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Date: 27 August 2019

Dear Steven,

**Approval of ElecLink's modified Access Rules and modified Charging Methodology pursuant to Standard License Condition 11A and 10 of the electricity interconnector licence**

On 28 May 2019, ElecLink Limited (ElecLink) proposed modifications to its Access Rules and Charging Methodology to the Authority<sup>1</sup> for approval.

The ElecLink Access Rules and Charging Methodology were submitted pursuant to Standard Licence Condition (SLC) 11A and SLC 10 of the electricity interconnector licence<sup>2</sup> which requires ElecLink to maintain i) 'Access Rules', that 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 the calculation of charges imposed for access to and use of the licensee's interconnector.

We have decided to approve the proposed modifications to ElecLink Access Rules and Charging Methodology on the basis that we are satisfied the proposed modifications achieve the relevant Access Rules and Charging Methodology objectives<sup>3</sup> as required under ElecLink's licence. This letter contains the relevant directions, attached as Annex 1 and Annex 2, approving the modified Access Rules and Charging Methodology. It also explains the reasons for our approval as required under section 49A of the Electricity Act 1989.

**Background**

On 16 September 2014, Ofgem published its decision<sup>4</sup> to grant ElecLink a partial exemption (the exemption decision) from compliance with Articles 9 and 32 of Directive 2009/72/EC

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<sup>1</sup>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.

<sup>2</sup> 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](https://epr.ofgem.gov.uk//Content/Documents/Electricity_Interconnector_Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf).

<sup>3</sup> The relevant Access Rules and Charging Methodology objectives are set out in SLC 11A and SLC 10 and state that the Access Rules and the Charging Methodology shall be transparent, objective, non-discriminatory and compliant with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.

<sup>4</sup> The decision is available here: <https://www.ofgem.gov.uk/publications-and-updates/final-decision-ElecLink-limited%E2%80%99s-request-exemption-under-article-17-regulation-ec-7142009-great-britain-france-electricity-interconnector>.

(the Directive) and Article 16(6) Regulation (EC) 714/2009 (the Regulation), pursuant to Article 17 of the Regulation. The decision was made jointly with the Commission de Régulation de l'Énergie (CRE), the French regulator. The decision partially exempts ElecLink from complying with certain aspects of European legislation for a period of 25 years from the date that the interconnector begins commercial operation. The exemptions are subject to the interconnector complying with the conditions imposed in the exemption decision<sup>5</sup>.

On 5 February 2016, ElecLink submitted its first set of Access Rules and Charging Methodology under the requirements of the exemption decision. The Authority approved the Access Rules and the Charging Methodology on 18 April 2016<sup>6</sup>.

## The proposed modifications to the Access Rules and Charging Methodology

### *Proposed modified Access Rules*

The Access Rules include arrangements for obtaining and using capacity on the ElecLink interconnector for the open season timeframe (greater than one year), forward timeframe (from one year to day-ahead), and short-term timeframe (day-ahead and intraday). The Access Rules cover the exempt capacity and remaining non-exempt capacity on the interconnector.

The main proposed modifications are summarised below:

- **Structure:** The rules for the open season timeframe, for intraday allocation, and for explicit day ahead and intraday nomination have been moved to respective dedicated sections in the Access Rules.
- **Consistency:** The terminology and definitions have been aligned with the definitions of the guideline on Forward Capacity Allocation (the FCA Regulation)<sup>7</sup> and the guideline on Capacity Allocation and Congestion Management (the CACM Regulation)<sup>8</sup>. Furthermore, the provisions of the Access Rules have been aligned with the existing rules applicable to the interconnectors on the France-Great Britain (FR-GB) border.
- **Timings of intraday auctions:** The first intraday auction has been moved from 19.00-19.30 to 15.40-16.10 on the day preceding delivery and the second intraday auction has been moved from 8.20-8.50 to 9.20-9.50 on the delivery day.

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Furthermore, the European Commission issued a decision to prolong the exemption of ElecLink. The decision is available here: [https://ec.europa.eu/energy/sites/ener/files/documents/2016\\_ElecLink\\_decision\\_en.pdf](https://ec.europa.eu/energy/sites/ener/files/documents/2016_ElecLink_decision_en.pdf).

