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Update to the Transmission Constraint Licence Condition guidance - consultation

Dear Graham,

RWE is a leading global energy player, with a 38 GW global generating capacity worldwide, and a clear target: to get to net zero by 2040. With its new strategy 'Growing Green' (announced in November 2021) RWE expects to invest €50 billion gross in its core business globally -an average of €5 billion gross each year for offshore and onshore wind, solar, batteries, flexible generation and hydrogen.

In the UK, RWE is one of the largest power producers, accounting for around 15% of all electricity generated across a portfolio of onshore wind, offshore wind, hydro, biomass and gas, amounting to over 10 GW pro rata (12 GW installed capacity) -enough to power over 10 million UK homes.

RWE is also one of the largest renewables generators in the UK, with a combined installed capacity of over 2.79 GW (pro rata) (4.8 GW installed capacity) across our onshore wind, offshore wind, hydro and biomass assets. In addition to its growing renewables portfolio, RWE operates around 7GW of modern and efficient gas-fired capacity in the UK, making us one of the largest providers of firm flexible generation, which is crucial for security of supply.

Overall, and including its committed investments in projects already under construction, RWE expects to invest up to £15 billion in new green technologies and infrastructure in the UK by 2030.

We welcome the opportunity to comment on the proposals for updates to the Transmission Constraint Licence Condition guidance ("the Consultation").

Our response is non-confidential.

In addition to the responses to the specific questions in the Consultation, we would make the following broad points.

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As a principle, we believe that regulatory interventions in competitive markets should be confined to specific, targeted issues where other measures have failed. In the area of constraint management, there is much that can and should be done to increase competition in the resolution of constraints. This could be through encouraging wider market participation through market transparency and product development. For example, by opening up the potential for all possible providers of flexibility to bid against a specific constraint requirement, the ESO could widen participation and encourage technological solutions.

Regulatory interventions that are insufficiently clear or targeted risk creating rather than resolving market distortions. We believe that the proposed changes to the TCLC guidance run the risk of introducing further differences in treatment between market participants that will result in increasing divergence from the principle of competitive price formation. This can have impacts not only for providers of flexibility behind a constraint but also for the wider market.

If there are any points in the attached on which further discussion would be helpful, please do not hesitate to get in touch.

Yours sincerely

Raoul Thulin
RWE Supply & Trading GmbH

Annex 1

Consultation questions

Q1. Are there additional areas of background that respondents would find it useful to have covered in the guidance?

The guidance should be explicit, in the same way that the consultation document is, that generators behind a constraint should not be disadvantaged when compared with other similar generators operating in the energy market. Thus, it should be made clear that if pricing bids in a way that would be likely to result in acceptance of those bids absent the constraint, a generator is unlikely to be in breach of TCLC. Without such a clarification, the application of the guidance as drafted risks putting such generators at a competitive disadvantage.

Q2. Are there areas where respondents consider that the guidance would benefit from additional detail on Ofgem's interpretation of or approach to the enforcement of the TCLC?

The list of evidence that Ofgem might consider when assessing the reasonableness of bids in 2.41 of the guidance is helpful. However, the combination of prices (in £/MWh) and profit margins (which we take to be in £) makes operating within these guidelines very difficult. It should be made clear that a bid that is likely to have been taken absent the constraint – for example because it is less expensive than the marginal bid (subject to dynamic parameters) – should be assumed to be outside the scope of TCLC.

Further, the approach risks distortions if units of different sizes are assessed differently for submitting similar bid prices due to a larger unit accruing a greater profit margin in £ simply because it is bigger.

Q3. Are there any areas where respondents consider that the proposed changes to the guidance are unclear?

There is a lack of clarity in relation to assessing when bids associated with a generator behind a transmission constraint would be accepted at market prices absent the constraint. There is a clear risk that the proposals will not properly take account of the likely volume of bids that might be expected were a constraint not to be active. A generator must be able to assume that a bid that is competitive in the market would have been taken in any case and therefore unlikely to be in breach of TCLC.

Q4. Are there any examples of material costs or benefits of curtailment that are missing from Table 1?

It should be recognised that costs associated with a start are not simply 'fixed' costs but are likely to vary depending on where a unit may be in its maintenance cycle and how it has been operating. Outages may be linked to operating hours and/or number of starts since the last outage. Therefore, the cost of a start will be variable. Likewise, the 'benefits or avoided costs' of being bid down may not result in a reduction in maintenance costs if the next outage is likely to be triggered by the number of starts incurred.

Q5. Are there circumstances which could objectively justify bid prices that would otherwise be excessive, which are not captured in the updated guidance?

In the draft guidance, 2.29 outlines a small number of circumstances, notably environmental or regulatory obligations, as to why a generator might submit what would otherwise appear to be excessive bid prices. In addition, there may be many technical and commercial reasons why a generator may signal a high cost associated with being bid down or off. For example, a non-exhaustive list would include:

- Engineering issues that would result in a subsequent start being impossible or high risk without a significant outage
- A need to carry out testing that requires a stable load
- Locational gas trades that require the consumption of gas at a particular location for safety reasons

Q6. Do respondents have any other comments on the proposed changes to the TCLC guidance?

The proposed changes to the TCLC guidance and the accompanying consultation document risk undermining normal competitive price formation. As an example, the consultation document at 2.23 states:

> … we are aware of examples of parties mistakenly taking the view that this must necessarily therefore imply that their bid prices cannot be excessive where they are no more expensive than the price of the most expensive (or marginal) bid accepted by the ESO in the same period for purposes other than managing a transmission constraint. In fact, this would only be the case if that bid price happened to be reflective of the benefit that the generator would have actually obtained absent the transmission constraint.

The consultation document implies that it would be common for bid prices that are less expensive than the marginal energy bid price not to be taken. If the ESO's actions are efficient, we would expect that prices that are less expensive than the marginal bid should always be taken (subject to dynamic parameters) and therefore the marginal energy price should always be a reasonable guide as to whether or not a bid that is less expensive would have been taken in an unconstrained system.

If this assumption is not safe, then the approach taken by Ofgem would risk distorting the BM to the extent that units that are behind a constraint would be obliged to bid differently to the competitive (unconstrained) levels set to reflect supply and demand as required by REMIT whether or not they would have had the same bid accepted in the absence of the constraint.

We believe that the principle could be incorporated into Figure 1 in the guidance to introduce a further test of "is the bid price at a level that means it is unlikely to have been accepted absent the constraint". If the answer to that question is 'no', then there should be an assumption that there has been no breach.

Ofgem recognises the principle in 2.24 of the Consultation where it states that licensees should not be disadvantaged compared to other generators. It seems self-evident that a key test of this is whether a bid would have been accepted absent a constraint and that the obvious comparison would be with the most expensive bid at the time (subject to dynamic parameters). If this is accepted, then subsequent tests of whether or not a benefit is excessive become irrelevant.