



An Coimisiún
um Rialáil Fóntais
**Commission for
Regulation of Utilities**

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Consultation Paper: Draft Licence for an Interconnector operating with a Cap and Floor regime

Consultation Paper

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CRU Mission Statement

The CRU's mission is to protect the public interest in Water, Energy and Energy Safety.

The CRU is guided by four strategic priorities that sit alongside the core activities we undertake to deliver on the public interest. These are:

- Deliver sustainable low-carbon solutions with well-regulated markets and networks
- Ensure compliance and accountability through best regulatory practice
- Develop effective communications to support customers and the regulatory process
- Foster and maintain a high-performance culture and organisation to achieve our vision

Executive Summary

This paper sets out a proposed template for an Interconnector Operating Licence for an interconnector operating under a cap and floor regime, such as that described in CRU/21/114 for the Greenlink Interconnector. The template mirrors the existing EIDAC licence as closely as possible and will apply to future interconnectors developed under 16A(b) of the Electricity Regulation Act 1999 (as amended) (ERA) where a CRU Cap and Floor regime is applied.

The key differences in this licence template compared to the EIDAC licence are:

- The addition of a new Cap and Floor Regime condition to reflect aspects of the Cap and Floor regulatory financial framework. It has been created based on the framework as defined for the Greenlink Interconnector (CRU/21/114) under an assumption that any future interconnector will have a similar framework decision that will be referenced.
- Update to the Use of Revenues condition to align language with Article 19(2) of (EU) 2019/943 and insert a new term to protect the consumer interest in the event of the operator being in receipt of temporary financial support.
- Removal of legislative references that are no longer applicable.

The background to the licence development is explained in Section 1, and Section 2 details the differences from the existing CRU Interconnector Operator Licence template to reflect operation under a Cap and Floor regime.

Public/ Customer Impact Statement

- The CRU deemed the construction of the proposed Greenlink Interconnector to be in the public interest, and subsequently developed a cap and floor funding regime that will apply

to the interconnector. This funding regime was subject to extensive public consultation by CRU prior to this licence development.

- The existing CRU interconnector operating licence template was used as a basis for this Cap and Floor licence template. The existing interconnector does not operate under a Cap and Floor regime, so the relevant provisions have been updated to reflect the associated differences.

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Glossary of Terms and Abbreviations

Abbreviation or Term	Definition or Meaning
DSO	Distribution System Operator
ERA	Electricity Regulation Act 1999 (as amended)
EIDAC	EirGrid Interconnector Designated Activity Company
EWIC	East-West Interconnector (former name of EIDAC)
EU	European Union
SEM	Single Electricity Market
SI	Statutory Instrument
TSO	Transmission System Operator
UK	United Kingdom

1. Introduction

1.1.1 Background

1.1.1 Legislative background

Under Article 16A(b) of the Electricity Regulation Act 1999 (as amended) (ERA), the CRU can secure the construction of an interconnector by three separate means:

- a. *a competitive tender;*
- b. *an authorisation granted to a person without a prior competitive tender where the person demonstrates, to the satisfaction of the Commission, that the granting of an authorisation, subject to such conditions as the Commission deems necessary and appropriate, is in the long term interests of final customers; or*
- c. *requesting the transmission system operator to provide for the construction of an interconnector in its development plan.*

Article 14(1)(c) gives the CRU the power to grant a licence to a person to transport electricity across and maintain an interconnector. The existing CRU decision paper on interconnector licences, CER/11/055 “*Interconnector Operator Licence*” states that,

“The CER will grant this [interconnector operating] licence upon application to those that already have been issued with an authorisation to construct an interconnector pursuant to Section 16 of the 1999 Act, who by this process, would be automatically eligible to receive a licence to operate the same interconnector.”

1.1.2 Interconnector Operating Licences

The existing licensed interconnector in Ireland, EIDAC (formerly known as the East-West Interconnector, EWIC) links the electricity grid in Wales to the Irish electricity grid. EIDAC was developed by EirGrid, the transmission system operator, and a licence was created in 2011 and issued by CRU accordingly. This licence was updated in 2018 ([CRU/18/051](#)).

In October 2018, the CRU determined that the proposed 500 MW Greenlink Interconnector, also linking the electricity grids in Ireland and Wales, would provide a net benefit to Irish consumers and Ireland as a whole ([CRU/18/216](#)). Since then, the CRU has been working to establish the regulatory framework for a Cap and Floor financing regime for the proposed Greenlink Interconnector, as set out in [CRU/21/114](#).

