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Date: 20 March 2024

Dear Mr De Ranter,

**Authority's decision on the Access Rules and charging methodology proposed by Interconnector Limited including direction of approval pursuant to Standard Licence Conditions 10 and 11A of the Gas Interconnector Licence.**

Interconnector Limited ("INT", "the Licensee") sent its final version of Access Rules and charging methodology on 22 December 2023 to the Authority<sup>1</sup> for approval. These were submitted pursuant to Standard Licence Conditions ("SLC") 10 and 11A of the Gas Interconnector Licence ("the Licence").<sup>2</sup>

This decision letter and attached directions set out our decisions to:

- Approve INT's proposed Access Rule changes under SLC 11A on the basis that they meet the relevant Access Rules objectives (Annex 1);<sup>3</sup>

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<sup>1</sup> References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day-to-day work. This decision is made by or on behalf of GEMA.

<sup>2</sup> The current version of the gas interconnector licence and SLCs can be found at [epr.ofgem.gov.uk](http://epr.ofgem.gov.uk)

<sup>3</sup> The "relevant Access Rules objectives" are set out in SLC 11A(5) of the Licence.

- Approve INT's proposed charging methodology change under SLC 10 on the basis that it meets the relevant charging methodology objectives (Annex 2).<sup>4</sup>

## INT's Proposed Changes

The proposed changes are to INT's Access Rules and charging methodology, which it submitted to Ofgem on 22 December 2023. Copies of these documents are available on INT's website.<sup>5</sup> INT also provided a Submission Report to Ofgem on 22 December 2023. The proposed changes to the Access Rules are:

- **Changes to the drafting of rules on gas quality** – INT is proposing to differentiate the applicable rules at Bacton interconnection point ("IBT") and Zeebrugge interconnection point ("IZT") and to alter rules at IZT.
- **Amendments to clarify force majeure arrangements for Interruptible Capacity** – the clause would be updated to clarify that reductions in the Capacity Charge for the first three months of a force majeure event do not apply to Interruptible Capacity.
- **Introduction of Own Use Gas Annex** – this change would allow all Interconnector Access Agreement ("IAA") signatories to partake in the buying and selling, purchase and offtake of gas required for INT to operate the pipeline (henceforth referred to as "Own Use Gas")<sup>6</sup> on a non-exclusive and voluntary basis.
- **Addition of a Reprofitting Service** – shippers would have an option to reprofile their Annual Capacity bookings forward in time.
- **Amendments to long-term planned maintenance** – this change would see INT's available long-term planned maintenance days increase from fifteen to twenty days.
- **Additional minor drafting amendments** – changes to drafting in the IAA and Interconnection Access Code ("IAC").

The proposed change to the charging methodology is:

- **Amendments to the notification period for publication of certain tariffs** – INT would change the publication of pricing for certain capacity products from thirty to three days.

<sup>4</sup> The "relevant charging methodology objectives" are set out in SLC 10(4) of the Licence.

<sup>5</sup> <https://www.fluxys.com/en/natural-gas-and-biomethane/empowering-you/customer-interactions/consultations-in-the-uk/2023---annual-review-of-int-access-terms-and-charging-methodology>

<sup>6</sup> Own Use Gas is defined in INT's IAA.

Following conversations with the Authority, INT resubmitted its charging methodology to Ofgem on 12 February 2024 with an update to the heading of Table T2 in the annex to correctly reflect the proposed change from thirty to three days notification for certain capacity products. In addition to this, on 14 February 2024, INT discussed with us a revised intention to publish details of the Reprofitting Service within a 'Reprofitting Service Rules' document on its Interconnector Access Terms website page at least one week before it becomes effective, as opposed to within its Charging Statement. The Authority will have the opportunity to review this document and raise any issues before its publication. These changes do not alter the proposed modifications that INT had previously submitted and has consulted on.

## **INT's Industry Consultation**

The proposed changes were subject to public consultation, as required by SLC 10 (11)(a) and SLC 11A (6)(a) of the Licence, opening on 16 November 2023 and closing on 16 December 2023. Five shippers responded to the consultation, the specifics of which we consider in the 'Ofgem's View' section of this document.

