

Joint Opinion of the Commission de regulation de l'énergie (France) and the Gas and Electricity Markets Authority (Great Britain) on the Access Rules for the Interconnexion France-Angleterre and the Interconnexion France-Angleterre 2 in the event that Great Britain no longer participates in single day-ahead market coupling

This document sets out the Joint Opinion (the “Joint Opinion”) of the Regulatory Authorities (“RAs”) in France and Great Britain (“GB”) on the modified Access Rules for the Interconnexion France-Angleterre (“IFA”) and the Access Rules for Interconnexion France-Angleterre 2 (“IFA2”) in the event that GB no longer participates in single day-ahead market coupling as a result of the United Kingdom (UK) leaving the European Union (EU) without a deal (thereafter “GB decoupling”). The concerned RA in France is the Commission de régulation de l'énergie (“CRE”) and the concerned RA in GB is the Gas and Electricity Markets Authority (“the Authority”), whose administrative functions are carried out by the Office of Gas and Electricity Markets (“Ofgem”).

IFA is a 2,000MW direct current cable connecting the French and GB transmission systems between Les Mandarins in France and Sellindge in GB, operated by the French and British transmission system operators (“TSOs”), Réseau de transport d'électricité (“RTE”) and National Grid Interconnectors Limited (“NGIL”), together referred to thereafter as “IFA TSOs”. The IFA TSOs are currently building the IFA2 1,000MW direct current cable that is expected to start operations during the second half of 2020.

On 29 March 2017, the UK notified its intention to leave the EU, pursuant to Article 50 of the Treaty on the European Union, thus officially initiating the process of withdrawal from the EU (hereafter “Brexit”). Changes to the legislative and regulatory frameworks governing the operation of interconnectors should be expected in the event that the UK leaves the EU without a deal. CRE and Ofgem emphasise the need for the continued operation of interconnectors to allow for trades in all timeframes between France and Great Britain, regardless of the Brexit outcome.

On 14 March 2019¹ and 15 March 2019² respectively, CRE and Ofgem approved Access Rules which would apply to IFA in the case of GB decoupling (“Access Rules in case of GB decoupling”). For the avoidance of doubt, these rules would apply to IFA but not to IFA2 as the latter interconnector is not planned to become operational before 2020.

IFA has proposed modifications to the Access Rules in case of GB decoupling to further improve them and to facilitate the transition to a different allocation platform. At the same time, IFA TSOs proposed a separate set of Access Rules in case of GB decoupling for IFA2 which are drafted in identical terms as the modified Access Rules in case of GB decoupling for IFA³. Together, these two sets of Access Rules are

¹ CRE’s decision to approve the Access Rules in case of GB decoupling is available at: <https://www.cre.fr/Documents/Deliberations/Approbation/Approbation-des-regles-IFA-en-cas-de-sortie-de-la-Grande-Bretagne-du-couplage-journalier-europeen>

² Ofgem’s decision to approve the Access Rules in case of GB decoupling is available at: <https://www.ofgem.gov.uk/publications-and-updates/approval-modified-access-rules-ifa-interconnector-apply-event-uk-leaves-eu-without-deal>

³ For RTE a single set of Access Rules in case of GB decoupling applying to both IFA and IFA2 was submitted.

hereafter referred to as “the relevant Access Rules in case of GB decoupling”. This Joint Opinion relates to CRE and Ofgem’s respective decisions to approve the Access Rules.

The present document forms the basis for the RAs’ national approval processes on the proposed relevant Access Rules in case of GB decoupling. It is divided in three chapters:

1. General context
2. The relevant Access Rules in the event of GB decoupling
3. RAs’ decision on the relevant Access Rules in the event of GB decoupling.

