

Steven Moore  
Chief Executive Officer  
ElecLink Limited  
2 Hanover Square  
London  
W15 1JB  
United Kingdom

Email: Kristian.Marr@ofgem.gov.uk

Date: 13 December 2019

Dear Steven,

**Approval of modified Access Rules and modified Charging Methodology for the ElecLink interconnector to apply only in the event the UK leaves the EU without a deal**

On 20 September 2019, ElecLink Limited (ElecLink) submitted modified Access Rules (the modified Access Rules) and a modified Charging Methodology (the modified Charging Methodology) for the ElecLink interconnector<sup>1</sup> to the Authority<sup>2</sup> for approval. The Authority is the designated Regulatory Authority (RA) for Great Britain (GB).

The modified Access Rules and modified Charging Methodology were submitted pursuant to Standard Licence Condition (SLC) 11A and 10 and of ElecLink's electricity interconnector licence (the Licence)<sup>3</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.

---

<sup>1</sup> ElecLink is a 1000MW high voltage direct current (HVDC) link, connecting the transmission systems of Great Britain (GB) and France (FR). ElecLink is in the pre-operation stage, and is expected to become operational mid-2020

<sup>2</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>3</sup> The electricity interconnector licence standard conditions can be found here:

<https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/licence-conditions>

We have decided to approve the modified Access Rules and modified Charging Methodology on the basis that we are satisfied they achieve the relevant Access Rules and Charging Methodology objectives as required under ElecLink's licence.<sup>4</sup> This letter contains the relevant Directions (attached as Annex 1 and Annex 2), approving the modified Access Rules and modified Charging Methodology.

## **Background**

The United Kingdom (UK) is scheduled to leave the European Union (EU) on 31 January 2020 and will do so unless agreed otherwise by the UK and the EU. Leaving the EU with a deal remains the Government's stated intention. However, until this is confirmed, it is responsible to plan for every eventuality, including a no-deal scenario. In the event that the UK leaves the EU without a deal, EU legislation such as Commission Regulation (EU) 2015/1222<sup>5</sup> of 24 July 2015 on capacity allocation and congestion management (the CACM guideline)<sup>6</sup> and Commission Regulation (EU) 2016/1719<sup>7</sup> of 26 September 2016 on establishing a guideline on forward capacity allocation (the FCA guideline)<sup>8</sup> will cease to apply to the UK .

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

ElecLink has submitted the modified Access Rules and modified Charging Methodology to the Authority to ensure that its allocation mechanisms remain operable in the event the UK leaves the EU without a deal.

### The modified Access Rules

The modified Access Rules include arrangements for:

- 1) obtaining and using capacity on the ElecLink interconnector for the open season timeframe (greater than one year);
- 2) forward timeframe (from one year to day-ahead); and
- 3) short-term timeframe (day-ahead and intraday).

---

<sup>4</sup> The relevant Access Rules and Charging Methodology objectives are set out in SLC 11A(4) and SLC 10(4) 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>5</sup> The EU 2015/1222 regulation is available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32015R1222&from=EN>

<sup>6</sup> The CACM guideline sets out the legal framework that underpins GB's participation in single day-ahead and single intraday market coupling

<sup>7</sup> The EU 2016/1719 regulation is available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R1719&from=EN>

<sup>8</sup> The FCA guideline sets out the legal framework for the harmonised allocation of cross-zonal capacity in the forward electricity markets and the participation in a single allocation platform.

The Access Rules cover the exempt capacity and remaining non-exempt capacity on the interconnector. The main proposed modifications are summarised below:

- *References to European legislation*: ElecLink has removed all references to European legislation in the modified Access Rules, to ensure they remain operable in the event the UK leaves the EU without a deal.
- *Curtailment compensation*: ElecLink amended the provisions for compensation in the case of curtailment for two scenarios:
  - i. For the curtailment of long-term transmission rights (LTTRs) in an emergency situation after the firmness deadline, compensation will be equal to the clearing price of the relevant day ahead explicit auction multiplied by the volume curtailed; and
  - ii. For the curtailment of day ahead allocated capacity, ElecLink will be responsible<sup>9</sup> for compensating market participants. The compensation will be equal to the clearing price at which the rights were allocated (the initial auction) multiplied by the volume curtailed.
- *Day Ahead auction*: In the modified Access Rules, ElecLink proposes to allocate day ahead capacity via one explicit auction. The auction will be held on the Joint Allocation Office (JAO) between 09:40 and 10:00 (CET time) on the day before delivery. This day ahead explicit auctions use the Use-It-Or-Lose-It (UIOLI) principle for nomination. The UIOLI means an automatic application by which the underlying capacity of the non-nominated day ahead allocated capacity irrevocably fall back to ElecLink and whereby the holders of this capacity that do not nominate their capacity have no right to receive a payout.

### The modified Charging Methodology

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

- *References to European legislation*: ElecLink has removed all references to European legislation in the modified Charging Methodology.
- *Day Ahead auction*: The provisions for the day ahead timeframe have been adapted to align with the modified Access Rules.

---

<sup>9</sup> Under the CACM and FCA guideline, the power exchanges runs the market coupling algorithm for the day ahead implicit auction. In case of curtailment, the power exchanges are responsible to compensate curtailed market participants.

