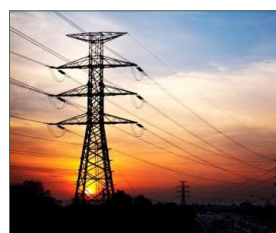


Preliminary Decision

Certification of Moyle Interconnector Ltd

22 November 2013



About the Utility Regulator

The Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing each of the key functional areas in the organisation: Corporate Affairs; Electricity; Gas; Retail and Social; and Water. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.

Our Mission

Value and sustainability in energy and water.

Our Vision

We will make a difference for consumers by listening, innovating and leading.

Our Values

Be a best practice regulator: transparent, consistent, proportional, accountable, and targeted.

Be a united team.

Be collaborative and co-operative.

Be professional.

Listen and explain.

Make a difference.

Act with integrity.

Abstract

The all-island Single Electricity Market (SEM) Committee, which includes the Utility Regulator, is required to certify that the activities of transmission networks are separate from those of generation and supply. This is to ensure that there are no grounds for discrimination arising from ownership or operation of the network by undertakings also owning generation or supply interests. This includes the Moyle Interconnector, which links the electricity grids of Northern Ireland and Scotland. This paper sets out the preliminary decision on certification of the SEM Committee in relation to Moyle Interconnector Limited, which is owner of the interconnector.

Audience

Electricity market participants, European Commission, Government, consumers, and wider stakeholders.

Consumer impact

Certification is part of the wider programme of liberalisation by the European Commission designed to promote competition in the energy market across Europe. Increased competition in the market will increase efficiency and offer increased customer choice. Certification involves validation that the arrangements governing electricity network ownership and operation provide no incentives for discrimination in the transport and sale of electricity. Measures to strengthen the independence of the interconnector operator are contained within the certification decision and provide further protection to all electricity market participants and to electricity consumers.

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Executive Summary

Directive 2009/72/EC of the European Union has been transposed into Northern Ireland law requiring the Utility Regulator to certify the unbundling arrangements of the interconnector operator in Northern Ireland. Unbundling refers to effective separation of transmission networks from the activities of generation and supply. The Single Electricity Market (SEM) Committee¹ determined in May 2011 that transmission system operator (TSO) certification was a SEM matter and the decision on certification has accordingly been taken by the SEM Committee.

Moyle Interconnector Limited (MIL), as owner of the interconnector between Northern Ireland and Scotland, made an application for certification on the grounds of full ownership unbundling. That is, that MIL did not also own any generation or supply undertakings. The SEM Committee concluded in its Preliminary Decision that the ownership arrangements satisfy the ownership requirements of Article 9 of the Directive and, with improvements proposed by the SEM Committee, would clearly guarantee this into the future. Ofgem, the regulator of gas and electricity markets in Great Britain, was also required to make a preliminary decision as to whether MIL should be certified. In its preliminary decision published on 19 April 2013 it concluded that MIL passes the ownership test and should therefore be granted certification. The European Commission (EC) published its opinion on 8 July 2013 welcoming the improvements to the arrangements proposed by the SEM Committee, proposing additional steps to be considered, and stating that both the Utility Regulator and Ofgem should take utmost account of the comments of the EC in taking its final decision.

¹ A statutory committee of the Authority comprised of the Utility Regulator and the Commission for Energy Regulation in Ireland (of which there is a mirroring statutory committee of equal composition of the Commission for Energy Regulation in Ireland). The SEM Committee is the decision-making body which governs the exercise of regulatory functions on SEM matters. The Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 provided for the establishment and operation of a single competitive wholesale electricity market on the island of Ireland (the Single Electricity Market).

Background

Under Directive 2009/72/EC, transposed in Northern Ireland by The Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011, national regulatory authorities are required to certify the unbundling arrangements of the Transmission System Operators in each Member State in a form consistent with the Directive. Unbundling refers to effective separation of transmission networks from the activities of generation and supply. There are three available models in the Directive: full ownership unbundling; independent system operator and independent transmission operator (ITO) while Article 9(9) of the Directive also allows for certification where the existing arrangements can be shown to clearly guarantee more effective independence of the TSO than the provisions of the ITO model. The precise requirements of the three models are set out in the Directive. The procedure for certification is further outlined in Regulation 714/2009. The Single Electricity Market (SEM) Committee determined in May 2011 that TSO certification was a SEM matter² and the decision on certification has accordingly been taken by the SEM Committee.

The SEM Committee published a guidance paper (SEM-11-103) outlining the process for application in Northern Ireland on 5 December 2011. Moyle Interconnector Limited made an application for certification on the grounds that it was fully ownership unbundled, that is that it was under separate ownership from any undertaking involved in generation or supply. The SEM Committee would like to thank MIL for the work put into the submission and for their full cooperation with the process.

² A matter is a SEM matter if the SEM Committee determines that the exercise of a relevant function of the Utility Regulator or the Commission for Energy Regulation in relation to that matter materially affects, or is likely to affect, the SEM.

Decision

In April 2013 the SEM Committee drafted its Preliminary Decision and submitted it to the European Commission for its opinion. The SEM Committee concluded in its Preliminary Decision that while the ownership arrangements satisfy the ownership unbundling requirements of Article 9 of the Directive the arrangements in place give rise to the need for qualification measures that will provide assurance that the independence of the TSO is maintained in the future. The SEM Committee therefore concluded that, subject to implementation of these proposed improvements and the opinion of the European Commission, the application should be granted. The European Commission published its opinion on 8 July 2013 welcoming the improvements to the arrangements proposed by the SEM Committee, proposing additional steps to be undertaken and stating that both the Utility Regulator and Ofgem should take utmost account of the comments of the EC in taking its final decision.

The Utility Regulator is therefore publishing the Preliminary Decision by the SEM Committee on the MIL application alongside the European Commission opinion of 8 July 2013. Any queries relating to these decisions should be addressed to Joe Craig at the Utility Regulator – joe.craig@uregni.gov.uk.