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Date: 29 August 2024

Dear Jan,

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

On 30 May 2024, BritNed Development Limited (BDL) submitted modified Access Rules for the BritNed interconnector¹ to the Authority² for approval.

The modified Access Rules were submitted pursuant to Standard Licence Condition (SLC) 11A of BDL's Electricity Interconnector Licence (the Licence)³, 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 modifications achieve the relevant objectives as required under the Licence⁴. 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.

¹ BritNed is a 1016 MW high voltage direct current (HVDC) interconnector, connecting the transmission systems of Great Britain (GB) and the Netherlands (NL). BritNed is a joint venture between National Grid Interconnector Holdings Limited and NLink International, a TenneT subsidiary.

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

³ 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

⁴ 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.

The proposed modifications to the Access Rules

The modified BDL Access Rules build upon the Access Rules approved by Ofgem on 16 May 2023⁵ by introducing the following amendments:

1. *Section B: Added clarity on BritNed Market Surveillance monitoring.*
 - 1.1. BDL proposes a specific definition of 'BritNed Market Surveillance', across points B7.2 and B7.3.
 - 1.2. BDL defines BritNed Market Surveillance as monitoring the achievement of orderly, proper transactions via the Allocation and Nomination Platform and, where applicable, its sharing of data and reports to the relevant Competent Authorities.
 - 1.3. BDL note that participants are obliged to comply with reasonable requests from BritNed Market Surveillance in the execution of its tasks, which can include conducting special investigations to determine breaches of Applicable Laws or regulations, requesting information and document disclosure from Participants, or requesting the disclosure of the economic beneficiary of any given transaction conducted on the Allocation and Nomination Platform.
2. *Section C: Added the possibility of a self-billed invoice in addition to an invoice and credit note.*
 - 2.1. BDL proposes in C2.2.2 the addition of self-billed invoicing for issuing balances due from BritNed to Participants (alongside the already-existing mechanism of invoices and credit notes). Self-billing relies on an upcoming system release meaning that provisions will not be applicable until 18 November 2024.
 - 2.2. BDL removed previous mention of payment deadlines following the issuance date of invoices or credit notes from C2.2.3, which was duplicative and already set out in C2.3.3.
3. *Section C: Bank Guarantees shall be valid for the minimum period of at least one hundred and twenty (120) days at any point in time.*
 - 3.1. BDL proposes in C.3.3.10 that collateral in the form of a Bank Guarantee will be valid for at least 120 days, at any point in time.
 - 3.2. This differs from the previous arrangements, where collateral in the form of a Bank Guarantee was valid for at least 90 days, after the end of the Product Period(s).

⁵ The decision letter on the BritNed Access Rules approved by Ofgem on 16 May 2023 can be accessed here: <https://www.ofgem.gov.uk/sites/default/files/2023-05/BritNed%20AR%20Final%20version.pdf>

4. *Section C: Clarification provided on the credit limit requirements to cover Long Term product payment obligations.*

- 4.1. BDL proposes in C3.3.12 an update to the Credit Limit of the Participant to reflect the received cash deposit within a window of two (2) business days, after BDL has received said cash deposit.
- 4.2. BDL clarifies in C3.7.11 that the maximum payment obligations for a participant are calculated in Rule D5.7, D8.8 and D9.8 (Credit Limit verification).
- 4.3. BDL proposes in C3.7.12 that, regarding Long Term products, the Credit Limit must cover at least one monthly instalment of each Long Term product acquired by the Participant. This is calculated for the purposes of Credit Limit calculation as the following:
 - For the annual product, 1/12.
 - For the seasonal product, 1/6.
 - For the quarterly product, 1/3.
 - For the monthly product, this is calculated as the whole month.

These apply until the invoicing of the full product.

- 4.4. The Credit Limit, BDL further proposes in C3.7.12, must also cover the Participant's outstanding payment obligations until final settlement for the full product has been received by BritNed.

5. *Section D: Provisional Auction Results are to be considered as final at the end of the second (2nd) Business Day, after the publication of the Provisional Auction Results.*

- 5.1. BDL proposes in D5.12 that the Provisional Auction Results, unless an Auction is cancelled, shall be considered final and binding without further notification at the end of two (2) full Business Days after their publication.
- 5.2. This change implements a reduction from the five (5) business day finalisation period of previous arrangements to two (2) business days.
- 5.3. To support this reduction, the change also reduces the contestation period to 46 hours from its previous two (2) Business Days to provide a buffer period if participants contest results immediately before finalisation.

6. *Section D: Return of Long Term Transmission Rights once the final Auction Specifications are published.*

- 6.1. BDL clarifies in D6.2.5 that the volume of Long Term Transmission Rights shall be decreased by an amount returned, once the final Auction Specification is published.

