Integrated Single Electricity Market
(I-SEM)

TSO Obligations under the Forward Capacity Allocation Regulation

Decision Paper

CRU-18-032

05\textsuperscript{th} March 2018
Executive Summary

On 6th September 2017, the Utility Regulator (the UR) and the Commission for the Regulation of Utilities (the CRU) (together the Regulatory Authorities or the RAs) jointly published a consultation paper on TSO Obligations under Forward Capacity Allocation (SEM-17-068). This mirrored a similar consultation undertaken in relation to the Capacity Allocation and Congestion Management (CACM) Regulation.

This Decision Paper considers the responses received to the consultation from industry stakeholders, outlines the key observations made, provides the rationale behind the CRU response and sets out the CRU final decision. A breakdown of the allocated TSO responsibilities is provided in the Annex of this decision paper. The CRU and the UR have adopted a consistent approach in the allocation of TSO roles and responsibilities under the FCA Regulation.
The Single Electricity Market (SEM) is the wholesale electricity market for the island of Ireland. It is jointly regulated by the Commission for Regulation of Utilities (CRU) (Republic of Ireland) and the Utility Regulator (Northern Ireland). The decision-making body which governs the market is the SEM Committee (SEMC).

The SEM is undergoing significant change. EU legislation is driving the coming together of energy markets across Europe with the aim of creating a single and fully liberalised EU-wide wholesale electricity market. The implementation of these common EU guidelines will allow electricity and gas to be traded freely across the EU.

The SEM Committee is proceeding with a process to arrive at an EU compliant solution for SEM. The project to redesign the SEM in order to facilitate the cross-border trading of electricity is known as the Integrated Single Electricity Market (I-SEM) Project. The aim is to ensure that Ireland can obtain the benefits of EU electricity integration in a compliant manner and maintain the positive aspects of SEM. The revised SEM arrangements will deliver increased levels of competition which should put a downward pressure on prices as well as encouraging greater levels of security of supply and transparency.

As part of the effort to implement EU legislation to facilitate the coming together of energy markets, the CRU has allocated roles and responsibilities to Transmission Operators under the Forward Capacity Allocation Regulation.

This document is most likely to be of interest to East West Interconnector Designated Activity Company (EIDAC) and EirGrid, as well as other market participants.
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1. Introduction

On 6 September 2017, the Utility Regulator (the UR) and the Commission for the Regulation of Utilities (the CRU) (together the Regulatory Authorities or the RAs) jointly published a consultation paper on Transmission System Operator (TSO) Obligations under the Forward Capacity Allocation (SEM-17-068)\(^1\) detailing their minded to position in terms of the allocation of roles and responsibilities under the Forward Capacity Allocation (FCA) Network Code (the FCA Regulation)\(^2\). This paper followed a similar process to that which had previously been undertaken for the Capacity Allocation and Congestion Management (CACM) Regulation.

Comments were invited on the proposals contained within the consultation paper and were received from two participants. This decision paper sets out an overview of these comments and the CRU’s response to the comments received.

1.1 Background

The FCA Regulation entered into force on 17 October 2016 and provides for the establishment of a framework for the calculation and allocation of interconnector capacity as well as for cross-border trading, in forward markets. The FCA Regulation lays down detailed rules on cross-zonal capacity allocation in the forward markets; the establishment of a common methodology to determine long-term cross-zonal capacity; the establishment of a Single Allocation Platform at European level offering long-term transmission rights; and the possibility to return long-term transmission rights for subsequent forward capacity allocation or transfer of long-term transmission rights between market participants.

The FCA Regulation places a number of obligations on all TSOs in EU Member States. TSOs are

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\(^1\) [https://www.semcommittee.com/publication/tso-obligations-under-forward-capacity-allocation](https://www.semcommittee.com/publication/tso-obligations-under-forward-capacity-allocation)

required to comply with the obligations unless, in the case of a Member State where more than one TSO exists, these obligations are assigned under Article 1(3) of the FCA Regulation.

Article 1(3) provides:

“In Member States where more than one TSO exists, this Regulation shall apply to all TSOs within that Member State. Where a TSO does not have a function relevant to one or more obligations under this Regulation, Member States may provide that the responsibility for complying with those obligations is assigned to one or more different, specific TSOs.”

