

Evaluative Performance Framework Guidance

SONI Response to UR Consultation

15 February 2021



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1 Key Messages

- **Changes from Draft Determination:** SONI welcomes the draft guidance on the Evaluative Performance Framework and recognises that the UR has put a great deal of effort into developing the guidance. We appreciate that the UR has made a number of adjustments from the Draft Determination in order to make the framework simpler.
- **Licence Modifications:** This response contains SONI's initial views only. We will need to review the licence modifications to be able to assess the full effects of this guidance. We currently expect to append an updated version of this document to our response to the consultation on the licence modifications.
- **Development of a Baseline:** The lack of a defined baseline within the guidance is a fundamental gap as the entire Evaluative Performance Framework is based on the measurement of progress against the baseline. The baseline needs to be clearly defined and SONI is willing to work with the UR to develop this. As this is fundamental to the framework, it should also be subject to further consultation in order to allow stakeholders to feed into this part of the process.
- **Proposed Edits to the Guidance:** SONI would like to work with the UR to ensure that the Evaluative Performance Framework is well defined, robust and able to be applied in a consistent manner. SONI has a considerable number of concerns in relation to the draft guidance as it currently stands. Therefore, unlike our response to the uncertainty mechanism guidance and the conditional cost sharing mechanism guidance, we have not provided a marked-up version of the guidance document. We recognise that this is a new framework to both SONI and the UR and considers that there is a further preparation period required to ensure that the framework can be implemented successfully. SONI has proposed modifications to UR's timelines that will facilitate a further review of this guidance, while still carrying out a trial year. We look forward to working with the UR to refine this guidance.
- **Additional Consultation:** Given the points above, SONI believes that it is essential that we work with UR to address and clarify the guidance in a number of areas. We appreciate that this is likely to delay the implementation of the framework, which does not align with UR's thinking around the timing of this framework. However, it is essential that the framework is robust and able to be put in practice from the outset.
- **Resourcing:** The UR's Final Determination indicates that a significant number of new processes will be introduced through this framework. This will put significant pressure on resources within both SONI and the UR. We ask that the UR provides sufficient resources to ensure that both the preparation and implementation of this framework is successful.

2 Introduction

1. SONI Ltd. welcomes this opportunity to respond to the Utility Regulator's (UR's) consultation on the draft Evaluative Performance Framework (EPF) guidance, which was published alongside the Final Determination for the SONI TSO Price Control 2020-2025. While SONI recognises there are a number of areas of improvement to the EPF following the Draft Determination, there remain significant areas of concern for SONI. We look forward to working with the UR and the evaluation panel (when in place) to have an EPF that functions effectively in practice, is clearly understood by all parties and delivers benefits for consumers.

2.1 About SONI

2. SONI is the licensed Electricity Transmission System Operator (TSO) in Northern Ireland. SONI is responsible for planning and operating the electricity transmission system safely and securely to ensure a reliable supply of electricity for Northern Ireland consumers. SONI also operates the all-island wholesale electricity market with EirGrid plc through the Single Electricity Market Operator or SEMO (a joint venture with EirGrid) which has been in operation since November 2007.
3. SONI fulfils an essential and critical role which is central to the wider Northern Ireland economy and community. Between 2015 and 2020, Northern Ireland met the challenge of providing 40% of our electricity needs from renewable sources. This realised some 1,600MW of energy from renewable sources being accommodated on the system. The period of this Price Control 2020-2025 will result in even greater change as the energy transition begins in order to realise a trajectory to net zero carbon emissions by 2050.
4. SONI has a central role in delivering the transformation of the power system which will need to be operated in a more dynamic and responsive way. SONI is committed to realising the full benefits of this transformation for consumers through enabling the opportunities for the Northern Ireland economy in striving to have all of our energy needs met from renewable and low carbon energy sources by 2050. In this price control SONI are challenging itself (subject to funding) to be in a position to deliver up to 70% (or as otherwise advised upon finalisation of the Northern Ireland Energy Strategy) of our energy from renewables by 2030, accompanied by 95% of non-synchronous penetration of wind on the system, at any one time.
5. SONI notes that the UR states in its consultation on its Forward Work Plan 2021/22 that *"In practice this [the energy transition] may mean that regulators are less prescriptive, more pragmatic, focussed more on principles and outcomes, adopt new approaches to accommodate innovation and a more diverse stakeholder environment."* SONI recognises the importance this pragmatic approach, which is focused on principles.
6. The EPF is a key feature of the SONI price control 2020-25 and smooth operation of it will support the overall delivery of Northern Ireland's energy transition. Given the scale of change ahead in the next 5 years, the framework will need to be able to be applied in a consistent and predictable manner without adding an excessive burden on either SONI or the UR.

