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*Promoting choice and value for
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Dear Mark

Approval of the access rules for the EirGrid East-West Interconnector (EWIC) including a direction to approve pursuant to Standard Licence Condition 11A paragraph 7 of the electricity interconnector licence

On 22 August 2012, EirGrid Interconnector Limited¹ (EIL) submitted access rules (the "EWIC access rules") to the Authority² for approval. These were submitted pursuant to Standard Licence Condition 11A of EIL's electricity interconnector licence. The EWIC access rules set out the general terms and conditions that a user must accept to obtain access to and use capacity on EWIC³.

This letter contains a direction to approve the EWIC access rules and sets out the background and reasons for our approval under section 49A of the Electricity Act 1989.

Background

2011 informal approval of EWIC's access rules

On 3 October 2011 we informally approved EWIC's access rules. At that time, we noted that we did not have formal powers to approve access rules. However, we anticipated that we would have formal powers following Third Package implementation in 2011. We stated that, pending further developments, we would have approved EWIC's access rules in their current form at that stage. However, we expected further amendment of the access rules to accommodate the introduction of intraday trading, and that we would formally approve the access rules before the EWIC became operational⁴.

Transposition of the Third Package

On 09 November 2011 the regulations under section 2(2) of the European Communities Act 1972 ("domestic regulations") came into force and transposed the Third Package into GB domestic legislation and into GB licences, including the standard conditions of the electricity interconnector licence. Amendments made by the domestic regulations transposing the

¹ EirGrid Interconnector Limited is a wholly owned subsidiary of EirGrid Plc the Irish TSO. The company commercially operates an electricity link between Great Britain and the Republic of Ireland.

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

³ The EirGrid East-West Interconnector is a 500MW High Voltage Direct Current link that runs between the Republic of Ireland and Great Britain. It is anticipated to start commercial operation on October 2012.

⁴ <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=88&refer=Europe>

Third Package have resulted in wide ranging changes to the GB electricity regulatory framework⁵.

The domestic regulations amended the standard conditions of electricity interconnector licences and, amongst other things, introduced Standard Licence Condition 11A on the approval of terms for access by the Authority⁶.

Standard Licence Condition 11A introduces relevant access rules objectives, against which the Authority will assess access rules and any proposed amendment. The relevant access rules objectives are that access rules shall be transparent, objective, non-discriminatory and compliant with the Electricity Regulation⁷ and any relevant legally binding decision of the European Commission and/or the Agency.

Standard Licence Condition 11A also states that access rules must include, in particular, but not limited to, arrangements for maximising the available interconnector capacity, including the methodology for the calculation of interconnector capacity.

SEM Committee decision on intraday congestion management and EIL's proposed EWIC access rules

Paragraph 1.9 of the Congestion Management Guidelines which are annexed to, and form part of, the Electricity Regulation⁸, requires mechanisms for intraday congestion management of interconnector capacity to be established in a coordinated way by 01 January 2008. To meet this requirement reforms were initiated in the Republic of Ireland and Northern Ireland to introduce intraday trading in the Single Electricity Market⁹ (SEM). The implementation of intraday trading in the SEM and on the EWIC is necessary to ensure compliance with the Congestion Management Guidelines.

Following informal approval of EWIC's access rules in October 2011, EIL and Moyle Interconnector Limited issued a joint consultation on charging for interconnector capacity allocation in intraday¹⁰.

EIL and Moyle Interconnector Limited's joint consultation closed on 14 March 2012. On 4 May 2012, EIL and Moyle Interconnector Limited submitted a recommendation paper, together with the ten consultation responses received, to the SEM Committee and Ofgem proposing intraday congestion charging arrangements.

Following consideration of the consultation responses and discussion with Ofgem, the SEM Committee issued a decision paper on 6 July 2012 on the intraday congestion charging methodology¹¹. The decision paper also instructed EIL to amend the access rules to incorporate the SEM Committee decision and to submit the access rules to the relevant regulatory authorities for approval by 13 July 2012.

Intraday trading went live in SEM on 21 July 2012¹² and on 9 July 2012 EIL submitted amended access rules as well as a report explaining the proposed changes to Ofgem for

⁵ More information can be found here: <http://www.legislation.gov.uk/ukxi/2011/2704/contents/made>

⁶ The revised electricity interconnector licence standard conditions can be found here: <http://epr.ofgem.gov.uk/EPRFiles/Electricity%20Interconnector%20Standard%20Licence%20Conditions%20Conso%20dated%20-%202010-11-2011%20-%20Current%20Version.pdf>
<http://www.legislation.gov.uk/ukxi/2011/2704/schedule/8/made>

⁷ Regulation (EC) No 714/2009 on conditions for access to the network for cross-border exchanges in electricity

⁸ The Guidelines on the management and allocation of available transfer capacity of interconnectors between national systems annexed to the Electricity Regulation.

⁹ The Single Electricity Market (SEM) consists of a gross mandatory pool market, into which all electricity generated on or imported to the Republic of Ireland and Northern Ireland must be sold.
(http://www.allislandproject.org/en/SEM_overview.aspx).