At the request of the relevant Departments in Northern Ireland and Ireland, the UR and CRU reviewed obligations arising from the FCA Regulation and allocated each to one (or more) of the TSOs present within the all-island market based on the functions that the relevant TSOs currently perform in the SEM. TSOs to whom obligations are assigned include EirGrid Plc, the System Operator for Northern Ireland (SONI), Moyle Interconnector Ltd (MIL) and EirGrid Interconnector Designated Activity Company (EIDAC).

It should be noted that the CRU does not consider that Article 1(3) requires a decision on how TSOs will comply with the obligations once assigned, but are of the view that the TSOs themselves are best placed to determine the method of compliance with the obligations which are assigned to them (whether on an individual or collective basis). The RAs expect the TSOs to cooperate to identify the most appropriate fulfilment of the obligations assigned to them.

As part of the consultation process, an accompanying matrix was published which explicitly detailed each obligation and the TSO(s) to whom the CRU in conjunction with the UR, proposed to assign responsibility.

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2. Responses to the Consultation Paper

Two responses were received during the consultation with neither being marked confidential. These were from EIDAC and a joint response from SONI and EirGrid.

In the consultation, three specific questions were asked:

Question 1: Do you agree with the CRU and UR’s application of Article 1(3) in assigning obligations to the TSOs operating in the all-island market as outlined in the Annex to this Consultation Paper?

Broadly speaking, EirGrid and SONI agreed with the approach that Interconnector Owners would be the primarily responsible TSO for obligations under the FCA although they proposed amendments to Article 16 and Article 31 (discussed below). While not disagreeing with the CRU and UR’s approach, EIDAC also requested clarity around the Departments’ position that the RAs should use their discretion to assign roles under the FCA.

Question 2: Do you agree that we have correctly identified the Articles of FCA Regulation which place an obligation on the TSOs?

EIDAC generally agreed with the RAs’ proposed assignment of responsibilities under the FCA. EirGrid and SONI were also both in agreement with the allocation of responsibilities, but suggested that Articles 16 and 31 should both include a TSO role.

Question 3: How do you think the CRU and UR should determine future changes to the assignment of TSO obligations under the FCA Regulation?

In terms of future changes, EIDAC believe that they should be communicated in the appropriate manner, for example, via a consultation. SONI and EirGrid also thought that the RAs should apply the same consultative approach, ensuring that engagement took place with Ofgem where necessary, in advance of consultation.
In addition to the responses to the three specific questions asked in the consultation, the respondents raised another few queries which are listed below:

i. EIDAC proposed that clarity should be provided around the Departments’ view that the RAs use their discretion under Article 1(3) to assign FCA roles and responsibilities in a similar manner to that undertaken for CACM.

ii. In their responses, EirGrid and SONI requested further explanation of the RAs’ rationale behind the assignment of roles and responsibilities.

iii. Both responses stated that the RAs’ assignment of roles and responsibilities should differentiate between TSOs who were obliged to meet an obligation and TSOs who were impacted by an obligation.

iv. EIDAC, EirGrid and SONI are all of the view that the System Operators should be included in the assignment of roles and responsibilities in respect of Articles 16 and 31.

v. In their response, SONI and EirGrid suggest that, as per Ofgem’s approach, the RAs should allocate some responsibility to the Transmission Owner (TO).

vi. SONI and EirGrid outline a concern that although a number of methodologies are finalised in the European Network of Transmission System Operators for Electricity (ENTSO-E), not all TSOs are actually members of ENTSO-E and, therefore, their involvement in the development of proposals may be limited.
3. **CRU’s Response to Submissions**

i. **Clarity on the Departments’ position in terms of the RAs using discretion to assign responsibilities under Article 1(3) of the FCA Regulation.**

Both the CRU and the UR received letters from the respective Departments requesting that the RAs assess what obligations should apply to TSOs under the FCA Regulation. The letters state that they do not consider that the RAs need to decide how TSOs will comply with obligations once assigned.

The CRU in conjunction with the UR have therefore assigned obligations based on their assessments as to which TSOs currently perform functions, and which TSOs are best suited to fulfil any new roles and responsibilities for each of the obligations under the FCA Regulation. This is considered a proportionate approach to assigning obligations and mirrors the method previously adopted for the consultation on the TSO roles and responsibilities under the CACM Regulation.

ii. **Granularity and explanation behind the RAs’ decision.**

In response to the requests for further explanation behind the CRU’s decisions, the CRU and the UR have updated and provided additional explanations in the matrix of proposed obligations set out in the annex to this paper (Annex 1). The CRU has taken a decision regarding the obligations of EirGrid and EIDAC; however, the annex includes the obligations of SONI and Moyle, which were allocated by the UR, to provide a complete picture of FCA regulation TSO responsibilities for the SEM.