<sup>5</sup> The exemption decision can be found here:

[https://www.ofgem.gov.uk/sites/default/files/docs/2014/09/schedule\\_a\\_-\\_nras\\_final\\_exemption\\_decision\\_0.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2014/09/schedule_a_-_nras_final_exemption_decision_0.pdf)

<sup>6</sup> The decision is available here: <https://www.ofgem.gov.uk/publications-and-updates/approval-access-rules-and-charging-methodology-submitted-ElecLink-pursuant-standard-licence-condition-slc-11a-and-10-electricity-interconnector-licence-and-exemption-order-issued-under-slc-12-licence>.

<sup>7</sup> [Commission Regulation \(EU\) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation](#) which builds on the Commission Regulation (EU) 2015/122 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (CACM Regulation) to maximise efficiency in cross-border electricity trading in the day-ahead and intraday timeframe. Specifically, the FCA Regulation provides a harmonised framework for forward capacity markets to allow market participants to hedge positions before the day ahead timeframe.

<sup>8</sup> [Commission Regulation \(EU\) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management](#). It aims to maximise the efficient use of interconnection and facilitate greater cross-border electricity trade, through market coupling in the day-ahead and intraday timeframes. Market coupling should make sure power is produced where it is most efficient and used where it is most valued, to lower prices for consumers and support secure and sustainable supply.

## *Proposed modified Charging Methodology*

ElecLink has proposed modifications to the Charging Methodology in accordance with the proposed modifications to its Access Rules. The main proposed modifications are summarised below:

- **References to European Legislation:** ElecLink has added references to the relevant methodologies of the CACM and FCA Regulations.
- **Consistency:** The terminology and definitions have been aligned with the definitions of the FCA and CACM Regulations. Furthermore, the provisions of the Charging Methodology have been aligned with the existing rules applicable to the interconnectors on the FR-GB border.
- **Curtailed section:** The provisions for curtailment have been removed from the Charging Methodology and included in the Access Rules and relevant methodologies developed by virtue of the CACM and FCA Regulations.

## *Consultation responses*

Prior to submission and in accordance with paragraph 5(a) of SLC 11A and SLC 10, ElecLink conducted a public consultation<sup>9</sup> on its proposed modifications to its Access Rules and Charging Methodology, between 1 April 2019 and 1 May 2019. One market participant and one trade organisation responded to the consultation.

Both respondents considered that the first intraday auction was not close enough to real time and proposed alternative auction times. ElecLink noted its intraday auctions will be held on the Single Allocation Platform (SAP)<sup>10</sup> and that the respondents' proposed auction times were outside of the working hours of JAO (SAP's service provider). JAO would not be able to provide customer support in the event of a technical issue. Therefore, ElecLink considered that organising auctions closer to real time could be more disadvantageous for the market in comparison with an auction organised during the JAO working hours.

Both respondents favoured an increase in the number of nomination gates to allow parties to adjust their positions closer to real time. ElecLink noted that such increase would require changes to the system and operational procedures of National Grid Electricity System Operator (NGESO), and that it does not consider that such changes are feasible immediately.

As a result, no further modifications were proposed to the Access Rules and Charging Methodology ahead of submission to the Authority.

## **The Authority's decision**

We have reviewed the documents submitted to Ofgem on 28 May 2019, and have concluded that they meet the relevant Access Rules and Charging Methodology objectives.

We have also noted that, in line with the conditions of its exemption, ElecLink has aligned its Access Rules and Charging Methodology with those of existing interconnectors on the same border (in this case the FR - GB border), where relevant.

In reaching our decision, we have considered the consultation responses and closely collaborated with CRE to ensure we make consistent regulatory decisions.

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<sup>9</sup> The consultation is available here: <http://www.ElecLink.co.uk/ElecLink-news-downloads.php>.

<sup>10</sup> The decision on the Single Allocation Platform is available here : <https://www.ofgem.gov.uk/publications-and-updates/ofgem-decisions-iu-and-channel-regions-har-annexes-regional-design-ltrrs-and-pan-european-sap-and-sap-cost-sharing-methodologies-under-fca>.

The Authority therefore approves the modified Access Rules and Charging Methodology on the basis that they meet the relevant Access Rules objectives and the relevant Charging Methodology objectives set out respectively in SLC 11A(4) and SLC 10(4) of the Licence.

