Decision on NEMO Designation for Ireland under Article 4 of the European Commission Regulation on Capacity Allocation and Congestion Management
Executive Summary

The Capacity Allocation and Congestion Management Regulation (CACM or the Regulation) aims to develop a fully functioning and interconnected energy market within the EU in order to maintain security of energy supply, increase competitiveness and incentivise new power generation including electricity from renewable sources. In order to do this, the Regulation sets out harmonized rules on capacity allocation within different bidding zones and across borders, congestion management across interconnectors and trade in electricity within the EU.

The CACM Regulation entered into force on 14 August 2015. This Regulation required the designation of a Nominated Electricity Market Operator (NEMO) for performance of day-ahead and intraday market coupling for each Member State by 14 December 2015, for an initial period of four years. The NEMO is responsible for matching of bids and offers for electricity in an optimal manner a day before real-time (DA) and within day (ID).

The role of the NEMO is to act as a market operator for the day ahead and intra-day markets in national or regional bidding zones; in this case the Single Electricity Market across the Island of Ireland. The core NEMO functions are receiving orders from market participants, having overall responsibility for matching and allocating orders in accordance with the single day-ahead coupling and single intraday coupling results, publishing prices and settling and clearing the contracts resulting from the trades according to relevant participant agreements and regulations. The detailed roles and responsibilities of NEMOs are set out in Article 7 of the CACM Regulation.

EirGrid plc and SONI Ltd applied for designation to the CRU and UR respectively and currently provide NEMO services in the SEM through a contractual joint venture, SEMOpX. The CRU designated EirGrid Plc as a Nominated Electricity Market Operator (NEMO) for single day ahead and intraday coupling from 3 October 2015 until 3 October 2019.

As the term of the initial designation will end on 3 October 2019, the CRU and UR invited submissions seeking NEMO designation no later than 5 April 2019, to be designated for a period of three years as set out in the SEMC Decision Paper on the regulatory framework to apply to NEMOs in the Single Electricity Market, SEM-19-019. While the initial designation decision and the decision set out in this paper was not subject to a consultation process as this assessment is a requirement under CACM, in April the Regulatory Authorities (the Commission for Regulation of Utilities and the Utility Regulator) consulted on the framework for NEMO regulation to apply from October 2019 and responses from a number of stakeholders were considered in the SEMC Decision published in May 2019. This also provided an opportunity for market participants to provide feedback on NEMO regulation to date.

One application was received from EirGrid plc for designation in Ireland and from SONI Ltd in
Northern Ireland, setting out evidence of how the candidates meet the designation criteria as required under Article 6 of the CACM Regulation.

This document designates EirGrid as the Designated NEMO for Ireland under Article 4 of CACM. A separate document designates SONI as the Designated NEMO for Northern Ireland. An overview of the CRU’s assessment of how the evidence provided demonstrates that EirGrid meets the designation criteria as required under Article 6 of the CACM Regulation is provided in this paper. Under the Regulation, an applicant shall only be designated as a NEMO if it complies all ten designation criteria which are detailed in Section 2 of this paper.
Customer Impact Statement

As part of the development of an interconnected energy market between EU Member States, which aims to maintain security of energy supply, increase competitiveness and incentivise new power generation including electricity from renewable sources, a new Regulation entered into force in 2015, titled ‘Capacity Allocation and Congestion Management’. This aims to facilitate the calculation of the available capacity across interconnectors (the physical links which allow the transfer of electricity across borders) in order to trade of electricity between different parts of the EU.

The Regulation requires that a Nominated Electricity Market Operator or NEMO should be designated in each Member State. The role of a NEMO is to operate the day ahead market (where electricity is traded one day ahead of real time) and the intraday market (where electricity is traded shortly before real time).

This paper provides an assessment of an application for designation received by EirGrid plc and designates EirGrid as the Designated NEMO for Ireland under Article 4 of CACM. A separate decision, published by the Utility Regulator, designating SONI Ltd as the designated NEMO for Northern Ireland is being published in parallel with this decision. SEMOpx has been set up as a business unit within EirGrid and SONI, with both organisations working together to jointly deliver NEMO services for the Single Electricity Market between Ireland and Northern Ireland through separate CRU and UR NEMO designations. SEMOpx currently operates through a common joint venture via EirGrid Plc and SONI Limited.
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4. Decision On NEMO Designation Application of EirGrid Plc
# Glossary of Terms and Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation or Term</th>
<th>Definition or Meaning</th>
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</thead>
<tbody>
<tr>
<td>CACM Regulation</td>
<td>Commission Regulation (EU) 2105/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management.</td>
</tr>
<tr>
<td>DA</td>
<td>Day-ahead market</td>
</tr>
<tr>
<td>ID</td>
<td>Intraday market</td>
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<tr>
<td>MCO</td>
<td>Market Coupling Operator</td>
</tr>
<tr>
<td>NEMO</td>
<td>Nominated Electricity Market Operator</td>
</tr>
<tr>
<td>SEM</td>
<td>Single Electricity Market</td>
</tr>
<tr>
<td>SEMO</td>
<td>Single Electricity Market Operator</td>
</tr>
</tbody>
</table>
1. Introduction

1.1 Background

1.1.1 NEMO Designation

The Commission Regulation (EU) 2015/1222 establishing a Guideline on Capacity Allocation and Congestion Management (CACM) entered into force on 14 August 2015. The CACM Network Code requires that a Nominated Electricity Market Operator (NEMO) is designated as responsible for Day Ahead (DA) and Intra-Day (ID) Market Coupling in each national or regional bidding zone. Nominated Electricity Market Operators (NEMOs) are defined under the CACM Regulation as entities ‘designated by the competent authority to perform tasks related to single day-ahead or single intraday coupling’. The CACM Regulation requires designated NEMOs to establish and operate single day ahead and intraday coupling in coordination with TSOs and other NEMOs. It also sets out a governance framework for NEMOs.

