



Making a positive difference
for energy consumers

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Date: 25 January 2019

Dear Nick,

Approval of the Access Rules and Charging Methodology submitted by Nemo Link Limited pursuant to Standard Licence Condition 11A and 10 of the electricity interconnector licence ("the Licence").

On 1 November 2018, Nemo Link Limited (NLL) submitted its proposed access rules and charging methodology for the Nemo Link interconnector¹ to the Authority² for approval.

The proposed access rules and charging methodology were submitted pursuant to SLC 11A and SLC 10³ of the Licence which respectively require NLL to maintain i) 'access rules', which set out the terms and conditions for access to, and including use of, the interconnector and ii) a 'charging methodology' which sets out the methodologies for calculation of charges imposed for access to and use of the licensee's interconnector.

The Authority has decided to approve the proposed NLL access rules and charging methodology as we consider that the proposed access rules and charging methodology meet the relevant access rules and charging methodology objectives.

This letter contains directions approving the proposed NLL access rules and charging methodology and explains the reasons for our approval as required under section 49A of the Electricity Act 1989. The approved access rules and charging methodology shall come into immediate effect, ahead of the Nemo Link interconnector commencing commercial operation on 31 January 2019.

Background

On 1 November 2018, NLL submitted its proposed access rules and charging methodology for the Nemo Link interconnector.

SLC 11A introduces relevant access rules objectives, against which the Authority will assess access rules and any proposed amendments. The relevant objectives are that access rules

¹ Nemo Link is a 1000MW high voltage direct current (HVDC) link, connecting the transmission systems of Great Britain (GB) and Belgium (BE). NLL is a joint venture between National Grid Interconnector Holdings Limited, a subsidiary company of National Grid Plc, and Elia System Operator NV/SA (the Belgian transmission system operator). Together, they own and operate the Nemo Link interconnector.

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 electricity interconnector licence standard conditions can be found here: https://epr.ofgem.gov.uk/Content/Documents/Electricity_Interconnector_Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf

shall be transparent, objective, non-discriminatory and compliant with the Electricity Regulation⁴ and any relevant legally binding decision of the European Commission and/or the Agency for the Cooperation of Energy Regulators (“the Agency”).

SLC 10 introduces relevant charging methodology objectives, against which the Authority will assess the charging methodology and any proposed amendments. The relevant charging methodology are that the charges and the application of the underlying charging methodology shall be objective, transparent, non-discriminatory and compliant with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.

Standard Licence Condition (SLC) 11A(7) and SLC 10(7) of the Licence allow a three-month period for the Authority to determine whether to approve the access rules and the charging methodology respectively.

NLL’s proposed access rules and charging methodology

To inform our opinion, we assessed the proposed access rules, the proposed charging methodology and the consultation responses. They are presented below in turn.

Proposed access rules

The proposed access rules set out the general terms and conditions for the use of Nemo Link interconnector’s capacity in the long term and day ahead timeframes. They also set out the procedures for auctioning rights in the event that the single day ahead coupling is not available. Furthermore, they outline the terms on which registered participants may participate in such auctions.

The proposed access rules establish cross-references to methodologies approved under the European Regulation 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (the CACM Regulation)⁵. For instance, the common capacity calculation methodology, as approved by the Channel Regulatory Authorities, details the capacity calculation process for the day ahead timeframe. If single day ahead coupling is not available, NLL will allocate capacity in accordance with the channel fallback procedures also adopted by virtue of the CACM Regulation.

The proposed access rules also refer to methodologies approved under the European Regulation 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (the FCA Regulation)⁶. These methodologies include the harmonised allocation rules (HAR), which are a pan-EU rules for the allocation of capacity in the forward timeframe, and the GB-BE border specific annex, which includes bidding zone border specific requirements prevailing over the HAR. The rules for the nomination of long-term capacity are specified within the nomination rules for physical transmission rights.

During our assessment of the proposed access rules, we provided informal feedback to NLL regarding the format and structure of its proposed access rules. Our feedback consisted of, and was confined to, suggestions about:

1. the format of the Access Rules; and
2. consistency with the requirements of SLC 11A(3) of the Licence.

On 24 January 2019, NLL submitted an updated version of its proposed access rules after making revisions to the format and structure to take into account of our feedback. We do not consider these revisions to include any substantive changes to the content of the proposed access rules. Our decision refers to this updated version

⁴ Regulation (EC) No 714/2009 on conditions for access to the network for cross border exchanges in electricity

⁵ The CACM Regulation: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015R1222>

⁶ The FCA Regulation: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.259.01.0042.01.ENG&toc=OJ:L:2016:259:TOC#d1e2204-42-1

Proposed charging methodology

NLL's proposed charging methodology contains the methodologies for the calculation of charges imposed for access to and use of the NEMO Link interconnector. The proposed charging methodology sets out the principles of explicit and implicit auctions and how these will be applied to allocate capacity on the interconnector. It outlines how holders of explicit capacity may use this capacity, including secondary trading, nomination, or the "Use It Or Sell It" principle. It also outlines payment obligations relating to the use of capacity, including curtailment compensation arrangements. Lastly, the methodology states that Nemo Link interconnector can provide ancillary services to the relevant TSOs.

