# RESPONSE TO OFGEM CONSULTATION ON THE FUTURE OF THE TRANSMISSION CONSTRAINT LICENCE CONDITION, JUNE 2016

EP Invest represents the UK interests of Energetický a Průmyslový Holding ('EPH'), a major energy and utilities group based in the Czech Republic.

EPH owns a large portfolio of energy companies including a major gas shipper from Russia to the EU, the gas industry leader in Slovakia and the electricity supply and heating industry leader in the Czech Republic, as well as generating assets in Germany and Italy as well as Eastern Europe. It has 14.6 GWe of heat and power capacity including coal, lignite and renewables.

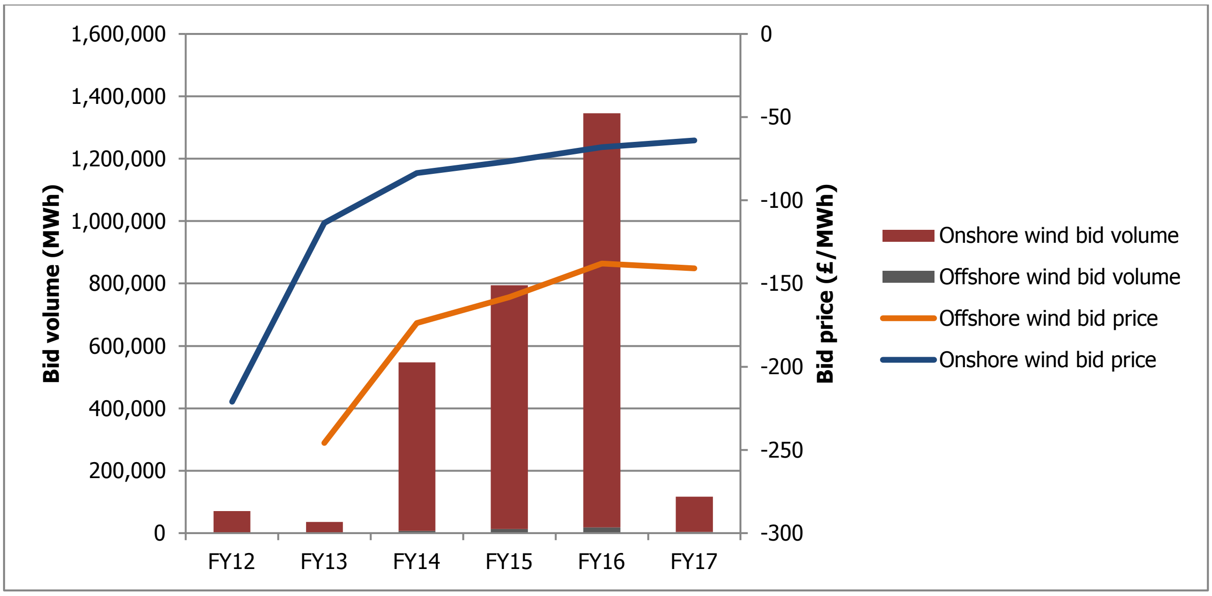
In 2015, EPH purchased Eggborough Power Limited, an independent power generator which owns and operates a 2,000 MW coal-fired power station in Yorkshire. This purchase was the Group's initial step into the UK market. In 2016, EPH purchased Lynemouth Power Limited, the owner and operator of a 420 MW coal-fired power station in Northumberland. Lynemouth holds a Contract for Difference for full biomass conversion. EPH is progressing with the biomass conversion project and it is anticipated that this will commission in 2017. EPH is also actively pursuing a number of other acquisition and new build opportunities in the UK electricity market.

**Question 1: What are your views on the impact of TCLC on the behaviour of market participants?**

EP Invest considers that Transmission Constraint Licence Condition (TCLC) has had a limited impact on the behaviour of market participants and that other factors, such as changing market conditions and the impact of REMIT, are responsible for some of the effects identified by Ofgem in the consultation document.

Of the two conditions to which TCLC applies, Condition 1 appears to duplicate the market manipulation provisions of REMIT. We would suggest that REMIT, which applies at all times not just in Transmission Constraint Periods, has had a greater influence on generator behaviour since it came into force in 2011 than TCLC has had since it came into force in 2012.

