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Dear Domestic Market Management team,

### **Transmission Constraint Licence Condition call for input - December 2023**

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 Call for Input on whether any changes are required to the Transmission Constraint Licence Condition (TCLC), in order to ensure that it is as effective as possible in keeping down balancing costs.

Ofgem set out five potential changes that could be made to the TCLC to further the protection it affords against the exercise of market power in the presence of transmission constraints. We note Ofgem are also concurrently consulting on changes to the guidance document that supports the existing TCLC.

It is important that if any changes to the TCLC are to be taken forward then the premise for introducing changes should be based on clear evidence and data-driven such that changes would lead to a demonstrable outcome of lower balancing costs.

At this stage we are not convinced that further changes are necessarily going to deliver any benefits either because the specific issue is not sufficiently material or that it is too early to draw any conclusion. Our view is that Ofgem should update the guidance document to the current TCLC to bring increased clarity of interpretation – this is likely to bring benefits and may itself alter behaviours of market participants. Ofgem should review whether this update has had an effect before considering further changes.

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It will also be helpful to revisit the scope and approach to TCLC once the nascent battery market develops further and there is further clarity on broader market design changes resulting from the Review of Electricity Market Arrangements (REMA).

If Ofgem decide to introduce these changes; then these must be undertaken in a clear and considered manner with all the data and information provided in advance of change to ensure that industry parties have sufficient time to align the new approach.

Our detailed responses to Ofgem's Call for Input are provided below. 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

A handwritten signature in dark ink, appearing to read "Mark Cox".

Mark Cox  
Head of Nuclear & Wholesale Policy and Regulation

### **1. Expanding the TCLC to balancing services used by the ESO to manage constraints other than the BM**

In principle the ESO will seek to use other non- Balancing Mechanism (BM) services as a means of reducing the cost of managing constraints in the BM. Often these will be ahead of time, and this brings more certainty to both parties enabling effective planning leading to lower costs. Given this, and assuming that TCLC is effective in addressing behaviours in the BM then there is little case for expanding the scope of TCLC outside of the BM. These non-BM services will need to be more competitive than those expected in the BM.

Also, due to the varying nature of Balancing Service (BS) markets and procurement methods the ESO uses (i.e. bilateral conversations for Schedule 7As) there is too much uncertainty over the potential for unintended consequences of expanding TCLC to BS such as reduced transparency of the BM. It would be difficult to see how widening the scope of TCLC to BS could be possible without significant changes to the way the TCLC guidance document is written to accommodate each type of BS market.

If there is a desire to expand TCLC to BS a number of key questions would need to be addressed before a decision could be taken. For example, explicitly defining what constitutes a BS so that all participants are clear on what then falls within scope of the TCLC as well as whether there is any evidence/ data from the ESO that parties providing BS hold a position of market power that needs to be addressed via the TCLC rather than through REMIT.

In addition, TCLC only addresses reductions in generation whereas the ESO procures BS for both reductions and increases in generation (for example the majority of Schedule 7As are for increases which fall outside the current TCLC) so expanding TCLC to cover increases in generation would also have to be considered for this option to ensure it is consistent and effective,

### **2. Expanding the TCLC to prohibit licensees from obtaining an excessive benefit in relation to offers**

We believe that there is some basis for expanding the TCLC to offers in the BM but not BS more broadly. This would be a natural extension of current rules as in general a transmission constraint will both require generation to be bid off and some replacement generation offered on.

However, it is not clear that this is a material issue. Ofgem have already proposed changes to address some elements of the market to address high cost from inflexible generators (Inflexible Offers Licence Condition) and so before expanding the TCLC to offers it will be helpful to see the analysis to determine if this is or is likely to be a material issue in future.

### **3. Expanding the TCLC to bids to import or offers to export**

In principle, increasing generator imports during a transmission constraint has a similar effect to reducing exports or bidding down generators. Therefore, these parties could also have market power and lead to higher constraint costs. Currently TCLC explicitly excludes batteries when they are importing.

However, we think there are two issues for Ofgem to consider before expanding the TCLC to bids to import.

First, there is a lack of maturity in the battery market and certainly the operation of batteries behind transmission constraints. For instance, the launch of the Open Balancing Platform (OBP) to address skips rates in the BM has only just gone live so this market needs time to develop before seeing what issues (if any) need addressing. The effect of the proposed change to TCLC is unclear but could be perceived by battery developers to reduce the value of their flexible assets with negative effect on investor confidence. If taken forward, Ofgem needs to consider the impact of this option carefully as well as how this might be implemented, over what timescales in order to not have an adverse impact on investment cases.

Secondly, REMIT is also relevant in cases where batteries are offering prices in the BM but not exporting, i.e. securing the price of a wholesale energy product at an artificial level. Expanding the scope of TCLC would appear to overlap with REMIT in this regard. If Ofgem decide to take this proposal forward it will be helpful to provide greater clarity on the respective overlapping obligations to ensure consistency of approach.

#### **4. Replacing the requirements of the TCLC with an explicit cap on generators' prices or profits in constraint periods**

This would be a significant change to the BM. On the one hand it would provide a lot of regulatory certainty to the market and help to reduce non-compliance with TCLC and make it simpler to price. However, it would place a potentially complex and serious administrative burden on participants and Ofgem. For instance, the cap would need to be reviewed regularly by Ofgem and clarity will be needed on how generators should comply.

We believe that there are a number of aspects that Ofgem would need to consider further including whether it would drive BM prices down or encourage them to converge at the cap level? For example, in an oversupplied market that is constrained could it encourage generators to price at or near the cap for their bids in the BM and lead to more expensive outcomes than a market without a cap? With the drive to meet Net Zero which requires a significant amount of investment in innovation, could this initiative deter investors?

At this stage there appears to be little evidence to support an intervention in this way and materially change the approach to TCLC.

## 5. Extending the requirements of the TCLC to providers of balancing services other than licensed electricity generators

In principle, we see no reason why a party that could potentially influence prices during a transmission constraint should be exempt from the TCLC. By applying TCLC or equivalent to all parties that have some degree of market power due to transmission constraints would help create a level playing field among participants and have the potential to reduce consumer costs.

However, while we recognise that this has the potential to become a more significant concern, at this stage it is not clear how material this is and we note that some of these markets, including demand side flexibility are immature and need space to grow. For example, how would actions in Demand Flexibility Service (DFS) or Vehicle to Grid markets be monitored? Before applying these additional burdens it is certainly worth evaluating the benefits and the practicality of delivering this proposal.

Other parties offering increases or decreases in output like interconnectors would be hard to enforce against under a TCLC-type arrangement since many of the participants are European-based, i.e. these would be SO to SO trades, and so would not necessarily have to comply with UK-based rules governed by Ofgem. It may make more sense to use existing REMIT powers which are familiar across Europe to address any non-compliant actions taken by interconnectors for instance.