

Interconnector developers and
other interested stakeholders

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Dear colleagues,

Cap and floor regime: An update on the timing of the Final Project Assessment (FPA) for 'Window 1' interconnector projects

In August 2014 we confirmed our cap and floor regime for electricity interconnectors and opened our first application window ('Window 1'). Following our Initial Project Assessment (IPA) stage, we decided to grant five projects a cap and floor regime in principle, subject to certain conditions.¹

In July 2017, we provided an update on progress with those projects. We set a deadline for submission of information for our Final Project Assessment (FPA) stage. This letter follows that update and provides our views on progress against that deadline.

Background

The first application window for our cap and floor regime opened in August 2014. Following consultation, we decided to grant a cap and floor regime in principle to five projects. These are detailed in Table 1 below.

Table 1: Cap and floor Window 1 projects

PROJECT NAME	DEVELOPERS	CONNECTING COUNTRY	CAPACITY (MW)
NSL	National Grid Interconnector Holdings (NGIH) and Statnett	Norway	1400
FAB Link	Transmission Investment and RTE	France	1400
IFA2	NGIH and RTE	France	1000
Viking Link	NGIH and Energinet.dk	Denmark	1400 ²
Greenlink	Element Power	Ireland	500

The conditions we placed on projects aimed to ensure that developers are incentivised to deliver projects in an efficient manner. We also aimed to balance this with the practical challenges that developers may face whilst delivering these complex infrastructure projects.

¹ We decided to grant a cap and floor regime, following our IPA, to NSL in March 2015; to FAB Link, IFA2 and Viking Link in July 2015; and to Greenlink in September 2015. All decisions are available at: <https://www.ofgem.gov.uk/electricity/transmission-networks/electricity-interconnectors>

² Viking Link's capacity as assessed at our IPA stage was 1000MW. We have since reviewed and approved the increase to 1400MW.

Update on progress against our FPA deadline

Our August 2014 cap and floor rollout decision put in place a condition whereby projects that are successful at the IPA stage had two years to submit sufficient information for our FPA assessment to begin. The intent of this condition was to ensure that developers make timely progress with projects, and to recognise that the justification for a project may change over time.

We want projects to progress on track so that consumers see the benefits of these projects in line with our Window 1 decisions. However, we also would not want our regulatory framework to act as a barrier to projects that would otherwise deliver benefits for consumers.

In 2017 we provided a 12-month extension to our original deadline. We noted that, in cases where projects were unable to submit sufficient information within the extended deadline, we would redo the IPA on a project-specific basis, and confirm or remove the cap and floor for the project.

Since our July 2017 update, IFA2 has submitted its FPA – we made our decision on the IFA2 FPA in July this year.³ However, FAB Link, Viking Link and Greenlink have been unable to submit sufficient information for the FPA stage. The deadline for a submission from FAB Link and Viking Link was in late July; the deadline for Greenlink was the end of September.

In advance of the deadline we asked each project to provide us with confirmation of current status, including an overview of the FPA information that could have been provided by our deadline. We have published non-confidential abridged versions of these submissions as supporting documents alongside this letter.

Following this engagement, we are confident that each project could meet our minimum requirements for an FPA submission. However, each project is subject to individual circumstances that, we think, mean a later submission is likely to be in consumers' interests. Therefore we do not currently believe there is a need to revisit the IPA at this stage. The specific circumstances of each project are discussed below.

We are not proposing to place an additional fixed deadline on submissions. Rather, we expect an FPA submission to follow a reasonable period of time after each project's circumstances are clarified. If we are concerned that this is not the case, we will redo the IPA for each project.

Update on project progress

FAB Link

At the time of our July 2017 update, we expected FAB Link to submit information for the FPA in autumn 2017, and to take its Final Investment Decision (FID) in the first half of 2018. However, in November 2017 the French regulator, CRE, published a deliberation noting that it is not able to take regulatory decisions for further GB-France interconnectors until the outcome of the UK's exit from the European Union is clarified.⁴ This has meant that the final stages of FAB Link's development process have been significantly delayed.

In order to clarify and confirm regulatory treatment for the project, FAB Link has recently submitted an investment request on the basis of Article 12 of Regulation 347/2013.⁵

³ Our decision on the FPA of IFA2 is available here: <https://www.ofgem.gov.uk/publications-and-updates/final-project-assessment-ifa2-interconnector-france>

⁴ CRE's November 2017 position on further GB-France interconnection is available here: <https://www.cre.fr/en/Documents/Deliberations/Orientation/interconnector-projects-with-the-united-kingdom>

⁵ Article 12 of Regulation 347/2013 allows European Projects of Common Interest to submit an investment request, and sets out a process for regulatory consideration: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0347>

Together with CRE, we are considering the request submitted by FAB Link. The relevant legislation places responsibilities on Ofgem and CRE, as the relevant national regulators, to consider requests from projects of common interest (PCIs).

Ofgem is confident that FAB Link is able to meet the minimum requirements for our FPA stage. This information would include a range of tender returns for the engineering, procurement and construction (EPC) contracts which are expected to make up most of the project's costs. However, whilst the procurement and financing processes for the project are on hold – pending an outcome from the Article 12 investment request – we do not think it would be sensible to begin our FPA.