## **Ofgem's View**

SCL 10 (4) and SLC 11A (5) of the Licence requires the Access Rules and charging methodology to be objective, transparent, non-discriminatory, and compliant with EC 715/2009 ("Gas Regulation") which continues to apply<sup>7</sup> as Retained European Union ("EU") Law<sup>8</sup> and any relevant legally binding decision of the European Commission and/or the Agency (collectively the "relevant Access Rule objectives" and "relevant charging methodology objectives"). Commission Regulation (EU) 2017/460 establishing a network code on harmonised transmission tariff structures for gas<sup>9</sup> ("TAR") and Commission Regulation (EU) 2027/459 establishing a network code on capacity allocation mechanism in gas transmission systems<sup>10</sup> ("CAM") also continue to apply as Retained EU Law.

The changes put forward for Ofgem's consideration are as follows:

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<sup>7</sup> EC 715/2009 as amended by Electricity and Gas (Powers to Make Subordinate Legislation) (Amendment) (EU Exit) Regulations 2018 SI no. 1286.

<sup>8</sup> "Retained EU Law": Retained EU Law has the same meaning as that given by section 6(7) of the European Union (Withdrawal) Act 2018 <https://www.legislation.gov.uk/ukpga/2018/16/section/6/enacted>

<sup>9</sup> As amended by Schedule 5 of UKSI 2019/531.

<sup>10</sup> As amended by Schedule 4 of UKSI 2019/531.

### *Changes to the drafting of rules on gas quality*

INT is proposing drafting changes to the rules on gas quality within the IAA. These amendments intend to clearly differentiate the rules as they apply to IBT and IZT. INT is not proposing to change the rules regarding shipper liabilities for gas quality at IBT. At IZT, INT is proposing new rules that differentiate whether INT has knowingly and explicitly accepted gas into its system which does not meet the Specification<sup>11</sup> or if it has unknowingly received such gas. Further drafting changes are proposed regarding INT's obligation to shippers where INT receives gas that is within Specification, and the gas that it subsequently makes available to shippers at the exit point no longer meets the Specification. In this instance, a shipper may choose to refuse or accept the redelivery of this gas. INT has proposed these amendments to address comments made by the Commission for Electricity and Gas Regulation ("CREG") in its November 2022 Decision in relation to the implementation of Issue 8 of the IAA.<sup>12</sup>

Of the consultation responses, all five expressed the view that shippers should not be liable for off specification gas as shippers have no ability to measure or check the quality of gas at interconnection points, and that quality should be a matter for the Transmission System Operator ("TSO"). Several noted the view that any change to the rules regarding this matter should be at a pan-European level. One respondent objected to the proposed drafting of multiple clauses on quality, stating the view that the proposed changes would result in greater liabilities on shippers where off specification gas resulted in damages and costs. INT has responded to this, clarifying that no material changes that increase shipper liabilities have been made.

The Authority has carefully considered the proposed change, the consultation respondents' comments, and INT's follow-up to respondents and has decided to approve this change. Our *vires* is over INT's Access Rules and charging methodology at the IBT connection point, to which no material changes on this point are being made. Further, we are of the view that INT has transparently consulted upon the drafting changes to quality rules, which are objective and non-discriminatory.

We acknowledge consultation respondents' concerns about current arrangements on gas quality which make shippers liable for the quality of gas moving between systems, which are standard across the United Kingdom ("UK") and EU at interconnection points. We

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<sup>11</sup> Specification is defined in INT's IAA.

<sup>12</sup> <https://www.creg.be/nl/publicaties/beslissing-b2490>

welcome industry participants raising this matter at appropriate UK and European fora for further consideration.

#### *Amendments to clarify force majeure arrangements for Interruptible Capacity*

INT is proposing drafting changes that clarify that only Firm and Conditional Firm Capacity are eligible for reductions in the Capacity Charge for the first three months of a force majeure event. INT states that this change has been proposed to make clear that Interruptible Capacity, which accounts for thirty four percent of INT's technical capacity, is not eligible for a reduction in Capacity Charges as shippers are compensated for interruptible risk at the time of booking the capacity. INT notes that this is in line with other TSOs' treatment of Interruptible Capacity. One shipper formally noted that it understood and agreed with the motives for this change, no other industry feedback was received.

Noting that there was no negative consultation feedback on this proposed change, it is the Authority's view that the proposed changes bring clarity to eligibility for reductions in Capacity Charges during a force majeure event. We agree that this change is transparent, objective, and non-discriminatory.