The RAs (the Commission for Regulation of Utilities and the Utility Regulator) were each required to designate a NEMO to carry out the functions of the NEMO in 2015, within four months of the entry into force of the CACM Regulation. Under CACM, both EirGrid and SONI were each designated as NEMO for Ireland and Northern Ireland respectively and currently provide NEMO services to the all-island SEM bidding zone through a common joint venture, SEMOpx.

CACM sets out that NEMOs shall be designated for an initial term of four years. This four-year designation period ends on 3 October 2019. In 4 March 2019, the CRU and UR invited candidates to submit NEMO designation applications no later than 5 April 2019, as part of a consultation process on the governance arrangements to be applied to the designated NEMO for the next phase of designation, for a period of three years from 3 October 2019.

The Regulatory Authorities received one application from SONI Ltd. in Northern Ireland and EirGrid plc. in Ireland, seeking designation as a NEMO in Northern Ireland and Ireland respectively from October 2019 and noting their intention to continue to provide NEMO services to the SEM on this basis. This decision sets out the CRU’s decision in relation to the EirGrid application.

Although a separate NEMO designation has been published by each designating authority for Ireland and Northern Ireland, it should be noted that the designating authorities (UR and the CRU) cooperated in assessing the NEMO applications, in a similar way to the initial designation process.
1.1.2 Related Documents

Information on the CRU’s role and relevant legislation can be found on the CRU’s website at www.cru.ie

- CER/15237 CER NEMO Designation Decision under CACM
- CER/15238 UR NEMO Designation Decision under CACM
- CER/15239 CER NEMO Designation Appendix 1 Designation Order to EirGrid
- CER/15239A UR NEMO Designation Appendix 1 Designation Order to SONI
- CER/15239B Appendix 2 RA’s Interpretation of NEMO Designation Criteria
- SEM-19-003 Framework for NEMO Regulation from October 2019 Consultation Paper
- SEM-19-019 Framework for NEMO Regulation from October 2019 Decision Paper

1.1.3 Structure of Paper

The first part of this paper provides an overview of the NEMO designation process and the RAs’ interpretation of the designation criteria under Article 6 of the CACM Regulation. The second part of this paper provides an overview of the evidence submitted by EirGrid as part of its designation application and the CRU’s assessment of this evidence.
2. Designation and Assessment Process

Under Article 4(2) of CACM, NEMOs are designated for an initial term of four years and Member States should allow applications for designation at least annually. The CACM Regulation requires that designating authorities must determine whether candidates meet the criteria set out in Article 6 of the Regulation and must apply these criteria regardless of whether one or more NEMOs are appointed and avoid discrimination between applicants. Designating authorities shall only refuse designations where the criteria are not met or where a national legal monopoly for trading services has been designated.

As part of the initial designation process in 2015, the RAs set out their interpretation of the NEMO designation criteria. This interpretation has not changed substantially and a slightly revised interpretation is provided in Table 1. This accounts for changes from the criteria which were applied prior to go-live of the new market arrangements compared to the criteria which apply in the live market.

<table>
<thead>
<tr>
<th>Criterion</th>
<th>CACM Article 6 Designation Criteria</th>
<th>Application of the Criteria in Ireland and Northern Ireland</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.1(a) Adequate Resources</td>
<td>'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.'</td>
<td>Applications must provide evidence of capability to deploy necessary resources to fulfil the NEMO functions including financial resources, the necessary information technology, technical infrastructure and operational procedures.</td>
</tr>
<tr>
<td>6.1(b) Access to information</td>
<td>'it shall be able to ensure that market participants have open access to information regarding the NEMO tasks in accordance with Article 7.'</td>
<td>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.</td>
</tr>
<tr>
<td><strong>6.1(c)</strong> Cost Effective</td>
<td>&quot;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.&quot;</td>
<td>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 SEM. Applications must also demonstrate that they will be able to provide a breakdown between the MCO activities and other NEMO or market operator costs.</td>
</tr>
<tr>
<td><strong>6.1(d)</strong> Adequate Business Separation</td>
<td>&quot;it shall have an adequate level of business separation from other market participants.&quot;</td>
<td>Applications should state clearly the legal entity applying for designation and provide detail of its corporate structure. The RAs shall monitor the level of business separation between NEMO functions and TSO functions 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 SEM.</td>
</tr>
<tr>
<td><strong>6.1(e)</strong> No cross subsidisation for national legal monopolies</td>
<td>&quot;If designated as a national legal monopoly for day-ahead and intraday trading services in a Member State, it shall not use the 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.&quot;</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>6.1(f)</strong> Non-discriminatory treatment of market participants</td>
<td>&quot;it shall be able to treat all market participants in a non-discriminatory way.&quot;</td>
<td>Applications shall provide evidence of their ability to treat all market participants in a non-discriminatory way; and that market participants in the SEM shall be sufficiently informed and consulted on the day to day management and development of the single day ahead and intraday coupling.</td>
</tr>
<tr>
<td><strong>6.1(g)</strong> Market Surveillance</td>
<td>&quot;it shall have appropriate market surveillance arrangements in place.&quot;</td>
<td>Applications must include evidence of training and monitoring procedures or the capability to put such procedures in place to identify and report on any potential market abuse consistent with Regulation (EC) 1227(2011) on REMIT.</td>
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</tbody>
</table>
6.1(h) Transparency and Confidentiality