7. SONI has focused on these key objectives when reviewing the UR's proposed guidance document and in suggesting proposed changes to the framework.

2.1.1 Evolution of the EPF

8. The UR's proposed EPF draws heavily on the existing framework for National Grid Electricity System Operator, as developed by Ofgem, which is in place in Great Britain.
9. While it is useful to look at what is being done in neighbouring jurisdictions, it is also important to recognise that there are many differences between Northern Ireland and Great Britain, which include:
 - Unique characteristics of the network and how it operates as part of an all-island system;
 - SEM and Balancing Market obligations specific to the all-island market; and
 - A different price control framework, in that National Grid Electricity System Operator operates on a pass-through basis for a two year period. This is very different than a five-year price control based on ex ante allowances.
10. These areas of difference are important for the EPF and should be factored into the design of this process to ensure the framework is appropriate in a Northern Ireland context.

2.2 Movement from Draft Determination & Workshops with the UR

11. SONI appreciates the work the UR has put in to developing the EPF and we recognise that the UR has given consideration to a number of points SONI has raised regarding the EPF outlined in the Draft Determination (DD). These points were raised in our formal response to the Draft Determination and through engagement we have had with the UR during Q4/2020. The areas of movement are summarised below:

Area	Points raised by SONI at DD	Utility Regulator's Final Determination
Complexity	SONI has requested the UR to reduce the complexity of the framework, weighting allocation across 16 categories increases administrative burden.	The UR reduced number of areas that are formally scored. The panel will determine a separate grade for each TSO role without breaking down scores between individual outcomes.
Financial Rewards and Penalties	SONI explained that regulatory precedents suggest higher upside than downside potential and downside exposure (£1m collar) is not consistent with financeability. SONI proposed the maximum reward to be increased in line with SONI proposed Benefit Sharing Framework (+£3m).	UR has proposed an asymmetric incentive structure with greater financial upside (maximum reward of £1.25m) to SONI than financial downside (maximum penalty of £0.75). UR provided a modest increase in the upside incentive to from £1m to £1.25m.
Regulatory Uncertainty and Subjectivity	SONI highlighted that the panel has no ex ante baseline or benchmark against which to assess outturn	UR decided to give a greater role for the annual forward plan. UR provided a refined approach to

Area	Points raised by SONI at DD	Utility Regulator's Final Determination
	<p>SONI performance. SONI requested the UR to explain the baseline.</p> <p>To reduce subjectivity SONI proposed to include measurable outcomes as part of the EFP.</p>	<p>service expectations and service priorities and provided draft guidance on the assessment criteria.</p> <p>However, the UR has not defined the baseline which is discussed further within this document in section 3.1.</p>
Independent Panel	<p>SONI raised concerns on who the members of the independent panel will be, that they must have expertise across the various functions that SONI fulfils, and that member of the panel must be fully independent and understand all-island issues.</p>	<p>UR explained that panel will be chaired by an individual who is independent of the UR. The panel will have 3-7 members including the chair. The UR may form stakeholders' groups to help inform the panel's assessment. The UR will provide support services to the evaluation panel and may carry out bespoke pieces of research and analysis if panel requests.</p>

12. In addition to the Draft Determination response, SONI held 3 workshops with the UR on the EPF ahead of publication of the final determination. We welcome this engagement and consider these were productive in providing clarity on key aspects of the framework. There was an action plan documented as a result of these workshops and some resulting actions have yet to be addressed by UR. These are discussed further in section 3.7.
13. Whilst we appreciate that the structure of the EPF in the Final Determination has moved on significantly from the structure and guidance presented in the Draft Determination we consider that there are a number of areas of concern which still need to be addressed by the UR. The areas that need further clarification are discussed in section 3 of this document. Taken together with the substantive amount of new material presented by the UR in the draft guidance, SONI looks forward to working with the UR to address these concerns.

