



TRITON POWER

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Dear All

Transmission Constraint Licence Condition guidance consultation and call for input

Triton Power is an independent power generating company with a capacity of 1.35GW. We provide power to the UK wholesale electricity market, playing an important role in security of supply when renewable generation does not deliver, and process steam to local customers through our UK power stations. Our power stations are required to provide flexibility services to the ESO under our BCAs and we elect to provide a number of support services as well.

Triton does not support the continuation of the TCLC, and we did not support the Inflexible Offers licence condition. Capping prices prohibits scarcity pricing which is a normal response to periods with tight margins in the functioning of an orderly market. Ofgem do not seem to have considered how their proposals would change the operation of the impacted generators in the Balancing Mechanism (BM), as well as the knock-on effects in the forward, day-ahead, intraday, ancillary and Capacity Markets. Any negative impact on a genscos primary revenue stream, the wholesale market, will result in additional revenues being required from other markets like CM or service provisions which were once deemed (and therefore named) "Ancillary" but are quickly becoming major contributors to return on capital employed.

Ofgem fails to provide any evidence that the TCLC has been necessary, economic and has not created wider market issues, such as impacting other markets as lost energy revenue is made up from CM payments and Ancillary services. These 'market interventions' are actually market distortions, stopping the market from sending reasonable signals to investors.



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Triton remains of the view that if Ofgem believes a genco is abusing a dominant position it can use competition law. When looking at the fines Ofgem has levied, the analysis underlying their decisions is not public so it is impossible for parties to know what Ofgem believes is, and calculates, an 'excessive benefit'. For generators such as ours we try to compete with other generators in the stack, not knowing if we or they are subject to constraints or other operational issues.

Triton Power believes it is unacceptable that the ESO knows when there is a constraint and how it will impact the market, but it is not made to share that information with the market. Economic theory is clear that the greater the information held by all parties the more effective the competition. If Ofgem is to continue using TCLC at least it should require all constraints are notified to the market, in real time, and in an easy to understand manner. Economic theory suggests that those behind a constraint will then compete to be the one bid off, but the stack prices will become representative of the locational market that constraint causes. This should lead to lower costs and more efficient outcome for customers, both behind the constraint and in the rest of the market as constrained plant will not 'pollute' market signals.

Triton notes that a change to regional markets and locational signals is being considered under REMA. Yet, Ofgem does not require the TOs/ESO to notify parties when a regional market is currently being created by an active constraint. Would this not get us some of the way towards locational signals without the need for LMP? The market needs transparency of constraints and congestion pricing to inform parties there is congestion and warn them they may have a dominant market position. It may further encourage parties who can turn up demand, or charge a battery to come to the market and help alleviate a constraint.

Ofgem states that TCLC has been in place since 2012, but provides no compelling case that the competition law could not work instead, nor why it would need to extend the scope of TCLC to cover more parties than already covered. Further, what has been the cost of Ofgem's investigations, to themselves and the impacted parties? Without some thorough evaluation of the benefits of the TCLC there cannot be a case for retaining it, let alone extending it. Ofgem's default should be to enhance markets, improving how they work and not on increasing red tape.

Ofgem's two TCLC investigations took 2 years, which suggests they were expensive for the parties and for Ofgem. The time also suggests that Ofgem cannot use the TCLC in a timely and effective manner. It has not published any meaningful analysis of what was found in these investigations, so other parties cannot learn from them. Good regulation should be transparent and predictable, but TCLC does not achieve these goals.

New Guidance

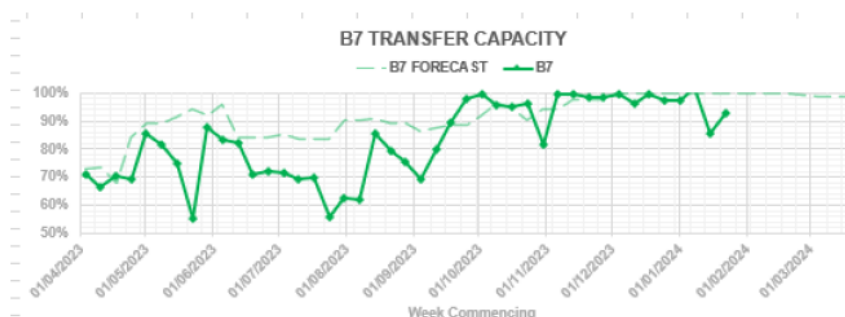
Triton welcomes Ofgem consulting on its guidance. While we do not support TCLC, where policies are underpinned by guidance regular reviews of the guidance is to be welcomed.



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Market Information

All parties suffer as a result of constraints for which they are not responsible, cannot resolve and do not know when they are active. Even the regularly constrained boundaries, for which NGESO publishes forecasts (i.e. B6, B7, etc.) are regularly subject to changes in transfer capacity that are notified to parties. Ofgem suggest the Operational Transparency Forum provides updates to the market, which it does, but this week we saw the B7 (just as an example) forecast vs actual which illustrates how far off the actual and forecast transfer capacities can be. How are gencos meant to know this is going on.



Ofgem defining constraints may be useful, but it would be far more useful if the parties knew about active constraints. We disagree with Ofgem's assertions that parties can work out constraints. We also find it odd that NGESO does notify when it instructs TOs to return circuits from outages to manage the system, but does not notify parties of changes to planned or unplanned constraints. Ofgem must resolve this asymmetry of information.

