

John Greasley
Customer and Regulation Manager
National Grid Interconnectors Limited
35 Homer Road
Solihull
B91 3QJ

Direct Dial: 020 7901 7421
Email: stephen.beel@ofgem.gov.uk

Date: 14 October 2016

Dear John,

Approval of modified Access Rules for the England-France interconnector (IFA) including a direction to approve pursuant to Standard Licence Condition 11A paragraph 13 of the Electricity Interconnector Licence

On 15 July 2016, National Grid Interconnectors Limited (“NGIL”) submitted proposed modified Access Rules for the IFA interconnector¹ to the Authority² for approval (the IFA Access Rules). The Authority is the designated National Regulatory Authority (NRA) for Great Britain. The proposed modifications were submitted pursuant to Standard Licence Condition (SLC) 11A of NGIL’s electricity interconnector licence³. The IFA Access Rules set out the general terms and conditions a user must accept to obtain and use transmission capacity on the IFA interconnector and were most recently approved by the Authority on 15 October 2015⁴.

We have approved the modified IFA Access Rules proposed by NGIL on the basis that the modified Access Rules will better achieve the relevant access rules objectives⁵.

This letter contains a direction approving the proposed modified IFA Access Rules. It also explains the reasons for our approval as required under section 49A of the Electricity Act 1989.

¹ IFA is a 2000MW high voltage direct current (HVDC) link, connecting the transmission systems of Great Britain (GB) and France. IFA is jointly owned and operated by National Grid Interconnectors Limited (NGIL) and Réseau de Transport d’Electricité (RTE) (the French transmission system operator).

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

⁴ October 2015 IFA Access Rules approval:

<https://www.ofgem.gov.uk/publications-and-updates/approval-modified-access-rules-england-france-interconnector-ifa-2015>

⁵ The relevant access rules objectives are set out in SLC11A paragraph 4. They state that access rules 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.

IFA's proposed modified access rules

On 27 September 2016 European Commission Regulation (EU) No 2016/1719⁶ establishing a guideline on forward capacity allocation (FCA) was published in the Official Journal of the European Union. FCA enters into force on 17th October 2016.⁷

FCA requires TSOs to develop a set of harmonised allocation rules (HAR) for the allocation of long-term capacity. Several European transmission system operators (TSOs), including NGIL, chose to implement this requirement as a voluntary pilot project (the HAR Pilot Project) based on a draft version of FCA. Accordingly, the European Network of Transmission System Operators (ENTSO-E) developed an early version of the HAR (HAR v1). On 15 October 2015 the Authority approved modified Access Rules submitted by NGIL that aligned the IFA Access Rules with the HAR v1.⁸

Following the successful adoption of FCA at comitology on 30 October 2015, ENTSO-E updated the HAR v1 to HAR v2 to further align it with the post-comitology version of FCA. NGIL has submitted proposed modified Access Rules which seeks to align its Access Rules with the HAR v2.

This requires a number of changes, including to the:

- IFA Access Rules (version 10) - to update article numbering in order to ensure correct cross-references to article numbers in HAR v2; and
- IFA Participation Agreement - to update the current agreement to reflect relevant provisions of HAR v2 and include information required by IFA for new participant registrations.⁹
- IFA Border Specific Annex - to reflect additional IFA specific variations from the harmonised allocation rules.

Consultation and responses

ENTSO-E conducted a consultation (the 'ENTSO-E Consultation') on the HAR v2 and border-specific annexes (including IFA's) between 28 April 2016 and 18 May 2016. In accordance with SLC 11A NGIL conducted a consultation ("the IFA Consultation") between 19 May and 16 June 2016 on the proposed changes to its Access Rules that are required to adopt the HAR v2.

The ENTSO-E Consultation received nearly 70 comments on the main body of the HAR 2 from 10 different respondents. A public summary of the ENTSO-E Consultation was published.¹⁰ This summary also indicates where ENTSO-E has made changes to relevant chapters in light of responses received. Where changes were requested but ENTSO-E did not make them, reasons were provided in the consultation summary. NGIL did not receive any comments in response to the IFA Consultation.

Submission of proposed modified access rules

Following the consultation, and pursuant to SLC 11A paragraph 10 of NGIL's electricity interconnector licence, on 15 July 2016, NGIL submitted the following suite of documents to Ofgem (the 'Access Rules Submission'):

⁶ Regulation (EU) No 2016/1719 establishing a guideline on forward capacity allocation:

<http://eur-lex.europa.eu/legalcontent/EN/TXT/PDF/?uri=CELEX:32016R1719&qid=1475008140812&from=EN>

⁷ FCA comes into force 20 days after publication in the OJEU (Article 64 of FCA)

⁸ October 2015 approval of IFA Access Rules:

https://www.ofgem.gov.uk/sites/default/files/docs/2015/10/ifa_decision_letter.pdf

⁹ The current version of the Participation Agreement will continue to apply to current IFA participants. New potential participants will need sign the proposed amended Participation Agreement

¹⁰ Summary of responses to ENTSO-E consultation:

https://www.entsoe.eu/Documents/Network%20codes%20documents/NC%20FCA/160629_HAR_EU_Supporting_Document_2017.pdf

For approval:

- Annex 13 – Border-Specific Annex: IFA Interconnector
- IFA Access Rules (version 11)
- IFA Participation Agreement

These three documents forming the proposed modified Access Rules.

