



***I-SEM Roles and Responsibilities***

***Consultation Paper***

***SEM-15-016***

***A Submission by EirGrid plc.***

***17 April 2015***

## 1 EXECUTIVE SUMMARY

EirGrid plc welcomes the publication of the I-SEM Roles & Responsibilities consultation paper and the opportunity to respond to the proposals contained within it. In particular we welcome the minded to decisions of the Regulators (RAs) in acknowledgement of the key roles and obligations placed upon the TSOs emanating from the current draft of the Electricity Balancing Network Code (EBNC).

In relation to settlement of balances and imbalances these are currently undertaken by EirGrid and SONI under their MO licences. We note the default position, as outlined in the Network Codes that this function will be carried out by the TSOs.

EirGrid agrees with the minded to position of the Regulatory Authorities that some of the functions of the Capacity Remuneration Mechanism (CRM) delivery body are core TSO roles that are currently carried out by the TSOs and that it is standard in other markets where capacity mechanisms are implemented that the TSOs be the delivery body. It is, however, important that if the TSOs are to carry out this role that the design of the CRM would be such that it would not compromise the independent status of the TSOs. The overall regulatory and financial arrangements must also be such that the risks do not compromise the financeability of the TSOs' business.

We agree with the RAs that synergies could be obtained from combining the settlement of the imbalances and the capacity mechanism.

In reviewing synergies and conflicts of interest, whilst EirGrid believes there are a number and range of potential synergies, we do not believe after reviewing legal opinion, there are any real conflicts of interest that need to be addressed. However, EirGrid acknowledges that there may be a perception that there is a potential for conflict of interest, and is interested to hear any industry views in this regard. EirGrid is willing to engage with the RAs to discuss how any such perception, should it exist, could be addressed in a manner that does not introduce additional unnecessary costs to consumers.

Fulfilment of the CACM Designation Criteria as applied to Ireland and Northern Ireland will be very much dependent upon the NEMO entity(s) being capable to deploy necessary resources and deliver solutions to the I-SEM within the time available in a cost effective manner. Given the point in the decision making process that NEMO applications will be submitted, the key criterion would be such that applicants will be in a position to enter into such contracts in line with the implementation timescale, rather than having entered into such contracts prior to application. This is an important distinction, which should be made clear in the invitation published in May.

Furthermore, it would be important that a level of flexibility be preserved following application (including the standard provisions of assignment) such that an overall structure which best meets customer needs can ultimately be delivered as part of the overall architecture to meet the necessary designation criteria. EirGrid asks that this is clarified in the forthcoming invitation to be published in May.

EirGrid reaffirms its commitment to working with both the industry and the Regulatory Authorities to assist in the development of effective and appropriate I-SEM arrangements and to support the delivery of the new market arrangements by Q4 2017.

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### 3 INTRODUCTION

EirGrid plc welcomes the publication of the Roles and Responsibilities consultation paper and the opportunity to respond to the proposals contained within it.

EirGrid plc holds licences as independent electricity Transmission System Operator (TSO) and Market Operator (MO) in the wholesale market trading system in Ireland, and is the owner of the System Operator for Northern Ireland, SONI Limited (SONI), the licensed TSO and MO in Northern Ireland. The Single Electricity Market Operator (SEMO), a contractual joint venture between EirGrid plc and SONI, is part of the EirGrid Group, and operates the Single Electricity Market on the island of Ireland.

Both EirGrid, and its subsidiary SONI, have been certified by the European Commission as independent TSOs, and are licenced as the transmission system and market operators, for Ireland and Northern Ireland respectively. EirGrid also owns and operates the East West Interconnector (EWIC).

EirGrid and SONI have roles defined within the draft EU Regulations that the I-SEM is required to comply with. We are committed to delivering high quality services to all customers, including generators, suppliers and consumers across the high voltage electricity system and via the efficient operation of the wholesale electricity power market. EirGrid and SONI therefore have a keen interest in ensuring that the market design is workable, will facilitate security of supply and will comply with the duties mandated to us and will help to provide the optimum outcome for customers.

