

MOYLE DIRECTION

The Company Secretary
Moyle Interconnector Limited
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1 October 2018

Electricity (Northern Ireland) Order 1992 Direction pursuant to paragraph 2 of Part II, Condition 13 of Transmission Licence

1 In pursuance of paragraph 2 of Part II, Condition 13 of the Transmission Licence (the “**Licence**”) granted to Moyle Interconnector Limited (the “**licensee**”) under Articles 10(1), 10(6), 11 and 13 of the Electricity (Northern Ireland) Order 1992, the Northern Ireland Authority for Energy Regulation (the “**Authority**”) hereby directs that the allowed recovery AR_t in respect of the financing and other costs associated with the Moyle Interconnector for each relevant year identified below shall be the amount determined in accordance with the following formula, namely:-

$$AR_t = A_t + B_t + K_t$$

where:-

t = denotes a relevant year;

A_t = in respect of any relevant year, the fixed amount determined for such relevant year in accordance with paragraph 3 below;

B_t = in respect of any relevant year, the Eligible Pass-Through Costs (as defined below) for such relevant year;

K_t = $AR_{t-1} - (C_{t-1} + D_{t-1} + E_{t-1} + F_{t-1})$, but so that:-

(a) in respect of the first relevant year, K_t shall be equal to zero; and

(b) if K_t has a negative value in respect of any relevant year, it shall be deemed to be equal to zero.

2 As used in paragraph 1 above:-

C_{t-1} = in respect of any relevant year, the Interconnector Revenues (as defined below) for the immediately preceding relevant year, save that in respect of any Adverse Regulatory Event Year, C_{t-1} = zero;

D_{t-1} = in respect of any relevant year, the Rebate Account Credit (as defined below) for the immediately preceding relevant year;

E_{t-1} = in respect of any relevant year, the Insurance Recoveries (as defined below) for the immediately preceding relevant year;

F_{t-1} = in respect of any relevant year, the Collection Agency Receipts (as defined below), for the immediately preceding relevant year.

3

The fixed amount referred to in the term A_i in paragraph 1 above for each relevant year identified in the table below shall be the sum of the amounts set out in the columns headed Amount 1 and Amount 2 opposite such relevant year in such table:-

Relevant Year ending on 31 March in the year	Amount 1		Amount 2	
2004	£5,376,035.61	Indexed	£5,538,137.76	Indexed
2005	£5,368,010.53	Indexed	£5,327,341.71	Indexed
2006	£5,332,181.81	Indexed	£5,290,786.76	Indexed
2007	£5,294,900.63	Indexed	£5,252,779.35	Indexed
2008	£5,256,167.00	Indexed	£5,213,319.49	Indexed
2009	£5,279,693.39	Indexed	£5,235,102.93	Indexed
2010	£5,363,446.36	Indexed	£5,316,096.24	Indexed
2011	£5,732,937.07	Indexed	£5,678,179.41	Indexed
2012	£6,133,121.63	Indexed	£6,070,230.20	Indexed
2013	£6,162,069.10	Indexed	£6,096,708.50	Indexed
2014	£6,067,755.03	Indexed	£6,001,813.44	Indexed
2015	£5,926,770.07	Indexed	£5,860,973.74	Indexed
2016	£5,786,075.61	Indexed	£5,720,424.52	Indexed
2017	£5,627,468.07	Indexed	£5,562,252.72	Indexed
2018	£5,487,935.58	Indexed	£5,422,865.47	Indexed
2019	£5,275,879.30	Indexed	£5,212,166.40	Indexed
2020	£5,230,269.56	Indexed	£5,165,199.45	Indexed
2021	£4,736,057.99	Indexed	£4,676,797.71	Indexed
2022	£4,526,519.60	Indexed	£4,468,711.78	Indexed
2023	£3,646,354.14	Indexed	£3,600,746.96	Indexed
2024	£3,291,188.07	Indexed	£3,249,793.02	Indexed
2025	£3,099,176.57	Indexed	£3,059,524.47	Indexed
2026	£2,928,854.53	Indexed	£2,890,654.89	Indexed

2027	£2,816,048.12	Indexed	£2,778,429.46	Indexed
2028	£2,622,487.62	Indexed	£2,586,757.15	Indexed
2029	£2,605,637.39	Indexed	£2,569,035.45	Indexed
2030	£2,259,380.01	Indexed	£2,227,135.45	Indexed
2031	£2,049,262.35	Indexed	£2,019,341.72	Indexed
2032	£1,953,013.95	Indexed	£1,923,674.30	Indexed
2033	£1,803,316.82	Indexed	£1,775,429.63	Indexed

and in respect of the relevant year ending on 31st March 2034 and each subsequent relevant year, the fixed amount shall be the amount specified in paragraph 10 below.

