

Bill Thompson
Group Regulation Manager
EirGrid plc
The Oval
160 Shelbourne Rd.
Ballsbridge
Dublin 4

Direct Dial: 020 7901 7194
Email: Rachel.Fletcher@ofgem.gov.uk

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Dear Bill

Approval of the modified access rules for the EirGrid East-West Interconnector (EWIC) including a direction to approve pursuant to Standard Licence Condition 11A paragraph 13 of the electricity interconnector licence

On 8 November 2013, EirGrid Interconnector Limited¹ (EIL) submitted proposed modified access rules (the "modified EWIC access rules") to the Authority² for approval. These were submitted pursuant to Standard Licence Condition (SLC) 11A of EIL's electricity interconnector licence. The EWIC access rules set out the general terms and conditions that a user must accept to obtain access to and use capacity on EWIC³.

This letter contains a direction to approve the proposed modified EWIC access rules and sets out the background and reasons for our approval under section 49A of the Electricity Act 1989.

Background

On 4 September 2012, Ofgem approved the current EWIC access rules in accordance with SLC 11A on the approval of terms for access by the Authority⁴.

In our approval, we noted that the access rules were silent on precisely how capacity would be curtailed on EWIC in the event of an outage. Some market participants had raised concerns regarding the order in which long-term and daily capacity was curtailed on Single

¹ EirGrid Interconnector Limited (EIL) is a wholly owned subsidiary of EirGrid Plc, the Irish transmission system operator. EIL commercially operates the EirGrid East-West Interconnector.

² The Gas and Electricity Markets Authority. Ofgem is the Office of the Authority. The terms "Ofgem" and "the Authority" "we" and "us" are used interchangeably in this letter.

³ The EirGrid East-West Interconnector is a 500MW High Voltage Direct Current link that runs between the Republic of Ireland and Great Britain.

⁴ On 10 November 2011, the Third Package was transposed into GB legislation resulting in amendments to the electricity interconnector licence, including the introduction of SLC 11A on the approval of terms for access by the Authority. SLC 11A introduces relevant access rules objectives, against which the Authority will assess access rules and any proposed amendments. The relevant access rules objectives are that access rules shall be transparent, objective, non-discriminatory and compliant with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency. The revised electricity interconnector licence standard conditions following the transposition of the Third Package can be found here:

[https://epr.ofgem.gov.uk/Content/Documents/Electricity Interconnector Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf](https://epr.ofgem.gov.uk/Content/Documents/Electricity%20Interconnector%20Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf)

Electricity Market⁵ (SEM) interconnectors⁶. In accordance with SLC 11A paragraph 9, we requested a review to be undertaken that dealt with the curtailment of capacity on EWIC⁷.

On 13 November 2012, EIL and Moyle Interconnector Limited⁸ (MIL) published a joint report for consultation. This report clarified the approach to managing auction capacity and the curtailment practices used on EWIC and Moyle⁹ interconnectors when some or all of the interconnector capacity was unavailable¹⁰.

The joint consultation closed on 11 December 2012. EIL and MIL submitted a recommendation paper¹¹, together with the six consultation responses received to the Commission for Energy Regulation¹² (CER), the Utility Regulator¹³ (UR) and Ofgem (the "Regulatory Authorities") on 24 December 2012. Following review of the recommendation paper, the Regulatory Authorities requested some additional clarifications from the interconnector operators in relation to certain questions that had been raised by the consultation respondents. In response, an additional note was prepared and submitted to the Regulatory Authorities on 5 April 2013¹⁴.

SEM Committee decision on curtailment approach on SEM interconnectors

Having considered the recommendation paper, the consultation responses and discussion with Ofgem, the SEM Committee¹⁵ issued a decision paper on 6 September 2013 on the Curtailment Approach on SEM Interconnectors¹⁶.

The SEM Committee's decision was that no change should be made to current practices by the interconnector owners (EIL and MIL) in managing auction capacity. However, in its decision paper, the SEM Committee requested that the SEM Interconnectors' access rules make it explicit that where interconnector capacity is reduced that the reduced availability is spread pro-rata across all future auction volumes to ensure transparency.

With respect to the curtailment of capacity, the SEM Committee stated that where curtailment of allocated capacity is required on the SEM interconnectors, all capacity that has been allocated should be curtailed on a pro-rata¹⁷ basis, which is the current practice

⁵ The Single Electricity Market (SEM) consists of a gross mandatory pool market, into which all electricity generated on or imported to the Republic of Ireland and Northern Ireland must be sold. More information can be found here: http://www.allislandproject.org/en/SEM_overview.aspx

⁶ SEM interconnectors are EWIC and Moyle At that time EWIC had not yet become operational.

