

Electricity Interconnectors: Inside the Aquind Decision

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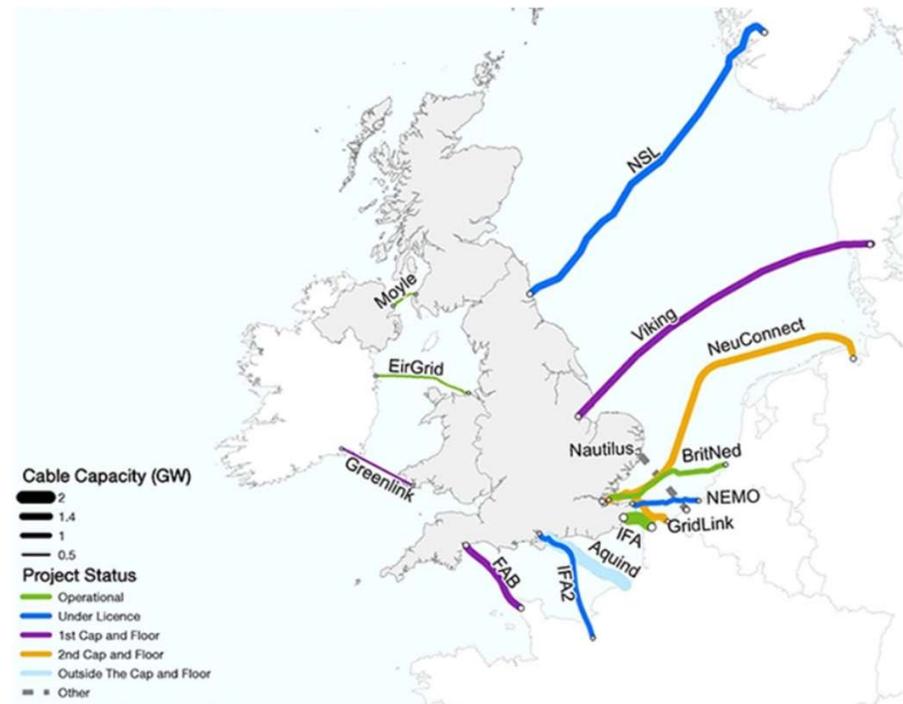
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The Aquind Interconnector in a GB – Continental Europe Context

- AQUIND Interconnector is a HVDC subsea electric power transmission link between the south of England and Normandy in France with the capacity to transmit up to 2,000 MW of electricity
- The project is being developed and promoted by AQUIND Limited, a UK-registered company with the sole business of developing AQUIND Interconnector.
- AQUIND is not associated with national electricity transmission system operators
- AQUIND Interconnector is a 'Project of Common Interest' (PCI) under The Regulations for the trans-European energy infrastructure (EU 347/2013) ('TEN-E Regulations), within the Priority Corridor Northern Seas Offshore Grid ("NSOG")



Source: The Crown Estate

EU Regulatory Treatment of Interconnectors

Regulated

- Congestion revenues are subject to a revenue control system
- TSO RAB

Exempted (merchant)

- The IC developer retains the congestion revenue over the asset's lifetime and uses it to fund the cost of development and construction of the asset (uncapped)

Hybrid

- 'Blended' approach that combines regulated and merchant
- Eg. GB cap and floor regime

Exemptions

New direct current interconnectors may, upon request, be exempted for a limited period from the following rules:

Article 16(6) of
Regulation 714/2009

- Rules on how congestion revenues can be used by TSOs

Article 9 of Directive
2009/72/EC

- Ownership unbundling requirements

Article 32 of Directive
2009/72/EC

- Third party access rules

Articles 37(6) and
(10) of Directive
2009/72/EC

- Requirement for regulatory approval of access rules and tariff charging methodologies

Exemption Criteria

Article 17

New interconnectors

1. New direct current interconnectors may, upon request, be exempted, for a limited period of time, from the provisions of Article 16 (6) of this Regulation and Articles 9, 32 and Article 37(6) and (10) of Directive 2009/72/EC under the following conditions:
 - (a) the investment must enhance competition in electricity supply;
 - (b) the level of risk attached to the investment is such that the investment would not take place unless an exemption is granted;
 - (c) the interconnector must be owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that interconnector will be built;
 - (d) charges are levied on users of that interconnector;
 - (e) since the partial market opening referred to in Article 19 of Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity ⁽¹⁰⁾, no part of the capital or operating costs of the interconnector has been recovered from any component of charges made for the use of transmission or distribution systems linked by the interconnector; and
 - (f) the exemption must not be to the detriment of competition or the effective functioning of the internal market in electricity, or the efficient functioning of the regulated system to which the interconnector is linked.