‘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 / proposed transparency and confidentiality agreements with the applicant intends to implement related to market information with market participants and TSOs.

6.1(i) Clearing and Settlement Services

‘it shall be able to provide the necessary clearing and settlement services.’

Applications must include evidence that they have or can contract an entity which is able to provide 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 along with technical, operational and contractual arrangements for this.

6.1(j) Communication systems with TSOs

‘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.

Table 1

Following receipt of the application from EirGrid plc and SONI Ltd in May 2019 the CRU and the Utility Regulator have worked in cooperation to conduct an evidence-based assessment of whether the RAs consider the application meets the designation criteria set out in Article 6 of the CACM Regulation.

Section 3 of this paper provides a summary of the evidence provided to demonstrate continued compliance with the designation criteria by EirGrid plc and the CRU’s view of the evidence provided (with a separate paper also published by UR based on this assessment). A similar submission has been provided to the Utility Regulator by SONI Ltd.
3. Assessment of Application against CACM Criteria

Article 6 of CACM states that an applicant shall only be designated as a NEMO if it complies with all of the ten listed requirements set out in Article 6 of the Regulation. An overview of how the applicant, in this case EirGrid Plc, meets these criteria is provided in this chapter based on the CRU’s assessment (and noting that both SONI and EirGrid intend to continue working together to jointly deliver NEMO services for the SEM through the SEMOpx joint venture).

Overview of SEMOpx

SEMOpx currently operates as a designated NEMO in the SEM through a common joint venture via EirGrid Plc and SONI Limited, which have been designated by the CRU and UR respectively. SEMOpx’s service providers, EPEX Spot and European Commodities Clearing AG, provide the trading systems and central counterparty clearing functions of SEMOpx.

As part of the application for designation, it is stated that SEMOpx has demonstrated its capability to deliver CACM compliant NEMO services to Northern Ireland and Ireland since the go-live date of the revised SEM arrangements in October 2018. The application provides evidence related to each of the designation criteria in order to demonstrate how SONI and EirGrid meet these criteria.

3.1 Article 6.1(a)

*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;*

3.1.1 Evidence Provided

Evidence has been provided in order to demonstrate that EirGrid and SONI, through the SEMOpx contractual joint venture, together with SEMOpx’s service providers, have adequate resources for operation of the NEMO function, including adequate financial resources, information technology, technical infrastructure and operational procedures.
Evidence of Adequate Resources:

SEMOpx has been set up as a business unit within EirGrid and SONI and it is stated in the application that adequate personnel have been in place for the initial stages of the revised SEM arrangements. An overview of SEMOpx’s organisational structure has been provided and is shown in Figure 1.

The submission states that EirGrid and SONI are currently providing compliant trading and clearing services in a number of market timeframes as part of the revised SEM arrangements, including market coupling to Europe and regional auctions with GB. Resources have been put in place to fulfill the NEMO functions required to meet the needs of initial operation of the day-ahead and intraday market timeframes.

SEMOpx have also procured service providers in order to provide a subset of the NEMO tasks set out in Article 7. EPEX Spot\(^1\) (EPEX) provides Trading Operations and Trading Systems while European Commodity Clearing AG\(^2\) (ECC) provides settlement and clearing services. EPEX and ECC have the required personnel in place to perform trading operations and settlement and clearing activities, as demonstrated through the efficient and effective operation of the trading, settlement and clearing process of SEMOpx since go-live of the new market in October 2018. EPEX’s team includes resources to manage the four SEM auctions over extended business day

\(^1\) EPEX Spot provides power exchange trading for day-ahead and intraday markets for its own power exchange and to other power exchanges such as SEMOpx
\(^2\) EEC provides clearing and settlement services to a number of power exchanges in Europe.
operations and to manage the SEM continuous market on a 24/7 basis. ECC’s team includes resources for clearing and settlement of the day-ahead and intraday auctions and the continuous market during normal business hours and contract notification on a 24/7 basis.

Fulfilment of the NEMO Functions

The applicant has provided evidence to show how the combination of SEMOpx and its service providers allows SEMOpx to ensure the NEMO functions required under CACM are met, including registration, customer care, operation of the day-ahead and intraday markets, operation of the market coupling operator, clearing and settlement of internal and cross-border trades and market surveillance. The separation of these functions between SEMOpx and its service providers is shown in Figure 2.