For information:

- ENTSO-E consultation summary document including responses and ENTSO-E assessment
- Allocation Rules for Forward Capacity Allocation (HAR v2)
- Tracked changed versions of the Access Rules Submission documents; and
- IFA Border Specific Annex Explanatory Note (Rationale for variations from HAR v2)

We note that NGIL considers the “proposed amendments satisfy the ‘relevant access rules objectives’ (in particular the requirement to be ‘compliant with Regulation 2009/714/EC (on cross border exchanges) and any relevant legally binding decision of the Commission’), by anticipating the Harmonised Allocation Rules element of the Forward Capacity Allocation Guideline.”

We also note that NGIL stated in its public consultation document¹¹ that “no material changes to any technical or commercial aspects of the IFA Rules package are proposed upon the implementation of HARs v2 in comparison to HARs v1. Practically speaking therefore, the changes will solely affect the documentation without impacting any business functionalities.”

NGIL notes in the Access Rules Submission that the general all TSO planned implementation date for HAR v2 is 1 January 2017. NGIL proposes to implement the HAR v2 on IFA by this date. NGIL also proposes to publish a notice to users on its website 28 calendar days prior to the implementation date in accordance with its interconnector licence¹².

Notes and considerations

We note that the objectives of allocation of forward capacity as specified in FCA broadly overlap with the relevant access rules objectives.¹³

The relevant access rules objectives require that Access Rules shall be “compliant with the Regulation and any relevant legally binding decision of the European Commission and/or Agency”. We consider that not only are the proposed Access Rules compliant with this currently but they also aim to implement expected elements of FCA ahead of legally binding deadlines with a view to ensuring compliance at the point the deadlines expire.

We consider that the proposed modified access rules are objective and non-discriminatory as the changes will apply equally to, and will facilitate trade for, all market participants.

Although we would ideally like to see a less complex contractual structure, we consider that the proposed modified Access Rules meet the relevant objective of being transparent. The introduction of harmonised elements of the Access Rules is intended to make it easier for users to trade across interconnectors between GB and other markets, and the same or a similar structure is required under FCA.

We recognise that the HAR Pilot Project is an important step towards implementing FCA requirements for harmonised allocation rules. FCA enters into force on 17 October 2016, NGIL will need to revisit HAR v2 (in collaboration with other TSOs), the GB-FR annex (in

¹¹ NGIL consultation on these proposed changes: <http://www2.nationalgrid.com/About-us/European-business-development/Interconnectors/France/Consultations/>

¹² SLC 11A(14)

¹³ Article 3 of FCA.

collaboration with RTE) and the IFA Access Rules to ensure it is fully compliant with relevant requirements of FCA.

The Authority's decision

In light of the above views, and upon review of the Access Rules Submission, consideration of the consultation responses and supporting evidence, and close coordination with the Commission de Régulation de l'Energie (CRE), we have decided to approve the proposed modified Access Rules. It is our view that the proposed modified Access Rules better meet the relevant access rules objectives.

A direction to this effect, issued in accordance with paragraph 13 of SLC 11A of the electricity interconnector licence, can be found in the annex to this letter.

Next steps

NGIL has confirmed that it will arrange for the amended Access Rules to go live as soon as is reasonably practicable, and no later than 1 January 2017. NGIL also confirmed that it will publish an informational notice to users on its website no fewer than 28 calendar days ahead of the go-live date. We also welcome any updates from NGIL's regarding its implementation progress in the interim.

In light of this approval and the imminent entry into force of FCA, we request that NGIL consider what further modifications it needs to make to IFA's Access Rules to ensure it is fully compliant with relevant requirements of FCA, within the timescales specified in FCA. We also request NGIL to continue to consider modifications necessary to facilitate implementation of the existing and forthcoming ENCs.

Yours sincerely,

Stephen Beel
Partner, Competitive Networks

ANNEX

Direction issued to National Grid Interconnectors 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 National Grid Interconnectors Limited (the "Licensee") in relation to the England-France interconnector (IFA).
2. Standard Licence Condition 11A of the Licence provides that the Licensee shall prepare and submit for approval by the Authority a statement setting out the Access Rules being the methodologies used to establish terms and conditions for access to and use of IFA (but not including those related to charges).
3. 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").
4. Standard Licence Condition 11A, paragraph 8, requires that the Licensee review 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.
5. 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.
6. In accordance with Standard Licence Condition 11A, paragraph 10, on 15 July 2016 the Licensee furnished the Authority with a report setting out the Licensee's proposed modifications to the Access Rules. The proposed modifications relate to the voluntary early introduction of the Harmonised Allocation Rules as expected to be required under Commission Regulation (EU) No 2016/1719 establishing a guideline on Forward Capacity Allocation.
7. 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 notifying approval to the Licensee dated 14 October 2016.
8. The Access Rules approved on 15 October 2015 will remain in force until the modified Access Rules approved on the date of this Direction are implemented. The Licensee will implement the modified Access Rules no later than 1 January 2017. In line with Standard Licence Condition 11A, paragraph 14, the Licensee will publish the modified 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.
9. Pursuant to Standard Licence Condition 11A, paragraph 13, of the Licence the Licensee's proposed modified access rules are approved by the Authority. 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.

Stephen Beel

Partner, Competitive Networks

**Signed on behalf of the Authority and authorised for that purpose by the Authority
on 14 October 2016**