2.3 Structure of this Response

14. This response focuses on two main aspects of the draft guidance:
 - a) Areas of the EPF guidance that are unclear and require clarification, and potentially additional effort to resolve; and
 - b) Areas of concern to SONI, but where we propose changes that we believe will resolve the issue.
15. We note that the UR has included a number of new concepts within the draft EPF guidance that have not been tested with stakeholders or SONI. While SONI recognises and appreciates the UR's ambitions in this area, there are a number of gaps to be addressed and we believe that it is important to take the necessary time to get the framework right from the outset insofar as possible. SONI considers that given the number of open issues, a further round of consultation may be warranted in line with good regulatory practice.

16. We touch on these ideas in more detail throughout this document and make suggestions that SONI believes will address many of these concerns, while still delivering on the UR's overall vision for this framework.

3 Clarification on Guidance

17. SONI has identified a number of areas in the draft EPF guidance where more clarity is required. We set out the areas and associated queries in the sections below. SONI looks forward to working with the UR to address these queries and considers resolving the issues raised in this section of our response are critical to the workability of this framework for SONI, the UR and the independent panel.

3.1 Performance Baseline

18. Within the Final Determination and the draft EPF guidance the UR refers out to a 2019/20 performance baseline a number of times. The UR makes it clear that the baseline is a critical element of the EPF, stating that the purpose of the baseline is to:
- Reduce the degree of regulatory uncertainty and subjectivity and to improve predictability (paragraph 4.19 of the main Final Determination document);
 - A criterion against which the evaluation panel should measure SONI performance as exceeding, meeting or falling short of the baseline (paragraph 4.5 of the draft EPF guidance);
 - A criterion against which the evaluation panel should consider whether the forward plan has exceeded, met or fallen short for stakeholder engagement relative to each of SONI's roles (paragraphs 4.21 and 5.3 of the draft EPF guidance); and
 - A criterion against which the evaluation panel should consider whether the forward plan has exceeded, met or fallen short in regards of accountability (paragraph 4.28 of the draft EPF guidance).
19. Paragraph 6.2 of the draft EPF guidance states that:
- “A fundamental principle of the framework is that the onus is on SONI to provide evidence of its performance. In order for SONI to achieve a grade above the baseline grade, there needs to be **clear evidence that it has gone beyond the baseline**. It is the role of the panel to come to its decision on the basis of the evidence available and it should avoid any decision that is based on giving SONI the benefit of the doubt in areas where information is lacking.”*
20. Paragraph 10.6 of the draft EPF guidance states that:
- “In both types of cases, SONI should provide evidence that its **performance has exceeded historical performance levels from 2019/20** (or higher baselines if previous forward plans included improvements against those levels).”*

21. SONI seeks clarity on a number of elements relating to the baseline, as set out below:

Area	Points Raised by SONI at DD & Workshops
Interaction with SONI Roles and Services	Is Annex 1 of the draft EPF guidance expected to be the basis of the baseline against which SONI is to report?
Historical Performance Levels from 2019/20	Where is the UR getting this information from? It is not made clear in the guidance document and SONI is unaware of anything that could be used in the manner indicated by the UR.
Defining the Baseline	Where is the baseline defined? It is unclear how the independent panel can undertake their assessment without this definition.
Measuring Performance Against the Baseline	In some instances, the UR has referred back to the 2019/20 baseline and in others the UR has referenced the ratcheting up of the baseline year on year. Can the UR explain how it envisages this process operating?
Conceptual Baseline	Paragraph 5.17 of the draft EPF guidance references the 'conceptual baseline for the criterion'. What is this and how is it being developed? Will this be consulted upon? How is this being measured against 2019/20 performance?

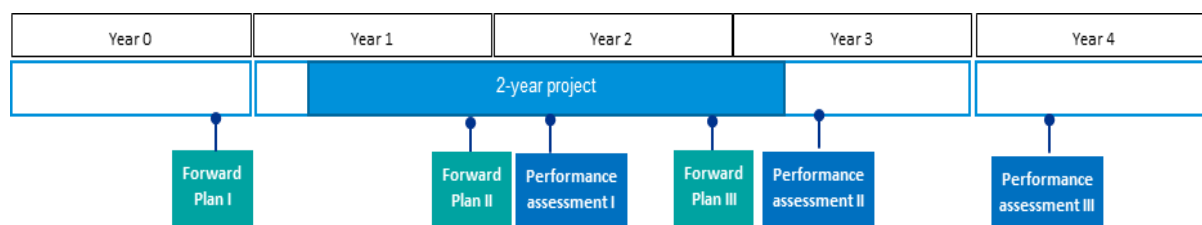
22. SONI considers the lack of the baseline to be a significant area of concern and would expect to see this clearly defined within the guidance document. Without a clear baseline the EPF cannot work; it is material to the successful operation of the EPF and neither SONI nor the independent panel will be able to objectively score performance unless the baseline is well defined and understood by all parties. Stakeholders should also have an opportunity to understand and feed into the baseline given its criticality to the framework. SONI requests further engagement with the UR to discuss this issue and develop a robust resolution.