A template interconnector licence for persons utilising a cap and floor financial regime has now been developed, mirroring the existing EIDAC licence as closely as possible. The template will apply to future interconnectors developed under 16A(b) of the ERA where a CRU Cap and Floor regime is applied. This template has been created based on the framework as defined for the Greenlink Interconnector (CRU/21/114) under an assumption that any future interconnector will have a similar framework decision that will be referenced.

1.1.3 Related Documents

1. Existing EIDAC Licence: [CRU18051](#) *“Electricity Interconnector Operator Licence”*
2. Decision and Consultation Response paper on EIDAC [EWIC] Interconnector operating licence: [CER/11/055](#) *“Interconnector Operating Licence”*
3. Greenlink Cost-Benefit Analysis determination: [CRU/18/216](#) *“Greenlink Electricity Interconnector Determination”*
4. Greenlink Cap and Floor Decision paper: [CRU/21/114](#) *“Greenlink Electricity Interconnector “Cap and Floor Regulatory Framework”*

Information on the CRU’s role and relevant legislation can be found on the CRU’s website at www.cru.ie

1.1.4 Structure of Paper

Section 1 provides a short introduction to the background of the newly developed licence.

Section 2 contains brief descriptions of the licence conditions and indicates the changes made to the existing template.

1.1.5 Responding to this paper

The CRU now invites comments on the draft CRU Cap and Floor Interconnector Operator Licence. Respondents are requested to specify which condition their comments relate to when responding.

Please send responses to Lucy Cradden at lcradden@cru.ie by **5pm Friday, 31st December**.

2. Proposed Licence Conditions

2.1 Overview of licence conditions

This section gives some brief description for each of the conditions set out in the draft licence and indicates where changes have been made to the equivalent condition in the existing CRU Interconnector Operator Licence template.

2.1.1 Part I - Terms of the Licence

This condition names the party to which the licence is granted and the date the licence comes into force. The licence shall continue in full force and effect until determined by not less than 25 years' notice and that such notice not to be served earlier than the 25th anniversary of the date on which this licence comes into force. The issuing of the licence is subject to the Conditions set out in Sections A and B in Part II.

2.1.2 Part II – Conditions of the Licence

This section is divided into sub sections A and B. Section A refers to the “Standard Conditions” and Section B refers to “Revenue and Third-Party Access Conditions”.

Section A: Standard Conditions

Condition 1 Interpretation and Construction

This Condition deals with how the words and expressions used in the Conditions are to be interpreted and construed and includes definitions of key terms used within the licence.

Amendments have been made to update the references and include those relevant to an interconnector operating under a Cap and Floor financing framework.

Condition 2 Separation of Accounts

This Condition set out the financial year for the Licensee with respect to the preparation of accounts. It also contains terms to ensure that the Licensee maintains accounting and reporting arrangements which enable separate accounts to be prepared for the interconnector business as distinct to any other business the licensee may be involved with.

Condition 3 Provision of Information to the Commission

This Condition sets out the terms under which information is to be provided to the Commission. It also defines what information is in this context.

The wording of Condition 3(4) has been updated to use language consistent with the standard Authorisation to Construct issued by CRU.

Condition 4 Compliance with Laws and Directions

This Condition stipulates that the licensee shall comply with relevant laws and any directions or determinations made by the Commission.

The condition has been amended to remove references to S.I. 445 of 2000 and S.I. 60 of 2005 as these are applicable only to the TSO. A broader reference is made to encompass any existing or future laws that may be applicable.

Condition 5 Payment of Levy

This condition specifies that the licensee shall pay the Commission any amount as specified in a Levy Order as made by the Commission under paragraph 16 of Schedule 1 of the 1999 Act.

Condition 6 Compliance with Codes

This condition specifies that the licensee shall at all times comply with the provisions of the various technical codes - the Grid Code, Distribution Code and the Metering Code. It also specifies that the licensee shall be party to and shall comply with the Single Electricity Market (SEM) Trading and Settlement Code and Capacity Market Code insofar as applicable to it.

Condition 7 Public Service Obligation

This condition specifies that the licensee shall comply with any public service obligation imposed on it by the Commission pursuant to Section 39 of the 1999 Act.

Condition 8 Security Arrangements

This condition places a requirement on the licensee to cooperate with the Commission and Transmission System Operator in strategic contingency planning.

Condition 9 Provision of Information to the Transmission System Operator or Distribution System Operator Market Operator, Nominated Electricity Market Operators, and other entities

This condition stipulates that the Licensee give information concerning the operation, capacity, constraints and technical specifications of the licensee's interconnector to the Transmission System Operator ("TSO"), the Distribution System Operator ("DSO"), a Nominated Electricity Market Operator or the Market Operator.

Condition 10 Scheduling and Dispatch and Interconnector Transfers

This condition requires that arrangements are put in place such that interconnector transfers for scheduling and dispatch are submitted in accordance with the SEM Trading and Settlement Code and that the required information is provided to the Transmission System Operator.

