



Commission for the Regulation of Utilities
The Exchange
Belgard Square North
Tallaght
Dublin 24

By email to: lcraadden@cru.ie

31 December 2021

Dear Ms. Cradden,

Draft Licence for an Interconnector operating with a Cap and Floor regime – Consultation response

We thank the CRU for the opportunity to respond to its consultation (the Consultation). We have adopted the same numbering and references from questionnaire/consultation document in our response.

MaresConnect is a planned Ireland - GB 750MW interconnector (TYNDP project 349). The project is targeting commercial operations by 2028.

General Comments

We welcome the template proposed by the CRU for the regulatory framework of future interconnectors developed under 16A(b) of the Electricity Regulation Act 1999 (“the Electricity Act”). We note the significant progress that the CRU has made in developing a sustainable regulatory environment for interconnectors over the last few years which, we believe, will stimulate the construction of further, low cost, interconnector capacity to meet Ireland’s environmental goals.

The Cap and Floor regulatory regime developed by CRU provides a clear path for future interconnector projects to follow under the assumption that any future interconnector will have a similar framework decision that will be referenced.

The similarities of CRU’s Cap and Floor regime with that of Ofgem’s ensures alignment that would be expected to result in a symmetrical Cap and Floor regulatory regime in Ireland and

Great Britain leading to an efficient and cost-effective financing for the benefit of consumers, and also ensure equality of treatment between the two markets and their consumers.

Decision versus Licence

We note that the framework under which an Irish interconnector operates is set out in two separate documents; the interconnector's Licence and its Cap and Floor Decision. Material elements of the framework sit in one or the other document.

The Licence is conferred to the interconnector by the CRU under Section 14(1)(i) of the Electricity Act. The CRU defines the Cap and Floor Decision as the decision paper published by the CRU and includes *"any other decision of the Commission relating thereto or referred to therein, and any order of the Commission, made pursuant to the Act, on foot thereof"*. The CRU's consultation goes on to state that *"Consistent with other licences issued by the CRU, that document will not represent a comprehensive reference for the implementation of the regime. Further detail should it be necessary will follow from this decision."*

The Licence is drafted in such a way that it is not unique to an individual interconnector and as such, the specific parameters of an interconnector, including the cap and floor levels, are set out in the Decision. In contrast, the Ofgem interconnector licence is split into two parts; (i) standard licence conditions, similar to those set out in the Licence and (ii) special licence conditions, specific to each interconnector containing detailed financial and operating parameters, including the cap and floor levels.

It is not immediately clear from the draft Licence and Decision how modifications to each are achieved however, it is generally the case that instruments conferred under the Act require a higher threshold of decision making power than a Decision which is contained within the CRU.

While in itself, this should not prove problematic, the approach is not consistent with the cap and floor licence issued by Ofgem for the same interconnector. Lenders relying on the Licence to provide support at the floor level are, potentially subject to a lower level of enforceability in Ireland than in the UK for the 25 year regulatory period. This may manifest itself in higher finance costs for the debt component attributable to the Irish portion of an interconnector.

MaresConnect considers it preferable for the key financial and operating terms of the Decision to be enshrined in the Licence to better align CRU's and Ofgem's regulatory regimes.

Please do not hesitate to contact us if we can provide further clarity on any of the points made above

Yours sincerely

Simon Ludlam
Director