3.2 Longer Term Initiatives

23. The EPF is operational annually for each financial year. However, many of the initiatives SONI expect to undertake are likely to occur over multiple assessment years. Furthermore, these assessments are likely to yield benefit for consumers following the completion of the activities and therefore may not be reflected in the performance within the years of the activities.
24. UR has mentioned the longer-term initiatives in the draft EPF guidance but has not provided any additional information on how they should be viewed and assessed.
25. Paragraph 8.21 of the draft EPF guidance consultation states:

'Where deliverables are to be delivered over more than one year, SONI should provide clear information on what deliverables were included in plans from previous financial years, and any changes to the scope or timeframes for delivery (and the reasons for this).'

26. Assessment of deliverables should consider SONI's performance to date and whether SONI has pursued activities that are in the interest of consumers and will contribute to the delivery of agreed outcomes. However, there is a risk that in trying to segment the performance of SONI into discrete periods of time, the benefit delivered to consumers will not be adequately captured.
27. An illustrative example of the project spanning 2 years over 3 assessment years is presented below:



28. An initiative which spans two years over 3 assessment year will go through multiple assessment rounds. SONI will include the project in 3 forward plans and 3 performance assessments.
29. The UR has not provided any direction within the guidance document on how long-term initiatives will be assessed. Whilst it is understood that milestones within the project will play an important role in assessing a long term initiative, it is unclear if the plan and therefore the milestones set at the beginning of the initiative starting (in the first forward plan) will inform the baseline of the assessment over the lifetime of the initiation or if it is expected that there will be updates to the original plan.
30. This gives a rise to the following questions:
- How does the assessment of the same activities in the past forward plans affect the future forward plans? For example, if a plan is evaluated by the independent panel as above the baseline on the first forward plan, will it influence the future forward plans?
 - There is a risk that it will not be possible to fully display potential benefits to consumers at the beginning of a long initiative. Stakeholders may not be able to appreciate the future benefits of long-term projects adequately. How will the independent panel be able to assess this?
 - The full impact of an initiative on outcomes to consumers and therefore performance metrics will likely be realised towards the backend of the initiative or when the project is completed. How will this be accounted for within the annual assessments?
31. It should also be considered that at the time of the first performance assessment, SONI will have already submitted the next year's forward plan without knowing how the panel (and the UR) has assessed their previous activities for this initiative. This is particularly important for long-term initiatives but as a wider issue is discussed in section 4.1.
32. The lack of clarity around the treatment of long-term initiatives leads to increased uncertainty and may disincentivise SONI to put forward ambitious plans. Ex ante clarity on the approach will lead to a more effective framework. SONI encourages the UR to address the above stated questions and provide more guidance on how long-term initiatives will be considered and

assessed under the EPF to ensure both SONI and the panel are aligned on how these types of initiatives will be assessed.

3.3 Stakeholder Engagement

33. SONI welcomes the involvement of stakeholders in the process to ensure that SONI delivers benefits that stakeholders value and to encourage the collaboration between parties.
34. It is important to understand the role of stakeholders in the process. The UR has mentioned multiple points where stakeholders are to get involved in the process:
 - Before publication of its annual plan, SONI has an opportunity to engage with stakeholders during preparation of its forward plan. This might involve publishing a draft forward plan or a targeted engagement with specific stakeholders groups.
 - Upon SONI's publication of its forward plan, the UR will invite stakeholders to provide feedback and submissions on the plan to the evaluative panel.
 - Stakeholders will have an opportunity to engage with panel (together with the UR) by participating in meetings for the panel's evaluation of the forward plan.
 - SONI will organise a workshop with stakeholders and the panel to discuss the mid-year performance update.
 - Upon SONI's publication of its annual performance report, there will be a review period for stakeholders to make submissions on SONI's annual performance report.
 - Stakeholders will have an opportunity to participate in meetings/workshops organised by the UR, at which SONI will present evidence from its report and respond comments and questions.
35. The draft EPF guidance mentions the possibility of forming multiple stakeholder groups in the process.