- 4 If there is a credit balance on the Distributions Account at any time, the licensee shall apply the amount standing to the credit of the Distributions Account (including amounts credited by way of interest) in such manner (which may, without limitation, include the application of the amount in carrying out a refurbishment of, or other investment in, the Moyle Interconnector) as the Authority, after consultation with the licensee, specifies in a written direction given to the licensee. The licensee shall procure that, save in accordance with such a direction, no amount is transferred out of the Distributions Account.
- 5 All references (howsoever expressed) in the definition of Eligible Pass-Through Costs to any fees, costs, expenses or other amounts of whatsoever nature being incurred or payable by the licensee on or in respect of any matter in, or in respect of, a relevant year, shall be taken to be references to the amount of cash actually paid by the licensee on or in respect of such matter in such relevant year (irrespective of the relevant year in which they were actually incurred or became payable).
- 6 The licensee shall notify the Authority within seven days of receiving any notice that:
 - (a) an Adverse Regulatory Event has occurred; or
 - (b) an Adverse Regulatory Event has been waived or remedied,
in accordance with the provisions of the Collateral Deed.
- 7 Payments shall be made into and out of the ARE Suspense Account in accordance with the provisions of the Accounts Agreement.

- 8 The licensee shall within 7 days of the date of this direction procure from each of the holding companies of the licensee a legally enforceable undertaking in favour of the licensee which shall provide that the holding companies of the licensee will give the licensee all such information as may be necessary to enable the licensee to comply fully with any request for information by the Authority under Part II Condition 6 of the Licence. Such undertaking shall remain in force for as long as the licensee remains the holder of the Licence and the giver of the undertaking remains the holding company of the licensee.
- 9 The licensee shall, within seven (7) days of any amendment, variation, modification, suspension or supplement to the Finance Documents having a material effect on the provisions of this direction, give the Authority written notice thereof, together with details of the amendment or variation and its effect on this direction.
- 10 In respect of the relevant year ending on 31st March 2034 and each subsequent relevant year, the licensee's allowed recovery shall include (through the term A_i in paragraph 1 above) such amount in respect of the future costs of decommissioning (including removal, restoration and reinstatement) of the Moyle Interconnector as will be sufficient to ensure that the aggregate of the amounts so recovered by the licensee before the commencement of such decommissioning is adequate to fund the costs of such decommissioning. The licensee shall not commence the decommissioning of the Moyle Interconnector unless the Authority, on the application of the licensee, has previously confirmed to the licensee that the Authority is of the opinion that the Moyle Interconnector has no continuing economic value to the electricity system in Northern Ireland.
- 11 Defined terms used in this direction have the meanings set out in the Schedule.
- 12 This direction shall be governed by and construed in accordance with the laws of Northern Ireland.



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**The Northern Ireland Authority for
Energy Regulation**

SCHEDULE

As used in this direction:

"Accounts Agreement" means the following two agreements attached in the Annex to this direction, namely:

- (a) the Accounts Agreement dated 14th April 2003, between Moyle Interconnector (Financing) PLC, the licensee, Financial Security Assurance (U.K.) Limited, The Bank of New York (as the Bond Trustee); and The Bank of New York (as the Security Trustee); and
- (b) the Accounts Mandate Agreement dated 14th April 2003, between Moyle Interconnector (Financing) PLC, the licensee, The Royal Bank of Scotland plc (as Account Bank), Financial Security Assurance (U.K.) Limited, The Bank of New York (as Bond Trustee) and The Bank of New York (as the Security Trustee)

"Adverse Regulatory Event" means the occurrence of any of the following events:

- (a) any Regulatory Authority or Government Agency having authority or responsibility for or in respect of the Moyle Interconnector or the Interconnector Business indicates or states that:
 - (i) it will not or may not observe any of the terms of the Transaction Authorisations; or
 - (ii) it will or may act in a manner which is inconsistent with the terms of the Transaction Authorisations; or
- (b) any draft legislation (whether primary or secondary) or draft regulation is prepared, promulgated or comes into effect or any direction or guidance is given which effects or provides for the removal, qualification or change (other than a change which is of a formal, minor or immaterial nature) to any of the Transaction Authorisations.