![Figure 2]

Financial Resources:

In the application it is stated that EirGrid and SONI have a turnover in excess of €500m across all licenced activities and have been able to deploy the necessary financial resources to successfully implement NEMO functions. The central counterparty role that is required of NEMOs under CACM is being fulfilled by ECC as a third-party service provider to SEMOpx as ECC has the necessary
financial capabilities, experience and track record for this role.

**Information Technology, Technical Infrastructure and Operational Procedures:**

NEMO applications and infrastructure have been developed in order to provide NEMO services, which have been operational since October 2019 and have successfully operated the day-ahead and intraday markets. A list of the key NEMO systems has also been provided which includes an energy trading system for submission of Exchange Member bids and offers for day-ahead and intraday auctions and a continuous trading system which is used for bids and offers in the intraday continuous market. This also includes a website for publishing guidance, information and market data, a settlement system to provide settlement, clearing and collateral reports and an application for sending required REMIT and transparency information to ACER and ENTSO-E.

**Operational Procedures**

The application states that SEMOpx and its service providers have developed or provided input into over 50 operational procedures to allow the efficient and coordinated operation of the NEMO functions. These include, for example, SEMOpx Operating Procedures, Multi-Regional Coupling procedures, Price Coupling of Regions procedures, SEM-GB Local and Regional Procedures, SEMOpx Operations Internal Procedures, Trading Operations Internal Procedures and Imbalance Settlement Procedures.

### 3.1.2 CRU Assessment

Article 7 of the CACM Regulation sets out the NEMO tasks which must be adhered to in order to perform single day-ahead and intraday coupling in cooperation with TSOs. These tasks include receiving orders from market participants, having overall responsibility for matching and allocating orders in accordance with the single day-ahead and intraday coupling results, publishing prices and settling and clearing the contracts resulting from trades according to relevant participant agreements and regulations.

The evidence provided in the submission concerning procurement of outsourced MCO functions and NEMO functions and the internal resources allowed for under the SEMOpx price control demonstrates CACM compliance in terms of adequate resources and the ability to carry out the NEMO functions as set out under Article 7 of CACM.

In terms of financial resources, under Article 7(g) of CACM the NEMO is responsible for acting as central counter-party for clearing and settlement of the exchange of energy resulting from single day-ahead and intraday coupling. The central counter-party turns each matched trade into two separate trades and is responsible for financial delivery of each trade. SEMOpx has procured a third-party service provider, ECC, to carry out this role.
Evidence of the necessary information technology, technical infrastructure and operational procedures being in place has also been provided and the CRU is of the view that this meets the requirements for compliance under Article 6.1 (a) Adherence to these criteria will continue to be monitored by the RAs.

3.2 Article 6.1(b)

*It shall be able to ensure that market participants have open access to information regarding the NEMO tasks in accordance with Article 7;*

3.2.1 Evidence Provided

The applicant has provided detailed information concerning the market data which Exchange Members and interested parties have access to in order to demonstrate that SEMOpx satisfies the reporting requirements for the day-ahead and intraday market under CACM Article 7.

Open Access to Information:

The application states that SEMOpx have established communication systems and supporting business processes to publish timely, accurate information for participants in relation to the NEMO functions. Information is published under the requirements of CACM which relates to day ahead and intraday input data for operation of the MCO, initiation of fallback procedures, publication of market information from the MCO and delivery of results to individual market participants.

It is also stated that the SEMOpx Rules and Operating Procedures require SEMOpx to publish member private and public information on the inputs and results from the day-ahead and intraday auctions and the intraday continuous market. The SEMOpx Data Publication Guide provides further information on each of the available NEMO reports.

Information is published via the SEMOpx website, the Auction Trading System, Continuous Trading System and via the ECC Member Area. The applicant has provided information on the types of information and reports accessible to interested parties and Exchange Members. Information on reports which Exchange Members can access from the NEMO trading and clearing systems has also been provided, which is also detailed in the SEMOpx Data Publication Guide.

3.2.2 CRU Assessment

Evidence has been provided in the application and separately verified through a review of the information published on the SEMOpx website and the requirements under the SEMOpx Rules and Operating Procedures, showing compliance with the requirement to publish information related to day-ahead and intraday market outcomes. This includes for example delivery of results to market participants as per Article 7(f), the delivery of single day ahead coupling results and continuous trading results as per Articles 48 and 52 of the Regulation and notification of where fallback
procedures may be applied as per Article 50.

The SEMOpx Procedures provide detail on the data SEMOpx publishes in relation to day-ahead auctions, intraday auctions and the intraday continuous market, separated between data that is made available to Exchange Members and published on the SEMOpx website. For the Day-ahead and intraday auctions and intraday continuous market, it is stated that outcomes will be made available to Exchange Members including the price and total quantity for each Contract to which the Exchange Member is a party and the relevant purchase and sale quantities in total and by Unit.