## Consultation response

In accordance with the applicable legal and regulatory framework,<sup>10</sup> ElecLink conducted a public consultation<sup>11</sup> on its proposed modified Access Rules and Charging Methodology, between 16 August 2019 and 13 September 2019. There was only one respondent to the consultation.

The respondent considered that the first intraday auction was not close enough to delivery and proposed alternative auction timings. ElecLink noted its intraday auctions will be held on the JAO platform and that the respondent's proposed auction time was outside of the working hours of JAO. 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.

The respondent also 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 ElecLink does not consider that such changes are feasible in the near term. As a result, no further modifications were proposed to the modified Access Rules and Charging Methodology ahead of submission to the Authority.

## Regulatory framework

SLC 10 and SLC 11A of the Licence respectively introduce relevant Charging Methodology objectives and relevant Access Rules objectives, against which the Authority will assess the Charging Methodology and Access Rules and any proposed amendments. The relevant objectives are that Charging Methodology and Access Rules shall be transparent, objective, non-discriminatory and compliant with the Electricity Regulation 714/2009<sup>12</sup> and any relevant legally binding decision of the European Commission and/or the Agency for the Cooperation of Energy Regulators (the Agency). The exemption decision<sup>13</sup> provided by Ofgem to ElecLink requires ElecLink to align its Access Rules and the Charging Methodology with those of existing interconnector on the same border.

---

<sup>10</sup> SLC11A(10)(a) and SLC10(11)(a).

<sup>11</sup> ElecLink's consultation is available here:

<http://www.eleclink.co.uk/information/ElecLink%20Consultation%20Paper%2016AUG.pdf>

<sup>12</sup> The Electricity Regulation (EC) No 714/2009 is available here : <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32009R0714&from=EN>

<sup>13</sup> The exemption 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 withdrawal of the UK from the EU will result in changes to the legal and regulatory frameworks in GB. To take these changes into account, we considered the Electricity Regulation as amended after exit day by application of the Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019.

## **The Authority's decision**

We have reviewed the modified Access Rules and modified Charging Methodology submitted to Ofgem on 20 September 2019. We 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 response and we have consulted with the Commission de Régulation de l'Énergie (CRE), the French Regulatory Authority.

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

The Authority also approves the modified Charging Methodology on the basis that it meets the relevant Charging Methodology objectives set out in SLC 10(4) of the Licence.

The ElecLink modified Access Rules and modified Charging methodology shall only come into effect in the event the UK leaves the EU without a deal. In that case, these approved modified Access Rules and modified Charging Methodology shall apply from the day following the UK's withdrawal from the EU. The ElecLink Access Rules and Charging Methodology that were last approved by the Authority on 27 August 2019<sup>14</sup> shall remain in force unless and until the access rules approved by this decision come into effect.

Directions issued in accordance with SLC 11A(13) and SLC 10(14) of the Licence can be found in Annexes 1 and 2 of this letter.

---

<sup>14</sup> Ofgem's decision is available here : <https://www.ofgem.gov.uk/publications-and-updates/approval-access-rules-and-charging-methodology-submitted-eleclink-pursuant-standard-license-slc-11a-and-10-electricity-interconnector-license>

## **Next steps**

### Publication of the modified Access Rules and modified Charging Methodology

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).

### Future Modifications

ElecLink should keep the modified Access Rules and modified Charging Methodology under review to ensure they remain fit for purpose and submit any proposed modifications to the Authority for approval in good time and in accordance with the requirements set out in SLC 11A and 10 of the Licence.

Yours sincerely,

Kristian Marr

**Interim Head of European Wholesale 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 20 September 2019, the Licensee furnished the Authority with a report setting out the Licensee's proposed modifications to the Access Rules that would apply in the event the UK leaves the EU without a deal (the modified Access Rules).
6. After careful consideration of the report and the responses to the public consultation and after consulting and closely cooperating with the French regulatory authority, the Authority has decided that the Licensee's proposed modified Access Rules meet the

relevant Access Rules objectives for the reasons set out in the letter accompanying this Direction.

7. Standard License Condition 11A, paragraph 14 requires that, unless the Authority directs otherwise, the modified Access Rules shall be published 28 days prior to coming into effect.
8. The Authority therefore hereby directs that, pursuant to paragraph 13 of Standard Licence Condition 11A of the Licence, the Licensee's modified Access Rules are approved.
9. This Direction shall take effect immediately and shall remain in effect until such time as the Authority may revoke or vary the Direction in writing upon reasonable notice.
10. 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)).

Kristian Marr,

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

**Signed on behalf of the Authority and authorised for that purpose by the Authority  
on 13 December 2019**



## **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) in relation 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 20 September 2019, the Licensee furnished the Authority with a report setting out the Licensee's proposed modifications to the Charging Methodology (the modified 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. The Authority therefore hereby directs that, pursuant to paragraph 14 of Standard Licence Condition 10 of the Licence, the Licensee's modified Charging Methodology is approved.
8. In accordance with Standard License Condition 10, paragraph 15 requires that, unless the Authority directs otherwise, the modified Charging Methodology shall be published 28 days prior to coming into effect.
9. 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.
10. 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)).

Kristian Marr,

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

**Signed on behalf of the Authority and authorised for that purpose by the Authority  
on 13 December 2019**