Condition 11 Ancillary Services

This condition is concerned with the licensee providing any ancillary services which the interconnector unit is capable of providing in accordance with the Grid Code or as directed by the Commission.

Condition 12 Environment

Under this condition the licensee shall comply with all applicable European Union and Irish Environmental Laws, and shall, in consultation with the Commission, prepare a written policy setting out the manner in which the licensee proposes to comply with its duties and obligations under all applicable laws. Also, the licensee shall report annually to the Commission on its environmental performance.

Updates have been made to the relevant legislation.

Condition 13 Assignment of Licence and Transfer of Interconnector Business

This condition deals with the assignment of the interconnector licence or the transfer of the interconnector business to another party.

Condition 14 Change in Control of the Licensee

Similarly to the previous Condition 13 this condition is concerned with the licensee notifying the Commission of a change in control of the licensee.

Updates have been made to require pre-notification of a Change of Control. The existing text requires notification "as soon as is practicable after such a change in control occurs." This has been changed to require 30 days' notice to be given by the Licensee prior to the enactment of a change of control.

Condition 15 Capacity Utilisation

This condition places a requirement on the licensee to make available the maximum capacity of the licensee's interconnector. The condition also stipulates that the licensee shall make arrangements for auctioning of long-term transmission rights in accordance with any relevant laws and subsidiary methodologies.

Updates have been made to remove non-applicable legislative references and provide for any such future requirements that are put in place.

Condition 16 Dispute Resolution

This condition deals with how disputes between the licensee and another person seeking access to the interconnector are conducted. The Commission may, pursuant to section 34A(5) of the 1999 Act, settle any terms in dispute and the licensee shall comply with and be bound by any such determination.

The second part of this condition has been deleted as the ruleset referred to no longer applies. In its absence the CRU may “settle the matter...in such manner as it appears to the Commission to be reasonable”.

Condition 17 Prohibited Activities

This condition prohibits the Licensee from engaging in generation, trading or supply of electricity on the Island of Ireland unless explicitly permitted by the Commission.

Condition 18 Restriction on Use of Certain Information

Under this condition, the Licensee is required to preserve the confidentiality of any commercially sensitive information in accordance with relevant legislation.

Updates made to remove non-applicable legislative references and provide for any such future requirements that are put in place.

Part II – Section B: Revenue and Third Party Access

Condition 19 Use of Revenues

According to this condition, revenues which the Licensee has received from the allocation of Interconnector capacity can only be used for the stipulated purposes, and there is an associated requirement to report on this to the Commission.

Changes have been made to reflect language used in the Electricity Markets Regulation (EU 2019/943) in relation to the use of interconnector revenues.

Reporting dates have been updated to reflect current requirements.

An additional provision has been made to include a restriction on distributions made by the Licensee when receiving or repaying Temporary Financial Support as provided for in CRU/21/114. This is ensure that where debt is due to the consumer, it is paid before any distributions are made to investors.

Condition 20 Access to the Licensee’s Interconnector

This condition stipulates that the licensee shall offer access to the interconnector and enter into agreements for capacity with any person on a non-discriminatory, objective and transparent basis.

Minor update to remove non-applicable legislative references and to include the 'market based' principle contained in Article 311(1)a of the Trade and Cooperation Agreement.

Condition 21 Application of Licence Conditions 19 and 20

This condition provides for an exemption to be granted to the licensee for all or some of the provisions of Condition 19 "Use of Revenues" and Condition 20 "Access to the Licensee's Interconnector".

The Commission can further suspend from operation any condition of the licence which the Commission believes is required after consultation with the licensee.

Text updated to reflect applicability of legislation and the position on provision of exemptions to any areas covered by conditions 19 and 20.

Condition 22 Cap and Floor Regime

This is a new condition that sets out the requirement for the Licensee to comply with obligations imposed pursuant to the Cap and Floor Decision. It sets out some of the key parameters set out in, and means of implementation of, the Cap and Floor Decision. Specific reference is made in this condition to the Cap and Floor Decision CRU/21/114.

SCHEDULE 1 Interconnectors to which this Licence Applies

The interconnector or interconnectors for which the licensee is licensed are detailed in this section.

SCHEDULE 2 Right of the Commission to Revoke this Licence

Schedule 2 sets out the terms and conditions as to how and why the Commission may revoke the licence.

3. Next Steps

The CRU will take into consideration feedback received from interested parties before finalising its decision on the licence text.

Interested parties are invited to respond to this consultation by **5pm Friday, 31st December**. Responses should be sent via email to lcradden@cru.ie

Following the consultation, responses will be evaluated and a decision on the licence template will be issued.