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Stephen Beel  
Ofgem,  
9 Millbank  
London, SW1P 3GE

06 April 2016

**CONFIDENTIAL**

Dear Stephen,

**Consultation on proposed changes to the standard conditions of the electricity interconnector licence, licences held by Nemo Link and NGIL and NGET's electricity transmission licence to implement the cap and floor regime and use of revenues compliance**

This letter constitutes Element Power's response to Ofgem's consultation on these licence changes.

As developers of one of the recent cap and floor round Initial Project Assessment (IPA) interconnectors (Greenlink), we are very interested to see how the regime is being implemented into actual licence conditions. Therefore, our review has focused on the changes to standard and special licence conditions in the interconnector licence. We have not reviewed the licence changes to ensure that NGIL complies with the use of revenues conditions with respect to the IFA interconnector.

**Feedback**

Our main point of feedback in this consultation actually relates to the first of Ofgem's proposed changes to the Standard Licence Conditions (SLC 24) and the associated Special Licence Conditions 1 and 3 Part J, and how this interacts with a potential within-period adjustment.

In discussion with Ofgem staff, we noted that for project financed interconnectors, the ability to receive timely floor payments is essential to avoid locking up the returns structure to investors, and potentially causing higher costs of capital as result (this also formed part of the discussion on the financeability of the cap and floor prior to Ofgem's Open Letter on 16 December 2015<sup>1</sup>).

In the licence drafting, it has been raised to our attention that defining a "Relevant Year" as a calendar year may provide for injection of floor payments to flow *relatively* quickly to the project – from the following April.

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<sup>1</sup> See Ofgem open letter: "Enabling a range of financing solutions under the cap and floor regime", 16 December 2015.

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Our interpretation is that the drafting allows for a licensee to raise a request with Ofgem in September of a Relevant Year (in Nemo's case a calendar year), for Ofgem to approve by December. We believe that this must allow National Grid Electricity Transmission (NGET) enough time to make changes to Transmission Network Use of System (TNUoS) charges that it starts collecting in the following April, meaning that floor payments would start flowing to the project from April..

We have not been able to test these timescales with financiers, but ask that Ofgem retains flexibility in definition of a Relevant Year for IPA interconnectors to allow for a determination to be quickly followed by TNUoS adjustments and payments as soon as possible. While we do not think that this system will mitigate the need for Ofgem's alternative proposals in its Open Letter to assist the financeability of project-financed cap and floor interconnectors (as this may still be necessary for investors and lenders under a project finance model), the within-year adjustment as set out in this licence draft will probably form the starting point for financing conversations.

Further, we ask that Ofgem considers the details of this mechanism for application to the IPA interconnectors, and whether it can be improved to minimise the risk of a delayed floor payment to a project<sup>2</sup>, to improve the financeability of the five year regime.

It is also vital to understand whether NGET can process an adjustment in revenue requirement into TNUoS charges for an upcoming financial year, following an Ofgem decision in the preceding December.

We have no further comments on the remainder of the proposed changes to the licence conditions, although we hope that our discussions with your colleagues Laura Edwards, Ikbal Hussein and Elizabeth McLeod on 4 April was helpful.

I am happy to discuss this feedback, or other aspects of the regime further if this is helpful.

Yours sincerely,



Guy Nicholson

Group Grid Manager, Element Power

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<sup>2</sup> For example, pulling back the constraints on when licensees can make requests, so that Ofgem can make its determination earlier.