



**Shell Energy Europe Limited**

Shell Centre

London

SE1 7NA

Ofgem  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU

By email only to:  
WholesaleMarketPolicy@ofgem.gov.uk

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Dear Domestic Market Management team

**Subject: Responding to the Transmission Constraint Licence Condition (TCLC) call for input.**

Shell welcomes the opportunity to provide input into OFGEM's call for input on whether any changes are required to the TCLC scope in order to ensure that it is effective in keeping down balancing costs and are proportionate.

In order to reflect on the intention of TCLC we appreciate OFGEM setting out the history and evolution of this licence condition. Our understanding is it was introduced to limit electricity generators making excessive benefits during periods of Transmission Constraints (TC), with the latter rising due to delays in transmission infrastructure build.

We have also reflected on our understanding of the scope of REMIT and TCLC in assessing the areas in this call for input. We believe that the main difference between REMIT Article 5 and TCLC is that REMIT is intended to prevent market manipulation by creating an artificial price, whereas TCLC prohibits licensees from obtaining an excessive benefit if they are behind a TC. An artificial price arises where the price of a wholesale energy product does not correspond to the one that would have emerged from a fair and competitive interplay between the supply and demand in that market. Therefore, a market could have extremely high prices, but they may not be artificial.

When Licence condition 20A was introduced in 2017, the TCLC scope was reduced to the Bid side, while the Offer side was removed and covered under REMIT Article 5 i.e., if a licenced generator inflated prices by withholding volume or requesting an artificial price then it would be breaching REMIT. Following this logic, we therefore don't believe that TCLC needs to be

extended to Offer prices. We note that Offer prices are actively monitored by the National Grid Market Monitoring team.

In terms of extending the TCLC to activity outside the Balancing Mechanism, unlicensed generators and assets which were not intending to export at the time of the TC, we don't believe it is warranted. Nor do we believe that introducing a price cap for generation in constrained periods is necessary and are concerned that this would reduce market signals and stifle new investment. In our view, if OFGEM would like to consider further then a full impact assessment would be beneficial and needed. We note the OFGEM letter of 12 December 2016 which says 'Where there is no evidence of market abuse and price rises are reflective of scarcity, we would not expect REMIT or other market conduct processes to be engaged'. Unless there are areas of concern, we don't believe this area warrants further consideration.

We provide further thoughts on each of the areas under consideration below.

If you have any questions regarding our responses, we would be happy to discuss in more detail.

Yours sincerely,

Melanie Ellis  
Regulatory Affairs Manager

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

As other balancing services, such as Schedule 7A and Intertrips, are already competitively tendered or commercially negotiated, then we don't believe they need to be included in the scope of TCLC. It would also be difficult for these parties to know whether they will be deemed to be behind a TC at the time of agreeing these services, and therefore in setting their prices.

**Consideration 2: Expanding the TCLC to offers.**

As described above, the requirement not to artificially inflate prices is covered under REMIT Article 5 and it does not need to be extended to TCLC for licensed or unlicensed generators. If TCLC was extended to Offers for all generation in the Balancing Mechanism, then it would

likely cause uncertainty about when to assume that generators will be operating during a TC. This may result in assets opting not to participate in the Balancing Mechanism.

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

We are not sure what problem OFGEM is trying to solve by considering extending TCLC to generators which were not intending to export at the time of the constraint. We are not sure if this is intended to capture limited duration assets and would need further analysis to be able to comment further.

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

We are strongly against market intervention of this nature as it will limit market signals and will stifle investment in GB flexibility.

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

In order to assess whether TCLC should be extended to non-licensed generators there would first need to be an analysis to determine if there is an issue, consideration on how such a condition would be administered to generators not caught by a generation licence and how onerous it would be for smaller generators to participate.