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Dear Fergal,

**Approval of modified Charging Methodology and modified Access Rules for the East West Interconnector including directions to approve pursuant to Standard Licence Conditions 10 and 11A of the Electricity Interconnector Licence**

On 21 July 2017, EirGrid Interconnector Designated Activity Company<sup>1</sup> (EIDAC) submitted proposed modified access rules (the EWIC Access Rules) and a proposed modified charging methodology (the EWIC Charging Methodology) for the East West Interconnector (the EWIC interconnector) to the Authority<sup>2</sup> for approval. The Authority is the designated National Regulatory Authority (NRA) for Great Britain.

The EWIC Access Rules were submitted pursuant to Standard Licence Condition (SLC) 11A of EIDAC's electricity interconnector licence (the Licence)<sup>3</sup>. The EWIC Access Rules set out the general terms and conditions a user must accept to obtain and use transmission capacity on the EWIC interconnector and were most recently approved by the Authority on 15 October 2015<sup>4</sup>.

The EWIC Charging Methodology was submitted pursuant to SLC 10 of the Licence. The EWIC Charging Methodology sets out the methods and principles on which charges for the use of EWIC are based. The Authority approved the current charging methodology for the EWIC interconnector on 15 January 2014.<sup>5</sup>

We have decided to approve the EWIC Access Rules and EWIC Charging Methodology proposed by EIDAC on the basis that they better achieve the relevant access rules and

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<sup>1</sup> EIDAC operates the East-West Interconnector between Great Britain and the Republic of Ireland.

<sup>2</sup> The Gas and Electricity Markets Authority. Ofgem is the Office of the Authority. The terms "Ofgem", "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://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>4</sup> EWIC Access Rules approval, October 2015:

<https://www.ofgem.gov.uk/publications-and-updates/approval-modified-access-rules-and-notice-respect-charging-methodology-east-west-interconnector-2015>

<sup>5</sup> EWIC charging methodology approval, January 2014

<https://www.ofgem.gov.uk/publications-and-updates/approval-modified-charging-methodology-eirgrid-east-west-interconnector>

charging methodology objectives<sup>6</sup>. This letter contains directions (attached as Annex 1 and Annex 2) approving the EWIC Access Rules and EWIC Charging Methodology. It also explains the reasons for our approval as required under section 49A of the Electricity Act 1989.

### **The proposed modifications to access rules and charging methodology**

On 17<sup>th</sup> October 2016 European Commission Regulation (EU) No 2016/1719<sup>7</sup> establishing a guideline on forward capacity allocation (the FCA Regulation) came into effect. Amongst other things, the FCA Regulation requires Transmission System Operators (TSOs) to develop a set of harmonised allocation rules (HAR) for the allocation of long-term capacity.

#### Recent approval of HAR and regional annexes

In April this year, in line with FCA Regulation requirements<sup>8</sup>, the GB TSOs<sup>9</sup> (alongside TSOs from other Member States) submitted a number of proposals for approval by all NRAs. These proposals included the HAR and associated regional annexes.

NRAs could not reach agreement on the proposals submitted for the HAR. In such an event, the FCA Regulation provides for the Agency for the Cooperation of Energy Regulators (ACER) to adopt a decision on submitted proposals. Accordingly, the HAR was submitted to ACER for decision on 16 August 2017. ACER adopted a decision on the HAR on 28 September 2017<sup>10</sup>.

On 13 October 2017, we approved the regional annexes for the Ireland-United Kingdom (IU) region and the Channel region. Further information on these approvals can be found on our website.<sup>11</sup>

EIDAC's proposed modifications to the EWIC Access Rules and the EWIC Charging Methodology seek to align its access rules and charging methodology with the approved HAR and approved regional annex. This requires changes following changes:

#### EWIC Access Rules

- the current version of the EWIC Access Rules (version 4) - to be replaced by a transitional version (version 4.1) that would apply until the I-SEM go live date –
  - to reflect transitional arrangements from the current rules and auction/contracting processes to the new arrangements which allow for the rules and user agreements between EWIC and its customers to terminate at I-SEM go-live;
  - to allow for market participants to enter into user agreements with the Single Allocation Platform in preparation for financial transmission rights (FTRs) auctions post I-SEM go-live
- the introduction of proposed modified EWIC Access Rules (version 5) to come into effect from the I-SEM go live date – to reflect the transition from Physical Transmission Rights (PTRs) to allocating FTRs under the harmonised allocation rules for long term transmission rights as part of the Integrated Single Electricity Market (I-SEM) market arrangements.