Data that is made publicly available after each DA and ID Auction on the SEMOpx website includes:

(a) Energy Trading System (ETS) market results: de-anonymised Auction results, by Unit;
(b) ETS bid file: de-anonymised Orders submitted (and executed) in the Auction, by Unit;
(c) Buy and sell curves: cleared volumes at each price increment, by jurisdiction; and
(d) Exchange transparency: number of Exchange Members with Orders submitted and/or Matched, per jurisdiction.

Data that is made publicly available in relation to the intraday continuous market includes:

(a) intraday continuous market results trade: de-anonymised Matched Orders submitted and modified during the previous Trading Day, by Unit;
(b) intraday continuous market results order: de-anonymised Orders executed during the previous Trading Day, by Unit; and
(c) intraday continuous market results statistics: market trade summary information.

While the application has demonstrated compliance with the requirement of 6.1 (b) and this has been separately verified through a review of the SEMOpx Rules and Procedures, the CRU and UR intend to continue to monitor publications in this area and may introduce KPIs in relation to timely publication of market information as part of the next SEMOpx price control.

3.3 Article 6.1(c)

*It shall be cost-efficient with respect to single day-ahead and intraday coupling and shall in their internal accounting keep separate accounts for MCO functions and other activities in order to prevent cross-subsidisation;*

3.3.1 Evidence Provided
The applicant has provided a summary of the cost efficiencies it has achieved through partnering with an established European power exchange for delivery of key services related to the NEMO function rather than building all systems required for the NEMO function in-house. EPEX and ECC were selected to provide these services through a competitive tender process.

The application also notes that SEMOpix is subject to a revenue control process and is required to submit detailed information on the basis and forecasts of efficient costs for the operation of the NEMO. As part of this process, the SEM Committee approves the allowable revenues for SEMOpix based on assessment of efficient costs for provision of NEMO services.

In terms of cost separation, the applicant states that internal accounting records are kept separately and in accordance with CACM with required agreements, processes and financial accounting systems in place to ensure separation of costs. SEMOpix also have a recharge policy which is in place across the EirGrid Group in order to ensure costs are properly allocated.

3.3.2 CRU Assessment
The RA completed a review of the cost efficiency of SEMOpix as part of the price control from May 2018 until October 2019 and intend to complete a second review of efficiency for the next period of designation, in order to ensure that only efficient costs are incurred by SEMOpix.

The cost efficiency that has been achieved through utilising the services of an established Power Exchange and Clearing House rather than building and maintaining a trading platform for the SEMO day-ahead and intraday markets was noted as part of the original designation process and was also reviewed as part of the current price control.

The evidence provided in the submission and the license conditions under the respective Eirgrid TSO and Eirgrid Market Operator licences which require separate accounts for separate businesses (Conditions 22 and 13 respectively) demonstrate that costs between the SEMOpix business and the EirGrid Group are accounted for separately with separate accounts for the MCO function. In June 2017, the CRU approved the plan for the implementation of the MCO function as required under Article 7.3 of CACM, which sets out how NEMOs will set up and perform the Market Coupling Operator Functions.

3.4 Article 6.1 (d)
It shall have an adequate level of business separation from other market participants;

3.4.1 Evidence Provided
The application states that SEMOpix is independent of all market participants and that SEMOpix has worked with the Regulatory Authorities since the initial NEMO designation to ensure that both
industry and the RAs are comfortable that adequate business separation exists.

3.4.2 CRU Assessment

Currently, SONI Ltd and EirGrid Plc work together to jointly deliver NEMO services for the SEM bidding zone through separate CRU and UR NEMO designations. It was noted during the original designation application that the applicant had managed various separate legal and licence responsibilities including requirements for separate accounts for each licensed activity and obligations to be independent of interests in generation and/or supply of electricity.

As part of the implementation of the I-SEM project, the RAs carried out a review of the TSO and MO licences (granted to EirGrid and SONI respectively) to facilitate the new wholesale market arrangements and to address any conflicts of interest, actual or perceived, to exist between the NEMO and the TSOs. Conditions 13 (Separate Accounts for Separate Businesses) and 14 (Prohibition of Subsidies and Cross-subsidies) of the EirGrid MO licence were modified to reflect the role of EirGrid as designated NEMO for Ireland. These modifications provided for the provision of accounts with respect to the NEMO Activity separately from those of the Market Operation Activity and to include prohibition of subsidies or cross subsidies between the Market Operation Activity and NEMO Activity. Condition 13 of the EirGrid TSO licence (Separate Accounts for Separate Businesses) was also modified to reflect this.

Based on the evidence reviewed and the modification applied to the respective licences as part of the implementation of the new market, the CRU is satisfied that SEMOpx is compliant with the requirement under Article 6.1(d).

3.5 Article 6.1 (e)

If designated as a national legal monopoly for day-ahead and intraday trading services in a Member State, it shall not use the 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.

