality assured by subject matter experts and senior leaders across the business.


Using SPEN's internal assurance framework that aligns to the Data Assurance Guidance (DAG), minimum assurance, an internal expert review, an external audit and Director sign-off have been applied to this re-opener submission. The framework ensures accuracy and completeness, supporting management conclusions that the application is financially viable and good value for consumers. This gives confidence on the robustness of the submission prior to Director sign-off. Details of the risk assessment and assurance applied will be reported in the next NetDAR submission.



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