We have been working as part of ENTSO-E to develop the Network Codes and with the RAs to progress their implementation through the I-SEM. This response is submitted in that context and on behalf of all EirGrid Group Licensees. This consultation is an important milestone in the progress towards the I-SEM and in particular we welcome the opportunity that this creates for stakeholders to voice their opinions on the future industry structure and we look forward to the discussion that will follow.

### 3.1 STRUCTURE OF RESPONSE

This response addresses the issues raised by the consultation paper and the minded to positions stated by the RAs. This response is structured as follows:

- Section 4, Assignment of I-SEM Operational Roles and Functions: EirGrid advises on its obligations as currently provided for in the network codes and the approach to the CRM, including a response to question one.
- Section 5. Synergies and Conflicts of Interest related to I-SEM Operating Roles: EirGrid responds to questions two and three.
- In Section 6. NEMO Designation: EirGrid advises on the proposed interpretation of the NEMO designation criteria and the process to be followed, including responses to questions four and five.

## 4 ASSIGNMENT OF I-SEM OPERATIONAL ROLES AND FUNCTIONS

EirGrid welcomes the RA's minded to decision in assignment of roles and functions as outlined in the current draft of the Energy Balancing Network Code (EBNC) and would comment on them as set out below.

### **Balancing Market Operator Role**

The operation of the Balancing Market in the I-SEM is a core TSO function as defined in the current draft of the EBNC and EirGrid and SONI licence arrangements. The TSOs will continue to perform this role.

### **Settlement of Imbalances**

This role is currently performed by EirGrid and SONI as MO licensees. The current draft of the EBNC places the obligation on the TSOs with the provision that the function of imbalance settlement may be assigned by the TSOs. The default position is, however, as outlined, that the role will be performed by the TSOs.

### **Capacity Mechanism Delivery and Settlement Roles**

EirGrid agrees with the minded to position of the Regulatory Authorities that some of the functions of the delivery body are core TSO roles that are currently carried out by the TSOs and that it is standard in other markets where capacity mechanisms are implemented that the TSOs be the delivery body. Therefore because the TSOs are in a unique position of being the licenced entities for Ireland and Northern Ireland responsible for the operation of a safe and secure power system, it follows that implementation of the new capacity mechanism which aims to ensure security of supply in Ireland and Northern Ireland be undertaken by the TSOs.

Determination of capacity requirements and contribution by different technologies towards generation adequacy is a specialist activity which EirGrid and SONI are already obliged to undertake under their TSO licences. We believe the TSO with the current functions brings synergies to the role and these will be especially apparent as CRM and DS3

arrangements emerge. It is, however, important that if the TSOs are to carry out this role that the design of the Capacity Remuneration Mechanism (CRM) would be such that it would not compromise the independent status of the TSOs.

We agree with the RAs that synergies could be obtained from combining the settlement of the imbalances and the capacity mechanism. The default position for the settlement of imbalances under the network codes is that this is undertaken by the relevant TSO.

Under the current proposals there is, however, a potential financial risk to the TSOs. If the payments to Generators are not appropriately funded by Suppliers in the I-SEM, the TSO is still obliged to underwrite full payment to the Generators. This could expose the TSOs to significant financial risk under clearing and settlement in the event that a Supplier defaults on its payment.

The CRM may or may not be designed to require central counterparty. CRM detailed design has yet to be finalised so there is little clarity at this stage. However, as with other market segments, credit management procedures will be required. The overall regulatory and financial arrangements therefore must be such that that the risks do not compromise the financeability of the TSOs' business.

#### **Forward Contracting Roles**

EirGrid does not currently have a role in Forwards Contracting in the within zone market. For further details please see EirGrid response to discussion paper on Forwards and Liquidity SEM-15-010, 27<sup>th</sup> March 2015.

