

Our Ref WM013-11-174

Mr Paul McGuckin
Moyle Interconnector Ltd
First Floor, The Arena Building
85 Ormeau Road
Belfast
BT7 1SH

15 October 2015

Dear Paul

Re: Approval of Moyle Interconnector Limited (MIL) Access Rules and Charging Methodology Statement in accordance with Licence Condition 17 (4)

This letter gives notice of the approval by the Utility Regulator (UR) of the modified Access Rules and Charging Methodology Statement submitted by Moyle Interconnector Limited (MIL) on 15 July 2015¹.

This approval follows considerations by the SEM Committee of the amended Access Rules and Charging Methodology Statement as submitted by MIL.

The Access Rules have been submitted under Condition 17 of the Moyle Interconnector Licence granted to MIL. The UR has the power to approve Access Rules for the Moyle Interconnector under Condition 17, paragraph 4 of the Moyle Interconnector Licence, which states that:

'Revisions to the relevant access arrangements proposed by the licensee and sent to the Authority pursuant to paragraph 3 shall require to be approved by the Authority.'

In their letter MIL state that both documents are operating in line with and fulfilling the objectives of allocation and charging for interconnector capacity in an open and non-discriminatory manner.

A consultation was carried out jointly MIL and EirGrid Interconnector Limited (EIL) and ran from 20 April 2015 to 20 May 2015. MIL reviewed its charging methodology alongside its access rules and concluded that no modifications are currently necessary. MIL therefore does not propose to make any changes to the current approved Access Rules and Charging Methodology.

¹ A copy of the MIL Access Rules submission letter will be published on the All Island Project website, alongside this letter.

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The Utility Regulator is satisfied that no amendments are currently required to the MIL Access Rules and Charging Methodology.

Consultation on Access Rules

A consultation carried out jointly by MIL and EirGrid Interconnector Limited (EIL) has sought approval:

1. for the current Moyle Access Rules and Charging Methodology to remain in force for the allocation of capacity with product periods ending before I-SEM go-live; and
2. for the Harmonised Allocation Rules (HAR) and the SEM-GB border specific annex to the HAR to apply to the allocation of long term transmission rights with a product period beginning on or after I-SEM go-live.

MIL therefore proposes to modify its Access Rules in line with the draft Harmonised Allocation Rules document to facilitate participation in a Pilot Project which is underway to introduce the requirements of the Forward Capacity Allocation (FCA) European Network Code.

The FCA European Network Code has been drafted by the European Network of Transmission System Operators (ENTSO-E) and the Agency for the Cooperation of Energy Regulators (ACER), and in due course will be voted on by Member States. Once the FCA enters into force it will become a directly applicable Regulation.

It is expected that the final FCA will require TSOs to develop a set of harmonised allocation rules (HAR) which several European TSOs, including the SEM interconnectors, have chosen to implement as a voluntary pilot project based on an early version of FCA submitted in April 2014 to ACER. It cannot be guaranteed that the final approved version of FCA will contain a requirement for the HAR or, if the HAR requirement remains, that it will have the same requirements as the April 2014 draft used by ENTSO-E to develop the HAR.

These developments at a European level are joined by 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. The redesigned Integrated Single Electricity Market ("I-SEM") go-live date is Q4 2017 and the particular requirements of the I-SEM design that will be consistent with the European Target Model and FCA European Network Code are currently in the process of consultation and development.

The Moyle Access rules will therefore be required to be compliant with the final requirements of both the FCA and associated HAR and the design of Financial Transmission Rights being consulted upon as part of the new I-SEM. The proposed access rules currently subject to approval in this letter are therefore subject to further revision determined by the requirements of the FCA, HAR and I-SEM design.

In this context the MIL proposals are that it is most appropriate to adopt the HAR on the following phased basis (notwithstanding applicable licence obligations):

- **Phase 1 (2015):** MIL will amend the Moyle Access Rules to introduce the contractual framework that will allow it to implement the HAR in due course, while acknowledging that from the perspective of a market participant using the interconnector, there will be no practical change;

(3)

- Phase 2 (from the date of I-SEM go-live): Moyle will apply the HAR in accordance with FCA requirements for capacity in the forward timeframe, and it will operate local Access Rules for day-ahead and intraday capacity as well as use of capacity across all timeframes to the extent compatible with FCA. The local Access Rules may be amended to account for developments in the I-SEM and/or for other reasons.

Phase 1 of HAR implementation requires the following amendments to the Moyle Access Rules

- Introduction of the HAR document and associated border-specific annex to cover forward capacity allocation from the date of I-SEM go-live, while acknowledging that these documents may undergo further development before being used on the I-SEM-GB border.
- No amendment proposed to the existing Moyle Access Rules (version 4). These will remain the principal operational document until I-SEM go-live (notwithstanding any future amendments which may be proposed or required).