1. GENERAL CONTEXT

1.1 Potential impacts of Brexit on IFA allocation mechanisms

On 29 March 2017, the UK notified its intention to leave the EU, pursuant to Article 50 of the Treaty on European Union. The UK is currently scheduled to leave the EU on 31 October 2019 (24:00 CET). As part of the UK government’s preparations for the withdrawal from the EU, the European Union (Withdrawal) Act 2018 was granted Royal Assent on 26 June 2018⁴. The Act will serve to convert EU law that the UK is subject to at the point of Exit, into UK law.

As a contingency measure, IFA TSOs submitted Access Rules in case of GB decoupling for IFA in February 2019. These Access Rules were approved by CRE and Ofgem respectively. IFA TSOs have proposed modifications to these Access Rules that they intend to come into effect on 1 December 2019.⁵ At the same time, IFA TSOs have submitted a set of Access Rules applicable to IFA2 in case of GB decoupling, to CRE and Ofgem for approval. This Joint Opinion therefore elaborates the RAs’ position on the relevant Access Rules in the case of GB decoupling.

1.2 Legislation in the event of GB decoupling

In the event that the UK leaves the EU without a deal, EU legislation such as Commission Regulation (EU) 2015/1222 of 24 July 2015 on capacity allocation and congestion management (“the CACM guideline”) and Commission Regulation (EU) 2016/1719 of 26 September 2016 on establishing a guideline on forward capacity allocation (“the FCA guideline”) will cease to apply to the UK. Even though these regulations are retained by application of the European Union (Withdrawal) Act 2018⁶, in the event the UK leaves the EU without a deal, these regulations will be revoked by the application of subsequent regulations⁷.

The CACM guideline sets out the legal framework that underpins GB’s participation in the single day-ahead market coupling (“SDAC”) and in the single intraday market coupling. The FCA guideline sets out the legal framework for the harmonised allocation of cross-zonal capacity in the forward electricity markets and the participation in a single allocation platform.

⁴ See the EU Withdrawal Act available here: <http://www.legislation.gov.uk/ukpga/2018/16/contents/enacted>.

⁵ For the avoidance of doubt, in the event the UK leaves the EU without a deal on 31 October, the Access Rules submitted to CRE and Ofgem in February 2019 will apply until these revised rules come into effect.

⁶ The European Union (Withdrawal) Act 2018 was granted Royal Assent on 26 June 2018 and will serve to convert EU law that the UK is subject to at the moment, into UK law. See: <http://www.legislation.gov.uk/ukpga/2018/16/contents/enacted>.

⁷ Electricity Network Codes and Guidelines (Markets and Trading) (Amendment) (EU Exit) Regulations 2019.

To take into account that the CACM guideline and the FCA guideline would cease to apply to the infrastructure connecting France to GB, CRE and Ofgem have previously adopted the Access Rules applicable to IFA in case of GB decoupling in March 2019, thus constituting the new regulatory framework applicable to the allocation of capacity between France and GB. These Access Rules were developed according to well-known processes already identified in the CACM and FCA guidelines, mostly as fallback for the normal SDAC.

The relevant Access Rules in the case of GB decoupling will be adopted on the basis of national legislation, namely Article 30 of the standard specifications for the concession of the public electricity transmission network approved by Decree No. 2006-1731 of 23 December 2006⁸ and the Standard Licence Condition 11A of the GB electricity interconnector licence for GB⁹.

1.3 Access Rules Consultation

In accordance with the applicable legal and regulatory framework, the IFA TSOs organised a public consultation on the proposed relevant Access Rules in the case of GB decoupling, which took place between 2 August 2019 and 30 August 2019¹⁰. After these consultations, the IFA TSOs submitted the relevant Access Rules in case of GB decoupling to the CRE and Ofgem on 10 October 2019 and 24 September 2019 respectively. In the case of Ofgem, IFA TSOs submitted amended versions of the relevant Access Rules in the case of GB decoupling on 3 October 2019. The amended versions of the Access Rules supersede the versions submitted to Ofgem on 24 September 2019.

⁸ Article 30 du cahier des charges type de concession du réseau public de transport d'électricité approuvé par le décret n° 2006-1731 du 23 décembre 2006.