Companies like Triton do not have the analytical resource to review of all the data from NGESO, but we do watch for market fundamentals and system warnings. We therefore believe all TO and major DNO outages should be notified to all parties in the competitive markets.

Excessive Benefit

Under the TCLC our operational decisions are subject to an uneconomic constraint, potentially reducing asset lives, with no analysis to support this as a good outcome for customers. As we have noted previously, what is considered "excessive" in terms of pricing is unclear. A value which might lend itself to act as a guide is VoLL at £6,000/MWh however this feels like a trap to fall into. DFS at £3,000/MWh (to test), appears to have been acceptable to Ofgem therefore is this the benchmark?

Plants such as our Saltend CCGT may spend years making unsustainable returns, but then have years when the market is tight when profitability is higher. This is the nature of capital intensive projects. If the prices in the market cannot respond when there is energy scarcity then we will need a lot more income from the Capacity Market and Ancillary markets to remain open. Ofgem should be looking at "excessive benefit" over



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at least 5-7 years, as that fits with the investment cycle of the energy market. Investors seeing high prices today will not be able to deliver more capacity for 5-7 years.

Ofgem must also consider the uneconomic actions that the TCLC is asking parties to undertake and therefore the market inefficiency it introduces, with the associated distortions:

- Parties are being asked not to maximise profits, but to bid against their costs, dampening investment signals;
- To spend time judging prices against a small subset of the market, rather than focusing on the marginal plant, which leads to ineffective competition; and
- To limit profitability in energy and instead look for “missing money” in the CM and other markets.

In 2000 the Competition Commission rejected Ofgem’s proposed “Good Behavior” licence condition was for this very reason, it would stop normal market behavior and create inefficient market distortions. It would be prudent for Ofgem to consult with the Competition and Markets Authority prior to implementing any changes.

Ofgem also seems to suggest that gencos will have an idea how many periods it will be bid off so can spread their expected income so as to not make excessive profit. A genco has no idea that a constraint has occurred or when it will end, so it is not clear how the genco can judge that at £x/MWh it will make excessive profits (in Ofgem’s view) but at price £y/MWh it will not. If constraint information were more like REMIT data then gencos have a better chance of calculating this, but there is no such information to work with.

We further note that in Ofgem’s view (set out in their 2020 Open letter on dynamic parameters and other information submitted by generators in the Balancing Mechanism¹) generators cannot use dynamic parameters to indicate a desire to run in a certain manner. For example, if a plant had just come back from maintenance and needed to run recommissioning checks, we cannot say MNZT is 48 hours because the plant is technically capable of coming off earlier, but instead have to use price to signal a desire to run. BSC Issues Group 98² agreed being able to send operational signals to the ESO, without relying on prices, would help limit costs to customers. However, NGENSO’s EBS system was never delivered, and their current IT system apparently cannot be changed. Ofgem’s policy has therefore forced parties in the BM to use prices in a way that may not be cost nor competition related, and may fall into this regulatory trap if a constraint (unknown to the genco) is active at that time.

Call For Input

Application of TCLC to other services

¹ <https://www.ofgem.gov.uk/publications/open-letter-dynamic-parameters-and-other-information-submitted-generators-balancing-mechanism>

² <https://www.elexon.co.uk/smg-issue/issue-98/>



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We note that Ofgem has offered no analysis as to why they believe that other markets need to be covered by TCLC. Ofgem highlights schedule 7 trades, but provides no evidence that these trades are “out of the market” and therefore uncompetitive. If parties are relying on flagged actions to spot constraints, it is likely they would have offered Schedule 7 prices before any constraint could have been known about.

With the OBP, constraint manager pathfinders, etc. if NGESO has concern about trading with some parties it could try to seek different solutions. We note many storage assets have complained about skip rates, so perhaps taking more action nearer real time, or locking in actions via ancillary services would be cheaper. Triton very much welcomes NGESO new Thermal Constraints projects for this reason.

Ofgem has already introduced the Inflexible Offers Licence Condition, so the case for more regulation of parties being called before gate closure looks unnecessary.

TCLC on Offers

Flexible plants that are used to manage constraints could not reasonably be expected to earn the income they need if they are having bids and offers effectively curtailed by Ofgem. The models that support investment in storage rely on being able to extract economic rent from their operations, not having their assets stopped from storing power at economic prices. The longer term impact of this would also be to curtail lower carbon generation, more constraints will be active and less energy from wind be able to reach customers. This seems to go against government’s net zero policy.

Increased regulation by Ofgem and DESNZ to move towards regulated prices will significantly undermine meaningful competition, as we have observed the supply price cap has in supply businesses. How Ofgem would set these prices, which periods they apply to, etc. which would an extraordinary intervention in what is meant to be a competitive market.

If Ofgem choose to implement this then it would need to set price controls such that all investors get their reasonable rate of returns on their investment irrelevant of market prices, running hours, etc. While not impossible, it is difficult to see how this is in the interests of customers.

Summary

Triton does not believe TCLC is an example of good regulation and therefore should be removed rather than enhanced and expanded. If it is to be maintained, the market needs far more transparency and clearer guidance on assessment criteria such as the time period over which profits are assessed –there should be no reason this cannot be standardised and published. If TCLC were to be extended then focus should be on providing the same regulation for all – a level playing field. Interconnectors, or the gencos behind the interconnectors, should face the same regulation as domestic gencos therefore Ofgem and DESNZ should collaborate to adjust/repeal retained EU legislation which currently prevents this.



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If there is anything Ofgem would like to discuss further please do not hesitate to contact me.

Yours sincerely

Scott Keen

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