Consultation and responses

The consultation carried out by MIL and EirGrid Interconnector Limited was conducted in parallel with a consultation conducted by ENTSO-E on the HAR and border-specific annexes (including the SEM-GB annex) between 2 and 30 March 2015.

The ENTSO-E Consultation received nearly 200 comments on the main body of the HAR from 16 different respondents and a public summary has been published.² On the basis of market feedback, ENTSO-E made changes to Chapters 1, 2, 3, 4, 7, 8, 9 and 11. Where changes were requested but ENTSO-E did not make them, reasons were provided in the summary. ENTSO-E relayed responses relating to the border-specific annexes to the concerned TSOs.

The Utility Regulator acknowledges that one response from stakeholders was received to the proposed changes to the Access Rules in the MIL and EIL consultation. This response also included reference to the submission of the Electricity Association of Ireland to the ENTSO-E consultation.

This response highlighted three key concerns as follows:

1. A request that MIL consider providing offers of weekly and single-priced daily products.
2. Provision in the HAR Annex 12 referring to rules applicable to the SEM-GB border that ramping constraints are taken into account in payouts by Financial Transmission Rights (FTRs).
3. The proposal in the HAR Annex 12 referring to rules applicable to the SEM-GB border of the right to curtailment on the interconnectors as a result of Capacity Shortage.

On the first concern MIL has stated that the request does not require changes to the Access Rules, so this does not impinge on their operation.

² https://www.entsoe.eu/Documents/Network%20codes%20documents/NC%20FCA/150630_HAR_assessment_of_comments.pdf

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In relation to the concern that ramping constraints are taken account of in FTR pay outs MIL states that this can be taken into account by FTR purchasers in bids according to the estimate of their value of the FTR. It considers that not discounting the FTR pay out for ramping constraints would be an unacceptable transfer of risk that would be underwritten by the consumer.

On the third issue concern has been expressed that curtailment of capacity on grounds of 'Capacity Shortage' is inequitable and will impact on forwards liquidity and the cost of hedging. MIL has stated that the inclusion of capacity shortage will not increase curtailment or reduce FTR pay outs but will add clarity to the grounds for doing so.

It is the view of the Utility Regulator that the Proposed Access Rules and Charging Methodology are non-discriminatory and in compliance with the MIL Licence.

Status of HAR and SEM-GB border specific Annex

We note that the intention of the Pilot Project is to implement expected elements of FCA ahead of legally binding deadlines through early implementation. It is proposed however that the provisions proposed and consulted upon by MIL will not be employed prior to I-SEM go-live and this being the case the approach proposed is acceptable in the short term. The FCA is not yet finalised or in force so that we cannot consider at this stage that implementation of the modified Access Rules as proposed will satisfy the requirements of the FCA or the final HAR that will be developed upon it.

The introduction of the HAR including the Regional Annex 12 relating to the SEM-GB border will coincide with the period required to design and implement the I-SEM arrangements. We therefore consider that it is acceptable for MIL to implement the HAR on the proposed phased introduction basis, recognising that the HAR will not become operational on the Moyle interconnector until the I-SEM go-live date. We recognise that this is consistent with the transitional arrangements for Northern Ireland and Ireland permitted under CACM. This means that there will be no change to the Access Rules from a user's perspective in 2015, but that future amendments may be proposed as part of review obligations required by Licence that will remain in effect.

We recognise that the HAR Pilot Project is an important step towards implementing the FCA requirements for harmonised allocation rules. Nonetheless, we note that it is an interim measure the draft of which is based on an out-of-date version of the network code. The code has undergone substantial revisions and further changes may yet occur during the comitology process. The HAR and associated annexes will therefore need to be revisited to ensure ongoing compliance with FCA once the guideline becomes binding and its requirements are clear.

We will expect MIL to comply at all times with all applicable requirements of the European Network Codes. In particular, as noted, further modification may be required to the HAR (in collaboration with other TSOs), the SEM-GB Annex (in collaboration with EIL) and the Moyle Access Rules and Charging Methodology, as well as to other documents as appropriate.

Further modification may be required to the Moyle Access Rules and Charging Methodology including the HAR Regional Annex 12 relating to the SEM-GB, and potentially new HAR, following decision on the design of FTRs in I-SEM by the SEM Committee.

(5)

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 Office of Gas and Electricity Markets (OFGEM), the Utility Regulator has decided to approve the proposed modified Access Rules and Charging methodology.

Further action in respect of Access Rules

Having provided our approval for both the revised Access Rules and Charging Methodology Statement we request MIL to publish the approved updated Access Rules and Charging Methodology Statement together with this letter on its website.

We would remind MIL of its obligation under Condition 17, paragraph 3, to periodically review the relevant access arrangements which are in force from time to time and liaise with us when further amendments are required. This will be particularly necessary given the continuing development of the FCA and HAR and the design of the I-SEM and its introduction of Financial Transmission Rights on the I-SEM-GB border.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Jo Aston', written in a cursive style.

Jo Aston
Director of Wholesale Energy Markets

