

APPENDIX 1: NEMO DESIGNATION ORDER OF EIRGRID PLC

Initial Designation for the purpose of Articles 4(4) and 9(8) of the Commission Regulation, No. 2015/1222 of 24 July 2015, establishing a Guideline on Capacity Allocation and Congestion Management (the CACM Regulation), (the Designation)

Designation

1. The Commission for Energy Regulation (the CER), pursuant to Articles 4(4) (*NEMOs designation and revocation of the designation*) and 9(8)(a) (*Adoption of terms and conditions or methodologies*) of the CACM Regulation, hereby designates: EirGrid Plc, a company registered in Ireland with company number 338522, whose registered office is situated at The Oval, 160 Shelbourne Road, Ballsbridge, Dublin 4 (EirGrid) as a Nominated Electricity Market Operator (NEMO), for single day ahead and intraday coupling in Ireland for an initial term of four years. The Designation is subject to the conditions set out below.

Obligations

2. As a NEMO EirGrid will be expected to comply with all obligations placed on NEMOs under and in connection with the CACM Regulation. This shall include but not be limited to taking such steps as may be required to comply with all directions issued by the CER to address any actual or perceived conflict of interest.

Effective Date and Revocation

3. The Designation shall take effect at 12.00am on 3 October 2015 and shall continue in force until 12:00am on 3 October 2019 unless renewed in accordance with paragraph 11 below.
4. Subject to the notice periods set out in paragraphs 7 to 10 below, the CER may at any time by written notice revoke the Designation: –
 - a) if EirGrid agrees in writing with the CER that the Designation should be revoked; or
 - b) if EirGrid fails to maintain compliance with the criteria set out in Article 6 (*NEMO designation criteria*) of the CACM Regulation and is not able to restore compliance within six months of being notified of its non-compliance by the CER; or
 - c) if EirGrid -
 - i. is unable to pay its debts (within the meaning of section 214 of the Companies Act 1963, but subject to paragraph 6 of this Notice of Designation) or if it enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved by the CER);

- ii. has a receiver or an examiner within the meaning of section 1 of the Companies (Amendment) Act 1990 of the whole or any material part of its assets or undertaking appointed;
 - iii. passes any resolution for winding-up other than a resolution previously approved in writing by the CER; or
 - iv. becomes subject to an order for winding-up by a court of competent jurisdiction; or
 - v. is dissolved, declared bankrupt or of unsound mind, or
- d) if EirGrid is incorporated or has assets in a jurisdiction outside Ireland and Northern Ireland and anything analogous to any of the events specified in sub-paragraph (c) occurs in relation to EirGrid under the law of any such jurisdiction; or
- e) termination of SEMO joint venture arrangements.
5. For the purposes of paragraph 4(1)(c), Section 214 of the Companies Act 1963 shall have effect as if for “£1,000” there was substituted “£50,000” or such higher figure as the CER may from time to time determine by notice in writing to EirGrid;
 6. EirGrid shall not be deemed to be unable to pay its debts for the purposes of sub-paragraph 4(c) (i) if any such demand as is mentioned in section 214 of the Companies Act 1963 is being contested in good faith by EirGrid with recourse to all appropriate measures and procedures or if any such demand is satisfied before the expiration of such period as may be stated in any notice given by the CER under paragraph 4.
 7. For the purposes of paragraph 4 (a), the notice period for revocation shall be not less than 30 days from the date of the written agreement between EirGrid and the CER.
 8. For the purposes of paragraph 4 (b), EirGrid will have six months to provide the CER with evidence of its compliance following its notification of non-compliance by the CER. If, following consideration of this evidence, the CER decides, in its total discretion, to revoke the Designation it will give EirGrid no less than 30 days’ notice.
 9. For the purposes of paragraph 4 (c) and 4 (d), the notice period for revocation shall be not less than 24 hours’ notice. The CER may at any time revoke the Designation by giving no less than seven days’ notice in writing to EirGrid where the CER is satisfied that there has been a material misstatement (of fact) by, or on behalf of EirGrid, in making its application for designation as a NEMO.
 10. The CER will publish any decision to revoke this Designation on its website.

Renewal

11. EirGrid must confirm to the CER twelve months before expiry of this initial designation, on 3 October 2018, if it wishes to continue its designation on an ongoing basis and provide evidence that it meets the criteria set out in Article 6 (*NEMO designation criteria*) of the CACM Regulation.

Interpretation

12. References in this Designation to the provision of any enactment, where after the date of this designation -

- a) the enactment has been replaced or supplemented by another enactment, and
- b) such enactment incorporates a corresponding provision in relation to fundamentally the same subject matter.

shall be construed, so far as the context permits, as including a reference to the corresponding provision of that other enactment.



Garrett Blaney

Chairman

Commission for Energy Regulation