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Date: 16 May 2023

Email: Robin.Dunne@Ofgem.gov.uk

Dear Jan,

Approval of the modified Access Rules for BritNed Interconnector pursuant to Standard Licence Condition 11A of the Electricity Interconnector Licence

On 16 February 2023, BritNed Development Limited (BDL) submitted modifications to its Access Rules to the Authority for approval.

The modified Access Rules were submitted pursuant to Standard Licence Condition (SLC) 11A of the Electricity Interconnector Licence (the Licence)¹ which requires BDL to maintain Access Rules, that set out the terms and conditions for access to, and including use of, the interconnector.

We have decided to approve the modified Access Rules on the basis that we are satisfied the proposed modifications achieve the relevant Access Rules objectives as required under the Licence². This letter contains a Direction, attached as Annex 1, approving the modified Access Rules. It also explains the reasons for our approval as required under section 49A of the Electricity Act 1989.

The proposed modifications to the BritNed Access Rules

The modified Access Rules look to further build upon the BritNed Access Rules last approved by Ofgem on 18 December 2020³ by introducing the following amendments:

1. The ability for market participants to place specific Pre-Bids and Pre-Nominations

¹ The electricity interconnector licence standard conditions 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).

² The relevant Access Rules objectives are set out in SLC 11A of the Licence and state that the Access Rules shall be transparent, objective, non-discriminatory and compliant with the Regulation (as amended following UK exit from the EU, as detailed below) and any relevant legally binding decision of the European Commission and/or the Agency.

³ The decision letter on the BritNed Access Rules approved by Ofgem on 18 December 2020 can be accessed here: [Approval of the modified Access Rules for the BritNed interconnector to apply at the end of the transition period | Ofgem](#)

1.1 BDL proposes to enable market participants the option to enter Pre-Bids and Pre-Nominations for specific auctions if this feature has been activated.

1.2 BDL sets out that the distinction between these Pre-Bids and Pre-Nominations to default Bids and Nominations is that Pre-Bids and Pre-Nominations are specific to one auction and default Bids and Nominations can apply to multiple auctions. BDL has explained that if the Pre-Bid and Pre-Nomination feature is active on a specific auction, then this allows market participants to submit their Pre-Bid or Pre-Nomination ahead of time and this will be applied when the auction bidding or nomination gate for the specific auction opens and will be treated as regular Bids or Nominations.

2. Trading periods will be set as the Market Time Unit (MTU) on the Allocation and Nomination Platform⁴

2.1 Rather than stating "hour" which is currently the case, BDL proposes to set the MTU on the Allocation and Nomination Platform allowing for greater flexibility in future

2.2 BDL explains this allows greater flexibility should any future consultations result in allocation of shorter time intervals such as 30 minute or 15 minute products, by allowing the Allocation and Nomination Platform to indicate which product applies for the MTU. BDL states this will reduce the need for further updates to the Access Rules in future.

3. Reintroduction of a Stepped Reserve price instead of one single reserve price

3.1 BDL are reintroducing a Stepped Reserve Price, which prior to moving to the Joint Allocation Office (JAO) Platform, was already a function available on BDL.

3.2 BDL states a stepped reserve price means it is possible for several minimum price levels for different capacity thresholds within an auction, which allows larger volumes of capacity to be offered without the risk of not clearing due to not meeting a larger single reserved price.

4. Introduction of Transfer of Day Ahead and Intraday Transmission rights

4.1 BDL are proposing to introduce the option to transfer Day Ahead and Intraday transmission rights in the exact same way that the option to Transfer Long Term Transmission rights already exists.

4.2 BDL confirm this will require both the transferer and the transferee to agree to the transfer of the transmission rights before the transfer can take place.

5. Introduction of Buy-Now auction for capacity that becomes available on short notice

5.1 BDL proposes to introduce the ability for any extra capacity that becomes available to be offered at short notice in the Day Ahead or Intraday time frames. This additional

⁴ Allocation and Nomination Platform is BritNed's new platform that market participants sign up to in order to participate in auctions.

capacity can be as a result of a Reduction Period⁵ being shortened or through optimisation processes.

