

Statutory Notice:

Published in accordance with Section 20 of the Electricity Regulation Act, 1999 (“the Act”), Electricity Regulation (Amendment) (Single Electricity Market) Act, 2007 and Energy Act, 2016 and amendments thereto

SINGLE MARKET OPERATOR LICENCE

In the matter of Section 19, 20, 21, 22 and 29 of the Act.

TAKE NOTICE THAT THE COMMISSION FOR ENERGY REGULATION (the “Commission”) IS OF THE OPINION THAT CONDITIONS OR REQUIREMENTS CONTAINED IN THE SINGLE MARKET OPERATOR LICENCE (“MO Licence”) ISSUED BY THE COMMISSION PURSUANT TO SECTION 14(1)(j) OF THE ACT SHOULD BE AMENDED TO FACILITATE NEW WHOLESALE MARKET ARRANGEMENTS IN THE SINGLE ELECTRICITY MARKET DESCRIBED IN THE ACT AND PROPOSES TO MODIFY THE MO LICENCE AS FOLLOWING:

1. The MO Licence will be modified as arises in accordance with the following conditions:
 - a. New Condition 3A (Nominated Electricity Market Operator (NEMO));
 - b. New Condition 3B (Agent of Last Resort);
 - c. Condition A (Transition New Condition);
 - d. Condition 1 (Interpretation and Construction);
 - e. Condition 2 (Market Operator Agreement);
 - f. Condition 3 (Market System and the Single Electricity Market Trading and Settlement Code);
 - g. Condition 4 (Market System Development Plan);
 - h. Condition 5 (Procurement of Assets and Services);
 - i. Condition 7 (Additional Use or Disposal of Relevant Market Assets);
 - j. Condition 9 (Duty of Non-Discrimination);
 - k. Condition 11 (Prohibited Activities);
 - l. Condition 12 (Restriction on Use of Certain Information);
 - m. Condition 13 (Separate Accounts for Separate Businesses);
 - n. Condition 14 (Prohibition of Subsidies and Cross-subsidies); and
 - o. Condition 20 (Health and Safety).
2. The nature of the proposed modifications and the reasons therefor are stated in the annex to this notice.
3. An information paper setting out the proposed modifications of the MO Licence and the background for the nature and reasons for the modifications stated in this notice has been published on the Commission's website www.cer.ie

4. Representations or objections with respect to the proposed modification, can be made to the Commission preferably by email to *isemlicences@cer.ie* or alternatively by post to ISEM Licences, Commission for Energy Regulation, The Exchange, Belgard Square North, Tallaght, Dublin 24, before **23 January 2017** being a date not less than 28 days from the date of the publication of this notice for consideration by the Commission.
5. Where within the period specified in paragraph 4 above no objections or representations are made or such objections or representations as are made in that period are subsequently withdrawn the modifications of the licence shall have effect accordingly.
6. Where objections or representations made within the period specified in paragraph 4 are not withdrawn—
 - (a) the Commission may either accept or reject such objections or representations, in whole or in part, and the modification shall have effect accordingly, or
 - (b) where it is satisfied that sufficient grounds exist to warrant a public hearing, the Commission may cause such a public hearing to be held.
7. The Commission shall, within a reasonable period from the date of completion of a public hearing, make a determination—
 - (a) to modify a licence in accordance with the proposed modification, or
 - (b) not to make the modification concerned.
8. Where the Commission rejects any objections or representations made under this section without a public hearing being held, the reasons for the rejection and the refusal of a public hearing shall be notified to the persons who made those objections or representations and the proposed modification shall be effected in accordance with section 22(3) of the Act.
9. The proposed modification relates to the Single Electricity Market, thus the Commission shall have due regard in exercising its functions under sections 20 to 23 of the Act to the desirability of similar modifications (including similar modifications in Northern Ireland) having effect at the same time.
10. In accordance with section 29 of the Act, a person who is a holder of a licence and who wishes to appeal against a decision of the Commission to modify the licence concerned may, within 28 days of the making of a decision to modify a licence request the Minister to establish a panel to be known and in the Act referred to as an 'Appeal Panel'.
11. For further information please see the Commission's information paper at www.cer.ie

