



The Company Secretary
Moyle Interconnector Limited
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10 August 2006

Dear Sir,

Direction under paragraph 3 of standard condition 3 (Compliance with codes) of the electricity interconnector licence of Moyle Interconnector Limited

I am writing to you in relation to the Secretary of State's decision to grant an electricity interconnector licence to Moyle Interconnector Limited (MIL) and MIL's view that, as it owns but does not operate the Moyle interconnector, it should not be required by standard condition 3 of its licence to be a party to GB electricity codes.

The Authority has decided to issue a direction under paragraph 3 of standard condition 3 relieving MIL of its obligation to be a party to the Balancing and Settlement Code (BSC) subject to conditions. The direction is annexed to this letter.

This letter explains the background to this issue and sets out the Authority's reasons for issuing this direction.

This letter constitutes notice of the Authority's reasons for its decision for the purpose of section 49A of the Electricity Act 1989.

Background

Paragraph 1 of standard condition 3 of MIL's electricity interconnector licence provides that the licensee shall become a party to the BSC and the Connection and Use of System Code (CUSEC) and shall comply with the provisions of the same in so far as applicable to it.

Paragraph 3 of standard condition 3 of MIL's electricity interconnector licence provides that the Authority may issue a direction to an interconnector licensee relieving it of the obligations under paragraph 1 to such extent and subject to such conditions as may be specified in those directions.

Reasons for the Authority's decision

The DTI has issued a number of documents in relation to the drafting of the standard licence conditions and the licences to be granted to the owners and operators of existing gas and electricity interconnectors. In its March 2005 conclusions document¹ the DTI noted that the wording of standard condition 3 had been amended (compared to previous drafts). The amendments were made to address concerns that the previous requirements may not have worked in all circumstances, particularly where interconnectors were owned and operated by more than one party and that it may be more appropriate for commercial arrangements to be in place between the two parties to reflect which codes each is signed up to. The amendments introduced wording enabling the Authority to issue a direction relieving the licensee of its obligations under standard condition 3 to be a party to the BSC and the CUSC to such extent and subject to such conditions as specified in the direction.

In its decision document published on 9 June 2006,² the DTI noted that MIL considered that as owner (but not operator) of the Moyle interconnector its licence should not require it to be a party to electricity codes as required by paragraph 1 of standard condition 3 of its licence. The DTI stated that it and Ofgem agreed with MIL that it would be inappropriate for MIL to be required to comply with an obligation in its licence as the necessary compliance is ensured by S.O.N.I. Ltd (SONI), the operator of the Moyle interconnector, already being a party to the BSC. The DTI also noted that the Authority intended to issue a direction under paragraph 3 of standard condition 3 relieving MIL of the relevant obligation.

The Authority notes the view of MIL and that of the DTI. The Authority considers that as a result of the DTI's consultations on this particular issue, it is not necessary for it to undertake any additional formal consultation about issuing the direction. However, the Authority has consulted informally with National Grid Electricity Transmission plc, as the transmission licensee responsible for the BSC and Elexon Limited, as the body responsible for the BSC, about the matter.

The Authority considers that it is only appropriate to relieve MIL of its obligations under standard condition 3 in respect of the BSC if SONI, as the system operator of the Moyle interconnector:

- (a) is a party to and complies with the BSC at the date the direction has effect; and
- (b) continues to be a party to and complies with the BSC.

The direction will have effect on and from the date that the licence granted to MIL has effect.

The Authority considers that as owner of the Moyle interconnector it is appropriate that MIL is a party to the CUSC and therefore it will not issue a direction relieving MIL of its obligation to become a party to and comply with the CUSC.³

¹ 'Interconnector licences: determination of standard licence conditions: conclusions drawn from responses to the November consultation document and final standard licence conditions', DTI.

² 'Interconnector licensing: conclusions drawn from the responses to the June 2005 consultation', DTI.

³ Moyle Interconnector Limited is a party to the CUSC.

The Authority's decision

In accordance with the terms of paragraph 3 of standard condition 3 of MIL's electricity interconnector licence, the Authority has decided to issue the direction annexed to this letter.

If you have any queries in relation to the issues raised in this letter, please feel free to contact me on the above number, or alternatively contact Jo Witters on 020 7901 7159.

Yours sincerely

A handwritten signature in black ink, appearing to read "David Gray", with a horizontal line underneath.

David Gray
Managing Director, Networks