

**ELECTRICITY ACT 1989: INTERCONNECTOR LICENCE
REGULATION (EC) No 1228/2003
DRAFT EXEMPTION ORDER**

Pursuant to:

- (a) paragraph 2 of standard licence condition 12 of the Electricity Interconnector Licence (the "Licence") granted to East West Cable One Limited¹ ("EWC") under section 6(1)(e) of the Electricity Act 1989, such licence authorising EWC to participate in the operation of a high voltage DC electricity interconnector between Pentir substation in Wales and Arklow, Republic of Ireland; and
- (b) Article 7(1) of Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity (the "Regulation"),

the Gas and Electricity Markets Authority hereby issues to EWC an exemption order:

- (i) providing that standard licence conditions 9, 10 and 11 of the Licence are suspended from operation, and
- (ii) exempting EWC from the provisions of Article 6(6) of the Regulation in relation to the Interconnector,

subject to the terms and conditions in the attached Schedule.

Andrew Wright

Authorised in that behalf by the Gas and Electricity Markets Authority

Dated

¹ A company registered in the Republic of Ireland under company number 419119, whose registered office is situated at 92/93 St. Stephens Green, Dublin 2 Republic of Ireland. The Licence was granted to Imera Power Limited. Imera Power Limited changed its name to East West Cable One Limited; this name change was registered on 7 March 2008.

SCHEDULE

PERIOD, CONDITIONS, AND REVOCATION OF EXEMPTION ORDER

A. Interpretation and Definitions

In this exemption order:

the "Authority"	means the Gas and Electricity Markets Authority established by section 1(1) of the Utilities Act 2000, as amended from time to time;
the "Act"	means the Electricity Act 1989, as amended from time to time;
the "Capacity Holder"	means the person or persons to whom the Primary Capacity in the Interconnector has been awarded;
"EWC"	means East West Cable One Limited (a company registered in the Republic of Ireland under company number 419119 and whose registered office is situated at 92/93 St. Stephens Green, Dublin 2, Republic of Ireland) a company authorised by licence to participate in the operation of the Interconnector;
the "Interconnector"	means the high voltage DC electricity interconnector between Pentir 400 kV substation, Wales and Arklow 220 kV substation, Republic of Ireland, with a capacity of 350 MW;
the "Licence"	means the electricity interconnector licence granted to EWC under section 6(1)(e) of the Act on 20 November 2007, such licence authorising EWC to participate in the operation of a high voltage DC electricity interconnector between Pentir substation in Wales and Arklow, Republic of Ireland;
"Open Season"	means the process to offer the capacity in the

	Interconnector to the market;
"Primary Capacity"	means the capacity in the Interconnector acquired from EWC pursuant to the first Open Season;
"the Regulation"	means Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity.

B. Full description of the interconnector to which this exemption order relates

This exemption order relates to the high voltage DC electricity interconnector between Pentir 400 kV substation, Wales and Arklow 220 kV substation, Republic of Ireland, with a capacity of 350 MW.

C. Period

Subject to section E below, and pursuant to sub-paragraph 4(a) of standard licence condition 12 of the Licence and Article 7(4)(b)(ii) of the Regulation, this exemption order shall come into effect on the date that it is issued and will continue for a period of 25 years from the date that the Interconnector commences commercial operation.

D. Conditions

Pursuant to sub-paragraph 4(b) of standard licence condition 12 of the Licence, this exemption order is made subject to the following conditions:

1. The material provided by EWC to the Authority in respect of this exemption order must be accurate in all material respects.
2. EWC must notify the Authority within ten days of the Interconnector commencing commercial operation.
3. EWC must, within ten days of the Primary Capacity being awarded, notify the Authority of:
 - a. the identity of each Capacity Holder; and
 - b. the amount of Primary Capacity awarded to each Capacity Holder.

4. Should any of the grounds for revocation arise under section E of this exemption order, the Authority may, with the consent of EWC, amend this exemption order rather than revoke the exemption order.
5. The Authority may, with the consent of EWC, amend this exemption order where the Authority has been requested to amend the decision to grant this exemption order by the European Commission (such request being made in accordance with Article 7(5) of the Regulation).
6. This exemption order is transferable where the Authority has given its written consent to such a transfer. For the avoidance of doubt, all of the conditions contained in this exemption order (as amended from time to time) continue unaffected in respect of any person to whom this exemption order may be transferred.

E. Revocation

Pursuant to paragraph 5 of standard licence condition 12 of the Licence and Article 7(4)(b)(ii) of the Regulation, this exemption order may be revoked in the following circumstances.

1. The Authority may revoke this exemption order where the European Commission has requested (in accordance with Article 7(5) of the Regulation) that the Authority withdraw the decision to grant this exemption order.
2. The Authority may revoke this exemption order where the European Commission has requested (in accordance with Article 7(5) of the Regulation) that the Authority amend the decision to grant this exemption order and EWC does not agree (under paragraph D5 above) that this exemption order be amended in the manner so requested by the European Commission.
3. The Authority may, within four months after the notification by EWC of the outcome of the first Open Season in accordance with paragraph D3 above, revoke this exemption order if the outcome of the first Open Season, in the Authority's reasonable opinion, results in a material change in the degree to which the requirements of sub-paragraphs 6(a), (b) or (f) of standard licence condition 12 of the Licence or Article 7(1)(a), (b), or (f) of the Regulation are met with respect to the Interconnector.
4. The Authority may revoke this exemption order by giving a notice of revocation to EWC not less than four months before the coming into force of the revocation where:

- (a) in the Authority's reasonable opinion there is a material change in the degree to which the requirements of sub-paragraphs 6(a), (c), (d), (e) or (f) of standard licence condition 12 of the Licence or Article 7(1)(a), (c), (d), (e) or (f) of the Regulation are met with respect to the Interconnector as the result of any action or omission of EWC;
- (b) EWC has a receiver (which expression shall include an administrative receiver within the meaning of section 251 of the Insolvency Act 1986, as amended from time to time and/or (in the Republic of Ireland) a receiver within the meaning of the Companies Act 1963-2001², as amended from time to time) of the whole or any material part of its assets or undertaking appointed;
- (c) EWC has entered administration under section 8 of and Schedule B1 to the Insolvency Act 1986, as amended from time to time and/or (in the Republic of Ireland) an order has been made in relation to EWC appointing an examiner pursuant to the Companies (Amendments) Act 1990, as amended from time to time;
- (d) EWC is incorporated or has assets in a jurisdiction outside England and Wales or the Republic of Ireland and anything analogous to any of the events specified in sub-paragraphs (b) and (c) above occurs in relation to EWC under the law of any such jurisdiction;
- (e) EWC is found to be in breach of any national or European competition laws, such breach relating to the Interconnector; or
- (f) there is a merger or acquisition in relation to or by EWC that is, or is likely to be, detrimental to competition.

² Part VII of the Companies Act 1963; Part VIII of the Companies Act 1990; Part V of the Company Law Enforcement Act 2001 (the "Companies Act 1963-2001").