Signed:



Garrett Blaney

Chair of the Commission

9 December 2016

**ANNEX: STATEMENT OF NATURE OF AND REASONS FOR PROPOSED MODIFICATIONS TO THE CONDITIONS OF
THE SINGLE MARKET OPERATOR LICENCE**

Condition	Nature of proposed modification	Reason(s) for proposed modification
New Condition 3A (Nominated Electricity Market Operator (NEMO))	<p>A new licence condition to set out the duties of the SEM operator (the MO) in its capacity as holder of the Nominated Electricity Market Operator (NEMO) Designation including:</p> <ul style="list-style-type: none"> • obligation to comply with Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (the CACM Regulation) and the terms of its designation; • preparation of and compliance with NEMO rules setting out terms on which the NEMO Activity will be carried out; • requirement to charge in accordance with NEMO Statement of Charges (to be approved by the Commission); • establish and maintain a NEMO web-site; and • establish to the extent practicable a single point of contact for market participants when interfacing with the NEMO business. 	<p>From I-SEM go-live, only one NEMO will operate in Ireland and one in Northern Ireland, and as such, will effectively be conducting a monopoly activity in I-SEM. Although the CACM Regulation (Article 4 (5)) allows for a NEMO which has been designated in another European member state to ‘passport across’ to operate in other member states, the Commission and the Northern Ireland Authority for Utility Regulation (the RAs) consider that there is no certainty (at least for the foreseeable future) that another NEMO will operate in the I-SEM. Accordingly, the RAs consider it appropriate to regulate this de facto monopoly to ensure value for the all-island consumers.</p> <p>In the absence of legislation providing for NEMO activities as a specific licensable activity, the licensing of NEMO through the modified MO licences is considered a robust approach which will allow the most effective regulatory oversight.</p>
New Condition 3B (Agent of Last Resort)	A new licence condition requiring the MO to provide an Agent of Last Resort (AoLR) service for renewable generators and	The AoLR is a new function designed for I-SEM. The proposed licence condition reflects the MO’s responsibilities under the

Condition	Nature of proposed modification	Reason(s) for proposed modification
	<p>de-minimis generators. The service is to facilitate trading in the Day-Ahead and Intraday markets through the NEMO. The MO will be required to prepare an AoLR contract and an annual report, for approval by the Commission. The MO will also develop, administer and maintain the AoLR Procedures which shall be published on the web-site.</p>	<p>AoLR role. In particular, the proposed licence condition is drafted to acknowledge the objective of the AoLR and scope of its services to provide a mechanism for eligible participants (renewable generators and de-minimis generators) to trade in ex-ante markets, thereby assisting route to market for smaller participants.</p>
<p>Condition A (Transition New Condition)</p>	<p><u>Position of condition</u></p> <p>The Commission is proposing to position the condition as 'Condition A' in the EirGrid MO licence.</p> <p><u>I-SEM go live</u></p> <p>This condition shall cease to have effect on 31 December 2018.</p> <p><u>Definition of 'revised SEM arrangements</u></p> <p>The definition of 'revised SEM arrangements' which is currently included within this condition will be placed in Condition 1. Additional wording is proposed for paragraph (b) to acknowledge that the 'revised SEM arrangements' span both the TSO and MO licences.</p>	<p><u>Position of condition</u></p> <p>To clarify the position of the condition in the licence.</p> <p><u>I-SEM go live</u></p> <p>A modification is required to reflect the updated I-SEM go-live date.</p> <p><u>Definition of 'revised SEM arrangements</u></p> <p>The definition requires to be moved due to the additional references that will be made to that defined term elsewhere in the licence following the implementation of other proposed modifications. The amendment to paragraph (b) is to clarify the meaning of the defined term.</p>
<p>Condition 1 (Interpretation and Construction)</p>	<p><u>General amendments</u></p> <p>Incorporation of various new and amended definitions.</p> <p><u>NEMO Activity</u></p>	<p><u>General amendments</u></p> <p>To give proper legal effect to the new and modified conditions.</p> <p><u>NEMO Activity</u></p>

