

01 February 2024

By e-mail to WholesaleMarketPolicy@ofgem.gov.uk

Dear Wholesale Market Policy team,

Please find below VPI's response to Ofgem's Call for Input on the Transmission Constraint Licence Condition.

[VPI](#) provides flexible and reliable power to help bridge the gap between the now and the next. We operate 3.5GW of capacity across GB and Ireland with a further 624MW under construction.

Our overall position is that the TCLC does not require any changes and that the proposals are likely to have negative impacts on competition and investment. We believe that any analysis performed in aid of extending the TCLC should also consider the existing TCLC on a whole system basis and assess its overall effectiveness, forming a view on whether it is still necessary given other prevailing regulations including REMIT and competition law.

Our response is structured into general comments, and then specific comments on each of the proposals.

I'd be happy to discuss any element of our response.

Kind regards,

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VPI

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VPI's response to Ofgem's call for input on the TCLC

General

If Ofgem are looking at developments to the TCLC, they should be using this as an opportunity to assess its effectiveness on a whole system basis. TCLC, particularly if interpreted in line with the new more restrictive guidance, dampens the price signals experienced by market participants and TOs, and results in a distortion by hiding the true cost of constraints by preventing generators from pricing locational scarcity. Interventions like the TCLC reduce direct costs felt in the incidence of constraint, but increase overall costs experienced from a lack of competition or lack of ability to deliver efficient power as a result of the constraints continuing to exist.

We believe that the harmful behaviours prohibited by the TCLC are also prohibited by REMIT and competition law. REMIT and competition law allow for more targeted enforcement against undesired behaviours without resulting in the blanket distortions which regulations such as TCLC introduce.

The problem of constraint costs should not be considered by studying incurred balancing costs in isolation. Constraint costs are incurred to manage generation which cannot export because of network constraints, but that is anyway dispatching based on signals derived from their participation in the wholesale market. If this generation were only able to participate in the wholesale market at its constrained volume then wholesale market prices would be reflective of the actual generation position, and therefore be correspondingly high enough to enable the units Offered on to counteract constraint Bids to self-dispatch.

Therefore, the costs of constraint related Offers to unwind constraint Bids are only representative of money which is already missing from the wholesale market. This may or may not be the most efficient way of managing constraints, however this is the option on which the decision to invest in the current generation mix in GB has been made.

We also note that the TCLC currently applies indiscriminately in constraint zones even where there is significant competition in the provision of constraint Bids. The nature of the restrictiveness of the TCLC is such that it should only apply in scenarios where there is no competition for the provision of a service, not just that the service must be procured.

Expanding TCLC to other balancing services

Balancing services other than Bid-Offer Acceptances have different cost drivers and profit considerations. While we cannot comment on a problem statement without a particular issue having been identified, it should be considered that any monitoring and enforcement considerations would be starting from new in respect of analysis and findings.

In any case, we believe it is unlikely that a TCLC style regulation could effectively apply to most balancing services. Many are agreed well in advance of real time, where there is even less information available to determine if a constraint is likely.

Expanding TCLC to offers

As above, it is unclear what problem the proposal is attempting to solve. There are a number of scenarios where Offers could be caught under the TCLC, especially if considering the proposed updated guidance.

If the TCLC were applied to Offers taken to counteract Bids in a constraint zone (which may be covered under the current wording of the proposed expanded guidance) then it would be an extension of the TCLC to a normally competitive market. We feel that this would be an unnecessary imposition of compliance risk, resulting in distorted dispatch and investment signals for generators in these competitive zones.

The Inflexible Offers Licence Condition (IOLC) also already restricts Offer pricing in certain circumstances, suppressing pricing signals on occasions where a generator removes their PN within day. An additional restriction on energy based pricing by application of the TCLC to Offers would further reduce the periods of time where the energy price is freely formed by market participants competing with each other.

Expanding TCLC to bids to import or offers to export

This proposal would appear to extend the principle of the TCLC not only to assets which are contributing towards the problem of constraints, but also to those that are in a position to alleviate the problem.

Taking the example of a generator dispatching behind a constraint, the TCLC can be justified on the basis that the ESO may need to instruct that generator (and only that generator) to reduce output in order to manage the constraint. However, where there is both a generator and a storage asset behind the constraint the ESO may need to instruct the generator or the storage to reduce output, but the storage asset can provide an additional option by consuming some of the excess output (for a time). As this is an additional option for the ESO it would not be appropriate to regulate the revenues available to the storage for importing as well as regulating the Bid price on export from the generator. To do so would be to remove any incentive to locate an asset which can help to alleviate constraints in a constrained area, vs in an unconstrained area where it has less value to the system overall but would be allowed to earn the same (or even greater) returns from competitive behaviour.

Replacing TCLC requirements with price cap

There is a significant practical issue with this proposal. Each generator has a unique cost basis, and so Ofgem would have to calculate bespoke prices for hundreds of generators for every half hour of the day, and have a mechanism to update the price calculation every time the inputs or cost basis changes (for example a change in the gas price, or asset conditions – there are typically hundreds of such events a day). Not doing this and instead applying more generic and less variable price caps would create winners and losers in the methodology, severely distorting competition the GB generation industry.

Expanding TCLC to non-licensed participants

While we agree in principle that all participants should be subject to equivalent rules, it would be challenging to expand a licence condition to entities not subject to the licence. This would require legislative intervention. Without a problem statement and analysis it is hard to provide a view, but we believe that this action is likely to be highly disproportionate to the risk that non-licensed parties pose in respect of abuse of constraints.