**Consultation Question 1:** Do you agree that the TSOs should carry out the role of delivery body for the capacity mechanism?

EirGrid supports the minded to position of the RAs.

## 5 SYNERGIES AND CONFLICTS OF INTEREST RELATED TO I-SEM OPERATING ROLES

### 5.1 SYNERGIES

**Consultation Question 2a:** Are there are synergies and economies of scope from having a single entity perform the I-SEM market operator roles, i.e. day ahead and intraday, imbalance settlement and capacity settlement?

EirGrid believes that there are potential synergies to be obtained from having a single entity perform the I-SEM market operator roles within an All Island context. We agree that the wider benefits to users of the systems should be assessed in addition to the total cost to create/operate the central systems. These wider benefits include attracting more players into the market, reducing transactions and delivering greater competition. EirGrid would contend that synergies considered should also extend to the *Ease of doing Business* synergies, which would be of particular significance to the smaller participants in the I-SEM.

These Business Synergies include:

- Single point of contact for all:
  - Formal and formal queries
  - Registration needs
  - Help and support to potential participants when deciding whether or not to enter the market
- Facilitating the ease of entry of support to participants which may result in larger volume of participants, who could, potentially through greater competition, reduce the overall electricity prices for customers.
- Management of future market design arrangements on an All-Island basis. This allows for fast delivery of market changes that could be driven by participants or directed through legislation (e.g. VAT changes).

EirGrid agrees that there may be synergies to be obtained from one party undertaking complementary roles within the I-SEM. However, this allocation of responsibilities must be undertaken within the context of the network codes and the desire to foster competition at a European level and/or achieve synergies within one time-frame across a number of jurisdictions.

#### 5.1.1 ECONOMIES OF SCOPE AND SCALE

##### **Economies of Scope**

EirGrid agree with the viewpoint expressed by the Regulatory Authorities that there are likely to be economies of scope that can be delivered when a single entity provides a service covering all the I-SEM operational and administration roles. A single entity covering multiple market functions has the potential to help reduce the amount of overall capital investment required and also reduce the on-going operational expenditure post implementation. A single entity may more easily coordinate systems procurement, design, build, test, trial and deployment phases of these major market changes. Settlement functionality that is required for one market timeframe could potentially be utilised across all products and service offerings.



## Economies of Scale

Economies of scale would be expected to be achievable through one entity procuring electricity trading systems suitable for the I-SEM i.e. settlement and registration arrangements. It should be noted however that registration arrangements for the TSO and Balancing/Imbalance markets will be more demanding than the Power Exchange requirements and therefore there will be for example differences of registration depending on which market a participant chooses to operate in.

### Consultations Question 2b: If so, how would these lower costs to consumers?

#### 5.1.2 COST TO CONSUMERS

The cost to consumers can be reduced through lower Capital investment and Operating costs. Market system capital costs categories include costs for a single set of:

- **Systems** procurement, deployment, hosting and on-going operational support costs
- **Communication links** with sufficient capacity and resilience to communications failure
- **Security** – centralised system security from the physical layer to the trading device
- **Data Access and Storage** facility for easy access to all data sets. Note data retention policies for European Market Operators may not align with national legislation
- **Scalability** – The solution is scalable to the likely market volumes.

Any market arrangements should be such that costs are efficient, transparent and deliver the requirements for all the markets operating within the I-SEM.

#### 5.2 CONFLICTS OF INTEREST

**Consultations Question 3:** Do you think there are conflicts of interest arising from the same entity performing the market operator and TSO roles in the I-SEM? If so how would these increase costs to consumers and what mitigation measure could be put in place to deal with these?

EirGrid does not believe there are any conflicts of interest between the role of a NEMO and that of the TSOs.