¹⁰ <http://www.mutual-energy.com/Download/Congestion%20charging%20consultation.pdf>

¹¹ SEM12054 - Decision Paper on Intraday Congestion Charging

http://www.allislandproject.org/en/sem_publications.aspx?year=2012§ion=2

¹² <http://www.sem-o.com/MarketDevelopment/IDT/Pages/Home.aspx>

approval. These access rules amended the October 2011 access rules to incorporate the SEM Committee decision on the intraday congestion. Further amendments were made following a request from Ofgem and the EWIC access rules were re-submitted for approval on 22 August 2012.

As part of the transitional arrangements for island systems with central dispatch provided for in the Capacity Allocation and Congestion Management Framework Guideline and the anticipated Network Code¹³, the SEM Committee and Ofgem committed to monitor the efficiency of the cross-border trading arrangements on interconnectors and publish an annual report. As part of this monitoring exercise the Regulatory Authorities will assess the operation of the intraday congestion charging arrangements.

The Authority has decided to approve the EWIC access rules and a direction to this effect, issued in accordance with SLC 11A of the electricity interconnector licence, can be found in the annex to this letter.

Further review of the EWIC access rules

We note that EWIC access rules are silent on precisely how capacity would be curtailed in the event of an outage. Some market participants have raised concerns regarding the order in which long-term and daily capacity is curtailed on SEM interconnectors.

We also note that, while not required in the current version of the access rules, EIL have committed to publish the prices at which intraday is allocated.

We would draw your attention to paragraph 9 of SLC 11A of the electricity interconnector licence. In accordance with that paragraph we request EIL to review the EWIC access rules in light of the above and to provide the Authority with a report on the review by 4 December 2012. In accordance with paragraph 9 of SLC 11A EIL should then proceed to make such modifications as may be requisite for the purpose of better facilitating the relevant access rules objectives. Before doing so, EIL must comply with the requirements of paragraphs 10 to 13 of SLC 11A which include consulting on any proposed modifications and submitting the revised access rules to the Authority.

Yours sincerely,

Pamela Taylor
Associate Partner, European Wholesale

¹³ <https://www.entsoe.eu/resources/network-codes/capacity-allocation-and-congestion-management/>

ANNEX

Direction issued to EirGrid Interconnector Limited pursuant to paragraph 7 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 7 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 to EirGrid Interconnector Limited ("EIL").
2. Standard Licence Condition 11A provides that the licensee shall prepare and submit for approval by the Authority a statement setting out the Access Rules (as defined in the Standard Licence Conditions for electricity interconnector licences).
3. Standard Licence Condition 11A paragraph 4 requires that the Access Rules shall be transparent, objective, non-discriminatory and compliant with the Regulation (Regulation (EC) No 714/2009 on conditions for access to the network for cross-border exchanges in electricity) and any relevant legally binding decision of the European Commission and/or Agency (collectively the 'relevant access rules objectives').
4. Standard Licence Condition 11A paragraph 5, requires interconnector licensees to take all reasonable steps to ensure that all persons, including those in other Member States who may have a direct interest in the Access Rules, are consulted and allow them a period of not less than 28 days within which to make written representations. The interconnector licensees shall also furnish to the Authority a report setting out the terms originally proposed in the Access Rules, the representations, if any, made by interested persons and any change in the terms of the Access Rules intended as a consequence of such representations.
5. In accordance with Standard Licence Condition 11A paragraph 5, on 09 July 2012 EIL furnished the Authority with a report setting out the terms originally proposed in its access rules including changes as result of a public consultation and the SEM Committee decision on the intraday congestion charging methodology.
6. After careful consideration of the report submitted on 09 July 2012 and the responses to the public consultation, in accordance with Standard Licence Condition 11 paragraph 6, the Authority requested EIL to amend the access rules. The requested amendment was to improve the transparency of the proposed intraday arrangements and to clarify that the entire technical capacity of the interconnector will be made available for either medium term auctions or day-ahead implicit allocation. The amendments were requested to better meet the relevant access rule objectives and ensure compliance with Standard Licence Condition 11A paragraph 3(a) which requires that the Access Rules include arrangements for maximising interconnector capacity.
7. EIL accepted the requested amendments and, in accordance with Standard Licence Condition 11A paragraph 6, re-submitted the access rules to the Authority for approval on 22 August 2012 (the "EWIC access rules").
8. Having regard to the relevant access rules objectives set out in SLC 11A paragraph 4 and to our principle objective and statutory duties, the Authority has decided to approve the EWIC access rules. The Authority considers that the EWIC access rules meet the relevant access rules objectives. In particular, the EWIC access rules ensure compliance with the Congestion Management Guidelines, which are an annex to, and form part of, the Electricity Regulation.

9. The Authority hereby directs, pursuant to paragraph 7 of Standard Licence Condition 11A of the Licence, that the EWIC access rules are approved.
10. This Direction shall have immediate effect and shall remain in effect until such time as the Authority may revoke or vary the Direction in writing upon reasonable notice.

Dated: 04 September 2012

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Pamela Taylor

Associate Partner, European Wholesale

Signed on behalf of the Authority and authorised for that purpose by the Authority