In the Invitation for NEMO applications for I-SEM (SEM-15-033n) published on 13 May 2015, and with reference to a letter received from DCCAE the CRU indicated that Ireland did not intend to invoke Article 5 of CACM. With reference to a letter received from DETI, UR also confirmed that a National Legal Monopoly does not exist in Northern Ireland. Accordingly, Article 6.1(e) does not apply.
3.6 Article 6.1 (f)

It shall be able to treat all market participants in a non-discriminatory way;

3.6.1 Evidence Provided

The application states that under the SEMOpx Rules, SEMOpx is obliged not to 'unduly discriminate between any Exchange Members in exercising its rights and powers and performing its functions and obligations'. SEMOpx has provided a number of examples to illustrate how this obligation is met, including:

- Issuing of publicly available messages in relation to the operation of the day-ahead and intraday markets. Market information is published to the SEMOpx website for access by Exchange Members and interested parties.

- Provision of information on relevant market developments through a distribution list which all participants can sign up to.

- Meetings, including training sessions and workshops, are open to all interested parties and the content and minutes of each meeting is provided publicly on the SEMOpx Events Calendar. Training pages on the SEMOpx website are open to all interested parties.

- Provision of a market helpdesk for participant queries which are routed through the same query management process.

- The Exchange Committee modifications process allows for Exchange Members and interested parties to take part in the process for modifications to the SEMOpx Rules and Procedures. The Exchange Committee is comprised of representatives from a number of Exchange Members and considers modifications to the SEMOpx Rules, Operating Procedures and NEMO systems.

The application also states that the Board and Executive of SONI and EirGrid are committed to ensuring that SEMOpx operates under appropriate and effective procedures to ensure that it meets all its non-discriminatory obligations.

Evidence has also been provided of industry forums established by SEMOpx as part of the development of market rules during the implementation of the revised SEM arrangements, including the NEMO Business Liaison Group (BLG) and the Technical Liaison Group (TLG). The BLG forum provided updates and request for feedback on the development of the day ahead and intraday markets while the TLG provided technical information to Exchange Members to ensure that they were in a position to interface with the market systems.

3.6.2 CRU Assessment

The CRU has reviewed the submission and the SEMOpx Rules which contain a number of
references to non-discrimination between Exchange Members. Under Section A.1.2.2 which sets out the principles for the SEMOpx Rules, part (d) states that the SEMOpx Rules should be ‘transparent, not unduly discriminatory, and promote market integrity and confidence’. As highlighted in the submission, section B.4.3 states that SEMOpx shall not unduly discriminate between any Exchange Members in exercising its rights and powers and performing its functions and obligations.

In the application, evidence has been provided of how SEMOpx meets this obligation through transparency of market information and reporting, open access to all meetings and industry forums to date for market participants and through the Exchange Committee modifications process. On this basis, the CRU is satisfied that these criteria have been met by SEMOpx to date but will continue to monitor compliance on an ongoing basis.

### 3.7 Article 6.1 (g)

#### 3.7.1 Evidence Provided

*It shall be subject to appropriate market surveillance arrangements;*

In the application, evidence has been provided to show that SEMOpx has the necessary resources to perform its market surveillance obligations as a NEMO through requirements in the SEMOpx Rules and associated agreements and availability of systems to capture and analyze information.

A specific section of the SEMOpx Rules defines the measures and obligations applied to SEMOpx and Exchange Members for the operation of the day-ahead and intraday markets. This includes a requirement for rules on market conduct and behavior to be complied with by Exchange Members and obligations on SEMOpx to carry out its market surveillance function to prevent, detect and report on any breaches of the SEMOpx Rules.

Under the SEMOpx rules, a SEMOpx Monitor is also required to perform market monitoring, surveillance and reporting in relation to the day-ahead and intraday markets. A full-time equivalent role for the SEMOpx Monitoring function has been allocated within SEMOpx’s organisational structure. Systems and tools have also been developed in order to monitor market activities and market results.

SEMOpx has also implemented systems and processes to allow the requirements under the Regulation for Energy Market Integrity and Transparency (REMIT) to be met by SEMOpx.

#### 3.7.1 CRU Assessment

Section D.3 of the SEMOpx Rules outlines the monitoring and surveillance powers of the SEMOpx
Monitor. An allowance was included in the SEMOpx Price Control for a full-time equivalent to carry out market monitoring activities and for systems to facilitate SEMOpx’s market monitoring function.

Under Article 81 of CACM, whereby a NEMO may delegate all or part of any task assigned to it under the Regulation to one or more third parties, the delegating entity is responsible for ensuring compliance with the obligations under the Regulation, including ensuring access to information necessary for monitoring by the regulatory authority. This is relevant for SEMOpx’s third party service providers.

The CRU, in conjunction with UR will continue to monitor the level and type of market surveillance being conducted by SEMOpx in order to ensure compliance with Article 6.1(g) through the Market Monitoring Unit and the SEMOpx price control.

### 3.8 Article 6.1 (h)

*It shall have in place appropriate transparency and confidentiality agreements with market participants and the TSOs;*

#### 3.8.1 Evidence Provided

In the application, it is stated that the main instrument for ensuring appropriate transparency and confidentiality agreements are in place is the SEMOpx Rules, which all Exchange Members and SEMOpx are bound by. SEMOpx receives a large volume of commercially sensitive and confidential information and the obligations with regard to treatment of this information are detailed in section B 4.7.1 and section H.6 of the SEMOpx Rules.