2.10 [...] We may establish one or more stakeholder groups to help inform the panel's assessment, and to help guide SONI's planning and performance.
36. This concept was not considered in the Draft Determination and the UR has not engaged with SONI on this matter. SONI would request clarity from the UR on exactly what is intended with regards to this paragraph of the draft guidance document.
37. The draft EPF guidance mentions stakeholders' involvement in different contexts, however guidance on their engagement in the process is limited. This raises the following questions:
 - How are the stakeholders appointed – who decides on the stakeholders? How does feedback from the stakeholders feed into the process? Is this in advance of the publication (so stakeholders attend workshops and then respond formally to the consultation)?
 - If this is in addition, what level of influence do the stakeholders have in the assessment process?

38. SONI would welcome more clarity of the role of stakeholders during the assessment process and requests the UR to provide clear explanations on stakeholders' involvement.
39. Furthermore, SONI notes that there is a limited pool of stakeholders in Northern Ireland, given the small size of the region. In addition, many stakeholders operate in both the north as well as in the Republic of Ireland and therefore will be participating in engagement opportunities in both jurisdictions, as well as on all-island matters. Given this, there is a real risk of stakeholder fatigue as the EPF guidance outlines a number of expected stakeholder engagement activities as part of this process.
40. SONI proposes that wider engagement focusses on following:
 - SONI engagements carried out and reported on in the preparation of forward plan;
 - The most effective method of soliciting stakeholder input by both SONI and the UR in order to avoid duplication of effort and stakeholder fatigue; and
 - Stakeholder feedback on the Annual Performance report.
41. It should also be noted that whilst stakeholder engagement is important in this process, the role of SONI is to deliver on the activities defined by the price control process. These have been defined through the SONI business plan and assessed ex ante by the UR with set cost allowances for delivering these. The regulatory regime is not set up in a similar structure to other system operators (e.g. National Grid) which have a large emphasis on working with stakeholders to define their activities and as such have cost pass-through model. This needs to be accounted for when considering the role of stakeholders in the process and consideration of the balance of meeting stakeholder expectations versus price control deliverables.
42. It is also unclear how feedback from stakeholder engagement could influence and potentially supersede the activities and deliverables outlined through the price control process. There could be scenarios where the feedback received from stakeholders during our engagement with them clearly states that they believe new activities should be a priority over the existing deliverables outlined in through the price control. SONI would welcome clearer guidance on how these should be best managed and how it will be reflected in the assessment of our performance. It is important for SONI to be responsive to stakeholders changing needs; but where their desired deliverables have superseded the deliverables outlined in the price control process, there is no mechanism to allow for substitution of the original deliverables.

3.4 Consideration of Costs within the EPF

43. It is not clear why costs are included in the EPF. While Paragraphs 2.20 to 2.25 attempt to provide guidance on this matter, it remains unclear to SONI exactly what the UR is proposing and which costs are included/excluded from this process.
44. The UR, SONI and many stakeholders agreed that the current regulatory framework would benefit from an incentive framework with a focus on performance outcomes rather than internal costs. In addition, the UR has many opportunities to assess SONI's costs across the entirety of the business and to act accordingly, if necessary, as part of existing processes and new mechanisms being proposed. These include:

- Annual reporting as part of the Regulatory Instructions and Guidance (RIGS);
 - Conditional Cost Sharing Mechanism (CCS);
 - Process for assessing funding requests as part of uncertainty mechanisms; and
 - Through the application of Demonstrably Inefficient or Wasteful Expenditure (DIWE) processes.
45. SONI is concerned that the inclusion of costs in the EPF will distract from the focus on delivering outcomes for consumers and customers, and we continue to struggle to see what benefit this will bring to an already burdensome process. In addition, SONI notes that the assessment of costs is the role of the Regulatory Authority and not independent panel members who are not experts in this area, nor should they be asked to be.
46. SONI requests the UR to provide clear guidance on why costs are treated within the EPF. We discuss this in more detail in section 4.3.3 and Appendix 1. SONI looks forward to further engagement with the UR on this matter.

