

To all cap and floor
interconnector projects and other
interested parties

Email: Cap.Floor@ofgem.gov.uk

Date: 24 February 2023

Dear stakeholders,

**Consultation on our proposed approach to project delivery delays as part of the
timelines and incentives framework applied to the Third Window**

In our Interconnector Policy Review (ICPR) decision¹ of December 2021, we committed to create a more flexible regime for interconnector developers by maintaining a 25-year regime for all projects and accommodating project-specific connection dates to maximise project deliverability. We have designed an improved timelines and incentives framework to implement these commitments. In our Application Guidance for the Third Cap and Floor Window for Electricity Interconnectors², published in July 2022, we shared our policy thinking at that stage and noted that we would consult on our final proposals in the coming months.

We are now consulting on changes to the timelines and incentives framework to be applied to the Third Window to improve our treatment of project delivery delays. Our approach is guided by maintaining or improving the risk-reward balance between developers and consumers as well as protecting consumers from the impacts of undue delays. As part of this, we are consulting on proposals for:

- a modified approach to the **Regime Start Date** (RSD) concept. RSD replaces the Connection Date (CD), introduced in our Application Guidance for the Third Cap and Floor Window for Electricity Interconnectors publication. To increase flexibility for

¹ [Interconnector Policy Review - Decision | Ofgem](#)

² [Application Guidance for the Third Cap and Floor Window for Electricity Interconnectors | Ofgem](#)

developers, the RSD can now be updated, and this approach delivers on maintaining a 25-year regime in the Third Window for interconnector developers.

- the **Reasonable Delay Event** (RDE). This mechanism was introduced to manage delays which are reasonable and have been managed diligently by the developer.
- the **Payback Mechanism for Delays**. This mechanism was introduced to manage undue delays – delays that have not been approved under the Reasonable Delay Event mechanism or the Pre-Operational Force Majeure mechanism, and delays for which no request for our consideration was submitted.
- a modified approach to the **Backstop Date**. Considering the Payback Mechanism for Delays, the Backstop Date concept is applied differently to the approach taken in our cap and floor Window 1 and Window 2.

Alongside the above, and to reflect the above proposals we are consulting on our proposed approach to providing a mechanism for cap and floor interconnector projects that have encountered delays, qualifying as pre-operational force majeure events, in the Third Window. This mechanism largely mirrors the existing approach for addressing delays caused by pre-operational force majeure events for projects from Window 1 and Window 2, in that it includes a policy mechanism and a related new electricity interconnector standard licence condition.

Our proposed approach aims to:

- a) **introduce a licence mechanism, set out in new standard condition 26B (Delay to Regime Start Date caused by Pre-Operational Force Majeure (Third Window))**, see attached Schedule 1) in Section G of the electricity interconnector licence – for interconnector projects that have had their specific cap and floor regime implemented in their respective interconnector licences. This broadly corresponds to the post-Final Project Assessment (FPA) decision development phase of an interconnector project; and
- b) **introduce a complementary process, set out in a minded-to policy decision document** (see attached Annex 2), that largely mirrors the above licence mechanism – for interconnector projects that have not yet had their cap and floor regime implemented in their respective interconnector licences. This broadly corresponds to the pre-FPA decision development phase of an interconnector project.

We are seeking your views on the Pre-Operational Force Majeure mechanism set out in the policy consultation document as well as in the statutory consultation on the proposed licence modification, i.e. inserting new SLC 26B, required in order to:


- Modify the application of Pre-Operational Force Majeure for Third Window interconnector projects (as compared to Window 1 and Window 2), so that the Authority is able to specify a later Regime Start Date, where it considers that project delivery has been delayed due to an event or circumstance of force majeure and thereby maintain the full 25-year regime in the Third Window.
- Modify the effect of an unsuccessful Pre-Operational Force Majeure request, so that Third Window interconnector projects which do not meet the criteria for Pre-Operational Force Majeure are subject to a new Payback Mechanism for Delays. This would replace the penalty applied in previous windows where the regime is shortened as a result of unapproved delays – thereby maintaining the 25-year regime in the Third Window for interconnectors.

Please send responses by 31st March 2023 to Cap.Floor@ofgem.gov.uk

Unless marked confidential, all responses will be put in Ofgem's library and on our website, www.ofgem.gov.uk. You can ask for your response to be kept confidential and we will respect this, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004. If you would like your responses to be kept confidential, clearly mark the document/s to that effect and include the reasons for confidentiality.

If you have any questions in relation to this letter, please contact Susanna Onyemauwa at Cap.Floor@ofgem.gov.uk.

Yours sincerely,



Stuart Borland
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