Indeed, EirGrid has received legal opinion which clearly states that the TSOs are not market participants for the purposes of the CACM Article 6 criteria. The term “market participant” is not defined in the CACM Guidelines however there are numerous provisions in the guidelines from which it is clear that no overlap is intended between the terms TSO and market participants. Therefore the issue of ensuring “an adequate level of business separation from market participants” as required under the Article 6 criteria is not relevant in the context of EirGrid and SONI as certified independent TSOs.

EirGrid acknowledges that there may be a perception that there is a potential for conflict of interest<sup>1</sup>, and is interested to hear any industry views in this regard. EirGrid is willing to engage with the RAs to discuss how any such perception, should it exist, could be addressed in a manner that does not introduce additional unnecessary costs to consumers.

## 6 NEMO DESIGNATION CRITERIA

**Consultations Question 4:** Do you have any views on the RAs interpretation of the NEMO designation criteria?

### 6.1.1 INTRODUCTION

EirGrid is of the view that the assessment of how both an applicant's capability to fulfil the NEMO functions and the cost effectiveness in their fulfilment are assessed will be particularly critical. In terms of cost effectiveness it will be important to consider the balance between economies of scope (with a variety of roles being performed by a single entity) with economies of scale. EirGrid is particularly interested in the viewpoint of industry on this issue.

Fulfilment of the CACM Designation Criteria as applied to Ireland and Northern Ireland will be very much dependent upon the NEMO entity(s) being capable to deploy necessary resources, deliver solutions to the I-SEM within the time available, i.e. "Applications must provide evidence of capability to deploy necessary resources for NEMO functions including financial resources, the necessary information technology, technical infrastructure and operational procedures sufficiently in advance of the Q4 2017".

Given the point in the decision making process that NEMO applications will be submitted, the key criterion would be such that applicants will be in a position to enter into such contracts in line with the implementation timescale, rather than having entered into such contracts prior to application. This is an important distinction, which should be made clear in the invitation published in May.

Furthermore, it would be important that a level of flexibility be preserved following application (including the standard provisions of assignment) such that an overall structure which best meets customer needs can ultimately be delivered as part of the overall architecture to meet the necessary designation criteria in a cost effective manner. EirGrid asks that this is clarified in the forthcoming invitation to be published in May.

EirGrid's views on the designation criteria are articulated in the table below.

<sup>1</sup>The consultation paper sets out a series of potential levels of business separation as proposed by Ofgem as part of the Electricity Market Reform program. Given that the current regulation of the TSO and Market Operator businesses is such that there is no mechanism by which the TSO can benefit, it would appear that any mitigation measures considered should be appropriate to the problem being solved. It is important to remember that the National Grid group in GB undertakes a much wider range of activities than is proposed for TSOs under the I-SEM, and the potential conflicts that Ofgem was considering in the context of EMR in GB have already been mitigated in Ireland and Northern Ireland through the industry structure adopted under IME3..

