

Ofgem consultation on the Transmission Constraint Licence Condition guidance

Energy UK response

February 2024

About Energy UK

Energy UK is the trade association for the energy industry with over 100 members – from established FTSE 100 companies right through to new, growing suppliers, generators and service providers across energy, transport, heat and technology. Our members deliver nearly 80% of the UK's power generation and over 95% of the energy supply for 28 million UK homes as well as businesses.

The sector invests £13bn annually and delivers nearly £30bn in gross value - on top of the nearly £100bn in economic activity through its supply chain and interaction with other sectors. The energy industry is key to delivering growth and plans to invest £100bn over the course of this decade in new energy sources.

The energy sector supports 700,000 jobs in every corner of the country. Energy UK plays a key role in ensuring we attract and retain a diverse workforce. In addition to our Young Energy Professionals Forum, we are a founding member of TIDE, an industry-wide taskforce to tackle Inclusion and Diversity across energy.

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Executive summary

Energy UK welcomes the opportunity to respond to Ofgem's consultation on the TCLC guidance document. Energy UK notes that the document has been revised considerably, and we welcome Ofgem's work to consolidate thinking and views since 2017. In particular, we welcome the provision of greater level of detail on costs and benefits. We welcome the additional clarity that the draft TCLC guidance document brings to something which has historically been unclear and subject to broad interpretation.

While Energy UK is supportive of Ofgem's work to update the guidance and efforts to provide clarity, we are concerned that some of the ways in which the guidance has been updated has instead led to more ambiguity. We are concerned that this will not provide

generators with the certainty required to comply. The guidance must be to provide licensees certainty as to when TCLC will apply¹.

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

Energy UK welcomes the addition of background information as this was not included in the 2017 guidance. This is comprehensive and useful; however we have concerns that a lengthy background section may detract from the actual wording of the TCLC in section 2. Therefore, we would recommend that the majority of the background information be added as an Appendix so that it is not confused with the 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?

Energy UK feels that Ofgem's interpretation of system flagging, and transmission constraints requires explanation and clarification. The guidance document states: "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." This is followed with "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 is inherently unclear and confusing and could lead parties to believe that any bid could relate to a transmission constraint. Ofgem should provide greater context in this section.

As a matter of principle, it is essential that a regulated party is aware when it is at risk of breaching the rules. Energy UK is concerned about the potential for situations where there could be a relevant transmission constraint of which a generator is unaware and which is not signalled to the market.

Energy UK strongly believes that the ESO should provide more transparent and timely data to generators, indeed the ESO should be required to publish constraint forecasts and data in operational timescales, which would provide generators with greater visibility of constraints. This point is especially important – as the scope of constraints is widened and the geographical location of constraints widen as a result of evolving network configuration, more should be done to provide generators greater visibility of constraints as defined in TCLC.

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

Energy UK believes that the draft TCLC guidance is an improvement to the existing TCLC guidance document which has historically been unclear and subject to different interpretation. The additional clarification on costs and benefits is useful.

¹ One member noted that the guidance should provide licensees with certainty on what level of pricing would be acceptable to Ofgem. If generators do not also have certainty on when TCLC applies, this member noted that generators would always be obliged to assume that TCLC applies and price conservatively to ensure that they were compliant should Ofgem deem that TCLC did apply, thus making TCLC a blanket restriction on bid pricing rather than targeting the circumstances and behaviours that it is intended to address.

However, some members have shared concerns that Ofgem's assessment of reasonable profit is inherently difficult for a generator to replicate² also noting that the generator benchmarks which Ofgem would consider comparable are unclear from the guidance. Energy UK has concerns that this ambiguity creates a possibility for the regulator to form a different view from licensees as to what might be acceptable. Members support increased transparency on these counterfactuals to ensure that the TCLC is interpreted correctly by parties, reducing the risk of non-compliance.

Energy UK is also concerned about paragraph 2.26 – while we recognise that assessments are always taken on a case-by-case basis, Ofgem should set out further details in the guidance document on methods for establishing these benchmarks.

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

Energy UK welcomes the inclusion of Table 1 setting out some examples of potentially material costs and benefits of being bid down for different technology types.

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

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.

² These members noted that the counterfactual used by Ofgem when assessing reasonable profit (i.e., the level of profit that would have been realised had a transmission constraint not been in force) is impossible for a generator accurately to forecast.