This is in line with the approach (both in terms of format and level of granularity) taken by Ofgem in respect of assigning FCA Regulation obligations, as well as the approach taken by the CRU and the UR in respect of assigning obligations under the CACM Regulation.
In general terms, the CRU in conjunction with the UR have assigned responsibility based on an assessment of which TSOs currently perform the relevant functions required to comply with each of the obligations under the FCA Regulation. As noted above, this is considered a proportionate approach.

iii. **Differentiation between TSOs being obliged to fulfil obligations and being impacted by their implementation.**

The CRU are of the opinion that Article 1(3) of the FCA Regulation permits them to use discretion in assigning TSO responsibilities under the FCA, with the default position being that all TSOs have a responsibility to comply with all FCA obligations. The CRU does not consider the action of distinguishing between obligated TSOs and impacted TSOs to fall under this remit. Instead, where multiple TSOs have been assigned an obligation, the TSOs are best placed to agree this among themselves.

iv. **TSOs should be included in the assignment of roles under Article 16 and Article 31.**

After further deliberation, the CRU and the UR agree with the view proposed by both respondents in respect of the System Operators (SOs). That is that, whilst the responsibilities under Article 16 should be assigned to the Interconnector Owners, the Interconnector owners should also be placed under an obligation to consult with the SOs when undertaking their responsibilities under Article 16.

As the owners of capacity, Interconnector Owners are responsible for the design of long-term transmission rights. As the design process should not impact on the role of the SO, we do not believe that SOs should be included in Article 31. Therefore, the CRU in conjunction with the UR have decided not to alter their proposed position outlined in the consultation.
v. **Inclusion of Transmission Owners as obligated TSO.**

In alignment with our previous consultation on TSO roles and responsibilities under the CACM Regulation, Transmission Owners (TOs) have not been assigned any role(s) under Article 1(3) of the FCA Regulation.

The CRU and the UR are satisfied that in I-SEM, the functions relevant to the obligations Ofgem have assigned to Transmission Owners are performed by TSOs and not TOs. In light of the above, and for the purposes of assigning roles and responsibilities arising from the FCA Regulation, our position remains that obligations should not be assigned to TOs.

vi. **TSOs being members of ENTSO-E.**

The CRU and the UR believe that responsibility for involvement in the development of terms and conditions and methodologies under the FCA Regulation should lie with the individual TSOs. Therefore, their desired level of involvement in ENTSO-E is a matter for the TSOs themselves.
4. The CRU’s Decision

The CRU welcomes the range of comments that were received in relation to the consultation and note the general support for the proposed assignment of TSO obligations under the FCA Regulation.

The CRU has set out the assignment of TSO obligations in Annex 1, with some additional comments being provided. As requested by the respondents we have expanded our comments on the assignment of each obligation to provide a greater level of granularity and explanation of the CRU’s decision in respect of each assignment.

It should be noted that Article 16 has been amended with the Comment box now including the text “Obligation on Interconnector Owners with SOs being appropriately consulted throughout the process.” This is the only substantive change to the assignment of obligations matrix included at the Annex as compared to the equivalent matrix which was annexed to the consultation and outlined the CRU’s proposed modifications. In particular, as noted above, the CRU’s proposed position in relation to Article 31 remains the same, with no further amendment. The CRU will review the assignment of roles and responsibilities under the FCA Regulation as outlined in this decision paper in the following instances:

**After Developments of Methodologies and Terms and Conditions:**
The CRU may review the assignment of roles where one or more TSOs provide clear evidence that the original assessment does not reflect an enduring function for the TSOs and that to fulfil this obligation unnecessary costs would be imposed on the consumer.

**When there is a change in TSO activity:**
It is the responsibility of the TSO concerned to notify the CRU of any change in TSO activity. The CRU may, dependent on evidence provided, determine whether to review TSO assignment of obligations in the event of a change in TSO activity.
A new TSO becomes operational:
Should a new TSO become operational in the I-SEM, the CRU may review the assignment of TSO roles and responsibilities under the FCA.

Amendments to FCA Regulation:
Where amendments are made to FCA Regulation, the TSOs must provide justifications for a review of the assignment of TSO obligations. The CRU will consult on any proposed changes to the assignment of TSO obligations as set out in Annex 1 to this decision.