#### *Introduction of Own Use Gas Annex*

INT is proposing to include provisions for the sale and delivery, and purchase and offtake of Own Use Gas via a new Annex within the IAA. Own Use Gas, which INT requires for the operation of its transportation system, is currently sourced via a tender process and bi-lateral agreements with market participants. INT notes that current arrangements have been flagged by shippers as being time consuming, resulting in little interest. The introduction of this Annex would allow all signatories of the IAA to be eligible to partake on a non-exclusive, voluntary basis. INT states that this change will further its compliance with relevant gas regulations by protecting cross border trade and reducing risk that INT is unable to source its Own Use Gas to operate its transportation system.

One shipper formally responded to this proposed change, supporting the inclusion of an Annex for Own Use Gas directly within the IAA, no other formal responses were given.

It is the view of the Authority that this change is objective and transparent. We note that this will be available to all shippers who are signatories to the IAA and agree that the proposed arrangement will be a more efficient way for INT to procure necessary Own Use Gas.

### *Addition of a Reprofileing Service*

INT proposes to introduce a Reprofileing Service which will enable shippers to reprofile their Annual Capacity bookings forward in time. INT states that this service will increase the extrinsic value of shippers' long-term bookings and will allow shippers to protect themselves against increased volatility as a result of the growth of renewables. INT proposes that the service will be subject to a reprofiling fee which will be set out within INT's Charging Statement. INT intends to include the full details within a reprofiling Service document, which it will publish on the Interconnector Access Terms page of its website, and which applies equally to all shippers. INT notes that this will allow the final service offering to meet market requirements and can be adapted over time if conditions change. INT states that the proposal is compliant with the CAM as shippers will procure capacity via auctions on PRISMA or INT's Implicit Allocation Mechanism ("IAM"), both of which operate in line with the CAM.

In the consultation, shippers supported the introduction of a Reprofileing Service, noting that this would give flexibility and help them manage capacity more efficiently. One shipper, while agreeing with the principle of a new Reprofileing Service, was of the view that full details of the service should have been consulted on to provide full transparency. Two respondents requested that shorter term capacity be made available for reprofiling. INT states in response that it does not propose at present to offer this service for shorter term products because of the risk of products of differing value being swapped, but that it may consider this in the future as the service is developed. One shipper asked that the reprofiling fee remain reasonable to ensure attractiveness of the service to shippers, which INT states it agrees is in the best interest of INT and shippers.

The Authority has carefully considered the proposed service and consultation responses. We agree that the proposed service will provide shippers with greater flexibility, improve efficiency, and will be beneficial for cross border flows and Great Britain's security of supply. We note that BBL Company also already offers reprofiling services. We agree that INT's proposed service is compliant with the CAM.

We note that INT intends to engage with shippers on the details of the proposed Reprofileing Service. A document containing the details of this service will then be published on INT's Interconnector Access Terms website page at least one week before it becomes effective, therefore ensuring transparency. The Authority expects the terms of this service to meet

the same relevant objectives as the Access Rules and requests that INT shares details of the Reprofilling Service with us at least fourteen days before publication.

#### *Amendments to long-term planned maintenance*

INT is proposing to increase the long-term planned maintenance days available to it from fifteen to twenty days. INT notes that this amendment is necessary in order to maintain the system while acting as a reasonable and prudent operator. INT notes increased UK to Belgium flows since 2021, the age of the asset and its requirement to adhere to environmental rules and standards. INT states that this change will allow it to continue to operate safely and deliver security of supply benefits to Great Britain.

Three shippers responded to this proposed change. Two shippers acknowledged the motives behind INT wishing to increase its available maintenance days. Two shippers were of the view that shippers should be compensated for any increase in maintenance days over the current fifteen days for already booked capacity, with one suggesting that this could be carried out through a reduction on the Capacity Charge when maintenance exceeds fifteen days, incentivising INT to reduce maintenance days where possible whilst still providing the option to use the full twenty days if necessary and that this should be consulted on. INT responded, noting points made about compensation, but arguing that maintenance is required to provide a high level of service and that it does not believe shippers should be compensated for essential maintenance activities. INT also notes that it will continue to consult the market on planned long-term maintenance and will seek to minimise maintenance days.