3.5 Independent Panel

3.5.1 Panel Makeup and Expertise

47. Within the Final Determination main document, paragraphs 4.25 to 4.31, the UR sets out its vision of how it will establish the evaluation panel *“comprising individuals with a range of relevant knowledge and perspectives”*. The UR envisages there will be between 3 and 7 individuals, including the independent chair, on the panel. Paragraph 4.28 states:
- “The individual members of the evaluation panel will be required to feed into the evaluation process by drawing on their own knowledge, experience, perspective and insight. They should not act as representatives of any organisation or group that they are affiliated with.”*
48. Throughout the draft EPF guidance the UR sets out how the panel is expected to assess SONI’s forward plan and annual performance report. Paragraph 6.3 of the draft EPF guidance states:
- “For each of the individual assessment criteria, the panel should reach the best view it can in light of the evidence and time available for its assessment. It is possible that a different view might be reached if the process allowed for a highly detailed and time-consuming investigation of particular matters of relevance, but this is not the intended role for the evaluative performance framework.”*
49. In our response to the Draft Determination, SONI set out its views on the makeup of the panel – particularly around the type of knowledge and expertise that might be needed. SONI also recommended that a member of the UR Wholesale Team join the panel in some capacity, not necessarily as a panel member but to offer guidance and insights on this important area of the SONI’s business. Paragraph 3.102 of the SONI response states:
- “The need for expertise and knowledge of the members of the panel increases proportionally with the percentage of subjective assessment employed in the process. If the framework is based on a higher percentage of subjective evaluation, then it is critical that the members of the*

expert panel have expertise across the various functions that SONI fulfils. This includes grid development, connections policy, development and use of system services, capacity and energy markets, market competition and customer service performance. In a more subjective assessment, it will be critical that the panel members are truly independent (e.g. academia, NGO, umbrella organisations). Equally, members will need to understand the all island context and market as there are crucial differences to the Great Britain market. This will be difficult to achieve in Northern Ireland, given its small size and close knit nature.”

50. While the UR has addressed some aspects of the panel, the majority of SONI's comments in this regard remain valid and were not addressed in the Final Determination or draft EPF guidance. SONI would appreciate clarity from the UR on the following queries:

- Is the panel going to be briefed on the baseline?
- Are training sessions going to be provided if all panel members are not familiar with certain areas of the EPF or what functions fall within SONI's remit?
- What is the process the UR is going to follow if a panel member appears to be acting as a representative of the organisation or group they are affiliated with?
- Is it possible for a member of the UR Wholesale Team to attend the panel in an advisory capacity only?

3.5.2 Transparency and the Evaluation Panel

51. Within the draft EPF guidance, the UR sets out its expectations on the information to be shared with the independent panel. Paragraphs 8.4, 9.10 and 10.5 (which apply to the forward plan, mid-year performance update and annual performance report) states:

“Where there is any confidential or commercially sensitive information, this should be redacted, with the full confidential version provided to the panel and us. Any redactions should be closely targeted on confidential material rather than applied to whole sections or annexes.”

52. SONI would note that there are certain areas of its business where this is a challenge, in particular:

- Given the critical nature of the business - physical and cyber security matters are highly confidential; and
- Areas that may be subject to procurement, where information or costs provided may prejudice this process.

53. It is important to give consideration to why some information has high levels of sensitivity. SONI recommends that non-disclosure agreements should be put in place with panel members to ensure confidentiality. SONI expects to input into any such document and requests further engagement with the UR on this matter.

54. In some very limited cases, the need to protect the security of critical infrastructure may outweigh the UR's desire for full transparency with the panel. If this occurs, SONI would suggest that we work with the UR to identify these specific instances on a case by case basis in order to agree the most appropriate solution for panel interactions.

3.6 Clarification on Scoring within the EPF

55. Within the draft EPF Guidance the UR sets out its methodology for scoring both the forward plan (Paragraphs 4.32 to 4.34) and the performance evaluation (Paragraphs 5.33 to 5.36). SONI has tested the scoring methodology, as it is explained in the guidance, and has concerns in regards to both areas.

