The voice of the energy industry

Energy UK response to Ofgem consultation on the future of the Transmission Constraint Licence Condition

30 June 2016

Energy UK is the trade association for the GB energy industry with a membership of over 80 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership encompasses the truly diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 26 million homes and every business in Britain. Over 619,000 people in every corner of the country rely on the sector for their jobs with many of our members providing lifelong employment as well as quality apprenticeships and training for those starting their careers. The energy industry adds £83bn to the British economy, equivalent to 5% of GDP, and pays over £6bn in tax annually to HMT.

Introduction

Transmission constraints occur when there is insufficient network capacity to transmit the electricity into or out of a region on the network, and as is noted in the consultation document, steps to reinforce the network have been taken to alleviate transmission constraints since the introduction of the transmission constraints licence condition (TCLC). While it may be that constraints will be less of a problem in the near future, Energy UK agrees that it is unacceptable that plant despatch decisions should knowingly create or exacerbate transmission constraints in order to create short term gains in the Balancing Market (BM). Energy UK therefore supports regulation that prevents market abuse.

Executive summary

- Energy UK believes that TCLC and REMIT article 5 both monitor market abuse but members are split as to whether or not REMIT is a substitute for TCLC. Fundamentally, Energy UK believes that *if* REMIT is able to monitor market abuses that are covered by TCLC, then TCLC is no longer necessary.
- Energy UK supports a level playing field between constrained and non-constrained assets.
- Ofgem should consider whether TCLC is in line with the principles of better regulation before extending TCLC until 2019.
- *In principle*, TCLC should be widened to include licence exempt generators participating in the BM.
- Energy UK believes that *if* TCLC is extended to 2019, Ofgem should review with industry again before extending it further.

Impact of TCLC on market participants

Energy UK sees that there has been a marked difference in recent years in the behaviour of certain market participants. However, some Energy UK members are confident that this change in behaviour is a result of TCLC, whereas other members find it difficult to clearly separate out the behaviours that were affected by TCLC from the behaviours that were affected by the introduction of REMIT[1]. Further to REMIT and TCLC, some Energy UK members see that changes in pricing behaviours by licenced generators may also be attributed to wind generators being more involved in industry working groups and fora which has enabled greater understanding of the workings of the BM and facilitated engagement in the market. Energy UK members have developed a greater awareness of pricing and of market practices in recent years.

Energy UK is unclear how Ofgem has analysed data or drawn conclusions noted in the consultation. Industry would appreciate more transparency in future. For information, members have incurred little to no costs associated with complying with TCLC, particularly when compared to the amount of resource that has been dedicated to REMIT compliance for market participants.

Should the scope of TCLC be widened to include licence exempt generators participating in the BM?

Energy UK would support in principle that *if* TCLC were to continue in its current form, that TCLC is extended to include licence exempt generators participating in the BM. Just as article 5 of REMIT applies to all parties, so should TCLC. At the same time, Energy UK understands that there are not many generators participating in the BM that are licence exempt and there may practicalities to consider when extending TCLC.

Extending TCLC

Energy UK sees TCLC as a temporary solution to manage constraint payments and hope to see that constraints on the system had lessened by 2019 and beyond. Energy UK urges Ofgem to ensure that if TCLC continues, that, while not a new piece of regulation, is in line with Ofgem's principles of better regulation before extending TCLC until 2019; proportionate, consistent, transparent and targeted only when needed. Further to this, it is important that *if* TCLC is extended to 2019, Ofgem review with industry again before extending it further.

Interactions between TCLC and REMIT

Energy UK sees that TCLC and REMIT article 5 address market abuses. TCLC addresses a specific market abuse, whereas REMIT covers a wider spectrum of market abuses. If Ofgem were to rely on REMIT alone, Ofgem should ensure that sufficient resource is dedicated to screening data. REMIT applies to 'all market participants' and is set up to find market manipulation that arguably does include the behaviours covered in TCLC. Nonetheless, it is important that Ofgem ensures that regulation is necessary and effective in monitoring behaviours as well as results.

We would welcome the opportunity to further discuss the points raised within this consultation. Please contact Kate Dooley on 020 7747 2942 or kate.dooley@energy-uk.org.uk to discuss further if required.

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[1]Energy UK understands that the enforcement powers did not come in until a year later after the introduction of REMIT.