7. *Section D: The minimum volume of Long Term Transmission Rights that may be transferred shall be one (1) Unit over one (1) Calendar Day.*

7.1. BDL proposes in D6.5.2 and D6.6.1e that the minimum volume of Long Term Transmission Rights able to be transferred shall be set to one (1) Unit over one (1) Calendar Day.

7.2. This represents a change in the period against which the minimum volume limit is applied from one (1) Market Time Unit (MTU) to one (1) Calendar Day.

8. *Section F: Clarification that BDL may disclose confidential information at the request of a Competent Authority.*

8.1. BDL clarifies in F2.3(f) that a party may disclose the confidential information of a disclosing party as far as required to obtain the clearance or consent either from or at the request of a Competent Authority.

8.2. This represents a change from previous arrangements, where no reference to the request of a Competent Authority was included.

9. *Schedule 1: Introduction of new definition of "BritNed Market Surveillance".*

9.1. BDL introduces in Part I a definition of "BritNed Market Surveillance".

9.2. BDL defines "BritNed Market Surveillance" as an internal BDL team tasked with monitoring transactions conducted on the Allocation and Nomination Platform, in accordance with BDL's REMIT obligations.

10. *Schedule 2: Adjustment of BritNed's Nomination Gate Closure time to 14:20 from 13:50 to better align with TenneT's gate closure schedule.*

10.1. BDL clarifies in 4.6 of Schedule 2 that it intends to change the Day Ahead MNN Nomination Gate Closure from 13:50 hrs to 14:20 hrs, in line with changes to nomination gate closures by TenneT.

In accordance with the applicable legal and regulatory framework, BDL conducted a public consultation⁶ on the Access Rules from 16 April 2024 to 15 May 2024.

BDL received 2 written responses on the modified Access Rules. The respondents generally supported the proposed changes to the Access Rules.

1. *Section B: Added clarity on BritNed Market Surveillance monitoring.*

1.1. No response was provided to this proposal.

⁶ BDL's public consultation on the 2024 modified BritNed Access Rules can be found at : <https://www.britned.com/wp-content/uploads/2024/04/Consultation-of-the-BritNed-Access-Rules-2024-1.pdf>

- 1.2. BDL did not make further changes in response to the consultation feedback.
2. *Section C: Added the possibility of a self-billed invoice in addition to an invoice and credit note.*
 - 2.1. For the proposals within Section C generally, one respondent expressed support, but wanted to know when these rules would be implemented in order to have time to adjust calculation requirements.
 - 2.2. BDL responded by stating that the updated Access Rules shall come into force following approval by the Regulatory Authorities, Ofgem and ACM, and that BDL expect the changes on the Allocation and Nomination Platform to be ready for implementation in November 2024 with the next system release.
 - 2.3. As the system release date implementing this feature will not perfectly align with the date of the modified Access Rules coming into force, BDL has amended the rules so that affected provisions reference an activation date.
3. *Section C: Bank Guarantees shall be valid for the minimum period of at least 120 (one hundred and twenty) days at any point in time.*
 - 3.1. See 2.1.
 - 3.2. BDL did not make further changes in response to the consultation feedback.
4. *Section C: Clarification provided on the credit limit requirements to cover Long Term product payment obligations.*
 - 4.1. See 2.1.
 - 4.2. BDL did not make further changes in response to the consultation feedback.
5. *Section D: Provisional Auction Results are to be considered as final at the end of the second (2nd) Business Day, after the publication of the Provisional Auction Results.*
 - 5.1. One respondent asked for clarification on the change from “MTU” to “Calendar Day”, asking for further detail on the consequences. The respondent made clear that they cannot agree to this at this stage, due to a need for further clarification for the change and the potential impacts said change could have.
 - 5.2. BDL responded by stating that the way Long Term Transmission Right Transfers currently work in practice will not be impacted by this change. BDL explained that the change was made for the sake of clarity, due to Long Term Transmission Right Transfers always being for a full Calendar Day. BDL clarified this further by providing an example that it would be possible to Transfer Long Term Transmission Rights for all 24 hours on a specific date, but not for one single hour within that day itself.