For the avoidance of doubt, it shall not be an Adverse Regulatory Event if a Regulatory Authority or Government Agency indicates or states that it wishes to exercise any function or power assigned or transferred to it under the Order or the Energy (Northern Ireland) Order 2003, including, without limitation, any power to revoke any Transaction Authorisation on grounds upon which revocation is permitted under that Transaction Authorisation or if it indicates or states that it wishes to modify any Transaction Authorisation by the exercise of its powers under the Order;

"Adverse Regulatory Event Period" means, in relation to any Adverse Regulatory Event, the period starting on the date of occurrence of such Adverse Regulatory Event and ending on the date in which such Adverse Regulatory Event is waived or remedied in accordance with the provisions of the Finance Documents;

"ARE Suspense Account" has the meaning given in the Accounts Agreement;

"Adverse Regulatory Event Year" means a relevant year which immediately succeeds a relevant year part or all of which coincides with an Adverse Regulatory Event Period which is continuing at the date on which the licensee delivers its statement of the Collection Agency Income Requirement to the Collection Agent pursuant to the agreement referred to in the definition of Collection Agency Receipts below;

"Collateral Deed" means the agreement dated 14th April 2003 between Moyle Interconnector (Financing) plc, Financial Security Assurance (U.K.) Limited, the licensee and The Bank of New York;

"Collection Agency Income Requirement" has the meaning given in the agreement referred to in the definition of Collection Agency Receipts below;

“Collection Agency Receipts” means in respect of any relevant year the aggregate of the cash amounts actually received by the licensee from the Collection Agent under the agreement described in paragraph 4 of Part II, Condition 13 of the Licence in such relevant year, after deduction of value added tax (if any) and any other taxes based directly on the amounts so received;

“Corporation Tax” means corporation tax and any replacement or successor tax;

“Distributions Account” has the meaning given in the Accounts Agreement;

“Eligible Pass-Through Costs” means, in respect of any relevant year, the aggregate of:-

- (a) the fees and other costs incurred by the licensee under any agreement relating to the operation and/or maintenance of the Moyle Interconnector in respect of such relevant year;
- (b) the premia and other costs incurred by the licensee on or in connection with insurances in respect of such relevant year;
- (c) the fees payable under Condition 8 of the Licence in respect of such relevant year;
- (d) all fees, costs and other expenses (including, without limitation, trustees’ and registrars’ fees and rating agency surveillance fees) incurred by the licensee or by Moyle Interconnector (Financing) plc in connection with any financing or refinancing of the Moyle Interconnector in respect of such relevant year;
- (e) the amounts payable by the licensee in respect of any land occupied or used by it (including, without limitation, local authority rates and rentals payable to the Crown Estate Commissioners) or in discharging its obligations under laws relating to the environment in respect of such relevant year;
- (f) the amounts payable by the licensee in respect of such relevant year by way of connection and use of system charges associated with the Moyle Interconnector which are payable to SP Transmission Limited (or to any person who succeeds it as transmission licensee for the south west of Scotland) and any amounts payable by the licensee in respect of such relevant year under any agreement for connection of the Moyle Interconnector to the transmission system in Northern Ireland;
- (g) the administration, secretarial, audit, employment, management and other overhead costs, and the professional fees incurred by the licensee or by Moyle Interconnector (Financing) plc or by Moyle Holdings Limited (including fees and expenses payable to directors and other officers and costs incurred by the licensee, Moyle Interconnector (Financing) plc or Moyle Holdings Limited in connection with their respective membership arrangements) in respect of such relevant year, but, in the case of any such costs, fees and expenses incurred by Moyle Interconnector (Financing) plc or by Moyle Holdings Limited, only to the extent such costs, fees or expenses are incurred on or in connection with activities related to the ownership, management or supervision of the Interconnector Business or of the licensee.
- (h) any other fees or costs incurred by the licensee on the maintenance or repair of, or otherwise in connection with, the Moyle Interconnector in respect of such relevant year (including, without limitation, on the purchase of auxiliary electricity supplies for the Moyle Interconnector, costs required to be incurred by the licensee on the Moyle Interconnector as a result of changes in legislation and any refurbishment costs);
- (i) any fees, costs and expenses plus interest and commitment fees payable on or in connection with the Liquidity Facility;

