

Holly MacDonald & Luke McCartney
Domestic Market Management
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

27 July 2023

Dear Holly and Luke,

STATUTORY CONSULTATION ON THE INFLEXIBLE OFFERS LICENCE CONDITION – SCOTTISHPOWER RESPONSE

We welcome the opportunity to respond to this statutory consultation on the Inflexible Licence Offers Condition (IOLC).

The proposed IOLC is the result of many months of regulatory investigation, with this statutory consultation following on from the February 2023 policy consultation and the November 2022 Call for Input. In this letter, we comment on Ofgem's proposed reinstatement of the within-day requirement and maintenance of the limitation of the licence condition to generators with a Minimum Zero Time (MZT) of greater than sixty minutes. We also comment on the draft guidance and proposed licence drafting.

Within-day requirement

In our response to the February consultation, we were in favour of Ofgem's proposal to remove the within-day requirement which would expand the scope of the IOLC to cover day-ahead offers in the balancing mechanism (BM). We agreed with Ofgem's concern that the ESO incurred large balancing costs at the day-ahead stage and that inclusion of a within day requirement would not effectively target the submission of excessive offers after generators posted 0MW PNs.

In light of the responses to this consultation, Ofgem considers that there is a risk that expanding the IOLC's scope to the day-ahead stage would lead to significant unintended consequences. These could include potential impacts on price signals and legitimate market behaviours, and affect investment and impact security of supply. Whilst we are still supportive of removing the within-day requirement, we recognise there may be risks of unintended consequences. However, if the requirement is re-instated, we strongly support Ofgem's continued monitoring of potential excessive offers at the day-ahead stage on the understanding that this could lead to additional changes to the licence condition in the future.

MZT greater than 60 minutes requirement

We agree that flexible generation, with MZTs lower than 60 minutes, should be subject to the IOLC. The licence condition should be targeted at deliberate generator misbehaviour that materially impacts BM costs, rather than being inclusive of flexible business-as-usual activity that promotes effective responses to market conditions. We do not consider that this requirement is discriminatory towards generators with longer MZTs; those with shorter MZTs are restricted in both the total supply of energy they can produce at any time and in the length of time over which they can operate. Therefore, we agree that Ofgem is justified in treating these inflexible and flexible generators differently.

However, we suggest that Ofgem should monitor for further developments in the sector such as for example, the development of future flexible generation projects with MZT times longer than sixty minutes that similarly should not be regulated by the IOLC. If this were the case, then it would be appropriate to review the Licence condition.

Draft Guidance and Licence Condition

We support paragraph 2.5 of the draft guidance, which encourages licensees to establish appropriate pricing strategies and be ready to provide evidence to justify that they have not gained excessive benefit in circumstances when the IOLC is (or may be) engaged. It would be good practice for companies to ensure that there is a clear line of responsibility from a company's Board to the individuals who submit bids and offers.

We suggest that Ofgem redraft paragraph 2 of the licence condition to include the following wording in red:

“2. For the purposes of paragraph 1, the licensee shall be considered to have obtained, **or sought to obtain**, an excessive benefit from electricity generation in relation to a Settlement Period (where each of the other requirements of paragraph 1 is met) if each of the following conditions apply in relation to that Settlement Period:”

Please contact me or my colleague Dena Barasi if you would like to discuss this further.

Yours sincerely,



Richard Sweet
Director of Regulatory Policy