6.1.2 INTERPRETATION OF THE NEMO DESIGNATION CRITERIA

Criterion	CACM Article 6 Designation Criteria	Application of the Criteria in Ireland and Northern Ireland	EirGrid Comment
<p><b>6.1(a) Adequate Resources</b></p>	<p>it has contracted or contracts adequate resources for common, coordinated and compliant operation of single day-ahead coupling and/or single intraday coupling, including the resources necessary to fulfil the NEMO functions, financial resources, the necessary information technology, technical infrastructure and operational procedures or it shall provide proof that it is able to make these resources available within a reasonable preparatory period before taking up its tasks in accordance with Article 7.</p>	<p>Applications must provide evidence of capability to deploy necessary resources for NEMO functions including financial resources, the necessary information technology, technical infrastructure and operational procedures sufficiently in advance of the Q4 2017 when the operational aspects of day ahead and intraday market coupling shall apply in Ireland and Northern Ireland and the I-SEM is due to go live.</p> <p>Applications should provide evidence of how it intends to operate single day ahead and intraday coupling and in particular whether functions will be delivered internally or outsourced.</p> <p>Furthermore, evidence must be provided of the applicant’s ability to provide resources for the development of the terms and conditions or methodologies by NEMOs set out in Article 7 and other preparatory arrangements required in Ireland and Northern Ireland prior to Q4 2017.</p>	
<p><b>6.1(b) Access to information</b></p>	<p>it shall be able to ensure that market participants have open access to information regarding the NEMO tasks in accordance with Article 7.</p>	<p>Applications must provide evidence that they have the capability to publish and make available to market participants in Ireland and Northern Ireland all relevant information for the day ahead intraday market set out in CACM Article 7 <b>sufficiently in advance of the Q4 2017 when the operational aspects of day ahead and intraday market coupling shall apply in Ireland and Northern Ireland and the I-SEM is due to go live.</b></p> <p>Access to such information should be available to all market participants on an equal and non-discriminatory basis.</p>	<p>Consistent with the wording under 6.1(a) above</p>

Criterion	CACM Article 6 Designation Criteria	Application of the Criteria in Ireland and Northern Ireland	EirGrid Comment
<b>6.1(c) Cost effective</b>	it shall be cost-efficient with respect to single day-ahead and / or intraday coupling and shall in their internal accounting keep separate accounts for MCO functions and other activities in order to prevent cross-subsidisation.	<p>Applications will be expected to provide evidence that they can ensure the implementation of the most cost effective solutions for performing the day ahead and intraday market operation functions in the I-SEM.</p> <p>Given the potential economies of scope arising from performing market operator tasks across a number of markets, we expect that applications should outsource the MCO functions to third parties if they are not already carrying out such functions if it is cost effective to do so.</p> <p>Applications must also demonstrate that they will be able to provide a breakdown between the MCO activities and other NEMO or market operator costs.</p>	
<b>6.1(d) Adequate Business Separation</b>	it shall have an adequate level of business separation from other market participants.	<p>Applications should state clearly the legal entity applying for designation and provide detail of its corporate structure.</p> <p>Applications shall be required to provide evidence of an adequate level of business separation between the NEMO functions and market participants or provide detail of plans to put this in place in reasonable time before taking up their operational activities for day ahead and intraday coupling in Q4 2017.</p> <p>The RAs and shall monitor this in accordance with their duties under Article 4 and 5 of CACM taking into account synergies and conflicts of interest between the market operator and TSO roles in the I-SEM.</p>	Article 6 of CACM requires separation from market participants not from TSOs. It is this wording which should be reflected the application of the designation criteria.
<b>6.1(e) No cross subsidisation for national monopolies</b>	if designated as a national legal monopoly for day-ahead and intraday trading services in a Member State, it shall not use the	Where applicable, applications must include evidence that they have separate accounts for any services provided as a national legal monopoly for day ahead and intraday to prevent cross-subsidisation.	

Criterion	CACM Article 6 Designation Criteria	Application of the Criteria in Ireland and Northern Ireland	EirGrid Comment
	fees in Article 5(1) to finance its day-ahead or intraday activities in a Member State other than the one where these fees are collected.		
<b>6.1(f) Non-discriminatory treatment of market participants</b>	it shall be able to treat all market participants in a non-discriminatory way.	Applications shall provide evidence that it shall not unduly discriminate between market participants and that market participants in the I-SEM shall be sufficiently informed and consulted on the day to day management and development of the single day ahead and intraday coupling.	
<b>6.1(g) Market surveillance</b>	it shall have appropriate market surveillance arrangements in place.	Applications must include evidence <b>that it will have the capability to deploy the necessary market surveillance arrangements sufficiently in advance of the Q4 2017 when the operational aspects of day ahead and intraday market coupling shall apply in Ireland and Northern Ireland and the I-SEM is due to go live, where relevant this should include evidence</b> of training and monitoring procedures to identify and report on any potential market abuse consistent with Regulation (EC) 1227(2011) on REMIT.	Consistent with the wording under 6.1(a) above, reflecting the fact that the market surveillance arrangements under the I-SEM may go beyond those specified in REMIT.
<b>6.1(h) Transparency and Confidentiality</b>	it shall have in place appropriate transparency and confidentiality agreements with market participants and the TSOs.	Applications shall provide evidence of appropriate transparency and confidentiality agreements related to market information with market participants and TSOs.	
<b>6.1(i) Clearing and Settlement Services</b>	it shall be able to provide the necessary clearing and settlement services.	Applications must include evidence that they have, or <b>sufficiently in advance of the Q4 2017 when the operational aspects of day ahead and intraday market coupling shall apply in Ireland and Northern Ireland and</b>	Consistent with the wording under 6.1(a) above