A number of transparency arrangements are also in place through the SEMOpx Rules and through publication of information on the day-ahead and intraday markets through the SEMOpx website and NEMO Trading and Clearing Systems.

A number of provisions of the Market Operator licences held by SONI and EirGrid respectively relate to the designated NEMO, requiring SEMOpx to preserve the confidentiality of commercially sensitive information held or obtained in carrying out the NEMO Business, prevent information about its own activities which may be commercially advantageous being disclosed in a discriminatory manner and to implement measures and procedures for the purpose of securing compliance with these obligations. Under these conditions, SEMOpx must ensure that confidential information is only disclosed to authorised recipients, classes of authorised recipients or authorised advisors.

In the submission, SEMOpx has provided the following examples of information technology and procedural controls to ensure that confidentiality of information is maintained:

- Only authorised users are able to access information in the NEMO systems and
procedures are in place which include regular audits of user access. Under the SEMOpx Rules, only authorised persons for an Exchange Member are able to view or request actions related to the commercially sensitive information of an Exchange Member.

- Market data is categorised as either private or public data and only relevant recipients have access to private data.
- All information received and sent to the market systems is encrypted and information received is subject to authentication. NEMO systems are isolated from the wider internet to mitigate the risk of unauthorized access.
- SEMOpx internal training includes training on confidentiality.
- Pre-set publication timings of information from the day-ahead and intraday markets ensure that information such as trades per member and unit is not published until it is allowed to become public under the SEMOpx Rules.

SEMOpx has provided a high-level illustration of the agreements between SEMOpx, service providers, Exchange Members, TSOs and other NEMOs.

**Figure 3**

### 3.8.2 CRU Assessment

As part of the initial designation decision, it was expected that appropriate transparency and
confidentiality agreements would be in place for go-live of the new market. The requirements for treatment of confidential information received, exchanged or transmitted pursuant to the CACM Regulation are detailed under Article 13 of CACM. As part of the application, information on the transparency and confidentiality agreements currently in place has been provided by SEMOpx.

Under section H.6.2 of the SEMOpx Rules, the obligations on each recipient party in relation to confidential information relating to any disclosing party are set out and require the recipient party to:

(a) use the Confidential Information only for the purpose of performing its obligations under these SEMOpx Rules and for no other purpose whatsoever;
(b) not at any time disclose, reveal, or otherwise disseminate the Confidential Information to any person or Party whatsoever or permit any person or Party any form of access to the Confidential Information without the prior written consent of the Disclosing Party;
(c) treat and safeguard as private and confidential all Confidential Information received at any time keeping it and treating it with the same care as any Prudent Industry Operator would be expected to exercise;
(d) not use the Confidential Information, or permit or assist a third party to use the Confidential Information, to procure a commercial advantage over, or an advantage which is in any way likely to be prejudicial, whether directly or indirectly to, the Disclosing Party or to its business, goodwill or reputation; and
(e) not use the Confidential Information or permit or assist a third party to use the Confidential Information to attract management, employees, advisors, agents, representatives, consultants, contractors, sub-contractors or customers away from the Disclosing Party.

SEMOpx is required to comply with the provisions of these Exchange Rules under Condition 3A of the EirGrid Market Operator licence. Under Article 81 of the CACM Regulation, ‘Delegation of tasks’, in the event that all or part of any task is delegated to a third party, the delegating party is required to ensure that suitable confidentiality agreements have been put in place prior to delegation. In the application, evidence has been provided that such agreements are in place with EPEX and ECC.

3.9 Article 6.1 (i)

It shall be able to provide the necessary clearing and settlement services;

3.9.1 Evidence Provided

The application states that SEMOpx has partnered with ECC to provide clearing and settlement services as required under CACM and that ECC has significant experience in the operation of clearing and settlement functions for a number of power exchanges and commodity markets in Europe, with adequate financial risk measures, systems and procedures in place to clear and settle.
day-ahead and intraday markets.

An overview of the mechanisms and tools used by ECC to facilitate the clearing and settlement of the day-ahead and intraday markets has been provided, along with an overview of the key activities and flows of information and money between SEMOpx, ECC and Exchange Members. The applicant states that through partnering with an established European clearing house and successful operation of these services since October 2018, SEMOpx has evidenced compliance with this requirement.

3.9.2 CRU Assessment

Sufficient evidence has been provided to demonstrate the capability of SEMOpx’s clearing partner, ECC, to provide clearing and settlement services as required under CACM, with a record of providing such services to a number of power exchanges in Europe and the provision of clearing and settlement services to the SEM since go-live of the new market.

3.10 Article 6.1 (j)

It shall be able to put in place the necessary communication systems and routines for coordinating with the TSOs of the Member State;

3.10.1 Evidence Provided

As part of the application, SEMOpx has provided information concerning its communication systems with the TSOs, which it states are underpinned by defined rules, codes, procedures and technical system interfaces. It has also provided evidence of the communication systems in place and routines for coordinating with the TSOs.

The formal obligations regarding communications between NEMOs and the TSOs are set out in the SEMOpx Rules, Trading and Settlement Code and Agreed Procedures and at a working level more detailed agreements, technical linkages and procedures have been put in place. Examples of key interfaces between the TSOs and NEMO have been provided as per the table below.

