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Dear Sonia,

Re: Regulatory arrangements for the new Dutch-GB electricity interconnector

In response to your recent consultation on BritNed Development Limited's (BritNed) application for an electricity interconnector licence and its parallel request to suspend standard licence conditions 9, 10 and 11 and seek exemption from Article 6(6) of Regulation (EC) No 1228/2003, we believe that BritNed should be granted its licence and corresponding conditions. This is on the proviso that BritNed operates according to robust Use It or Lose It (UIoLI) or Use It or Sell It (UIoSI) provisions and that any capacity made available to the market is allocated on a transparent and non-discriminatory basis.

By increasing interconnectivity with the continent, albeit marginal, we believe BritNed will have a positive impact on the single electricity market. Importantly, without the above mentioned legislative suspensions and exemption, there is a real risk that projects such as BritNed will not materialise. It may be that there is an argument for introducing a *de minimis* threshold to ensure that potential projects are not discouraged by the regulatory requirements. For example, projects below a certain capacity could be subject to minimal or lesser regulatory requirements.

Importantly, the market must be able to benefit from any increased interconnection, particularly at times of tight supply in one or other of the connected markets. There have been instances where this has not happened and flow has been impeded. To avoid this, we believe that the Transmission System Operators (TSOs) should have access to capacity when required for security of supply purposes.

I hope these comments and the attached responses to the specific questions prove helpful in reaching your determination on the BritNed interconnector. Should you require any further information or clarity, please do not hesitate to contact me.

Yours sincerely,

Robert Hackland
Regulation Manager.

Specific Questions

- 1. Do you agree with our overall assessment that the exemption should be granted based on the examination of whether the exemption criteria have been met?**

We have considered each of the six criteria in turn and believe BritNed demonstrates compliance with all six. Indeed, given the investor risk and the dependence on project revenues, it is clear that the project will not proceed without an exemption. It is, therefore, key that BritNed not only meets the criteria now, but continues to meet them.

- 2. Given the lack of clarity in the application surrounding the arrangements for dealing with the differences between the balancing periods in the markets in Great Britain and the Netherlands, do you have views on what the most appropriate form for such arrangements should be?**

The market must be able to benefit from the increased interconnection. The arrangements, therefore, should optimise the efficiency of the interconnector. In principle, we believe that both implicit and explicit auctions would work and it may be that there is a case for utilising both. In this way, the interconnector could find a balance between both 'longer'- and shorter-term trading. This is something that we believe should be encouraged.

We do not believe that the different balancing periods in the separate markets, or the lack of confirmed arrangements to be a significant issue. Nor do we believe that this should be a concern in granting an exemption from TPA, particularly given BritNed's commitment to limit any capacity sold by way of explicit auctions to a one-year duration and its commitment to put in place robust UIoLI provisions. However, we would welcome further consultation on the most appropriate approach to utilising the interconnector, and what the best balance between implicit and explicit auctions is likely to be, once the project is slightly more advanced.

- 3. Do you agree with the proposed scope and duration for the exemption, and the conditions for revocation?**

We understand that an exemption can be revoked at any time. BritNed's application for a 25-year exemption reflects the period over which BritNed needs to be in control of its own revenues. If granted an exemption, BritNed must continue to operate according to the conditions under which its exemption is granted in order to remain exempt from standard licence conditions 9, 10 and 11 and Article 6(6) of the Regulations. If it fails to do so, it will risk losing its exemption.