Ofgem acknowledges and has considered the consultation responses received and has decided to approve the proposed change. We acknowledge INT's need to operate the pipeline safely and to adhere to environmental standards. It is the Authority's view that INT has transparently set out a procedure for long-term planned maintenance days in the IAA, whilst looking to minimise maintenance days where possible. We view this amendment as objective, transparent and non-discriminatory. We note shipper responses calling for compensation, and INT's response. We note that INT is a merchant operator, and as such must remain competitive in its product offering and prices.

#### *Additional minor amendments to Access Rules*

INT has proposed various minor clarificatory drafting changes in the IAA and IAC. These include changes to drafting on the Admission of a New Shipper, Credit Terms, Invoicing and

Payments, and the Resolution of Claims and Disputes. No formal consultation responses were received on these proposed changes.

It is Ofgem's view that these changes should be approved and that they are objective, transparent and non-discriminatory.

#### *Amendments to the pricing publication timetable*

INT has proposed changes to pricing publication timings in the charging methodology. INT is proposing to amend the lead time for the publication of the Annual tariffs and binding multiplier caps for Standard Capacity Products from thirty to three days. INT is also proposing to amend publication of actual prices for Standard Quarterly Products and for products which are offered via the IAM and are longer than one month in duration from thirty to three days. INT says this change will simplify and streamline its product offering and bring the tariff publication requirements in line with the current capacity publication process.

Of the five consultation responses, one respondent raised concerns that reducing the publication timetable would not provide shippers with accurate prices in sufficient time to prepare their bidding strategies.

The Authority considers the proposed change to be objective, transparent, and non-discriminatory. We considered the consultation response opposing this change. As INT operates as a merchant interconnector with no captive customer base, competing with another interconnector and other methods of gas supply (e.g., piped gas, LNG), it is the Authority's view that INT should be allowed to make this change in order to operate in a competitive market. We note that we approved an equivalent change proposed by BBL Company in 2022.<sup>13</sup> INT has relevant Authority-granted derogations from TAR 29(a) and 29(b)(i)<sup>14</sup>, and we consider that this change is consistent with the TAR.

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<sup>13</sup> <https://www.ofgem.gov.uk/publications/decision-proposed-modifications-bbl-companys-charging-methodology-and-access-rules-2022>

<sup>14</sup> [https://www.ofgem.gov.uk/sites/default/files/docs/2018/07/17072018\\_iuk\\_a37\\_ofgem\\_derogation\\_letter\\_1.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2018/07/17072018_iuk_a37_ofgem_derogation_letter_1.pdf)

## **The Authority's Decision**

The Authority considers the proposed changes to the Access Rules and charging methodology referred to above to meet the relevant Access Rules objectives and relevant charging methodology objectives. We expect INT to keep its Access Rules and charging methodology under review.

Directions issued in accordance with SLC 10 (14) and SLC 11A (14) of the Licence to this effect can be found in Annex 1 and Annex 2.

## **Publication**

In accordance with SLC 10 (15) and SLC 11A (15) of the Licence, INT is required to publish (at least on its website) the approved charging methodology statement and Access Rules 28 days prior to them coming into effect (the Publication Period), unless the Authority directs otherwise.

If you have any questions relating to this decision, please contact:

[energy.securityofsupply@ofgem.gov.uk](mailto:energy.securityofsupply@ofgem.gov.uk)

Yours sincerely,

Helen Seaton

**Interim Head of Energy Security of Supply and Gas Markets, ESMS**

Signed on behalf of **the Authority** and authorised for that purpose

## **ANNEX 1 - Ofgem Direction**

### **Direction issued to Interconnector Limited pursuant to Standard Licence Condition 11A (Approval of terms for access to the Licensee's interconnector) paragraph 14 of its Gas Interconnector Licence**