6. *Section D: Return of Long Term Transmission Rights once the final Auction Specifications are published.*
 - 6.1. No response was provided to this proposal.
 - 6.2. BDL did not make further changes in response to the consultation feedback.
7. *Section D: The minimum volume of Long Term Transmission Rights that may be transferred shall be one (1) Unit over one (1) Calendar Day.*
 - 7.1. No response was provided to this proposal.
 - 7.2. BDL did not make further changes in response to the consultation feedback.
8. *Section F: Clarification that BDL may disclose confidential information at the request of a Competent Authority.*
 - 8.1. No response was provided to this proposal.
 - 8.2. BDL did not make further changes in response to the consultation feedback.
9. *Schedule 1: Introduction of new definition of "BritNed Market Surveillance".*
 - 9.1. No response was provided to this proposal.
 - 9.2. BDL did not make further changes in response to the consultation feedback.
10. *Schedule 2: Adjustment of BDL's Nomination Gate Closure to 14:20 from 13:50 to better align with TenneT's gate closure schedule.*
 - 10.1. No response was provided to this proposal.
 - 10.2. BDL did not make further changes in response to the consultation feedback.

Regulatory framework

SLC 11A of the Licence⁷ 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.

⁷ The Electricity Interconnector Standard Licence Conditions can be found here: https://epr.ofgem.gov.uk/Content/Documents/Electricity_Interconnector_Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf

The Authority's decision

We have reviewed the modified Access Rules submitted to Ofgem on 30th May 2024 and considered the responses to BDL's consultation. We have concluded that the proposed changes meet the relevant Access Rules objectives for the following reasons:

1. *Section B: Added clarity on BritNed Market Surveillance monitoring.*

- 1.1. We believe that the changes to the Access Rules under B7.2 and B7.3 are in compliance with, and pursuant to, the Access Rules requirements set out under SLC 11A(4).
- 1.2. The newly added section B7.2 in the Access Rules mandates participants to cooperate with BritNed Market Surveillance. This cooperation may involve special investigations, disclosure of information and documents, and revealing the economic beneficiary of a transaction on the Allocation and Nomination Platform. This change is beneficial as it enhances data transparency, ensures compliance with applicable laws and regulations, and promotes fair market practices.
- 1.3. The introduction of section B7.3 applies uniformly to all market participants, without any bias or preference. This ensures that the rules are objective and non-discriminatory.

2. *Section C: Added the possibility of a self-billed invoice in addition to an invoice and credit note.*

- 2.1. We consider the addition a self-billed invoice payment method compliant with the requirements set out in SLC 11A(4) and in the interest of market participants.
- 2.2. The introduction of a self-billed invoice payment method to the Access Rules reduces the burden on market participants when a balance is due to the participant by BDL. It streamlines payment processes, thereby fostering efficiency in financial transactions.

3. *Section C: Bank Guarantees shall be valid for the minimum period of at least 120 (one hundred and twenty) days at any point in time.*

- 3.1. We believe that this change to the Access Rules is compliant with the objectives set out in SLC 11A(4) and in the interest of market participants.
- 3.2. Under the previous Access Rules, bank guarantees had to be valid for at least 90 (ninety) days after the end of the Product Period(s), which could lead to excessive bank guarantee requirements.

- 3.3. The new wording within the modified Access Rules provides market participants with more flexibility as it does not tie the Bank Guarantee to the end of the Product Period(s), but instead, requires the Bank Guarantee to be valid for a minimum period of 120 (one hundred and twenty) days at any point in time.
- 3.4. This change offers a more flexible approach to collateral management, reducing the financial burden on market participants alongside enhancing risk management.
4. *Section C: Clarification provided on the credit limit requirements to cover Long Term product payment obligations.*
- 4.1. By providing clarification of the credit limit requirements and, additionally, a comprehensive definition of the monthly instalment for each Long Term Product, this results in greater transparency for market participants. As such, we consider this change to be desirable and in alignment with the objectives set out as part of SLC 11A(4).
5. *Section D: Provisional Auction Results are to be considered as final at the end of the second (2nd) Business Day, after the publication of the Provisional Auction Results.*
- 5.1. We agree with the change from five (5) business days to two (2) business days for the finalisation of Provisional Auction Results.
- 5.2. The shortening of the timeframe is beneficial for market participants. It allows them to receive data sooner, enhancing transparency and enabling quicker decision-making. A small reduction in the contestation period of two hours is a fair concession to be able to implement the change.
6. *Section D: Return of Long Term Transmission Rights once the final Auction Specifications are published.*
- 6.1. In adding the temporal parameters that specify when the Long Term Transmission rights shall be decreased, should a return of Long Term Transmission rights be accepted, the modified Access Rules provide greater transparency on the process of returning Long Term Transmission rights. Hence, we view this change as desirable and in pursuance of the objectives set out as part of SLC 11A(4).
7. *Section D: The minimum volume of Long Term Transmission Rights that may be transferred shall be one (1) Unit over one (1) Calendar Day.*
- 7.1. We are satisfied with BDL's proposal and its response to the consultation feedback.
- 7.2. We consider that these changes to the Access Rules are compliant with the Access Rules requirements set out as part of SLC 11A(4).