3.6.1 Scoring the Forward Plan

56. The forward plan scoring methodology appears to fail to account for a number of potential outcomes. In testing the methodology for scoring the forward plan, SONI assumed the requirements in Table 1 (page 19 of the guidance) as a 'minimum to achieve' for each of the grades. SONI estimates that around a quarter of the possible combinations do not produce a resulting score. SONI would like to discuss this further with the UR to ensure our interpretation of the guidance is correct. Some examples are:
- If SONI meets service ambition and exceeds two other criteria, but falls short on one this does not map to a grade;
 - If SONI falls short on service ambition, meets two criteria and exceeds one other this could map to a grade of 3 but is automatically scored as a 2 for failing in ambition; and
 - If SONI exceeds on service ambition and one other criteria, meets one criterion and falls short in one criterion this does not map to any grade.
57. The scoring methodology is heavily weighted towards the service ambition category, and it means that SONI will be penalised if it is not ambitious across each of its four roles. However, it is likely that there will be annual variation where SONI will propose different levels of ambition across the roles. As a small company, SONI will need to balance the need to deliver on obligations (e.g. licence requirements and deliverables under the price control) with a focus on the EPF and what will deliver the greatest value to customers and consumers at that point in time.
58. In additions, paragraph 4.31 of the draft EPF guidance the UR states:
- “For the assessment under the accountability criterion, the panel should disregard the accountability of SONI in relation to its delivery against formal price control outputs set as part of the our final determination or via within-period uncertainty mechanisms, or SONI’s accountability for licence compliance, and focus on more discretionary aspects of the plan.”*
59. This is not realistic. SONI is awarded limited ex ante allowances through its price control, rather than pass through costs, and has licence obligations and specified deliverables within the Final Determination which cannot be ignored without risking other consequences. An overly prescriptive methodology will force SONI to divide its focus in order to develop a forward plan that is ambitious across all roles.
60. SONI requests the UR to reconsider the wording within the service ambition criteria in order that it reflects realistically on the balance that SONI business needs to navigate between the EPF and wider price control and licence obligations.

61. In addition, SONI requests that the UR clarify its scoring methodology to rectify the areas where it appears not to result in a clear grade. This needs to be easily understood by SONI and the independent panel to avoid confusion and inconsistency when awarding grades. SONI looks forward to discussing this further with the UR.

3.6.2 Scoring Annual Performance

62. SONI has concerns about the level of discretion implied in the scoring mechanism for the annual performance assessment. SONI requests that the guidance is enhanced to provide more clarity and certainty for both SONI and the panel in undertaking the assessments. The current guidance could result in different interpretations and therefore different scores.
63. In addition, whilst there is some guidance provided in terms of scoring. SONI requests the UR revisit the following scenario, which does not appear to be captured in the scoring mechanism:
- If SONI exceeds two criteria, but falls short on one this does not map to a grade;
64. SONI looks forward to discussing this further with the UR.

3.6.3 Cross Cutting Initiatives

65. In the draft EPF guidance (Annex 2, paragraph 11.3) the UR recognises that the work SONI does is *“complicated, cross-cutting across its various roles, and that the market and policy environment is uncertain and will change over time”*. In many cases, the cross cutting nature of some of the initiatives SONI will undertake in the next five years make it difficult for them to fit neatly under one category within the EPF framework.
66. Annex 2 of the Final Determination looks at SONI service and outcomes and within this document the UR considered this issue in more detail. In paragraphs 2.59 to 2.63 of this annex, the UR discusses its consideration of a 5th TSO role category that captured the more cross cutting aspects of the SONI business. At present, the UR has ruled this option out stating that it would be difficult to define the scope of a cross cutting category and to determine what initiatives should fit within this role. The UR also recognises that the addition of a 5th role category would increase workload for all parties.
67. SONI acknowledges all of these points and we will do our best to fit each initiative within a category, but in some cases this may not work very well either. SONI would welcome further discussion on the following points:
- In some cases an initiative may need to be considered in more than one area. Can the UR advise how this will work within the framework?
 - While a multi-year initiative may be best placed in a role category in one year, this may be different in subsequent years. How with this work within the framework?

3.7 Outstanding Issues Raised by SONI

68. There are a number of outstanding issues that SONI have raised through our engagement with the UR (prior to the publication of the final determination and draft guidance) on the structure and guidance for the EPF that remain unaddressed. These are summarised below.