⁹ Standard Licence Condition 11A of the GB Electricity Interconnector Licence is available at: https://epr.ofgem.gov.uk/Content/Documents/Electricity_Interconnector_Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf.

¹⁰ The consultation can be accessed at: <http://ifa1interconnector.com/notices/consultation/>.

2. THE RELEVANT ACCESS RULES IN CASE OF GB DECOUPLING

2.1 Aim of the relevant Access Rules in case of GB decoupling

The aims of the relevant Access Rules in the case of GB decoupling are to:

- a) Establish a set of access rules for IFA2;
- b)
 - i) In the case of IFA, to facilitate the transition of explicit allocation of capacity in the long-term, day-ahead and intraday timeframes to the Joint Allocation Office (“JAO”) and the establishment of a dedicated nomination platform.
 - ii) In the case of IFA2, to establish the JAO platform as the appropriate platform for the explicit allocation of capacity in the long-term, day-ahead and intraday timeframes and the establishment of a dedicated nomination platform.
- c) Implement the intraday business rules consisting of four intraday explicit auctions and twenty-four nomination gates; and
- d) Amend compensation conditions in case of capacity curtailment in an emergency situation. If capacity is curtailed due to an emergency situation, relevant holders of capacity rights will be compensated at the day ahead market spread if a day ahead auction occurred. If such an auction did not occur, compensation will be the initial price paid for the capacity.

Extension of the provisions to IFA2

IFA2 is scheduled to become operational in 2020. The relevant access rules in case of GB decoupling will apply to IFA2 when the interconnector becomes commercially operational, and to give this effect RAs will take this into account in our national decisions.

Transition to the JAO platform and set-up of a dedicated nomination platform

Since its opening to third parties in 2001, allocation and nomination of capacity on IFA for timeframes with explicit auctions has been conducted on the in-house “Capacity Management System IFA” (thereafter CMS IFA) platform. However, IFA TSOs consider this platform is not able to encompass the future allocation and nomination processes of IFA2 due to IT constraints.

IFA TSOs decided to migrate the allocation of IFA and IFA2 capacity from the CMS IFA platform to JAO by 1 December 2019, regardless of the Brexit outcome. In accordance with the relevant access rules in case of GB decoupling, explicit auctions will be held in the long-term, daily and intraday timeframes. In parallel, IFA TSOs established a dedicated nomination platform for IFA and IFA2 called the Regional Nomination Platform (RNP).

The relevant access rules in case of GB decoupling facilitate the migration through the harmonisation of terminologies and processes with JAO standards. More specifically, the relevant access rules in case of GB decoupling contain dedicated sections covering allocation in the long-term, daily and intraday timeframes as well as nomination in the long-term, daily and intraday timeframes.

New design of intraday explicit auctions and nomination gates

IFA TSOs propose to introduce four intraday auctions and twenty-four nomination gates with a gate closure time seventy-five minutes before delivery. This proposed schedule is reflected in the Intraday Business Rules of the relevant access rules in case of GB decoupling.

Compensation mechanisms in case of capacity curtailment

IFA TSOs propose to update their compensation mechanisms that would apply in case of long-term capacity curtailment. In particular in Article 61A of the Long Term Allocation Rules, they provide that holders of Physical Transmission Rights are entitled to compensation equal to the clearing price of the day ahead explicit auction multiplied by the amount curtailed in case of curtailment for emergency situations after the firmness deadline assuming the relevant day ahead auction is held.

2.2 Feedback of public consultation

IFA TSOs have submitted the draft the relevant Access Rules in the case of GB decoupling to public consultation. A consultation report was included to the formal submission of the relevant Access Rules in the case of GB decoupling that summarises stakeholders' responses and details the IFA TSOs' position on the points raised.

IFA TSOs received two responses focused on the proposed new design and timing of intraday auctions and nomination gates. Market participants welcomed the increase in intraday auctions and nomination gate closures but insisted on necessary improvements to JAO's service conditions, in particular as far as client support is concerned.