1. This Direction is issued by the Gas and Electricity Markets Authority (the "Authority") pursuant to Standard Licence Condition 11A ("SLC 11A") paragraph 14 of the Gas Interconnector Licence ("the Licence") granted or treated as granted under section 7ZA of the Gas Act 1986 ("the Act") to Interconnector Limited ("INT" or "the Licensee").
2. SLC 11A paragraph 9 requires the Licensee to review its Access Rules at least once each calendar year and make such modifications to the Access Rules as may be needed for the purpose of ensuring that the Access Rules better achieve the relevant Access Rules objectives.
3. SLC 11A paragraph 5 require that the Access Rules be objective, transparent, non-discriminatory, and compliant with the Regulation (EC) 715/2009, which continues to apply as retained EU law (on conditions for access to the national gas transmission networks) and any relevant legally binding decision of the European Commission and/or the Agency (collectively the "relevant Access Rules objectives").
4. Having regard to the relevant Access Rules objectives set out in SLC 11A paragraph 5, the Authority considers that INT's proposed Access Rules meet the relevant Access Rules objectives.
5. SLC 11A paragraph 11 requires the licensee to take all reasonable steps to ensure that all persons, including those in any other relevant neighbouring State who shares the interconnection with the United Kingdom and who 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 the Authority with a report setting out the terms originally proposed in the Access Rules, the representations, if any, made by interested persons and any change in the terms of the Access Rules intended as a consequence of such representations.

6. In accordance with SLC 11A paragraph 9, on 22 December 2023, the Licensee submitted its Access Rules to the Authority for approval.

7. The Authority hereby directs, pursuant to SLC 11A paragraph 14, that the Licensee's proposed Access Rules are approved.

8. Pursuant to SLC 11A paragraph 15, the Authority directs that the Access Rules be published 28 days prior to coming into effect.

9. This Direction shall remain in effect until the Authority revokes or varies the Direction in writing upon reasonable notice.

10. This direction constitutes notice of the Authority's reasons for the decision pursuant to section 38A of the Act.

Dated: 20 March 2024

Helen Seaton

**Interim Head of Energy Security of Supply and Gas Markets, ESMS**

Signed on behalf of **the Authority** and authorised for that purpose

## **ANNEX 2 - Ofgem Direction**

### **Direction issued to Interconnector Limited pursuant to Standard Licence Condition 10 (Approval of charging methodology to the Licensee's interconnector) paragraph 14 of its Gas Interconnector Licence**

1. This Direction is issued by the Gas and Electricity Markets Authority (the "Authority") pursuant to Standard Licence Condition 10 ("SLC10") paragraph 14 of the Gas Interconnector Licence ("the Licence") granted or treated as granted under section 7ZA of the Gas Act 1986 ("the Act") to Interconnector Limited ("INT" or "the Licensee").
2. SLC 10 paragraph 9 requires the Licensee to review its charging methodology at least once each calendar year and make such modifications to the charging methodology as may be needed for the purpose of ensuring that the charging methodology better achieve the relevant charging methodology objectives.
3. SLC 10 paragraph 4 requires that the charges and the application of the underlying charging methodology shall be objective, transparent, non-discriminatory, and compliant with the Regulation (EC) 715/2009, which continues to apply as retained EU law (on conditions for access to the national gas transmission networks) and any relevant legally binding decision of the European Commission and/or the Agency (collectively the "relevant charging methodology objectives").
4. Having regard to the relevant charging methodology objectives set out in SLC 10 paragraph 4, the Authority considers that INT's proposed charging methodology meets the relevant charging methodology objectives.
5. SLC 10 paragraph 11 requires the Licensee to take all reasonable steps to ensure that all persons, including those in any other relevant neighbouring States who shares the interconnection with the United Kingdom and who may have a direct interest in the charging methodology, are consulted and allow them a period of not less than 28 days within which to make written representations. The Licensee must also furnish the Authority with a report setting out the terms originally proposed in the charging methodology, the representations, if any, made by interested persons and any change in the terms of the charging methodology intended as a consequence of such representations.
6. In accordance with SLC 10 paragraph 9 on 22 December 2023, the Licensee submitted its charging methodology to the Authority for approval.

7. The Authority hereby directs, pursuant to SLC 10 paragraph 14, that the Licensee's proposed charging methodology is approved.

8. Pursuant to SLC 10 paragraph 15, the Authority directs that the charging methodology be published 28 days prior to coming into effect.

9. This Direction shall remain in effect until the Authority revokes or varies the Direction in writing upon reasonable notice.

10. This direction constitutes notice of the Authority's reasons for the decision pursuant to section 38A of the Act.

Dated: 20 March 2024

Helen Seaton

**Interim Head of Energy Security of Supply and Gas Markets, ESMS**

Signed on behalf of **the Authority** and authorised for that purpose