Condition	Nature of proposed modification	Reason(s) for proposed modification
	<p>Modifications have been made to a number of definitions to acknowledge the NEMO role for which EirGrid has been designated.</p> <p><u>NEMO Revocation</u></p> <p>A new paragraph has been added to address the consequential impact of revocation of the NEMO designation to EirGrid on various references to 'NEMO Business' or 'NEMO Activity' throughout the licence.</p>	<p>Alongside the introduction of a new 'NEMO' licence condition in the MO licences, a number of modifications are necessary to existing conditions (including the definitions) to incorporate reference (where appropriate) to the NEMO Activity (and NEMO Business) as well as the Market Operation Activity (and Single Market Operation Business). This condition is one such condition.</p> <p><u>NEMO Revocation</u></p> <p>To ensure that the licence conditions which refer to NEMO continue to have proper effect in the event EirGrid is no longer a designated NEMO.</p>
Condition 2 (Market Operator Agreement)	<p>This is to be modified to reflect that the scope of the Market Operator Agreement (MOA) is to include provision in relation to NEMO Activity as well as Market Operation Activity.</p> <p>The condition will also extend the obligation on EirGrid to publish the MOA on the website for the NEMO business (as well as the website for the MO business) if required by the Commission.</p>	<p>The Information Paper on the Regulatory Framework for NEMOs Operating in I-SEM (SEM-16-053) clarified that the RAs were of the view that to operate together as two designated NEMOs, one operating in Ireland and one operating in Northern Ireland, it is appropriate that the existing Market Operator Agreement be updated to reflect this.</p>
Condition 3 (Market System and the Single Electricity Market Trading and Settlement Code)	<p>A modification to oblige the MO to adopt amendments to the Trading and Settlement Code as may be directed by the Commission to implement the I-SEM arrangements and also,</p>	<p>The MO is responsible for the administration and operation of the TSC, and will remain as such for I-SEM. The TSC is undergoing revision to take account of I-SEM related market rules and it is essential that the MO adopts such changes as</p>

Condition	Nature of proposed modification	Reason(s) for proposed modification
	to reflect the inclusion of the settlement arrangements for the capacity market within the code.	<p>may be directed by the Commission to implement the I-SEM arrangement.</p> <p>Similarly the amended scope of the TSC in I-SEM to include settlement arrangements in relation to the new capacity market needs to be reflected in the licence condition.</p>
Condition 4 (Market System Development Plan)	EirGrid will be obliged to publish (when required by the Commission) a Market System Development Plan on the website for both the MO business and the NEMO business.	Alongside the introduction of a new 'NEMO' licence condition in the MO licences, a number of modifications are necessary to existing conditions (including the definitions) to incorporate reference (where appropriate) to the NEMO Activity (and NEMO Business) as well as the Market Operation Activity (and Single Market Operation Business). This condition is one such condition.
Condition 5 (Procurement of Assets and Services)	<p><u>NEMO Activity</u></p> <p>The modification will extend the requirements with respect to the procurement of assets and services to include the NEMO Activity as well as the Market Operation Activity.</p> <p>In addition, the scope of the condition is to be amended such that EirGrid shall be required to procure assets and services as may be necessary to discharge its obligations under the CACM Regulation (as well as other specified legislative provisions).</p> <p><u>CACM Compliance</u></p>	<p><u>NEMO Activity</u></p> <p>Alongside the introduction of a new 'NEMO' licence condition in the MO licences, a number of modifications are necessary to existing conditions (including the definitions) to incorporate reference (where appropriate) to the NEMO Activity (and NEMO Business) as well as the Market Operation Activity (and Single Market Operation Business). This condition is one such condition.</p> <p><u>CACM Compliance</u></p>