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<sup>6</sup> The relevant access rules objectives are set out SLC 10 and SLC11A respectively and state that access rules and 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>7</sup> 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>

<sup>8</sup> In accordance with Article 31 and 49-52 of the FCA Regulation

<sup>9</sup> The relevant GB TSOs are EIDAC, BritNed Development Limited, National Grid Interconnectors Limited, and Moyle Interconnector Ltd.

<sup>10</sup> ACER's decision can be found on its website here:

[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Pages/Individual-decision.aspx](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Pages/Individual-decision.aspx)

<sup>11</sup> This can be found on our website here:

[https://www.ofgem.gov.uk/system/files/docs/2017/10/batch\\_9\\_decision\\_letter\\_har\\_sap\\_ltrts\\_final.pdf](https://www.ofgem.gov.uk/system/files/docs/2017/10/batch_9_decision_letter_har_sap_ltrts_final.pdf)

## EWIC Charging Methodology

- Changes to the current version of the charging methodology statement – to reflect the fact charging arrangements for financial transmission rights are incorporated into the HAR. Therefore, updating the EWIC Charging Methodology so that it refers to the proposed modified EWIC Access Rules, which in turn refer to the HAR.

### **Consultation and responses**

In accordance with SCL 10 and SLC 11A, EIDAC's consulted on the proposed changes to its charging methodology and access rules between 13<sup>th</sup> June and 11 July 2017. EIDAC received one response to the consultation. EIDAC has confirmed that the respondent sought clarification on a number of points but the response did not impact the proposed drafting.

### **Submission of proposed modified access rules and charging methodology**

Following the respective consultations and pursuant to SLC 10 and SLC 11A, EIDAC submitted its proposed modified EWIC Access Rules and EWIC Charging Methodology for Authority approval.

We note that EIDAC considers the proposed amendments fulfil the objectives of allocation and charging for interconnector capacity in an open, transparent and non-discriminatory manner and align its access Rules and charging methodology with the HAR and IU regional annex.

EIDAC anticipates the proposed modified EWIC Access Rules (version 5) and EWIC Charging Methodology entering into force from the I-SEM<sup>12</sup> go-live date (currently expected to be May 2018) at which time the proposed transitional version of EWIC's Access Rules (version 4.1), together with any associated user agreements, will cease to have effect.<sup>13</sup>

### **Notes and considerations**

We note that the objectives of allocation of forward capacity as specified in the FCA Regulation broadly overlap with the relevant access rules and charging methodology objectives.<sup>14</sup>

The objectives require that access rules and charging Methodologies shall be "compliant with the Regulation and any relevant legally binding decision of the European Commission and/or Agency".

We consider that the proposed transitional version of the EWIC Access Rules (version 4.1) and the proposed modified EWIC Access Rules (version 5) and modified EWIC Charging Methodology are objective and non-discriminatory as the changes will apply equally to, and will facilitate trade for, all market participants.

We also consider the proposed modified EWIC Access Rules EWIC Charging Methodology to meet the relevant objective of being transparent. The introduction of harmonised allocation rules for long-term capacity is intended to make it easier for users to trade across interconnectors between GB and other markets.

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<sup>12</sup> Northern Ireland and Ireland are currently in the process of redesigning the Single Electricity Market ("SEM") to implement the European Target Model in accordance with EU Directive 2009/72/EC, Regulation (EC) 714/2009 and Regulation (EC) 713/2009. When completed, the redesigned market will be known as the Integrated Single Electricity Market ("I-SEM").