EU Regulatory Regime for PCI Assessment and Incentives

Develop cross-border trade

- NRA should “eliminate restrictions on trade in electricity between Member States, including developing appropriate cross-border transmission capacities to meet demand and enhance the integration of national markets” (art. 36 (c) Directive 2009/72)

Cross-border cost allocation

- Article 12 of the TEN-E Regulation, requires NRAs to make coordinated decisions on the allocation of the investment costs to be borne by each TSO.
- ACER Recommendation No 07/2013 regarding cross border cost allocation (CBCA) requests
- ACER Recommendation No 5/2015 on good practices for the treatment of investment requests, including cross border cost allocation requests
- ENTSO-E Guidelines on cost-benefit analysis of grid development projects

Granting appropriate incentives

- Article 13 of the TEN-Regulation, requires MSs and NRAs to grant appropriate incentives.
- ACER Recommendation No 03/2014 on Incentives for Projects of Common Interest and on a Common Methodology for Risk Evaluation

Projects are not eligible for an investment request and CBCA if they have received an exemption from Article 16(6) of Regulation 714/2009, from Articles 32 and 37(6) and (10) of Directive 2009/72

CRE Decision

- Deciding not to decide:
 - *"Taking into account the context of the withdrawal of the United Kingdom from the European Union, CRE considers that it is not in a position to decide whether any new interconnector project between France and the United Kingdom is beneficial to the European community before the withdrawal conditions of the United Kingdom from the European Union are clarified."*
 - Referral of Aquind exemption request to ACER
- Rationale
 - Brexit?
 - See EC's 2018 Notice on the UK's withdrawal and IEM that the UK would cease to participate in the day-ahead European market coupling mechanism
 - Why not model Brexit scenarios and/or sensitivities and quantify the resulting impact on welfare?
 - Eg. CRU's market testing of Greenlink's CBA in view of Brexit
- CRE, Communication of 29 March 2012 on the application of Article 17 of Regulation 714/2009
 - Emphasise default position: French TSO develops interconnections. Exemption regime is exceptional
- CRE's decision practice
 - Case by case assessment or combined assessment of multiple projects? Consistent assessment criteria (eg. IFA2)?



DÉLIBÉRATION N° 2017-253

Délibération de la Commission de régulation de l'énergie du 16 novembre 2017 portant orientation sur les nouveaux projets d'interconnexion avec le Royaume-Uni et décision de transfert à l'ACER de la demande d'exemption déposée par la société AQUIND Ltd.

ACER Decision

DECISION OF THE AGENCY FOR THE COOPERATION OF
ENERGY REGULATORS No 05/2018

of 19 June 2018

ON THE EXEMPTION REQUEST FOR THE AQUIND
INTERCONNECTOR

- ACER's position: If regulated regime (with financial underpinning) is not available to Aquind then significant risk (§134)
 - Aquind did not apply for 'article 12 and 13' regime under TEN-E Regulation whilst it would have good reason to do so (§§143-144) so risk is uncertain
 - criteria of art. 17(1) (b) Regulation 714/2009 is not met and so exemption request is rejected
- A new regulatory regime for ICs?
 - "... could result in the allocation of AQUIND interconnector's investment costs and in the actual costs incurred by AQUIND Limited, insofar as they are efficient, **to be taken into account in tariffs** ..." (§143)
 - "...access to financial underpinning through **cost recovery under the regulated regime such as under article 12** of Regulation 347/2013, will manage the large majority of AQUIND's interconnector's risks ..." (§149)
 - "directly and immediately applicable ... and regulatory authorities ... shall take coordinated decisions on the allocation of investment costs to be borne by each system operator for the project, **as well as their inclusion in tariffs**" (§162)
- Or rather: regulated or hybrid models are default; merchant is not.
- Compare to EC exemption decisions
 - Commission's approach to risk assessment: risk of non-use of the investment and the risk of a change in costs and/or revenues in the future.
 - Eg. ElecLink: FR-UK IC; PCI status; privately held: exemption by CRE and OFGEM (subsequently approved by EC).
 - No link made to necessary exhaustion of article 12 or 13 TEN-E Regulation made in Article 17 Regulation 714/2009.
- Appeal pending before ACER's Board of Appeal

Any Questions?



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