Directions issued in accordance with SLC 10(7) and SLC 11A(7) of the Licence can be found in Annexes 1 and 2 of this letter.

### **Next steps**

We note market participants' feedback to ElecLink's consultation in relation to its intraday arrangements. As the auctions are implemented we will monitor the arrangements and welcome stakeholder feedback. We expect ElecLink to keep its Access Rules and Charging Methodology under review to ensure that they remain fit for purpose.

In accordance with SLC 11A(14) and SLC 10(15) of the Licence, ElecLink is required to publish (at least on its website) the approved Access Rules and Charging Methodology for a period of 28 days prior to their coming into effect (the Publication Period).

Yours sincerely,

Natasha Zoe Smith

**Head of European Markets, Wholesale Markets and Commercial**

## **ANNEX 1**

### **Direction issued to ElecLink Limited pursuant to paragraph 13 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 13 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 ElecLink Limited (the "Licensee") in relation to the ElecLink interconnector.
2. Standard Licence Condition 11A, paragraph 4, requires that the Access Rules must 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").
3. Standard Licence Condition 11A, paragraph 8, requires that the Licensee reviews its Access Rules at least once in each calendar year and make such modifications to the Access Rules as may be requisite for the purpose of ensuring that the Access Rules better achieve the relevant Access Rules objectives.
4. Standard Licence Condition 11A, paragraph 10, 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 for the modification, the representations, if any, made by interested persons and any change in the terms of the modification intended as a consequence of such representations.
5. In accordance with Standard Licence Condition 11A, paragraph 10, on 28 May 2019 the Licensee furnished the Authority with a report setting out the Licensee's proposed modifications to the Access Rules (the ElecLink Access Rules).
6. The Authority has decided that the Licensee's proposed Charging Methodology meet the relevant Charging Methodology objectives. The reasons for this decision are set out in the letter accompanying this Direction
7. In line with Standard License Condition 11A, paragraph 14, the Licensee will publish the Access Rules as soon as practicable after they have been approved by the Authority and, at a minimum, 28 days prior to them coming into effect.
8. The authority hereby directs, pursuant to paragraph 13 of Standard Licence Condition 11A of the Licence, that the Licensee's proposed Access Rules are approved. 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.
9. 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](http://www.ofgem.gov.uk)).

Natasha Zoe Smith

**Head of European Markets, Wholesale Markets and Commercial**

**Signed on behalf of the Authority and authorised for that purpose by the Authority  
on 27 August 2019**

**The Office of Gas and Electricity Markets**

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[www.ofgem.gov.uk](http://www.ofgem.gov.uk)

## ANNEX 2

### **Direction issued to ElecLink Limited pursuant to paragraph 14 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 14 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 ElecLink Limited (the "Licensee").
2. Standard Licence Condition 10, paragraph 4 requires that the Charging Methodology must 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").
3. Standard Licence Condition 10, paragraph 9, requires that the Licensee reviews its Charging Methodology at least once in each calendar year and make such modifications to the Charging Methodology as may be requisite for the purpose of ensuring that the Charging Methodology better achieve the relevant Charging Methodology objectives.
4. Standard Licence Condition 10 paragraph 11 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.
5. In accordance with Standard Licence Condition 10 paragraph 11, on 28 May 2019 the Licensee furnished the Authority with a report setting out the Licensee's proposed modifications to the Charging Methodology (the ElecLink Charging Methodology).
6. The Authority has decided that the Licensee's proposed Charging Methodology meet the relevant Charging Methodology objectives. The reasons for this decision are set out in the letter accompanying this Direction.
7. In accordance with Standard Licence Condition 10, paragraph 15 the Licensee will publish the charging methodology statement that sets out the prevailing charges for access to the interconnector and how the charges have been derived in accordance with this charging methodology as soon as practicable after it has been approved by the Authority and, at a minimum, 28 days prior to it coming into effect.
8. The authority hereby directs, pursuant to paragraph 14 of Standard Licence Condition 10 of the Licence, that the Licensee's proposed Charging Methodology is approved. 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.
9. 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](http://www.ofgem.gov.uk)).

Natasha Zoe Smith

**Head of European Markets, Wholesale Markets and Commercial**

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27 August 2019**