- (j) any amount payable by the licensee or by Moyle Interconnector (Financing) plc in respect of Corporation Tax in such relevant year;
- (k) any amount payable by the licensee in such relevant year to any person from whom the licensee derives (or has derived) any part of the Interconnector Revenues (including any amount payable by the licensee to any holder of financial transmission rights, either directly or indirectly via any relevant capacity auction or allocation platform, and any amount, whether in the nature of a penalty for failure to perform a capacity obligation or otherwise, payable by the licensee under any capacity agreement) and any costs incurred by the licensee in respect of (or to manage its exposure to) contractual imbalance or currency risk in such relevant year; and
- (l) all costs, expenses and other amounts of whatsoever nature incurred by the licensee in respect of such relevant year on the Interconnector Business or the Moyle Interconnector (to the extent not already defined as an Eligible Pass-Through Cost under paragraphs (a) to (k) of this definition),

together with any value added tax on the fees, costs, expenses and other amounts referred to in paragraphs (a) to (l) inclusive of this definition (and any other taxes based directly on such fees, costs, expenses or other amounts), to the extent such value added tax or other taxes are not recoverable by the licensee, but excluding from any Eligible Pass-Through Cost under paragraphs (a) to (l) above (other than as expressly provided for under paragraph (i) above), (i) any amount in respect of repayments of the principal and payments of interest on such principal under the Finance Documents by Moyle Interconnector (Financing) plc, by the licensee to Moyle Interconnector (Financing) plc or by the licensee pursuant to any guarantee given by the licensee to any party to the Finance Documents (ii) any cost, expense, fee, payment or other amount which is funded by way of payment from the Distributions Account and (iii) any financial guarantee fee or like amount payable to any guarantor of the indebtedness from time to time owed under the Finance Documents;

“Finance Documents” means each and any document from time to time entered into by the licensee or the holding company of the licensee pursuant to which any funding is provided to the licensee or to its holding company for the purposes of the Interconnector Business, including the Collateral Deed and the Accounts Agreement;

“first relevant year” means the first relevant year identified in paragraph 3 of the direction;

“Government Agency” means any agency, authority, department, government, legislature, minister, ministry, official or other public person (whether autonomous or not) of, or of the government of, any state or supranational organisation;

“Guarantor Operating Account” means the account of the licensee from time to time so designated in accordance with the provisions of the Accounts Agreement;

“Indexed” means, in relation to any amount stated in paragraph 3 in respect of any relevant year, such amount as multiplied by the Index Ratio (as defined in the Finance Documents) applicable (in accordance with the Finance Documents) to (in the case of amounts in the columns headed Amount 1) the month of September in such relevant year, or (in the case of amounts in the column headed Amount 2) the month of March in such relevant year, in each case rounded to four decimal places (0.00005 being rounded upwards) and as calculated by the Principal Paying Agent (as defined in the Finance Documents);

“Insurance Recoveries” means, in respect of any relevant year, the cash amounts actually received by the licensee under its insurances in such relevant year after deduction of value added tax (if any) and any other taxes based directly on the amounts so received;

“Interconnector Revenues” means in respect of any relevant year, the aggregate cash amounts actually received by the licensee during such relevant year in respect of any rights granted, any obligations assumed or any services provided, by it in, or in relation to, the

Moyle Interconnector, whether before the start of or during such relevant year (including financial transmission right, capacity rights and ancillary services provision), after deduction of value added tax (if any) and any other taxes based directly on the amounts so received;

“**Liquidity Facility**” means the facility so designated made available to the licensee in accordance with the provisions of the Finance Documents;

“**NIE**” means Northern Ireland Electricity plc;

“**Rebate Account**” means the account of the licensee from time to time so designated in accordance with the provisions of the Accounts Agreement;

“**Rebate Account Credit**” means, in respect of the first relevant year, zero and, in respect of each subsequent relevant year, an amount equal to the deemed credit balance on the Rebate Account on the first day of such relevant year, which shall be conclusively presumed to be the amount of cash which was swept out of the Rebate Account and transferred to the Guarantor Operating Account on 31 March in the immediately preceding relevant year (or if it was not a business day, the immediately following business day);

“**Regulatory Authority**” means the Authority, the Department and any future body or person with equivalent authority or responsibility to either the Authority or the Department;

“**Transaction Authorisation**” means:-

- (i) the Licence;
- (ii) a letter dated the same date as this direction from the Authority addressed to the licensee and others dealing, amongst other things, with certain matters concerning the future modification or revocation of the Licence;
- (iii) a letter dated the same date as this direction from the Department addressed to the licensee and others dealing, amongst other things, with certain matters concerning the future modification or revocation of the transmission licence granted by the NIE Licence Document;
- (iv) a letter dated the same date as this direction from the Authority addressed to the licensee which contains a consent to the granting of security over relevant assets of the licensee and certain related matters;
- (v) the modifications made to the NIE Licence Document by a letter dated 10th March 2003 from the Director General of Electricity Supply for Northern Ireland addressed to NIE; and
- (vi) this direction.

2. Words and expressions used in this direction which are not defined in this direction but are defined in the Licence shall have the same meanings in this direction as they have in the Licence.

ANNEX
Accounts Agreements