

Marta Csirinyi
Wholesale Market Conduct
Energy Systems
Ofgem
9 Millbank
London SW1P 3GE

Consultation on the future of the Transmission Constraint Licence Condition (TCLC)

Vattenfall is the Swedish state-owned utility and one of Europe's largest generators of electricity and heat and the second largest player in the global offshore sector. It is our ambition to be at the forefront of the low carbon transition and we are strongly committed to significant growth in wind, onshore and offshore.

Vattenfall has invested nearly £3bn in the UK in onshore and offshore wind since 2008. We will operate nearly 1GW of capacity onshore and offshore by 2017 and recently announced plans to invest £5bn in renewables, mainly offshore wind, in Northern Europe by 2020. It is our ambition that the UK will continue to be a growth market for Vattenfall.

My colleague Matthew Bacon would be pleased to discuss the views we put forward in this consultation. He can be reached at matthew.bacon@vattenfall.com or on 0203 301 9103.

Yours sincerely,

Andrew Paine
Project Director

Summary of Vattenfall position

By the end of 2017, Vattenfall will operate 11 UK wind farms, four of which will be transmission connected and three of these will be subject to the TCLC as license holders.

As a business, we have invested resources into ensuring compliance with the TCLC and support its continuation into the future and, particularly, principles which ensure the system can be balanced at least cost to the consumer.

Vattenfall uses the same methodology across our transmission connected portfolio for calculating balancing offers to the system operator in the event of transmission constraint, regardless of whether we hold a license for that particular site. Whilst the bid offers themselves vary by project, reflecting site-specific costs, the formula underpinning these calculations is the same regardless of whether the generating site is covered by the TCLC or not.

However, Ofgem may wish to consider in particular whether the benefits of extending the license condition to those who are currently license exempt outweigh the compliance costs and any subsequent impact on market competition. As we show in our confidential annex, the costs of conforming to the TCLC are material and may have an impact on project viability.

As a large utility with a diverse portfolio, Vattenfall is able to absorb and spread these costs. This may be less true for smaller wind companies or those with single project developments and extending these requirements to license exempt sites may act as a barrier to entry and therefore harm competition in the generation sector.

Ofgem may also wish to reflect on whether the TCLC is still needed given duplication with other legislation (mainly REMIT) which Ofgem recognise in the consultation.

1. What are your views on the impact of TCLC on the behaviour of market participants?

The evidence presented by Ofgem in this consultation document suggests that TCLC has been effective in amending market behaviour, particularly with regards to prices offered to the System Operator by generators to produce less power during transmission constraint. This is a good thing for consumers and for market function more broadly.

However, there may be broader reasons why bid offer prices during times of constraint have fallen, particularly in wind, such as:

- Increased maturity of the sector
- Improved forecasting and asset management
- Improved balancing by National Grid
- Variations in annual wind output
- Increased generation coming on stream providing a more accurate view of average industry costs of curtailment
- Falling wholesale power prices reducing the opportunity cost of constraint

However, this is not conclusive and not reason in itself to remove the license condition if it is the driver of positive market behaviour.

2. What have been the costs for generators to comply with TCLC?

This is provided in a confidential annex.

3. What have been the benefits of TCLC?

We believe Ofgem have set out the overall benefits to consumers in this consultation. As long as legislation and enforcement by Ofgem - whether TCLC, REMIT, or competition legislation – provides a framework for preventing uneconomic behaviour then this should be continued.

4. Should the scope of TCLC be widened to include license exempt generators participating in the BM?

We believe Ofgem should consider carefully whether the benefits outweigh the costs. Extension of the TCLC to non-license exempt generators is unlikely to impact on Vattenfall’s business or market behaviour as we apply the same methodology to both licensed and license-exempt wind farms.

However, given the costs outlined in our confidential annex, this may prove problematic for smaller businesses or those with fewer sites over which to spread the costs. A further cost for smaller generators may be infrastructure upgrades required by smaller

sites to be able to limit their output. In turn, these kinds of cost may present a barrier to entry and/or material increase in costs damaging the economic case for new generators. This may be particularly pertinent when considered against the background of wider industry change (e.g. National Grid’s transmission charging review, Ofgem’s review of embedded benefits, early closure of renewables support schemes).

This may be contrary to the spirit of reducing red tape and compliance costs for smaller businesses/projects which underpins the existing rationale for license exemptions, particularly given the duplication with REMIT. It may also be contrary to Ofgem’s move towards ‘principles based regulation’ in other areas, such as retail markets.¹

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

Vattenfall supports this proposal, although notes the apparent duplication with REMIT and would ask Ofgem to consider simplifying the regulatory landscape.

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

As above.

7. What are the risks and benefits of introducing an extension to TCLC?

No comment.

8. Do you have any concerns around TCLC you want to raise?

There would be less need for a TCLC without the root cause of high constraint bids into the balancing mechanism: constraint on the transmission system.

Although the overall costs to the consumer need to be forefront in planning transmission system investment, and it would be uneconomic to design a system where constraint was never a possibility, Vattenfall believes that it is important that the System Operator and regulator continue to address network constraint.

It is important that conditions like TCLC do not dampen the fiscal incentives and signals to the System Operator (and thereby the transmission owner and Ofgem through RIIOT1) to trigger investment. We note TCLC was originally time-bound as it was projected to be redundant beyond significant infrastructure investment in 2017. Whilst it is positive that Ofgem’s analysis predicts that constraint will be near zero by 2024, we urge

¹ <https://www.ofgem.gov.uk/gas/retail-market/market-review-and-reform/future-retail-market-regulation>

consideration of how system constraint might be further addressed in the upcoming RIIO-T1 mid-point review and RIIO-T2 due to start in 2021.

9. What are your views on the interactions between TCLC and REMIT Article 5?

Vattenfall believes that both TCLC and REMIT Article 5 aim to address similar behaviours in the market. There is therefore significant duplication between the two.

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

Vattenfall assumes the risks and benefits of relying on REMIT to curtail abusive behaviour are identical as we assume that the regulator puts equal weight onto each regulation in investigating and taking action against market abuse.