<sup>13</sup> Apart from the settlement of any outstanding obligations.

<sup>14</sup> Article 3 of the FCA Regulation

### **The Authority's decision**

We have decided to approve the proposed transitional version of the EWIC's Access Rules (version 4.1) and the proposed modified EWIC Access Rules (version 5) as well as the proposed EWIC Charging Methodology. It is our view that they better meet the relevant charging methodology and access rules objectives.

A direction to this effect, issued in accordance with SLC 10 and SLC 11A of the Licence, can be found in attached Annex 1 and 2 to this letter.

### **Next steps**

EIDAC should, in accordance with its Licence, arrange for the updated versions of the EWIC Access Rules and EWIC Charging Methodology to be published on its website no fewer than 28 calendar days ahead of the implementation date specified in the attached directions.

Yours sincerely,

Akshay Kaul  
**Partner, Networks**

## ANNEX 1

### **Direction issued to EirGrid Interconnector Designated Activity Company (EIDAC) 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 to EirGrid Interconnector Designated Activity Company (the "Licensee") in relation to the EWIC interconnector (EWIC).

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 EWIC (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 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.

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 21 July 2017 the Licensee furnished the Authority with a report setting out the Licensee's proposed modifications to the Access Rules. The proposed modifications relate to introduction of the Harmonised Allocation Rules as 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 transitional EWIC Access Rules (version 4.1) and proposed modified EWIC Access Rules (version 5) meet the relevant access rules objectives for the reasons set out in the letter notifying approval to the Licensee dated 20 October 2017.

8. The proposed transitional version of the EWIC Access Rules (version 4.1) approved on the date of this Direction shall be implemented as soon as practicable and remain in force until the I-SEM go-live date. The Licensee will implement the proposed modified EWIC Access Rules (version 5) on the I-SEM go-live date. In line with Standard Licence Condition 11A, paragraph 14, the Licensee will publish the transitional EWIC Access Rules (version 4.1) and the proposed modified EWIC Access Rules (version 5) 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 EWIC 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.

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Akshay Kaul

**Partner, Networks**

**Signed on behalf of the Authority and authorised for that purpose by the Authority  
on 20 October 2017**

## ANNEX 2

### **Direction issued to EirGrid Interconnector Designated Activity Company (EIDAC) 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 Standard Licence Condition 10(14) 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 EirGrid Interconnector Designated Activity Company (the "Licensee") in respect of the East West interconnector (the "Licensee's Interconnector").

2. Standard Licence Condition 10(2) provides that the Licensee shall prepare and submit for approval by the Authority a statement setting out the charging methodology for access to (including use of) the Licensee's Interconnector.

3. Standard Licence Condition 10(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 (the "relevant charging methodology objectives").

4. Standard Licence Condition 10(9) provides that the Licensee shall review 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 achieves the relevant charging methodology objectives.

5. Standard Licence Condition 10(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.

6. In accordance with Standard Licence Condition 10(11), on 21 July 2017 the Licensee furnished the Authority with a report setting out the Licensee's proposed modified EWIC Charging Methodology.

7. The Authority has decided to approve the Licensee's proposed modified EWIC Charging Methodology on the basis that it meets the relevant charging methodology objectives.

8. In accordance with SLC 10(15), the Licensee will publish the proposed modified EWIC 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. The effective date of the proposed modified EWIC Charging Methodology shall be the date that the Licensee's Access Rules approved by the Authority on 20 October 2017 come into effect.

9. THE AUTHORITY HEREBY DIRECTS, pursuant to paragraph 14 of Standard Licence Condition 10 of the Licence, that the Licensee's proposed modified EWIC 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.

10. This Direction constitutes notice of the Authority's reasons for the decision pursuant to section 49A of the Act.

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Akshay Kaul

**Partner, Networks**

**Signed on behalf of the Authority and authorised for that purpose by the Authority  
on 20 October 2017**