In relation to Condition 2, Ofgem argues that the introduction of TCLC has reduced average bid prices for wind generation from £204/MWh before its introduction to £65/MWh today. However, we consider that this reduction in average prices is unlikely to be attributable to TCLC. Crucially, Ofgem's methodology takes no account of the impact of other factors, such as increased competition. As can be seen from the chart below, bid volumes from onshore wind farms have increased dramatically since 2011. We consider that this, coupled with exposure to a single cashout price since the implementation of P305, is likely to have had a greater impact on average bid prices than the threat of enforcement under TCLC. Furthermore, many of the highest average bid prices in 2011 (before the introduction of TCLC) appear to be associated with periods in which new wind farms were in the process of commissioning or had recently commissioned, which would have affected their bidding strategies. We therefore do not consider that this is a reasonable baseline from which to assess the impact of TCLC.




**Question 2: What have been the costs for generators to comply with TCLC?**

Our experience is that the direct costs of compliance with TCLC are low. However, the requirement for generators to have in place policies for compliance in addition to those for REMIT creates an unnecessary burden.

**Question 3: What have been the benefits of TCLC?**

We are doubtful that benefits have derived from TCLC. Please see our response to Question 1 for more information.

**Question 4: Should the scope of TCLC be widened to include licence exempt generators participating in the BM?**

As explained below, EP Invest does not support the extension of TCLC. However, if it is retained, we consider that it should apply to all generators who participate in the Balancing Mechanism in order to treat all parties equally and avoid perverse outcomes.

**Question 5: What are your views on extending TCLC until 2019 in its current form as allowed by current legislation?**

We do not support the further extension of TCLC. As explained in our response to Question 1, we are not convinced that TCLC has had a significant impact in addition to REMIT and increased competition among wind farms. Furthermore, given the change in market conditions since 2010 when the legislation for TCLC was passed, we do not consider that it is still relevant as a tool to target generator behaviour.

The further increase in network constraints and associated costs which is anticipated over the next five years is a result of the failure of network investment to keep pace with the changing nature of the electricity market, in particular the increase in wind generation. There is little evidence to suggest that generators are seeking to obtain excessive benefit from these constraints, especially in the light of increasing competition among wind generators in Balancing Mechanism driven by both increasing wind volumes and exposure to a single cashout price under P305. Furthermore, the generation profile in constrained areas has changed significantly since the introduction of TCLC with the closure of Cockenzie and Longannet in Scotland, which should alleviate some of the former concerns about possible exploitation of network constraints by generators.

For these reasons, we do not consider TCLC remains necessary, especially as Ofgem has alternative powers under REMIT to monitor the market and investigate and penalise market manipulation as necessary.

**Question 6: What are your views on extending TCLC beyond 2019 with a further review after five years?**

We do not consider that TCLC should be extended beyond 2017 for the reasons given above.

**Question 7: What are the risks and benefits of introducing an extension of TCLC?**

The benefit of extending TCLC would be that there would be explicit rules to guard against generators seeking to benefit excessively from transmission constraints in the period to 2023. However, as we consider that REMIT already provides this protection, there is a risk that retaining TCLC could complicate the regulatory landscape for generators.

**Question 8: Do you have any concerns around TCLC you want to raise?**

The consultation document highlights the likely increase in constraints between 2017 and 2022. There is currently a lack of transparency surrounding constraints on the transmission system. We consider that National Grid should publish more information as to where constraints are likely and when they occur.

**Question 9: What are your views on the interactions between TCLC and REMIT Article 5?**

As discussed above, we consider that TCLC duplicates the provisions of REMIT Article 5 and that REMIT, which applies in all circumstances, should be sufficient on its own to target potential market manipulation as it has the greater impact on generator behaviour. Duplicating regulation by retaining both tools increases the complexity of the regulatory landscape and therefore increases risks and costs associated with compliance by generators.

**Question 10: What are the risks and benefits of relying on REMIT to address the behaviours prohibited by TCLC, as compared to the risk and benefits of keeping of the TCLC?**

We consider that relying on REMIT would have the benefit of simplifying the regulatory landscape for generators and ensuring that there is only one set of rules that applies to their behaviour.