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Dear Graham,

### **Update to the Transmission Constraint Licence Condition guidance**

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 the Transmission Constraint Licence Condition (TCLC) guidance document. The document has been revised and updated quite considerably and we note that the draft TCLC guidance document now provides additional context around what could constitute a transmission constraint; that it only applies to reductions in generation and that the term 'objective justification' has been removed with the focus to be on assessment of excessiveness and there is more detail provided on this. We welcome the provision of a greater level of detail on costs and benefits. We also note the new explicit references to the Contracts for Difference (CfD) and Renewables Obligation (RO) schemes.

We welcome the additional clarity that the draft TCLC guidance document brings to a historically unclear aspect which has been subject to different interpretations by many parties. We believe that the revised TCLC guidance document will help all parties comply with their obligations.

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



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Head of Nuclear & Wholesale Policy and Regulation

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**Q1. Are there additional areas of background that respondents would find it useful to have covered in the guidance?**

We believe that it is important to include the background to provide all parties with the wider context; this is not set out in the 2017 guidance. The background is quite comprehensive, and we have not identified any additional areas that need to be included. However, the inclusion of this information has created a lengthy Background section which may detract from the actual wording of the TCLC (section 2). We would propose that Ofgem move the majority of the Background section to an Appendix so that it does not detract from guidance setting out Ofgem's interpretation and approach to the enforcement of the TCLC.

**Q2. Are there areas where respondents consider that the guidance would benefit from additional detail on Ofgem's interpretation of or approach to the enforcement of the TCLC?**

We have not identified further additional detail required; however, we believe that there is scope to improve the system flagging process. Ofgem needs to explain and clarify its interpretation of system flagging and transmission constraints and the ESO should provide more transparent and timely data to generators.

The guidance document states "that the clearest available indicator is the licensee's ability to retrospectively observe whether or not bids are system flagged. therefore, "a generator can reasonably expect that where it has bids accepted which are subsequently system flagged, those bids will have been accepted in relation to a transmission constraint as defined in the TCLC". The guidance document then states "the converse may not always be true – i.e. it is possible that on occasion bids which are not system flagged may nevertheless relate to a transmission constraint as defined in the TCLC". This statement is confusing and could lead parties to believe that any bid could relate to a transmission constraint. Therefore, we strongly urge Ofgem to provide greater context on this issue.

We believe the intent of Ofgem's statement is to highlight that whilst the ESO's flagging methodology seeks to accurately identify the majority of transmission constraints – it may not always be correct. There may on occasion, be actions that resolve transmission constraints that are not correctly identified by the ESO. Conversely there may be instances where ESO incorrectly identifies an action as resolving a transmission constraint. We also believe that there is still room for improvement and the ESO should continue to improve its accuracy of system flagging which is an objective indicator that aids market participants in managing compliance.

In addition, more generally we believe that the ESO should be required to publish constraint forecasts and data in operational timescales. This would provide generators with greater visibility of constraints.

This is especially important, as the scope of constraints is widened and the geographical location of constraints widen as a result of the changes in network configurations from unprecedented

levels of investment, there should be more done to provide to generators greater visibility of constraints as defined in the TCLC.

**Q3. Are there any areas where respondents consider that the proposed changes to the guidance are unclear?**

The draft TCLC guidance document is a significant improvement to the existing TCLC guidance document which has historically been unclear and subject to different interpretation by industry parties.

We note the additional clarification that generators should ensure that their bid prices are reflective not only of the costs of being bid down, but also the benefits - including avoided subsidy repayments under the Contracts for Difference (CfD) and Renewables Obligation (RO) schemes.

Paragraph 2.26 describes Ofgem's process of using a counterfactual to compare a licensee's benefit both behind and in the absence of a Transmission Constraint Period. Where possible, while we recognise assessments are always undertaken on a case by case, Ofgem should set out further details in the guidance document on their methods for establishing these benchmarks. Therefore, we support increased transparency around these counterfactuals as it has the potential to reduce the risk of non-compliance with TCLC.

**Q4. Are there any examples of material costs or benefits of curtailment that are missing from Table 1?**

We welcome the inclusion of Table 1 which sets out some examples of potentially material costs and benefits of being bid down for different technology types. However, we believe that the table could be enhanced with explanation of some of the terminology used. Readers of the draft guidance may not be experts across all technology types and there should be a common understanding. I.e. rent charges, spill, charging costs.

We also welcome the acknowledgement that Table 1 is non-exhaustive, and note it is reasonable to expect further costs, opportunity costs, benefits or avoided costs to be identified in the future. For instance - the opportunity cost of foregone Renewable Energy Guarantees of Origin (REGOs) as these benefit generators in much the same way as avoided CfD and RO payments when bid down.

**Q5. Are there circumstances which could objectively justify bid prices that would otherwise be excessive, which are not captured in the updated guidance?**

None identified.

**Q6. Do respondents have any other comments on the proposed changes to the TCLC guidance?**

The draft guidance states that “the impact of constraints – and the costs of resolving them – has been forecast by the ESO to continue to increase steeply in the coming years” (paragraph 1.6) citing ESO’s Network Options Assessment (NOA) modelling published in July 2022. In October 2022, the ESO submitted a request to Ofgem to delay the 2022/23 NOA by 11 months from January 2023 to December 2023 which was granted. In September 2023, the ESO submitted a further request to Ofgem to delay the publication of the next NOA back to 31 March 2024.

Before the revised guidance is implemented, Ofgem should review the latest data to assess whether the new counterfactual set out in the most recent NOA still indicates the same steep constraint costs in light of the network reinforcement that has been approved.