

Mr Peter Lantry  
EirGrid Interconnector Limited  
The Oval  
160 Shelbourne Road  
Ballsbridge  
Dublin 4

15<sup>th</sup> October 2015

**Re: Approval of the Access Rules and Charging Methodology Statement for the East West Interconnector**

Dear Peter,

This letter gives notice of the approval by the Commission for Energy Regulation (the CER) of the Access Rules and Charging Methodology Statement submitted by EirGrid Interconnector Limited (EIL) on 15<sup>th</sup> July 2015<sup>1</sup>. This approval follows consideration by the SEM Committee of the amended Access Rules and Charging Methodology Statement as submitted by EIL.

The Access Rules have been submitted under Condition 20 of EWIC's Interconnector Operator licence granted to EIL on 7 October 2011. The CER has the power to approve Access Rules for cross border interconnector operators under Article 34A(1) of the Electricity Regulation Act (1999) (as amended), which states that:

*Subject to subsection (3), the holder of a licence under section 14(1)(i) [in this section referred to as the interconnector operator] shall offer access to the interconnector concerned on the basis of published non-discriminatory terms which shall be subject to the approval of and directions given by the Commission.*

A consultation was carried out jointly by EIL and Moyle Energy Limited (MIL) and ran from 20<sup>th</sup> April to 20<sup>th</sup> May 2015. EIL reviewed its Charging Methodology alongside its access rules and concluded that no modifications are currently necessary.

The Commission for Energy Regulation is satisfied that no amendments are currently required to the EIL Access Rules and Charging Methodology.

**Consultation on Access Rules**

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

1. for the current EWIC 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.

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<sup>1</sup> A copy of the EIL Access Rules submission letter will be published on <http://www.allislandproject.org> alongside this letter.

EIL 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 EWIC 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 EIL proposals are that it is most appropriate to adopt the HAR on the following phased basis (notwithstanding applicable licence obligations):

- Phase 1 (2015): EIL will amend the EWIC 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;
- Phase 2 (from the date of I-SEM go-live): EIL 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 EWIC 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.
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- No amendment proposed to the existing EWIC 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 EIL and MIL 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<sup>nd</sup> and 30<sup>th</sup> 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.<sup>2</sup> 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 Commission for Energy Regulation 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 EIL 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 EIL has stated that the request does not require changes to the Access Rules, so this does not impinge on their operation.

In relation to the concern that ramping constraints are taken account of in FTR pay outs EWIC 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. EWIC 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.

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<sup>2</sup>

[https://www.entsoe.eu/Documents/Network%20codes%20documents/NC%20FCA/150630\\_HAR\\_assessment\\_of\\_comments.pdf](https://www.entsoe.eu/Documents/Network%20codes%20documents/NC%20FCA/150630_HAR_assessment_of_comments.pdf)

It is the view of the Commission for Energy Regulation that the Proposed Access Rules and Charging Methodology are non-discriminatory and in compliance with the EWIC 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. The provisions proposed and consulted upon by EIL 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 EIL to implement the HAR on the proposed phased introduction basis, recognising that the HAR will not become operational on EWIC until the I-SEM go-live date. We recognise that this is consistent with the transitional arrangements for Ireland and Northern 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 EIL 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 MIL) and the EWIC Access Rules and Charging Methodology, as well as to other documents as appropriate.

Further modification may be required to the EWIC 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.

#### **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 Commission for Energy Regulation 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 EIL to publish the approved updated Access Rules and Charging Methodology Statement together with this letter on its website.

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We would remind EIL of its obligation under Condition 20, paragraph 4, 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,



**Laura Brien**  
**Director**  
**Electricity Markets**

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