

Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

5 December 2022

Dear Robin,

Responding to high balancing costs in winter 2021: Update and proposal to introduce a new licence condition

EDF is the UK's largest producer of low carbon electricity. EDF operates low carbon nuclear power stations and is building the first of a new generation of nuclear plants. EDF also has a large and growing portfolio of renewables, including onshore, offshore wind and solar generation, and energy storage. With around six million electricity and gas customer accounts, including residential and business users, EDF aims to help Britain achieve net zero by building a smarter energy future that will support delivery of net zero carbon emissions, including through digital innovations and new customer offerings that encourage the transition to low carbon electric transport and heating.

We welcome the opportunity to respond to this consultation on Ofgem's proposal to introduce a new licence condition to reduce balancing costs. The key points we wish to highlight are set out below:

- We believe that the new licence condition is a pragmatic intervention to discourage high cost days in the Balancing Mechanism as seen in 2021. If effective, this new licence condition could reduce the risk of high cost days and encourage liquidity.
- However, the new licence condition will not take effect until after winter 2022 and therefore is unlikely to have any material effect this winter when there is an increased risk of high balancing costs days. While we note the practical implementation timescales for this new licence condition, we would encourage Ofgem in the meantime to be as clear as possible on their expectations from market participants ahead of implementation.
- The licence condition would only apply to licenced generators so consideration must be given to how to deal with the same behaviour that could be exhibited by non-licenced generators who submit Physical Notifications and operate in the Balancing Mechanism.
- The effectiveness of the new licence condition will be dependent on the clarity of Ofgem's proposed guidance document, which has not yet been made available, in particular, the

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definition of excessive benefit. It is important that market signals for scarcity remain to support investment in flexibility, while extreme returns are tackled.

- Finally, REMIT is designed to tackle market manipulation. It will be helpful for Ofgem to set out how this proposed new licence condition interacts and works alongside this regulation.

Should you wish to discuss any of the issues raised in our response or have any queries, please contact me or Natasha Ranatunga on 07875 112 981.

Yours sincerely

A handwritten signature in dark ink, appearing to read "Mark Cox".

Mark Cox
Head of Nuclear & Wholesale Policy and Regulation

1. Do you agree that our preferred option will effectively prevent the behaviour that caused last winter's high balancing costs? Please provide reasons for your answer.

Yes, we believe that Ofgem's preferred option could address one of the behaviours it identified in its July 2022 letter. We believe that the introduction of a new licence condition to prohibit generators from gaining excessive benefit after they have reduced their PNs to zero should encourage Generators to not intentionally exacerbating tight margins by scheduling to desynchronise their units with little notice just ahead of peak demand periods.

However, the licence condition will not reduce the risk of these behaviours happening in winter 2022 as it is unlikely to come into effect earlier than March 2023. This is disappointing as the high cost days occurred over a year ago, with interventions suggested in July 2022 following the separate ESO and Ofgem reviews.

We believe that this change could be complemented with significant improvements in the ESO's forecasting to address systematic under forecasting of wind and over forecasting of demand on tight days. This was highlighted in the ESO's commissioned analysis as a key driver of the high cost days.

2) Is the proposed licence condition drafting in Annex 1 sufficiently clear? Are there any drafting edits or additions that you would encourage us to consider?

We believe that the licence drafting largely sets out the intent of Ofgem's policy; however, we would welcome clarification of paragraph 3. b).

The Call for Input is clear that the intention is for the licence obligation to apply in periods only after a generator had submitted a zero MW PN. What is not clear is whether it applies in any circumstance i.e. irrespective of whether more generation is required on the system or not. Or will this condition only take effect only if more generation is needed on the system.

Should it read: an increase in generation of electricity by a particular generating plant, whether there is an overall increase in electricity generation, **or not**

Or

an increase in generation of electricity by a particular generating plant, **when** there is an overall increase in electricity generation.

3) Do you agree with the initial list of factors to consider when assessing excessive behaviour? Are there any other factors that would encourage us to consider?

Yes, we agree with the initial list of factors identified that should be considered when assessing excessive behaviour.

In the Call for Input, Ofgem specifies that in winter 2021 there were “instances of gas-fired generators informing the ESO, at times with little advance notice, that they would cease generating in the afternoon”. Ofgem anticipates that the new licence condition would be “targeted at situations when PNs are revised to zero with little advance warning for the ESO”.

However, batteries do spend a significant proportion of the day with a PN at 0MW and so the new licence condition could have an impact on most Offers submitted by batteries. A loophole would be the rare instance when a charge (negative PN) is cancelled by ESO through the use of a BM Offer. As almost none of a battery’s Accepted BM Offers are System Flagged and batteries being 50MW/50MWh assets, the duration of Offers when accepted are usually very short ~ under 15 mins and therefore do not have such a profound impact on the system. As battery offers are Energy flagged, the ESO is not compelled to take them for many hours unlike CCGTs and so although a battery’s offer price may be high on occasion, the cost to the consumer is far lower than the same high offer price from a CCGT.

Therefore, we believe that there needs to be

1. Consideration of total volume of an Offer, as it relates to cost to consumers, plus
2. a distinction between the level of allowable excessive benefit in System vs Energy offers.

We note that battery providers may well not have generation licences and so may be excluded from this condition. This may then address our points above. However, this does raise a more general point that smaller gas turbines and other non-licensed generators would be excluded from this new obligation. While their individual capacity may be smaller; the same behaviour could be observed and Ofgem should consider how to address this as more distributed assets start operating since it could create an unlevel playing field between licenced and non-licensed generators.

4) Is there any specific information you would like to see in the accompanying guidance related to interpretation and enforcement of the new licence condition?

The existing guidance for Transmission Constraints licence condition (TCLC) contains some references to what would be considered excessive from a bid pricing perspective. We would expect that the accompanying guidance for this new licence condition would outline a similar approach on excessive offer price behaviour but will need to be even more specific and clear. In particular, further explanation of Ofgem’s position on opportunity cost and, where generators do change their PN, the extent to which they need to buy back their contracted position in the market.

Finally, we would encourage Ofgem to publish the analysis which concluded last year’s behaviour was immoderate and the criteria used to make such an assessment so that the industry has a clear example of why such behaviour is viewed in this light.