5.2 BDL included this provision also provides a fallback option in the unlikely event of an Intraday auction being cancelled due to technical issues, or an initially foreseen capacity shortage does not occur.

6. The extension of due dates for payments

6.1 BDL proposes to extend the due dates for payments from five business days to ten calendar days.

7. Validity of collateral in the form of Bank Guarantee

7.1 BDL proposes to increase the period of time Bank Guarantees as collateral are valid from sixty days to ninety days.

8. Day Ahead Mid North Sea Nomination Gate (MNN) closure time extended

8.1 BDL proposes to extend the Day Ahead Nomination Gate closure from 13:30 to 13:50.

9. House keeping update to Curtailment Compensation

9.1 BDL have updated the Access Rules to reflect the changes to Curtailment Compensation to be calculated as a Weighted Average Marginal Price.

Consultation responses

In accordance with the applicable legal and regulatory framework, BDL initially ran a public consultation on the Access Rules from 19 December 2022 to 27 January 2023⁶. There were four responses to the consultation which are summarised below. Of note were two respondents who were not in favour of a stepped reserve price as they believe it would distort market pricing due to the lack of visibility of a reserve price. BDL responded by noting that it does not have a financial floor as with other interconnectors.

1. Regarding the transfer of Daily and Intraday capacity rights between counterparties

1.1 One respondent wanted to know at what price any transfer would take place at, as this is not mentioned in the Access Rules

1.2 BDL clarified that the new Allocation and Nomination platform would allow entry of the price as part of the transfer between the two parties, as BDL are not an involved party and take no financial liability in the transaction.

2. As summarised in the Consultation Overview⁷ "We introduced one MTU of the Product Period"

⁵ Periods where interconnector capability is reduced for outages.

⁶ The Access Rules consultation can be found here: [Consultations | BritNed](#)

⁷ [BritNed Template Memo \(britned-website-prd-media.s3.amazonaws.com\)](#)

2.1 One respondent asked for clarity around the above.

2.2 BDL advised that Market Time Unit (MTU) was introduced as the platform does offer the possibility for the allocation of 30 minute and 15 minute products. BDL also advised that this option will not be used without further market consultations and alignment with other Transmission System Operators and was primarily built to be able to accommodate future market changes.

3. Regarding the reintroduction of a Stepped Reserve Price

3.1 A respondent set out that they were not in support of the proposed change of the reintroduction of a Stepped Reserve Price and that they believed it would disincentive market participants to bid in Long Term auctions.

3.2 BDL stated that their regulatory framework does not include a financial floor as is the case for other Interconnectors, therefore a Reserve Price is still required for BDL going forward.

3.3 BDL further set out they believe a Stepped Reserve Price will help more capacity clear in auctions as it will not only set one minimum reserve price to be reached, but multiple ones, therefore allowing more lower price levels to be achieved.

4. Section D Auction Rule changes

4.1 In response to the consultation, several queries were raised around the changes that fell under Section D Auction Rules, such as:

4.1.1 *With regard to Buy-Now Auctions, what kind of lead time (of the auction timing and capacity available) will BDL provide to market participant before the auction is run?*

4.1.2 BDL advised they will always give as much lead-time as possible before offering capacity. However, given this is a short-term product that aims to allow more capacity to be offered to the market, lead-times will depend on 1) exact outage times being known, and 2) when additional capacities become available due to optimisation process in asset handling. BDL also stated automated notifications will however be raised on the new Platform as well as by email to all participants advising when such offers will be published.

4.1.3 How this will interfere exactly with the intraday auctions, in term of timings between the current four Intraday auctions, and in terms of available capacity?

4.1.4 BDL advised that Intraday Buy-Now Offers will be made available from one hour before the respective Intraday Auctions as well as post Intraday Auctions for each of the respective auction allocation blocks depending on additional capacity generated out of asset handling optimisation processes.

4.1.5 If this buy-now capacity is not bought or nominated on this specific auction, will it be given back to the next Intraday auctions?