<table>
<thead>
<tr>
<th>Interface</th>
<th>Function</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cross-Tonal Capacities</td>
<td>Submission of the available interconnector capacities from the TSOs for the use in the market coupling process.</td>
</tr>
<tr>
<td>Preliminary/Final Market Coupling Results</td>
<td>Communication of the preliminary/final SEM-GB Market coupling (interconnector flows) to the TSOs based on the day-ahead and intraday auctions.</td>
</tr>
<tr>
<td>Validation of Market Coupling Results</td>
<td>Interfaces to allow the TSOs to confirm/reject the preliminary and final market coupling flows based on the technical abilities of the interconnectors prior to final confirmation of the market coupling results.</td>
</tr>
<tr>
<td>Cross-border Nominations</td>
<td>Submission of cross-border nominations related to market coupling to the GB TSO and GB Market Operator.</td>
</tr>
<tr>
<td>Local Nominations</td>
<td>Submission of the contacted quantities to the TSO/NEMO, determined from the day-ahead and intraday auctions and the continuous market, for use in imbalance settlement.</td>
</tr>
</tbody>
</table>
Examples of key agreements and procedures have also been provided and are set out Figure 5 below.

<table>
<thead>
<tr>
<th>Agreement Reference</th>
<th>Parties</th>
<th>Description</th>
<th>Governed by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registration Data</td>
<td>NEMO, TSO</td>
<td>NEMO and TSO will exchange participant registration data for the purpose of validating market participation criteria (for imbalance Settlement)</td>
<td>Trading and Settlement Code</td>
</tr>
<tr>
<td>Contracted Quantities</td>
<td>NEMO, TSO</td>
<td>SEMOpx will provide the TSOs with participant traded position for the purpose of imbalance Settlement i.e. Contracted Quantities</td>
<td>Trading and Settlement Code</td>
</tr>
<tr>
<td>Cross Zonal Capacity</td>
<td>TSOs, MCO</td>
<td>TSO supplies cross-zonal capacity for use by the MCO in market coupling</td>
<td>Day Ahead Operating Agreement SEM-GB Regional Operating Agreements</td>
</tr>
<tr>
<td>Day-Ahead Fall-back</td>
<td>TSOs, NEMO, Other NEMOs</td>
<td>Agreement on the fall-back procedures in the case that the SEM is not able to couple with the rest of Europe for a given day-ahead auction</td>
<td>Day Ahead Operating Agreement</td>
</tr>
<tr>
<td>Intra-Day Fall-back</td>
<td>TSO, NEMO, GB TSO, GB NEMO</td>
<td>Agreement on the fall-back procedures in the case that the SEM is not able to couple with the GB for the intraday regional auction.</td>
<td>SEM-GB Regional Operating Agreements</td>
</tr>
<tr>
<td>REMIT</td>
<td>NEMO, MP, TSO, European Entities</td>
<td>SEMOpx provide data to the ENTSO-E transparency and ACER REMIT platforms based on requests from Exchange Members. There are also transparency and market monitoring requirements of the revised SEM arrangements.</td>
<td>REMIT Reporting Agreement with Exchange Members</td>
</tr>
<tr>
<td>Market Surveillance</td>
<td>NEMO, TSO, European Entities</td>
<td>SEMOpx are required to provide information to the RAs to allow for Market Monitoring activities.</td>
<td>SEMOpx Rules</td>
</tr>
</tbody>
</table>

3.10.2 CRU Assessment
At the time of the original designation, the applicant had demonstrated the capability to put in place the necessary communication systems and routines for coordinating with the TSOs, based on experience of the market operator and TSOs putting in place systems and routines through the Trading and Settlement Code, Agreed Procedures and Operating Procedures. The current application has provided detail on the communication systems and procedures which have been put in place between the NEMO and TSOs and which have now been in operation for a number of months. At this stage, the CRU is of the view that this demonstrates compliance with this CACM requirement but will monitor compliance with Article 6.1 (j) on an ongoing basis in conjunction with UR.
4. Decision on NEMO Designation Application of EirGrid Plc

4.1 Decision of the Designating Authority for Ireland

On the basis of the assessment of the applications submitted by EirGrid plc, the Commission considers that this application meets the designation criteria set out in the CACM Regulation and that EirGrid Plc should therefore be designated as NEMO in Ireland for day ahead and intraday coupling. The Designation Order for EirGrid plc is published with this Decision Paper.

A separate decision paper published in parallel to this paper outlines the Utility Regulator’s decision to designate SONI Ltd as a designated NEMO in Northern Ireland.

4.2 Meaning and Terms of a Successful Designation

A successful designation in Ireland and Northern Ireland means that the applicant NEMO is considered by the CRU and UR to meet the NEMO designation criteria laid out in Article 6 of the CACM Regulation; and is therefore a designated NEMO with ability to perform NEMO tasks as set out in Article 7 of the CACM Regulation.

A designated NEMO will be responsible for and be required to make sure it continues to comply with the criteria and its wider obligations and requirements set out in CACM and under EU, Irish and Northern Irish law. Monitoring will be carried out on an ongoing basis to ensure compliance with the designation criteria.