Consultation Responses

Prior to submission, and in accordance with paragraph 5(a) of both SLC 11A and SLC10, NLL conducted a 28-day public consultation on its access rules and charging methodology⁷, which concluded on the 25 June 2018. Three market participants and one trade organisation responded to the consultation. NLL provided these responses to the Authority and we note that NLL has not made any changes to the proposed access rules and charging methodology as a result of the consultation.

All respondents expressed concern at the lack of an intraday product for the period between NLL's Q1 2019 operational go-live date and the anticipated third wave of implementation of the pan-European cross-border intraday (XBID) project in 2020. Respondents considered that NLL should develop an explicit intraday product because of the importance of this product to the market efficiency and balancing networks of cross border capacity.

NLL states in its submission that it is fully committed to offering capacity in the intraday timeframe as part of the XBID project, alongside their commitment to implement CACM. NLL considers the complexity of designing an intraday product close to the expected completion of the XBID project presents a risk of any bespoke intraday arrangement that it could bring forward being removed soon after implementation.

As intraday products are critical for ensuring market efficiency and making best use of cross-border capacity ahead of the balancing timeframe, we expect NLL to take market participant's concerns about the lack of intraday product into consideration and to work with them to introduce an intraday product as soon as is practicable.

The Authority's decision

Following a review of the documents submitted, with the key features as summarised above, we consider that the proposed access rules and charging methodology meet the relevant objectives and are transparent, non-discriminatory, objective and compliant with the Electricity Regulation and relevant legally binding decisions of the European Commission and/or the Agency.

We note that, according to the SLC 11A(3)(e), the access rules should contain arrangements for any ancillary services. Therefore, we would expect the next amended versions of the access rules to contain provisions on the balancing arrangements, including where users may offer ancillary services to assist with system operation.

The Authority has therefore decided to approve the proposed access rules and charging methodology. Directions issued in accordance with SLC 11A(7) and SLC 10(7) of the Licence can be found in Annexes 1 and 2 of this letter.

⁷ The consultation on Nemo Link's access rules and charging methodology can be found here: <http://www.nemo-link.com/blog/2018/05/>

Next steps

Publication of access rules and charging methodology

In accordance with SLC 11A(14) and SLC 10(15) of the Licence, NLL is required to publish (at least on its website) the approved access rules and a charging methodology statement for a period of 28 days prior to their coming into effect (the Publication Period), unless the Authority directs otherwise.

The Publication Period serves an important purpose as it provides an opportunity for market participants to become familiar with the approved access rules and charging methodology ahead of their coming into effect.

We would normally expect interconnector owners to strictly abide by this requirement and take this, and other provisions relating to timings which are clearly set out in the Licence, into account when planning the submission of access rules and charging methodology for the Authority's approval.

On this specific occasion, we have decided to make an exception and shorten the Publication Period in order to allow for commercial operations to commence, as planned, on 31 January 2019⁸. On balance, we consider it to be in the interests of GB consumers and market participants to facilitate the Nemo Link interconnector entering into commercial operation as soon as possible rather than requiring NLL to adhere to the Publication Period requirement and thereby postpone the start of commercial operation to a later date.⁹ We also believe market participants are already sufficiently acquainted with the proposed access rules.

The Authority has therefore decided to direct that the access rules and charging methodology will take effect immediately from the date of approval, in accordance with SLC 11A(14) and SLC 10(14)¹⁰. We expect NLL to publish the approved access rules and a charging Methodology statement on its website as soon as reasonably practicable after publication of this decision.

Future modifications to NLL's access rules and charging methodology

In accordance with SLC 11A(8) and SLC 10(9), NLL should review its access rules and charging methodology at least once in each calendar year. Any modifications required to ensure that the access rules and charging methodology better achieve the relevant objectives should be submitted for Authority approval in good time and in accordance with the requirements set out in SLC 11A and SLC 10 of the Licence.

In this regard, we expect NLL to submit as soon as possible any proposed modifications necessary to ensure the continued operation of the Nemo Link interconnector after the United Kingdom leaves the European Union.

Yours sincerely,

Cathryn Scott
Director, Wholesale Markets and Commercial

⁹ As it is not feasible for NLL to publish the approved access rules and charging methodology for the specified 28 days prior to them coming into effect, given that an approved set of access rules and charging methodology must be in effect on, and by, the start of commercial operation

¹⁰ To allow for the approved Access Rules to come into effect without having been published for 28 days beforehand.