- 7.3. By specifying that the minimum volume of Long Term Transmission Rights that may be transferred shall be one (1) Unit over (1) Calendar Day, the Access Rules establish greater transparency as a Calendar Day is a defined static temporal unit, whereas MTU's may be more variable and subject to change.
8. *Section F: Clarification that BDL may disclose confidential information at the request of a Competent Authority.*
- 8.1. This change to the Access Rules provides Competent Authorities with the ability to request confidential information when required for a Party to obtain clearances or consents, which is a worthwhile change in the view of Ofgem.
- 8.2. The change also provides market participants with greater transparency under which circumstances a Party may disclose information of a disclosing Party, thereby fulfilling the core requirements set out as part of SLC 11A(4).
9. *Schedule 1: Introduction of new definition of "BritNed Market Surveillance".*
- 9.1. We are satisfied with the addition of a definition on "BritNed Market Surveillance" to Schedule 1 of the Access Rules.
- 9.2. This change provides greater clarity on the meaning of BritNed Market Surveillance and ensures that the corresponding changes to Section B of the Access Rules are easier to understand. This ensures that the Access Rules are transparent.
10. *Schedule 2: Adjustment of BritNed's Nomination Gate Closure time to 14:20 from 13:50 to better align with TenneT's gate closure schedule.*
- 10.1. We consider that the changes to Day Ahead Mid North Sea Nomination (DA MNN) Gate Closure timings in Schedule 2 are in the interest of market participants and in compliance with the requirements as set out by the license conditions.
- 10.2. The changes move DA MNN gate closure to 14:20 from 13:50 to better align with TenneT's revised gate closure schedule.
- 10.3. This change is in the interest of market participants as it will move BritNed's DA MNN gate closure time within 10 minutes of the new gate closure schedule of TenneT at 14:30. Consequently, market participants will be able to make nomination decisions based on more comprehensive information. This is a significant improvement from the current situation where BritNed's DA MNN gate closure is 40 minutes ahead of TenneT's, leaving market participants having to make nomination decisions based on incomplete market information and, in some circumstances, harming market efficiency.

In making our decision we have also consulted with ACM⁸, the Dutch regulatory authority, to ensure consistency of regulatory approach.

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

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

Next steps

Publication of the modified Access Rules

In accordance with SLC 11A(14) of the Licence, BDL is required to publish (as soon as is practicable) the approved modified BritNed Access Rules. Our direction disapplies the default Publication Period of 28 days prior to the Access Rules coming into effect, for this set of modifications, in order to mitigate the risk of market inefficiencies arising from the gate closure time divergence referenced in Section 10 of this decision. Instead, as agreed with BDL and ACM and having regard to the interests of market participants, we direct that modified access rules take effect from 16 September 2024. BDL shall ensure that this date is clearly communicated alongside the publication of the Access Rules.

Yours sincerely,

Mo Rahee

**Head of Electricity Interconnector Market Arrangements, Energy Systems
Management & Security**

⁸ The Netherlands Authority for Consumers and Markets (ACM) is the regulatory authority of the Netherlands energy sector.

ANNEX 1

Direction issued to BritNed Development Limited 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 BritNed Development Limited (the "Licensee") in relation to the BritNed 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 (EU) 2019/943 on conditions for access to the network for cross border exchanges in electricity, as amended following the UK's exit from the EU) and any relevant legally binding decision of the European Commission and/or Agency for the Cooperation of Energy Regulators retained following the UK's exit from the EU (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 makes 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 Member States that may have a direct interest in the Access Rules, are consulted and allowed 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 certain information, including 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 30 May 2024, 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 responses to the public consultation and after consulting and closely cooperating with ACM, the Netherlands' 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 the licensee publish the Access Rules as soon as practicable after the Access Rules have been approved by the Authority and that the Authority may vary or disapply the default 28 day period between publication and the rules coming into effect.
8. The Authority therefore hereby directs that:
 - a) pursuant to paragraph 13 of Standard Licence Condition 11A of the Licence, the Licensee's modified Access Rules are approved; and
 - b) pursuant to paragraph 14 of Standard Licence Condition 11A of the Licence, and subject to publication occurring as soon as practicable after approval by the Authority, the modified Access Rules shall come into effect on 16 September 2024.
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. Copies of the documents mentioned in this Direction can be found on the Ofgem website (www.ofgem.gov.uk).

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Mo Rahee

**Head of Electricity Interconnector Market Arrangements, Energy Systems
Management & Security**

**Signed on behalf of the Authority and authorised for that purpose by the Authority
on 29 August 2024.**