⁷ A similar request was also made to the Moyle interconnector.

⁸ Moyle Interconnector Limited is an incorporated company registered in Northern Ireland and is the owner of the Moyle Interconnector.

⁹ Moyle is a 500MW High Voltage Direct Current link that runs between Northern Ireland and Great Britain

¹⁰ The two issues that were covered in the review were i) whether, in the event of reduced availability, the practice of auctioning (in future auctions) only the capacity which is forecast to be available was the correct approach and was in accordance with Regulation (EC) No. 714/2009 and ii) how already allocated capacity would be curtailed in the event of an outage as both the EWIC access rules and the Moyle access rules were silent on this matter.

¹¹ In their joint recommendation paper, MIL and EIL confirmed that their process had been to adjust auction volumes for future auctions after a curtailment event to reflect the available capacity and that in situations where curtailment of sold capacity was required on the Moyle and EWIC all capacity which had been sold was curtailed pro-rata and there was no differentiation made between longer term capacity holdings (e.g. annual) and shorter term capacity holdings (e.g. daily). However these processes were not explicitly set out in their access rules.

¹² The Commission for Energy Regulation (CER) is Ireland's independent energy regulator.

¹³ The Utility Regulator is responsible for regulating the electricity, gas, water and sewerage industries in Northern Ireland.

¹⁴ All relevant documents can be accessed here:

http://www.allislandproject.org/en/TS_Current_Consultations.aspx?article=7ef81e9f-949e-474e-848c-45934650fa48

¹⁵ The SEM Committee is the decision-making authority on all SEM matters. The SEM Committee is the decision-making authority on all SEM matters. The Committee consists of three UR representatives, three CER representatives, an Independent Member and a Deputy Independent Member.

¹⁶ Single Electricity Market Committee, "Curtailment Approach on SEM Interconnectors" Decision Paper, SEM-13-061, 5 September 2013: http://www.allislandproject.org/en/TS_Current_Consultations.aspx?article=7ef81e9f-949e-474e-848c-45934650fa48

¹⁷ There is no differentiation made between longer-term capacity holdings (e.g. annual) and shorter-term capacity holdings (e.g. daily).

on both EWIC and Moyle. The SEM Committee also requested that this practice should be explicitly stated in the access rules.

EIL's proposed modified access rules

In line with the SLC 11A paragraph 8, the licensee should review its access rules at least once in each calendar year and make any modifications necessary to ensure that they better achieve the relevant access rules objectives. EIL issued EWIC's revised access rules for consultation on 2 August until 6 September 2013.

The main proposed changes to the access rules were to include two new rules and edit an existing rule to give participants more detail on auction capacity and the curtailment approach used on EWIC when some or all of the interconnector capacity is unavailable¹⁸. This is in line with the SEM Committee decision.

In addition, EIL proposed to publish the long-term capacity holdings on the auction management platform for the purpose of increasing transparency and facilitating secondary trading. A number of changes were also proposed to the Letter of Credit¹⁹ wording, applicable to future letters of credit, for the purpose of facilitating greater competition by simplifying the registration process.

EIL submitted the proposed modified EWIC access rules, the consultation responses and a report explaining the amendments to Ofgem on 8 November 2013.

Two parties submitted responses to the consultation. One respondent welcomed EIL's intention to publish long-term capacity holdings. This respondent stated that this measure would increase transparency and facilitate secondary trading but advised that market participants who opt-out of the publication should be precluded from accessing the long-term capacity holding information of their competitors²⁰. Another respondent expressed some concerns relating to the changes to the Letter of Credit wording²¹; we understand that these issues have now been fully resolved. No comments were received in relation to the changes to the rules addressing curtailment in line with the SEM Committee decision.

The Authority has decided to approve the proposed modified EWIC access rules on the grounds that the proposed amendments better meet the relevant access rules objectives set out at paragraph 4 of SLC 11A. A direction to this effect, issued in accordance with paragraph 13 of SLC 11A of the electricity interconnector licence, can be found in the annex to this letter.

Given the date of this approval letter, EIL will not be in a position to publish the modified EWIC access rules 28 days before they become effective. The Authority, in accordance with SLC11A(14), has therefore directed EIL to publish the modified EWIC access rules as soon as possible after the date of this letter, and in any event they should be published not later than 20 January 2014.