4.1.6 BDL confirmed the capacity that is offered through Buy Now will not be offered through the next Intraday Auctions as there will be no fitting Allocation Periods anymore.

4.1.7 Will this buy-now auction use the principle of Use It or Sell It (UIoSI) or Use It or Lose It (UIoLI)?

4.1.8 BDL confirmed that as Buy-Now Offers will be allocated through the Day Ahead and Intraday timescale Use It or Lose It (UIoLI) will be applied in line with the usual Day Ahead and Intraday capacity process.

5. Regarding introducing the possibility of Pre-Bids, participant have the option to place Pre-Bids for selected individual Auctions

5.1 A respondent understood the difference between a Pre-Bid and a Default Bid but asked how long before an auction opens can a Pre-Bid be placed by a market participant?

5.2 BDL confirmed that Pre-Bids can be entered as soon as an auction becomes visible in the auction schedule and can therefore be specifically selected through the Allocation and Nomination Platform in the pre-bidding screens.

6. Regarding the introduction of Pre-Nominations possibility, that can be activated by the Participant per individual Nomination timescale.

6.1 A respondent asked how long in advance of the Gate Opening Times can a Pre-Nomination be submitted?

6.2 BDL advised Pre-nominations can be entered at any point in time up to 1 year in advance, and as soon as capacity is allocated. At Nomination Gate opening, these Pre-Nominations will be considered as regular Nominated Capacity and will also be firmed up as soon as the Gate closes. Before Nomination Gate Opening, the Pre-Nominations are still considered as Transmission Rights.

Regulatory framework

SLC 11A of the Licence⁸ introduces relevant Access Rules objectives, against which the Authority assesses the Access Rules and any proposed modifications. The relevant objectives are that the Access Rules shall be transparent, objective, non-discriminatory and compliant with Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast following the UK's exit from the EU) (the 'Electricity Regulation') and any relevant legally binding decision of the European Commission and/or the Agency for the Cooperation of Energy Regulators retained following the UK's exit from the EU.

At the end of the transition period⁹ the legal and regulatory frameworks changed. We have taken these changes into account when assessing the modified Access Rules.

⁸ The Electricity Interconnector Standard Licence Conditions can be found here: [Electricity Interconnector Standard Licence Conditions 03 08 2021 \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/electricity-interconnector-standard-lc-conditions-03-08-2021)

⁹ Defined as the "IP completion day" in section 39(1) of the European Union (Withdrawal Agreement) Act 2020 here: <https://www.legislation.gov.uk/ukpga/2020/1/section/39/enacted>

The Authority's decision

We have reviewed the modified Access Rules submitted to Ofgem on 16 February 2023 and considered the response that BDL received as part of the consultation process.

1. The ability of market participants to place Pre-Bids and Pre-Nominations

1.1 We are satisfied with BDL's proposal and its response to the consultation feedback.

1.2 We consider that these changes to the Access Rules provide market participants greater flexibility and opportunity and therefore greater objectivity around BDL auctions.

2. Introducing Market Time Unit (MTU) which will be set on the Allocation and Nomination Platform

2.1 We consider this modification removes any reference to actual times and clearly sets out a broader definition which can be applied to specific shorter time products. This update also acts to future proof the Access Rules therefore assisting in transparency for market participants.

2.2 We also consider this update better the relevant access rules requirement of objectivity as it offers market participants increased flexibility in future by allowing access to smaller time products and smaller capacity requirements should this be required.

3. Reintroduction of a Stepped Reserve price instead of one single reserve price

3.1 We consider the reintroduction of a Stepped Reserve price as an opportunity for more market participants to secure larger volumes of capacity due to the removal of a single reserve price. This meets the objective of being non-discriminatory by allowing market participants greater opportunity of securing capacity by setting several minimum price levels for different capacity thresholds within an auction.

4. Introduction of Transfer of Day Ahead and Intraday Transmission rights

4.1 We consider that this as an objective change that provides market participants with greater flexibility and opportunity to make the most efficient use of any Transmission rights they hold.

4.2 Both parties must confirm approval of any transfer prior to this action taking place and this increased flexibility is reflective of what market participants have been requesting.

