



To: electricity generators,
interconnector owners and
operators, suppliers and other
interested parties

*Promoting choice and value for
all gas and electricity customers*

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Dear Colleague

**BritNed Development Limited consultation on access rules for GB-Netherlands
electricity interconnector**

The purpose of this letter is to explain the process that the Authority intends to follow and the basis on which the Authority will consider the access rules for the BritNed interconnector¹. We also encourage interested parties to respond to BritNed's current consultation on its access rules².

On the 11 July 2007 the Authority granted BritNed an electricity interconnector licence³ (the "licence") and an exemption order⁴ (the "exemption") for a period of 25 years from the start of commercial operations. The exemption is from standard licence conditions 9, 10, and 11 and Article 6(6) of EC Regulation No 1228/2003. In granting the exemption Ofgem committed to monitor BritNed's consultation and the development and implementation of its trading arrangements.

The exemption explains the commitments that BritNed made in its exemption application⁵ and the conditions for the exemption's revocation. In its exemption application BritNed committed to, amongst other things:

- (a) make all capacity available with an access regime that is not materially different from rTPA; and,
- (b) operate the interconnector in a way that is compliant with current and future iterations of the EC Congestion Management Guidelines.

Following its consultation we understand that BritNed will publish the results of and submit the final version of the access rules to the Authority for consideration.

¹ BritNed Development Limited is a joint venture between National Grid plc and TenneT. BritNed is constructing a high voltage direct current electricity cable between the Isle of Grain in Great Britain and Maasvlakte in the Netherlands. The cable is expected to have a capacity of 1,000MW with the ability to flex up to 1,320MW for short periods of time. The cable will commence operation in early 2011.

² Link to BritNed access rule consultation: <https://www.britned.com/Pages/default.aspx>

³ The licence: http://epr.ofgem.gov.uk/document_fetch.php?documentid=13050

⁴ The exemption order:

<http://www.ofgem.gov.uk/Markets/WhlMkts/CompandEff/TPAccess/Documents1/Britned%20amended%20exemption%20order.pdf>; and,

<http://www.ofgem.gov.uk/Markets/WhlMkts/CompandEff/TPAccess/Documents1/BritNed%20Decision%20letter%2012%20July.pdf>

⁵ The exemption application and consultation:

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=14&refer=Markets/WhlMkts/CompandEff/TPAccess>

If the Authority observes a material change to the commitments that BritNed provided in its application, or a material change in the underlying data provided by BritNed, this would be grounds to review and potentially revoke the exemption. In the event of a material change the Authority will assess the impact of the change on the degree to which the six tests to grant the exemption are met⁶. The Authority will also assess the access rules against the exemption conditions.

The consultation process in Great Britain will be coordinated with the consultation being undertaken by the Netherlands Competition Authority (NMa Energiekamer)⁷ on the BritNed access rules with Dutch market parties.

We invite parties to copy Ofgem on any responses to BritNed's consultation. We would also welcome any views on compliance of the access rules with the exemption conditions and commitments. Responses should be sent by 09 April 2010 and will be published on the Ofgem website unless marked confidential. Any responses may be taken into consideration by the Authority in its consideration of the access rules. Any responses or requests for further information should be directed to Olaf Islei (email: olaf.islei@ofgem.gov.uk; tel 0207 901 7114).

Attached to this letter, for your information, we have published a draft of the access rules and BritNed's accompanying letter.

Yours Sincerely,

Martin Crouch
Partner, European Strategy Team

⁶ The six tests are set out in Article 7 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 changes in electricity.

⁷ We understand that details of this process can be found at: www.energiekamer.nl