Criterion	CACM Article 6 Designation Criteria	Application of the Criteria in Ireland and Northern Ireland	EirGrid Comment
		<p>the I-SEM is due to go live can contract an entity which is able to provide:</p> <ul style="list-style-type: none"> <li>- adequate capitalisation and financial security, together with procedures in place to ensure satisfactory guarantees for settlements, necessary to clear and settle exchange of energy resulting from single day ahead and/or intraday coupling.</li> <li>- the technical, operational and contractual arrangements to clear and settle exchange of energy resulting from single day ahead and/or intraday coupling.</li> </ul>	
<b>6.1(j) Communication systems with TSOs</b>	it shall be able to put in place the necessary communication systems and routines for coordinating with the TSOs of the Member State;	Applications must provide evidence that they are capable of putting in place the necessary communication and technical systems and agreements for coordinating with the TSOs in Ireland and Northern Ireland including the Moyle and East West interconnectors and contingency plans for communicating with the TSOs sufficiently in advance of the Q4 2017 when the operational aspects of day ahead and intraday market coupling shall apply in Ireland and Northern Ireland and the I-SEM is due to go live.	Consistent with the wording under 6.1(a) above
<b>2. Fair and non-discriminatory application of criteria</b>	The designation criteria shall be applied in such a way that competition between NEMOs is organised in a fair and non-discriminatory manner.	<p>The RAs intend to consider each application for designation based on whether they meet the designation criteria. While the CER and UR are responsible for NEMO designation in Ireland and Northern Ireland respectively, we intend to make a coordinated and simultaneous decision on NEMO designation.</p> <p>In considering this, the RAs will also take into account how the long and short term interests of consumers in</p>	This assessment should be applied in a non-discriminatory manner across all relevant parties.

Criterion	CACM Article 6 Designation Criteria	Application of the Criteria in Ireland and Northern Ireland	EirGrid Comment
		Ireland and in Northern Ireland can be best served by applications for the NEMO role and the synergies and conflicts of interest that may arise in relation to other <b>market participant</b> , market operator and TSO roles in the I-SEM.	

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### 6.1.3 NEMO DESIGNATION PROCESS

**Consultations Question 5:** Do you have any views on the RAs proposed NEMO designation process?

EirGrid believes that enhanced clarity around the NEMO designation process would be useful.

The designation process specified in this paper is broadly consistent with CACM; however, we note that the scope is limited to the initial designation process required to ensure that at least one NEMO is designated within four months of CACM entering into force. The paper is silent on the on-going process to facilitate future entry into the market, and is also silent on how NEMOs designated in other member states will be assessed should they wish to offer their services in the I-SEM. In addition as the TSOs are currently working towards the development of systems that will be interfacing with the NEMO(s), advice would be welcomed on the approach that would be followed if no NEMO meets the designation criteria in the initial phase, i.e. designation of a NEMO of last resort.

In this regard, the overall efficiency and effectiveness of the I-SEM implementation could be improved if a formal decision on some roles could be provided in advance of the issue of the initial NEMO designation in October.