



Luke McCartney
Ofgem
By email

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Statutory Consultation on the Inflexible Offers Licence Condition
27 July, 2023

Dear Luke,

I am writing in response to the above statutory consultation on behalf of Uniper.

We recognise that Ofgem's latest decision on this issue represents an improvement on the proposals set out in the previous consultation and that you have taken on board industry concerns about widening the application of the proposed licence condition to all instances where a generator had submitted a zero Physical Notification for a settlement period. Nevertheless, we continue to be concerned about the Inflexible Offers Licence Condition (IOLC). In particular, we still consider the arrangements to be overly restrictive in their current form, as they prevent the relevant generation from undertaking any scarcity pricing during affected periods, rather than specifically addressing the bidding behaviour that Ofgem was concerned about.

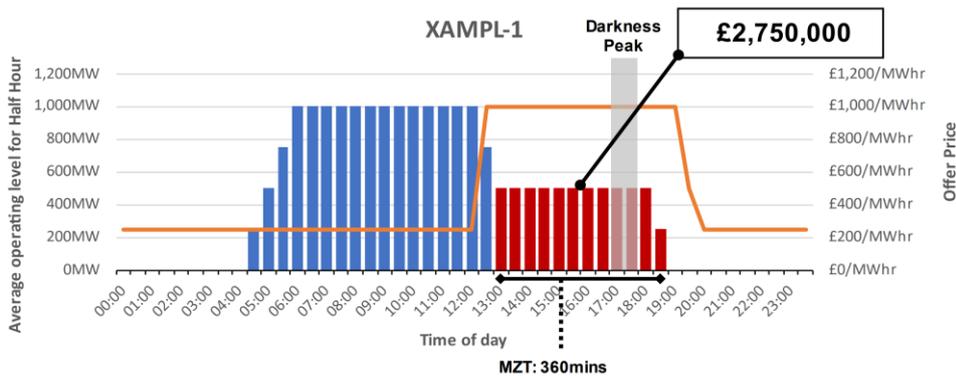
We remain unconvinced that a generator's lack of flexibility, as defined in the IOLC in terms of its Minimum Zero Time (MZT), is relevant when considering whether it should be able to price to reflect scarcity during periods of particular market shortage. We note that Ofgem does not believe that all plant should be prevented from undertaking scarcity pricing during such periods, just those plant who have:

- Redeclared their Physical Notification within day from a positive value to a zero value; and
- Have a MZT of greater than 60 minutes.

We understand why Ofgem has limited the application of the IOLC to these circumstances. However, in applying the condition in respect of all settlement periods to which these circumstances apply, it includes periods where the MZT and PN are not relevant factors – the peak periods where scarcity is most likely to exist.

It is worth considering this with an example illustration from NGENSO's Balancing Market Review 2022¹ identifying the behaviour that NGENSO and Ofgem were concerned about.

¹ Page 5 - ESO Balancing Market Review 2022
<https://www.nationalgrideso.com/document/263921/download>



This shows the situation where a generator declares its PN to zero for a number of periods within the same day. NGENSO needs to run that plant for the darkness peak, but the MZT prevents it from doing so unless it also runs through the afternoon. Therefore, NGENSO will instruct it to run at a minimum output equal to its Stable Export Limit (SEL). In this example, the price for the unit also increases for the whole period that the generator is instructed to run. This means that high costs are incurred both during the darkness peak and during the periods either side.

Our understanding of the views held by NGENSO and Ofgem is that there is nothing inherently wrong with reflecting any scarcity which exists during the darkness peak itself. The concern is what happens for the other periods, such as where the unit is required to run through the afternoon beforehand so that it is available for the peak. This is demonstrated by the fact that other generators, that can be turned up specifically to meet the peak without also having to run through prior periods, are not subject to the IOLC restrictions. That is, the need to run through periods prior to the peak is the only difference between units with longer MZTs and those with shorter MZTs. Therefore, it can only be those prior periods which are the focus of concern. Otherwise, the IOLC would cover units with shorter MZTs too.

Therefore, the proposed response should be focused on those prior periods. If it impacts other periods, then the response is likely to be disproportionate. The IOLC and guidance currently place the same limits on pricing in scarce peak periods as well, which is why we believe that the proposed arrangements are overly restrictive.

We accept that the policy decision has effectively been taken on this issue and that the purpose of the latest consultation is limited to ensuring that the proposed licence drafting delivers the policy intent. Therefore, we are not proposing that changes should be made to the licence condition itself. However, we do believe that there is scope for the guidance on whether an excessive benefit has been obtained to reflect the difference between a generator’s pricing during periods of scarcity compared with other times.

We would suggest the following should also be included in the guidance.

- Allowing generators to reflect scarcity during periods where such scarcity exists, but not to periods prior or after.
- Focusing analysis of excessive benefit during non scarce periods on prices paid to maintain a generator at its SEL, rather than at output levels above this. This is because this is the minimum level at which the system operator has to



maintain a generator to ensure that it is subsequently available to meet the system peak or period of scarcity. Any running above that must be because the system operator has an additional need for that plant during those periods which should be priced to reflect market fundamentals.

We believe that adding the above clarifications to the guidance would ensure that there is indeed a targeted approach aimed at addressing the specific impacts that Ofgem is concerned about.

I hope that the above comments prove helpful. Please contact me in the first instance should you wish to discuss this further.

Yours sincerely

Paul Jones
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