



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY

Directorate B - Internal Energy Market
B.2 - Internal Market II: Wholesale markets; electricity & gas
Head of Unit

07 FEB. 2012

Brussels,
ENERB2/TOB/mta/s135110

Commission for Energy Regulation
The Exchange
Belgard Square North
Tallaght
Dublin 24
IRELAND

Dear Denis,

The regulatory treatment of the BGE interconnectors

Thank you for sending us a draft copy of the proposed Commission for Energy Regulation decision paper of the regulator treatment of the BGE interconnectors. As you are aware several stakeholders have contacted the Commission to argue that changes considered in consultation papers leading up to this would be in contravention of EU law. As you correctly note in the draft paper "it is only the actual final decision taken by the CER that matters for EU compliance purposes"; neither does the European Commission have any *ex ante* approval role with regard to transmission tariffs set or approved by national regulatory authorities.

We understand that hitherto the entry tariffs at Moffat, where the BGE interconnectors are connected to the GB gas transmission system, have been based on the cost of those interconnectors calculated separately from the rest of the Irish system. The new methodology which you propose envisages treating the onshore transmission system in Ireland and the interconnectors to Great Britain as a single system. Tariffs for all entry points would be based on auctions with a reserve price set at the long run marginal cost of transporting gas at peak conditions at each entry point.

In the draft decision, you discuss in some detail (a) whether, as the construction of the interconnectors was mandated and approved by the Government (which at that time effectively acted as regulator) this means that they should be considered to be underwritten by system users and (b) whether investors in gas infrastructure such as LNG or gas production had a legitimate expectation that the current methodology for setting tariffs would be retained. While these issues are clearly of great importance in setting or approving tariffs, we are not in a position to make an assessment as to merits of the various positions presented.

Treating the interconnectors as an integral part of the Irish transmission system is in line with the move to wider entry exit systems and the removal of tariffs based on contract paths. Regarding the proposed approach to setting tariffs, we accept that entry tariffs based on long run marginal cost of entry capacity at each entry point can constitute a non-discriminatory approach, as required by Article 13(1) of Regulation (EC) No. 715/2009. The draft decision paper does not set out a methodology for calculating long run marginal cost, which will be addressed in subsequent papers, with a final system to be implemented in October 2014. It goes without saying that for non-discrimination to be realised in practice requires that the method of calculating long run marginal cost at each entry point actually deliver fair results.

Yours sincerely,

Best regards,

A handwritten signature in black ink, consisting of a stylized 'I' and 'B' followed by a horizontal line.

Inge Bernaerts