5. Introduction of Buy-Now auction for capacity that becomes available on short notice

5.1 We consider this change offers increased flexibility and efficiency and greater objectivity to market participants by allowing access to additional capacity on short notice.

5.2 The Access Rules provide the transparency around the circumstances and the options for when any additional capacity becomes available to be secured via the Buy-Now auction.

6. The extension of due dates for payments

6.1 This is a practical update clearly sets out the move to allow further flexibility for market participants by extending the period for payments and therefore adding greater objectivity.

7. Validity of collateral in the form of Bank Guarantee from sixty to ninety days

7.1 Again we consider this practical update to be another area allowing greater objectivity to market participants.

8 Day Ahead Mid North Sea Nomination Gate (MNN) closure time extended

8.1 This change allows market participants longer to decide if they want to nominate to use capacity they have already secured.

9 Housekeeping update to Curtailment Compensation

9.1 We consider these changes provide market participants with clear information on compensation arrangements. We therefore consider these changes provide market participants with greater transparency.

In reaching our decision we have also closely cooperated with the Netherlands Authority for Consumers and Markets (ACM), the Dutch regulatory authority, to ensure we make consistent regulatory decisions.

The Authority therefore approves the modified Access Rules on the basis that they meet the relevant Access Rules objectives set out in SLC 11A(4) of the Licence.

Directions relating to the approval of the modified Access Rules, issued in accordance with SLC 11A(13) of the Licence, can be found in Annexes 1 of this letter.

Next steps

In accordance with SLC 11A(14) of the Licence, BDL is required to publish (at least on its website) the modified Access Rules for a period of 28 days prior to their coming into effect (the Publication Period), which BDL have advised they wish to take effect on 19 September 2023, unless the Authority directs otherwise.

Yours sincerely,

Robin Dunne

**Acting Head of Cross Border Market Arrangements, Energy Systems Management
& Security**

The Office of Gas and Electricity Markets

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ANNEX 1

Direction issued to BritNed Development Limited (BDL) 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 (the Act) to BDL (the Licensee) in relation to the IFA interconnector.
2. Standard Licence Condition 11A, paragraph 4, requires that the Access Rules must be transparent, objective, non-discriminatory and compliant with the Regulation (Regulation (EC) No 2019/943 on the internal market for electricity, as modified further to UK exit from the EU) and any relevant legally binding decision of the European Commission and/or Agency for the Co-operation of Energy Regulators (collectively the 'relevant Access Rules objectives').
3. Standard Licence Condition 11A, paragraph 8, requires that the Licensee reviews 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.
4. Standard Licence Condition 11A, paragraph 10, requires the Licensee 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 Licensee 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.
5. In accordance with Standard Licence Condition 11A, paragraph 10, on 16 February 2023, the Licensee furnished the Authority with a report setting out the Licensee's proposed modifications to the Access Rules (the modified Access Rules).
6. After careful consideration of the report and the response to the public consultation and after consulting and closely cooperating with the Dutch regulatory authority, the Authority has decided that the Licensee's proposed modified Access Rules meet the relevant Access Rules objectives for the reasons set out in the letter accompanying this Direction.

7. Standard Licence Condition 11A, paragraph 14 requires that, unless the Authority directs otherwise, the modified Access Rules shall be published 28 days prior to coming into effect.
8. The Authority therefore hereby directs that pursuant to paragraph 13 of Standard Licence Condition 11A of the Licence, the Licensee's modified Access Rules are approved and, pursuant to paragraph 14 of the same, the modified Access Rules shall be published by the Licensee on its website 28 days prior to coming into effect.
9. This Direction shall take effect immediately and shall remain in effect until such time as the Authority may revoke or vary the Direction in writing upon reasonable notice.
10. This Direction constitutes notice of the Authority's reasons for the decision pursuant to section 49A of the Act.

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Robin Dunne

**Acting Head of Cross Border Market Arrangements, Energy Systems Management
& Security**

**Signed on behalf of the Authority and authorised for that purpose by the Authority
on 16 May 2023**