Condition	Nature of proposed modification	Reason(s) for proposed modification
	A modification to include the CACM Regulation alongside other legislative provisions which EirGrid is expected to secure such assets and services as may be necessary to discharge its obligations under.	A number of obligations exist in the CACM Regulation for NEMOs. This licence condition is to be modified to require compliance with the CACM Regulation.
Condition 7 (Additional Use or Disposal of Relevant Market Assets)	This modification will extend the scope of this condition to include NEMO Business as well as the Single Market Operation Business.	Alongside the introduction of a new NEMO licence condition in the MO licences, a number of modifications are necessary to existing conditions (including the definitions) to incorporate reference (where appropriate) to the NEMO Activity as well as the Market Operation Activity. This condition is one such condition.
Condition 9 (Duty of Non-Discrimination)	This modification ensures that the obligations of this condition relate to both the Market Operation Activity and the NEMO Activity.	Alongside the introduction of a new 'NEMO' licence condition in the MO licences, a number of modifications are necessary to existing conditions (including the definitions) to incorporate reference (where appropriate) to the NEMO Activity (and NEMO Business) as well as the Market Operation Activity (and Single Market Operation Business). This condition is one such condition.
Condition 11 (Prohibited Activities)	A modification to specify that the provision of the Agent of Last Resort (AoLR) service shall not be considered to be in contravention of the requirements of this condition.	Given the SEMC's assignment of the AoLR role to the MO which will be responsible for facilitating participation of renewable generators and de minimis generators in the new Day Ahead and Intraday markets, the Commission wishes to make it clear that the provision of such services will not be

Condition	Nature of proposed modification	Reason(s) for proposed modification
		considered to be in contravention of this prohibition or the objective of the AoLR condition could be frustrated.
Condition 12 (Restriction on Use of Certain Information)	This condition is to be modified to extend its scope to include NEMO Activity as well as Market Operation Activity.	Alongside the introduction of a new 'NEMO' licence condition in the MO licences, a number of modifications are necessary to existing conditions (including the definitions) to incorporate reference (where appropriate) to the NEMO Activity (and NEMO Business) as well as the Market Operation Activity (and Single Market Operation Business). This condition is one such condition.
Condition 13 (Separate Accounts for Separate Businesses)	<p>This condition is to be modified to reflect the role of EirGrid as NEMO for Ireland and to provide for the provision of accounts with respect to the NEMO Activity separately from those of the Market Operation Activity.</p> <p>A new paragraph 2a is to be introduced to specify that the first financial year shall run from the date on which the Commission directs that New Condition 3A shall take effect up to and including 31 December 2018.</p>	This amendment is required to ensure proper compliance with Article 6 of the CACM Regulation as well as providing clarity and legal certainty for the licensee and to ensure transparency.
Condition 14 (Prohibition of Subsidies and Cross-subsidies)	A modification to ensure no cross-subsidies can be given or received as between the Market Operator Activity and the NEMO Activity.	To ensure that EirGrid as a designated NEMO does not have the ability to benefit from any cross-subsidies as this would mean that there would not be a level playing field between EirGrid and passporting NEMOs.

Condition	Nature of proposed modification	Reason(s) for proposed modification
Condition 20 (Health and Safety)	This condition is to be modified to cover both the Market Operation Activity and the NEMO Activity.	Alongside the introduction of a new 'NEMO' licence condition in the MO licences, a number of modifications are necessary to existing conditions (including the definitions) to incorporate reference (where appropriate) to the NEMO Activity (and NEMO Business) as well as the Market Operation Activity (and Single Market Operation Business). This condition is one such condition.