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Dear Marta

Draft Transmission Constraint Licence Condition Guidance

SSE welcomes the opportunity to respond to Ofgem's consultation on its new Draft Transmission Constraint Licence Condition (TCLC) Guidance.

We consider that this guidance provides some further clarity on Ofgem's intended approach to interpreting the licence condition.

In particular we welcome recognition that generators behind constrained areas should not be disadvantaged in the market when compared to generators outside of constraint zones.

We do believe, however, that some additional points of clarity should be made.

1. We would suggest that Ofgem remove any reference to 'Circumstance 2' from its guidance, given that the licence condition now only applies to one circumstance. For example, the diagram in paragraph 2.8 should be revised.
2. Ofgem should also provide more clarity on the assessment criteria it will use when determining whether an excessive benefit has been obtained (paragraph 2.15). We agree with the individual indicators Ofgem has identified but would like confirmation that when undertaking its assessment, Ofgem would not expect all of the indicators to be met. For example, if the comparable generator benchmark can

be proven, that this would supersede the requirement for a generator to meet the avoidable costs indicator. This approach would be in line with the statement Ofgem has made under paragraph 2.11, that it would not expect generators behind constrained areas to be disadvantaged in the market when compared to generators outside of constraint zones and vice versa.

3. Given that the licence condition now only applies to bid prices for reducing generation, we would query whether sub-paragraph 2.3 (a) in the guidance and sub-paragraph 2 (a) (i) are required.

Objective justifications

We think that Ofgem has identified some of the correct objective justifications that should be taken into consideration when assessing the pricing decisions made by a generator, however this list is not exhaustive and we believe further justifications should be included.

For example, a key consideration for generators will be the management of environmental obligations and safety risks related with their station. This is of particular importance for hydro stations, which have various environmental obligations which affect the way they should run (for example, minimum and maximum flows depending on the time of year). These generators also need to consider safety hazards which can occur as a result of changing and extreme weather conditions, in order to avoid uncontrolled releases of water. Similar to the 'operational risks' justification outlined in Ofgem's guidance, these environmental and safety factors will make it difficult for stations to offer flexibility at certain times and it should be considered justifiable for a generator to reflect this in their bid prices.

We would welcome the opportunity to discuss this particular issue in more detail with Ofgem and other scenarios where objective justifications out with those identified in the guidance could be applicable. We think it is important for Ofgem to assess every scenario on a case by case basis.

Monitoring

We recognise Ofgem's role in monitoring compliance with TCLC and that the ability to carry out this role is dependent on the information that is available through the market (bid/offer prices and information on plant dynamics) and the System Operator (system tagging). To aid transparency and ensure a level playing field for generators we would welcome further insight from Ofgem on the information it uses to determine whether a transmission constraint has occurred. In particular, we would be interested to understand whether this decision is based solely on the tagging system put in place by the System Operator (SO), in



so far as a generator will only be considered as constrained if it is tagged as 'system' by the SO.

We believe transparency around the current tagging process could be improved so that generators have better sight of system constraints in real-time (currently these are only visible after the event). We would also welcome a review of the types of scenario which are currently caught under the tagging process, to ensure that all relevant system constraints are being treated consistently. This will aid Ofgem's ability to monitor market activity effectively and will ensure a level playing field for generators.

We hope that Ofgem will take the points raised in this letter into consideration when drafting the final version of its guidance and we would be happy to meet and discuss our response in more detail.

Yours sincerely

Lois Wares
Regulation