

Electricity generators,
interconnector owners and
operators, suppliers and other
interested parties

Date: 16 September 2014

Dear Colleague,

Final decision on ElecLink Limited's request for an exemption under Article 17 of Regulation (EC) 714/2009 for a Great Britain-France electricity interconnector

Ofgem is today publishing its updated final decision to award ElecLink a partial exemption from complying with certain aspects of European legislation¹, for its proposed electricity interconnector. This follows a decision by the European Commission to support the decision made by Ofgem, and its French equivalent, to award ElecLink a partial exemption, subject to conditions.

Some minor amendments have been made to the final decision to incorporate the European Commission's views. These are set out in this letter and the attached final documents.

Legal background

ElecLink Limited² requested an exemption under Article 17 of the Electricity Regulation³ (the Regulation) from complying with certain aspects of European legislation. There are full details of ElecLink's exemption request and the exemption assessment process on our website.⁴

The Regulation permits Ofgem as the National Regulatory Authority (NRA) for Great Britain (GB) to, in agreement with the other relevant concerned NRA (which in this instance is the Commission de régulation de l'énergie (CRE)), to grant ElecLink an exemption.

Following a public consultation and coordinated assessment of ElecLink's exemption request, the NRAs granted ElecLink a partial exemption for a period of 25 years from the date on which the ElecLink interconnector begins operating commercially.⁵ The NRAs published their analysis of the exemption in a Joint Opinion. Their respective decisions (each NRA decision together referred to as the Exemption Decision) are in Schedule A to that Joint Opinion.

¹ Covering areas such as ownership unbundling, third party access (TPA) and the use of revenues.

² ElecLink Limited is a joint venture between Star Capital Partners Limited and Groupe Eurotunnel. ElecLink proposes to build, own and operate a 1000MW electricity interconnector between GB and France.

³ Regulation (EC) 714/2009

⁴ Request from ElecLink for an exemption under Article 17 of the Regulation for a GB-France interconnector: <https://www.ofgem.gov.uk/publications-and-updates/request-eleclink-exemption-under-article-17-regulation-ec-7142009-gb-france-interconnector>

⁵ Decision on request for an exemption under Article 17 of the Regulation for a GB-France electricity interconnector: <https://www.ofgem.gov.uk/publications-and-updates/decision-request-exemption-under-article-17-regulation-ec-7142009-great-britain-france-electricity-interconnector>

The Regulation sets out that the European Commission has up to four months in which it may request that the NRAs amend or withdraw the exemption decision. In accordance with the Regulation⁶, the European Commission asked that the NRA's decision be amended⁷ to add the following conditions:

- To grant an exemption from applying the ownership unbundling rules in Article 9 of Directive 2009/72/EC (the Directive), only if:
 - ElecLink first applies for certification according to the ownership unbundling model in Article 9 of the Directive, and
 - CRE and Ofgem conclude that ElecLink does not meet the requirements of ownership unbundling in Article 9 of the Directive.
- If an exemption from ownership unbundling is granted, that it is on condition that ElecLink complies with Articles 13 and 14 of the Directive or Chapter V of the Directive.

The NRAs have amended the Joint Opinion and Exemption Decision to reflect the Commission's request. We have also made some minor amendments to remove provisions that are no longer applicable.⁸ There are copies of the final amended versions of these documents attached at Appendix 1 and 2.

The amended Exemption Decision will need to be given effect in GB through ElecLink's interconnector licence after ElecLink has submitted an application under SLC 12 of its interconnector licence. There are more details about this on our website.⁹

If you want to discuss any aspect of this decision please contact Matthew Grant (matthew.grant@ofgem.gov.uk) or Ikbal Hussain (ikbal.hussain@ofgem.gov.uk).

Yours sincerely,

Kersti Berge
Partner, Smarter Grids & Governance (Transmission)

⁶ Article 17(8) of the Regulation

⁷ EC exemption decision: http://ec.europa.eu/energy/infrastructure/exemptions/doc/exemption_decisions.pdf

⁸ For example, from now on, provisions allowing for the Exemption Decision to be amended by the NRAs following a request from the Commission under Article 17(8) of the Regulation no longer apply.

⁹ <https://www.ofgem.gov.uk/ofgem-publications/87163/elecinkdecisioncoverletter.pdf>