One respondent stated its preference for a compensation for the curtailment of long terms capacity rights at day-ahead market spread. IFA TSOs have explained that, in this instance, they were unable to implement day-ahead market spread compensation within the relevant Access Rules in the case of GB decoupling as, ultimately, there is insufficient certainty on the individual and collective power exchanges processes. Furthermore, there are no agreements in place with power exchanges to use such data as may be required. IFA TSOs have, however, proposed a change to compensation conditions in case of long-term capacity curtailment in emergency situation. If long-term capacity is curtailed due to an emergency situation, relevant holders of Physical Transmission Rights will be compensated at the clearing price of the day ahead explicit auction if a day ahead auction occurred. If such an auction did not occur, compensation will be the initial price paid for the capacity.

2.3 RAs' analysis of Access Rules in case of GB decoupling

The RAs have thoroughly analysed and evaluated the relevant Access Rules in the case of GB decoupling, including responses to public consultation.

CRE and Ofgem acknowledge the migration of the allocation of capacity on IFA and IFA2 for timeframes with explicit auctions from the CMS IFA platform to JAO regardless of the Brexit outcome. The RAs encourage IFA TSOs to engage with JAO to ensure market participants requirements for service conditions are reviewed on an ongoing basis and are sufficiently met.

The RAs consider that the new design of intraday explicit auctions and nomination gates further improves IFA's existing intraday arrangements.



CRE and Ofgem acknowledge that IFA TSOs have improved the firmness arrangements that would apply in the case of long-term capacity curtailment for emergency situations after the day ahead firmness deadline. The RAs encourage the IFA TSOs to keep the compensation arrangements under review, to better improve the firmness provisions and ensure sufficient hedging opportunities.

3. RAS' DECISION ON THE ACCESS RULES IN CASE OF GB DECOUPLING

3.1 RAs approve the Access Rules in case of GB Decoupling

Based on their common analysis and evaluation of the relevant Access Rules in the case of GB decoupling, including responses to public consultation, CRE and Ofgem agree that they can be approved. This agreement is intended to constitute the basis on which CRE and Ofgem will each subsequently make national decisions.

Following national decisions by CRE and Ofgem, IFA TSOs will be required to publish the relevant Access Rules in the case of GB decoupling on their respective websites and to ensure their entry into force according to the planning decided by the RAs in Chapter 3.2 of this Joint Opinion.

3.2 Effectiveness date

The relevant Access Rules in the case of GB decoupling submitted by IFA TSOs to CRE and Ofgem for approval on 10 October 2019 and 3 October 2019¹¹, respectively, shall apply in the event that GB no longer participates in single day-ahead market coupling as a result of the UK leaving the EU without a deal. In that case, the relevant Access Rules in the case of GB decoupling shall apply:

- For IFA, we understand that IFA TSOs are working to an effectiveness date of 1 December 2019, and to give this effect RAs will take this into account in our national decisions.
- For IFA 2, when the interconnector becomes commercially operational, and to give this effect RAs will take this into account in our national decisions.

For the avoidance of doubt, for IFA, the Access Rules in case of GB decoupling approved by CRE and Ofgem in March 2019 shall apply between the day following GB decoupling and 30 November 2019.

3.3 Further considerations

CRE and Ofgem inform stakeholders that in the event that the UK leaves the EU without a deal, they expect to work with IFA TSOs to refine these arrangements.

CRE and Ofgem ask IFA TSOs to continue to review their Access Rules. Any modifications required to improve the Access Rules should be submitted to the relevant RAs.

¹¹ In the case of Ofgem, IFA TSOs initially submitted the relevant Access Rules in the case of GB decoupling on 24 September 2019. IFA TSO submitted amended versions of these Access Rules on 3 October 2019. The amended versions of the Access Rules supersede the versions submitted on 24 September 2019.