Direction issued to Nemo Link 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 (the "Act") to Nemo Link Limited (the "Licensee").
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 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 for the Co-operation of Energy Regulators (collectively the "relevant access rules objectives").
4. Standard Licence Condition 11A(1) requires that the Licensee, sufficiently in advance of new interconnector capacity becoming operational, or by such date as the Authority may direct in writing, prepare and submit for approval by the Authority a statement setting out the Access Rules. The licensee may, subject to the approval of the Authority, submit a statement which includes both the Charging Methodology and Access Rules.
5. Standard Licence Condition 11A paragraph 5 requires the Licensee to take all reasonable steps to ensure that all persons, including those in other Member States that 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 Licensee must 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.
6. In accordance with Standard Licence Condition 11A paragraph 5, the Licensee furnished the Authority on 1 November 2018 with a report setting out the terms originally proposed on Nemo Link interconnector access rules and, on 24 January 2019, with those terms within an updated structure.
7. After careful consideration of the report submitted on 1 November 2018 and the responses to the public consultation, 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 NLL access rules. The Authority considers that the NLL access rules meet the relevant access rules objectives.
8. SLC 11A(14) of the Licence requires that, unless the Authority directs otherwise, the access rules shall be published 28 days prior to coming into effect. The Authority considers that it is important for the NLL access rules to come into effect as soon as possible and to coincide with the go-live date of the Nemo Link interconnector which is currently set for 31 January 2019.
9. The authority therefore hereby directs:
 - (a) pursuant to paragraph 7 of Standard Licence Condition 11A of the Licence, that the Licensee's proposed Access Rules are approved, and
 - (b) pursuant to paragraph 14 of Standard Licence Condition 11A of the Licence, that the approved Access Rules be published as soon as practicable and come into effect immediately.

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.

11. This Direction constitutes notice of the Authority's reasons for the decision pursuant to section 49A of the Act. Copies of the documents mentioned in this Direction can be found on the Ofgem website (www.ofgem.gov.uk).

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Cathryn Scott

Director, Wholesale Markets and Commercial

**Signed on behalf of the Authority and authorised for that purpose by the Authority
on 25 January 2019**

Direction issued to Nemo Link Limited pursuant to paragraph 7 of Standard Licence Condition 10 (Charging methodology to apply to third party 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 10 of the electricity interconnector licence (the "Licence") granted or treated as granted under section 6(1)(e) of the Electricity Act 1989 (the "Act") to Nemo Link Limited (the "Licensee").
2. Standard Licence Condition 10 paragraph 2 provides that the Licensee shall prepare and submit for approval by the Authority a charging methodology for access to (including use of) the licensee's interconnector.
3. Standard Licence Condition 10 paragraph 4 requires the Charging Methodology to 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 for the Co-operation of Energy Regulators (collectively the "relevant charging methodology objectives").
4. Standard Licence Condition 10 paragraph 2 requires that the Licensee, sufficiently in advance of new interconnector capacity becoming operational, or by such date as the Authority may direct in writing, prepare and submit for approval by the Authority a statement setting out the Charging Methodology. The licensee may, subject to the approval of the Authority, submit a statement which includes both the Charging Methodology and Access Rules.
5. Standard Licence Condition 10 paragraph 5 requires the Licensee to take all reasonable steps to ensure that all persons, including those in other Member States that may have a direct interest in the Charging Methodology are consulted and allow them a period of not less than 28 days within which to make written representations. The Licensee must also furnish to the Authority a report setting out the terms originally proposed in the Charging Methodology, the representations, if any, made by interested persons and any change in the terms of the Charging Methodology intended as a consequence of such representations.
6. In accordance with Standard Licence Condition 10 paragraph 5, on 1 November 2018 the Licensee furnished the Authority with a report setting out the Licensee's proposed Charging Methodology.
7. After careful consideration of the report submitted on 1 November 2018 and the responses to the public consultation, having regard to the relevant access rules objectives set out in SLC 10 paragraph 4 and to our principle objective and statutory duties, the Authority has decided to approve the NLL Charging Methodology. The Authority considers that the NLL charging methodology meets the relevant charging methodology objectives.
8. SLC 10(15) of the Licence requires that, unless the Authority directs otherwise, the Charging Methodology shall be published 28 days prior to coming into effect. The Authority considers that it is important for the NLL charging methodology to come into effect as soon as possible and to coincide with the go-live date of the Nemo Link interconnector which is currently set for 31 January 2019.
9. The authority hereby directs:
 - (a) pursuant to paragraph 7 of Standard Licence Condition 10 of the Licence, that the Licensee's proposed Charging Methodology is approved, and
 - (b) pursuant to paragraph 15 of Standard Licence Condition 10 of the Licence, that the approved Charging Methodology be published as soon as practicable and come into effect immediately.

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.

11. This Direction constitutes notice of the Authority's reasons for the decision pursuant to section 49A of the Act. Copies of the documents mentioned in this Direction can be found on the Ofgem website (www.ofgem.gov.uk).

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Cathryn Scott

Director, Wholesale Markets and Commercial

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