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Dear Paul

Approval of the modified access rules for the Moyle Interconnector including a direction to approve pursuant to Standard Licence Condition 11A paragraph 13 of the electricity interconnector licence

Notice in respect of the charging methodology for the Moyle Interconnector

On 13 May 2014, Moyle Interconnector Limited¹ ("MIL") submitted proposed modified access rules (the "modified Moyle access rules") to the Authority² for approval. These were submitted pursuant to Standard Licence Condition ("SLC") 11A of MIL's electricity interconnector licence. The Moyle access rules set out the general terms and conditions that a user must accept to obtain access to and use capacity on the Moyle interconnector.

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

This letter also discusses the current position of the charging methodology for the Moyle Interconnector.

Background

On 4 September 2012, Ofgem approved the current Moyle access rules in accordance with SLC 11A on the approval of terms for access by the Authority³. On 15 January 2014, Ofgem approved a modification to the Moyle access rules in accordance with SLC 11A.⁴

¹ Moyle Interconnector Limited is an incorporated company registered in Northern Ireland and is the owner of the Moyle Interconnector, which is a 500MW High Voltage Direct Current link that runs between Northern Ireland and Great Britain.

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 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 for the Cooperation of Energy Regulators ("ACER"). 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

⁴ <https://www.ofgem.gov.uk/publications-and-updates/approval-modified-access-rules-eirgrid-east-west-interconnector>

In line with SLC 11A paragraph 8, the licensee shall 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. In line with the SLC 11A paragraph 13, the Authority may issue a direction to approve or reject the proposed modifications within three months following the date of submission, otherwise the modifications are deemed to be approved.

Charging methodology

On 15 January 2014 Ofgem approved an amendment to the charging methodology for the Moyle interconnector pursuant to SLC 10 paragraph 14 of the electricity interconnector licence. In line with SLC 10 paragraph 9, the licensee must review its charging methodology at least once every calendar year and make any necessary modifications to better further the relevant charging methodology objectives⁵.

MIL reviewed its charging methodology alongside its access rules and concluded that no modifications are currently necessary. Ofgem is satisfied with MIL's conclusion that no amendments are currently required to be made to the Moyle interconnector's charging methodology to enable it to better further the relevant charging methodology objectives.

MIL's proposed modified access rules

MIL and EirGrid Interconnector Limited⁶ conducted a joint consultation on the proposed modified access rules between 31 March 2014 and 30 April 2014. No responses were received to the consultation.

MIL submitted the proposed modified access rules and a letter explaining the changes to Ofgem on 13 May 2014. The proposed changes to the access rules fall into two broad categories:

1. Capacity Usage Rules (Rule E5.2.4, E5.2.5 and E8.4);
2. Definitions (Schedule 1, Part I);

Capacity Usage Rules:

Minor changes were proposed to Rule E5.2.4 and E5.2.5. These changes provide that capacity curtailment compensation is not due for unused units which did not result in a Modified Interconnector Unit Nomination ("MIUN")⁷. These proposed changes provide explicit guidance on this issue in the access rules. These changes are reinforced in a proposed amendment to Rule E8.4 emphasising that no compensation will be due for Unused Units (as defined and discussed below) that have not been nominated. The changes are in line with current IFA and BritNed access rules which provide for compensation for curtailed nominations and not for non-nominated volumes⁸.

Definitions:

⁵ The charging methodology objectives are set out in SLC 10 paragraph 4 of the electricity interconnector licence. The charges and the application of the underlying charging methodology shall be objective, transparent, non-discriminatory and compliant with the Regulation and any relevant legally binding decision of the European Commission and/or the Agency (collectively, the "relevant charging methodology objectives").

⁶ EirGrid Interconnector Limited is a wholly owned subsidiary of EirGrid Plc, the Irish transmission system operator. EIL commercially operates the EirGrid East-West Interconnector.

⁷ Modified Interconnector Unit Nominations (a value expressed in MW) are calculated by the Market Operator based on relevant inputs from interconnector users and the interconnector administrator. These processes are set out fully in the SEM Trading and Settlement Code (<http://www.sem-o.com/MarketDevelopment/Pages/MarketRules.aspx>).

⁸ See: Rule E8.6 of IFA Access Rules v9: <http://www2.nationalgrid.com/WorkArea/DownloadAsset.aspx?id=28127>) and BritNed Access Rule D9: <http://www.britned.com/BritNed/Trading/~media/BritNed/Files/BritNed%20Access%20Rules%2012-06-13.pdf>).

One minor change was proposed to Schedule 1 with respect to the definition of “Unused Units” to align with changes discussed above. An Unused Unit is considered to be any unit of a user’s interconnector capacity entitlement which the user does not nominate. The change clarifies that in the intraday time period, this also applies when a user’s active capacity holding does not result in an MIUN.

Decision

We consider that clarifying the approach to capacity curtailment compensation enables MIL to better meet the relevant access rules objectives of transparency and non-discrimination. These changes make the access rules clearer by resolving a potential ambiguity between the Moyle and East-West Interconnector rules. The changes also align the access rules for both Irish interconnectors with the current rules for IFA and BritNed, which could reduce discrimination between interconnector users.

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

SLC 11A paragraph 14 requires that, unless the Authority directs otherwise, amended access rules are published 28 days prior to coming into effect.

A direction issued in accordance with SLC 11A of the electricity interconnector licence, setting out these decisions, can be found in the annex to this letter.

Yours sincerely,

Mark Copley
Associate Partner, Markets

ANNEX

Direction issued to Moyle Interconnector Limited (MIL) 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 Moyle 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. The Access Rules for the Licensee have subsequently been amended and this amendment was approved by the Authority on 15 January 2014.

5. Standard Licence Condition 11A paragraph 9 requires that the Licensee review its Access Rules where the Authority so requests.

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. The Licensee conducted such a consultation between 31 March 2014 and 30 April 2014.

7. In accordance with Standard Licence Condition 11A paragraph 10, on 13 May 2014 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.

8. Having regard to the relevant access rules objectives and to our principle objective and general duties, the Authority has decided to approve the Moyle access rules. The Authority considers that the proposed modified Moyle 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 Moyle 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. The Authority, in accordance with Standard Licence Condition 11A (14), directs the Licensee to publish the modified Moyle Access Rules 28 days prior to coming into effect, and no later than 29 August 2014.

11. 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.

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

Dated: 25 July 2014

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Mark Copley
Associate Partner, Markets
Duly authorised on behalf of the Authority