Yours sincerely,

Rachel Fletcher
Interim Senior Partner, Markets

¹⁸ These include the addition of new rules E7.1.3 and E7.1.4 of the EWIC access rules to reflect the SEM Committee Decision SEM-13-061 and the specific reference to pro-rata curtailment to indicate how capacity would be curtailed in the event of an outage in rule E7.3.1.

¹⁹ Letter of Credit is an unconditional and irrevocable standby credit cover letter that is provided by means of cash on deposit.

²⁰ According to EIL, no market participants have contacted EIL to state that they wish to keep their capacity holdings private.

²¹ The proposed changes to the Letter of Credit wording are three fold: Change to 'issuing bank' from 'advising bank', change in notification deadline, and extension timeline change.

ANNEX

Direction issued to EirGrid Interconnector Limited (EIL) pursuant to paragraph 13 of Standard Licence Condition 11A (Approval of terms for access to the licensee's interconnector) of its electricity interconnector licence

1. This Direction is issued by the Gas and Electricity Markets Authority (the "Authority") pursuant to paragraph 13 of Standard Licence Condition 11A of the electricity interconnector licence (the "Licence") granted or treated as granted under section 6(1)(e) of the Electricity Act 1989 to EirGrid Interconnector Limited (the "Licensee").
2. Standard Licence Condition 11A provides that the Licensee shall prepare and submit for approval by the Authority a statement setting out the Access Rules (as defined in the Standard Licence Conditions for electricity interconnector licences).
3. Standard Licence Condition 11A paragraph 4 requires that the Access Rules be transparent, objective, non-discriminatory and compliant with the Regulation (Regulation (EC) No 714/2009 on conditions for access to the network for cross border exchanges in electricity) and any relevant legally binding decision of the European Commission and/or Agency (collectively the "relevant access rules objectives").
4. Standard Licence Condition 11A paragraph 8 requires that the Licensee to review its Access Rules at least once in each calendar year and make such modifications to the Access Rules as may be requisite for the purpose of ensuring that the Access Rules better achieve the relevant access rules objectives. The Access Rules for the Licensee were first approved on 4 September 2012.
5. Standard Licence Condition 11A paragraph 9 requires that the Licensee review its Access Rules where the Authority so requests. In accordance with paragraph 9 the Authority requested the Licensee to undertake a review dealing with the curtailment of capacity on EWIC following initial approval on 4 September 2012. The Licensee conducted such review and initially submitted its recommendations to the Authority on 11 December 2012.
6. Standard Licence Condition 11A paragraph 10, requires interconnector licensees to take all reasonable steps to ensure that all persons, including those in other Member States that may have a direct interest in the Access Rules are consulted and allow them a period of not less than 28 days within which to make written representations. The interconnector licensees must also furnish to the Authority a report setting out the terms originally proposed for the modification, the representations, if any, made by interested persons and any change in the terms of the modification intended as a consequence of such representations.
7. In accordance with Standard Licence Condition 11A paragraph 10, on 8 November 2013 the Licensee furnished the Authority with a report setting out the terms originally proposed in its access rules modification including changes as result of the public consultation and the SEM Committee decision on Curtailment Approach on SEM Interconnectors.
8. Having regard to the relevant access rules objectives and to our principle objective and general duties, the Authority has decided to approve the EWIC access rules. The Authority considers that the proposed modified EWIC access rules better meet the relevant access rules objectives.
9. The Authority hereby directs, pursuant to paragraph 13 of Standard Licence Condition 11A of the Licence, that the modified EWIC access rules are approved.
10. Standard Licence Condition 11A(14) of the Licence requires that, unless the Authority directs otherwise, that the Access Rules shall be published 28 days prior to coming into

effect. Given the date of this direction, EIL will not be in a position to publish the modified EWIC access rules 28 days before they become effective.

11. The Authority, in accordance with Standard Licence Condition 11A(14), directs the Licensee to publish the modified EWIC access rules as soon as possible after the date of this letter and, in any event, no later than 20 January 2014.

12. This Direction shall have immediate effect and shall remain in effect until such time as the Authority may revoke or vary the Direction in writing upon reasonable notice.

13. This direction constitutes notice of the Authority's reasons for the decision pursuant to section 49A of the Act.

Dated: 15 January 2014

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Rachel Fletcher
Interim Senior Partner, Markets
Duly authorised on behalf of the Authority