We are therefore minded to wait for the conclusion of the investment request process – and/or the confirmation of any French regulatory arrangements for the project – prior to starting our FPA. Subject to regulatory clarity, we expect FAB Link to submit its FPA shortly after the procurement and financing processes have restarted. This should enable us to access better quality cost data, with a higher degree of certainty, and should allow us to undertake a better FPA.

Viking Link

Viking Link has made significant progress with its development and procurement processes. We expected Viking Link to award its major construction contracts in summer 2018 and to submit its FPA shortly thereafter. However, Viking Link's programme has been delayed as a result of the failure to receive planning consent for part of the UK onshore route. We understand that Viking Link continues to work with local and national authorities to obtain the required consents for the project.

Based on the procurement process to date, Viking Link could have submitted its FPA information this summer. This would be based on mature and detailed tender return information, meeting our FPA requirements. However, National Grid Viking Link has expressed a preference to submit the FPA information after contracts have been awarded, so that the submission takes the final contracted costs into account. This would follow the approach taken on both the NSL and IFA2 FPAs.

We are comfortable with Viking Link's proposed approach. We think there will be a benefit to consumers in considering the final contract information at the FPA stage – allowing us to better assess the costs and risk arrangements of the project. We would also expect an FPA based on actual contracts to enable a faster, more efficient FPA process.

We plan to work with Viking Link in autumn 2018 to structure the FPA process. We anticipate contract award in mid-2019, but we recognise this is subject to the outcome of the ongoing planning process. We will revisit this once the planning and consenting situation is clearer. Based on that, we will take a decision on whether to confirm the FPA process for 2019 or to revisit the project's IPA (for example, if contract award in 2019 is no longer feasible).

Greenlink

We confirmed our IPA approval for Greenlink at the end of September 2015 – Greenlink therefore had a later deadline for FPA submission than FAB Link and Viking Link. Greenlink's progress towards that deadline was contingent on gaining initial Irish regulatory approval. Greenlink has otherwise made substantial development progress in 2018, including commencing seabed surveys and the procurement process for cables and converter stations.

The Commission for Regulation of Utilities (CRU), the Irish regulator, has made significant progress in 2018 to consider the needs case for the Greenlink project. The CRU expected to make an initial decision on the application of the 'Public Interest Test' (as set out under the Irish Electricity Regulation Act 1999) at the end of September 2018. We are also aware

that Greenlink has requested a similar cap and floor regime for the portion of the project to be regulated by the CRU (ie the 50% of the link that is not currently regulated under our cap and floor regime).

We consider that it would be beneficial to ensure our FPA stage can take account of the upcoming initial decision on the Greenlink application in Ireland. We will work with the CRU to explore the potential for an FPA process that takes both the GB and Irish regulatory decision-making processes into account, and for symmetrical regulatory treatment at each side of the interconnector. This may be a similar arrangement to that adopted for Nemo Link (where the cap and floor regime is administered jointly with CREG, the Belgian regulator).

We are therefore minded to accept a staged FPA submission for Greenlink. This would enable a submission at the end of September reflecting updated project details and early financing and procurement information, followed by more detailed submissions in 2019 to consider detailed cost and financial information jointly with the CRU (subject to the initial decision by the CRU).

Update on connection dates

In our July 2017 update letter, we extended the deadline for connection that we would deem to be material (based on our expectations for Window 1 projects) from the end of 2022 to the end of 2023. We noted that developers should continue to be incentivised by market developments and project economics to reduce any delays as far as possible.

We think this deadline remains fit for purpose and we therefore continue to expect Window 1 projects to connect by the end of 2023.

Next steps

We now expect the projects approved as part of Window 1 to progress towards FID, contract award and FPA submissions.

Developers are welcome to submit information for FPA either before or after taking FID. We are happy to work with developers prior to submission to ensure that the right information is included for the FPA stage, including the potential need to factor in evolving tender return information and final contract prices as developers move through the procurement process.

Project developers must continue to provide regular quarterly updates, including formal notice of any material changes to cost or design. Since we are not providing a fixed deadline for submission, we will take decisions in due course on whether the projects are progressing sufficiently for an FPA to take place in 2018 and 2019, or whether to revisit the IPA of each project.

We will continue to work with regulators in connecting countries to ensure that the timing of our regulatory decisions for cap and floor projects aligns, where appropriate, with other key regulatory milestones. We also recognise that the UK's departure from the EU may affect the time at which it is optimal to make our FPA decisions. We will consider this in more detail, as the arrangements surrounding the UK's departure from the EU become clearer, to ensure our assessment reflects sufficiently certain project information.

Alongside our cap and floor Window 2 IPA consultation, in June 2017, we committed to review the need for, and timing of, any future cap and floor application windows.⁶ We continue to see a review as necessary before opening any further cap and floor windows. However, we will also consider the timing further to make sure we can factor in any

⁶ Our June 2017 IPA consultation is available at: <https://www.ofgem.gov.uk/ofgem-publications/117521>

potential implications of the UK's departure from the EU on the need for future interconnection as part of that review. We are happy to discuss these issues further with interested stakeholders.

If you have any views on the content of this letter, please contact Stuart Borland at cap.floor@ofgem.gov.uk or on 020 7901 7134.

Kind regards,

Michael Wagner

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