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Dear Andrew

Ofgem Consultation 94/08: Regulatory arrangements for East West Cable One Ltd's two proposed GB-Irish electricity interconnectors

National Grid welcomes the opportunity to respond to Ofgem's consultation on the regulatory arrangements for East West Cable One Ltd's (EWC) two proposed GB-Irish electricity interconnectors. This letter sets out National Grid's view on Ofgem's proposal to grant EWC an exemption from the application of rules relating to third party access and use of revenue requirements for each licensed interconnector as currently specified in Standard Licence Conditions 9, 10 and 11 and Article 6 (6) of Regulation (EC) No. 1228/2003.

National Grid plc owns and operates the high voltage electricity transmission in England and Wales and operates the Scottish high voltage transmission system. Through our subsidiaries National Grid also jointly owns, operates and maintains the electricity interconnector between Britain and France (Interconnexion France Angleterre – (IFA)). National Grid, in partnership with NLink (subsidiary of TenneT), is developing an electricity interconnector between Britain and the Netherlands. This investment, funded on a merchant basis, has been granted exemptions from the application of rules relating to third party access and use of revenue requirements.

National Grid is supportive of EWC's exemption application request based on the information presented in Ofgem's consultation document. The request highlights the importance having an appropriate and transparent exemption process such that all projects (both current and future) of this nature throughout the European Union (EU) are assessed in a consistent manner. This framework should not preclude projects being assessed on their own individual basis but would ensure consistency in how each Member State interpreted the applicable provisions.

National Grid's response to Ofgem's specific questions contained within the consultation document is as follows:

Chapter 1 Question 1: Do you agree with our proposal to treat the EW1 and EW2 interconnectors as a single project for the purposes of our evaluation of the exemption criteria?

We agree with Ofgem's proposal to treat the EW1 and EW2 interconnectors as a single project for the purposes of evaluating the exemption application.

This is consistent with the former Anglo-Scottish interconnector which comprised a number of circuits connected at different points to the England and Wales Transmission System.

Chapter 3 Question 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 concur with Ofgem's view that the exemption should be granted based on the examination of whether the exemption criteria have been met.

We noted EWC's statement that the proposed access arrangements would be in line with the current regulated third party access (rTPA) provisions (a key aspect of EU legislation) and look forward to receiving additional detail on EWC's proposed access, capacity sales mechanism and Use It or Lose It arrangements.

Chapter 4 – Question 1: Do you agree with the proposed scope and duration for the exemption and the conditions for revocation?

We are not in a position to comment on how long EWC requires the exemption in order to fulfil its business model; given that the financial projections for the project were submitted to the Authority on a confidential basis.

We noted that in the event of EWC not operating according to the conditions under which the exemptions have been granted, they run the risk of their exemptions being revoked. We acknowledge that the conditions for revocation appear consistent with those included in other similar exemptions granted by Ofgem.

In addition National Grid would like to take this opportunity to highlight aspects of the consultation and associated provisions which we believe are worth noting and/or would benefit from further clarity.

▪ **Capacity Rights**

In their application EWC indicated that they intend to utilise long-term capacity rights, primarily to underpin the financial viability of their project. National Grid notes Ofgem's acceptance of this proposed approach. We would welcome Ofgem's opinion on the criteria that should be applied to determine when the utilisation of long-term capacity rights to finance merchant infrastructure projects is, or is not, acceptable.

We believe that it would be beneficial, to current and prospective interconnector owners, if general guidance on the principles which are applicable to the utilisation of long-term capacity rights were available.

- **TSO Utilisation**

The proposed project will provide additional interconnection capacity between the Member States. We therefore believe that it would be beneficial for the Transmission System Operators (TSOs) to have access to any spare capacity (during real time) when required. This would be consistent with similar arrangements that are currently in place with the IFA interconnector. Any access to spare capacity will be subject to commercial terms being agreed between the TSOs and the interconnector owner.

- **Regulatory Regime**

Additional interconnector capacity will enhance the security of supply and encourage competition between Member States; a pre-requisite to this is a stable regulatory environment such that developments of this nature continue to occur. It is therefore essential that developers of new infrastructure can see a stable regulatory regime if they are to be confident regarding the high levels of investment that will be needed to assist the development of the internal market and to secure Europe's energy supplies into the future. More widely, and on a European level (as the EC Third Package recognises) a mature regulatory regime within each Member State which encourages investment does not always exist yet, and in particular there is no EU or regional regime which encourages or facilitates inter-state infrastructure such as interconnectors.

Where new infrastructure is developed on a merchant basis in a competitive environment and where other parties could develop competing infrastructure that provide alternative means for transmitting electricity into the UK, then exemption as per Article 7 [of the proposed Third Package amendment to electricity Regulation 1228/2003] should be seen as the default position and the regulation should be "light touch".

As per these provisions, National Grid believes that it would therefore be inappropriate to limit the validity of exemptions by imposing a condition that the project must have been completed and be in operation within a certain fixed time period. Although there should be control over progression and incentives to develop infrastructure in a timely manner, we believe the use of fixed timescales is inappropriate in circumstances of technically challenging projects or where planning consents are uncertain. This is of course in addition to unforeseen circumstances, which may cause project delays that are typically out of the developer's control.

We look forward to seeing Ofgem's final views on the matter in due course but in the mean time should you wish to discuss any of the above comments please do not hesitate to contact me.

Yours sincerely

[By e-mail]

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