Area	SONI Points Raised at DD & Workshops	UR's Final Determination Position
Regulatory uncertainty and subjectivity	SONI stated its concerns that the final decision rest with the UR, rather than being determined by the independent panel. This introduces additional level of discretion to the process.	UR has agreed with SONI that the approach adds another level of discretion to the process, but still considers that it is appropriate to retain it in the light of statutory duties. SONI requests additional clarification on this area be included within the guidance.
Proportionality	Given the likely burden of the framework on SONI, the UR's proposal might not be proportionate.	UR recognises that framework represents a substantial addition to the price control framework but considers that this is proportionate for a business of SONI's scale. SONI continues to have concerns that the EPF is burdensome and not proportionate; we believe that the changes suggested in this response will help to address this to some extent.
Loss of strategic focus	SONI has concerns about the strength of focus on the services in the scoring system proposed and the potential impact this could have on discouraging holistic thinking across SONI.	Not addressed by the UR
Use of annual forward plan	SONI queried whether the level of adaptation proposed was realistic as part of an annual process? SONI aired concerns that the process could result in becoming an 'annual price control' which it considers is not practical.	Not addressed by the UR
Uncertainty Mechanisms	SONI noted that its allowances are over a 5-year period. If stakeholders introduce a new project not within these, is it expected that the uncertainty mechanism would apply? And how would it work? SONI noted that funding was a pre-requisite in these circumstances.	The UR stated that either Dt or Zt could be used in these circumstances and noted that these funding requests would be outside of the EPF process. The UR noted that it was important for SONI not to be assessed twice in these circumstances. SONI requests additional clarification on this area be included within the guidance.
Service Expectations	SONI queried how Annex 4, Service Expectations works re: BAU and strategic priorities using examples to seek clarity on how the scoring mechanism would work in practice. SONI queried whether the UR will be providing clear guidance up front and if it will be adjusted for each forward plan noting both SONI and the panel need clear guidance if this is to be a fair process.	The UR to provide clearer guidance on how the scoring will work for BAU and Strategic Priorities. SONI requests additional clarification on this area be included within the guidance.

4 Suggested Areas of Improvement

69. SONI has concerns regarding the process, timing and scope of the EPF as currently proposed in the draft guidance. In this section, SONI addresses each of these areas in turn, describing its concern and setting out proposed solutions for further consideration.

4.1 Annual Process

70. As discussed in SONI's engagement with the UR in the design of this framework, there is a high level of burden placed on SONI throughout this process. The activities required by SONI under the EPF are extensive and have the impact of adding a level of burden across the business which is already facing significant challenge on the cost allowances to undertake our regulated activities provided in the Final Determination.

4.1.1 Timing of Process

71. SONI understands that the process for the EPF implies an intense engagement between SONI, the UR and Panel. However, SONI does not consider the current process timings as an optimal choice for the framework.
72. The timings of the process lead to significant delay in SONI receiving both feedback and a final decision on both their forward plan and the review of annual performance.

Forward Plan

73. As currently set out in the guidance, the timings of the forward plan are as follows:

Proposed Timings by the UR for Forward Plan	
End of August	SONI publishes the final version of its forward plan
Mid-November	The panel produces its evaluation report on the forward plan
Middle to end of December	The UR publishes its decision on the forward plan

74. The panel will spend two and a half months on the assessment of the forward plan and the UR has an additional 1 month to complete their assessment and derive the final decision on forward plan.
75. As such, SONI will receive the first feedback on forward plan two and half months after the start of the year and will receive the decision on the forward plan only two and half months after the start of the assessment year.
76. There is little benefit to consumers and customers in SONI receiving feedback on the forward plan at this point in the process. It does not allow for SONI to be responsive to the Panel's assessment of the plan and iterate appropriately. SONI therefore proposes:
- SONI completes engagement and our internal business planning processes to define a draft forward plan in mid-august. This is aligned to the internal approvals cycle and to all-island planning.

- The key elements and priorities of the plan are presented to the panel at end of August/early September.
- During this presentation the panel will provide feedback to SONI on their initial views of the plan and indicate areas where they would welcome changes.
- Building on this feedback SONI will publish the final forward work plan before the end of September.
- The formal assessment of the submitted plan follows.

77. This allows for the input of the panel before the finalisation of the plan which in turn will lead to a plan that is better for consumers.

Changes Proposed by SONI in Timings for the Forward Plan	
End of august / Early September	SONI presents the key elements and priorities of the draft forward plan to the panel and panel will provide feedback to SONI on their initial views
End of September	SONI publishes the final forward work plan
Start of October	Assessment of plan begins

Performance Assessment

78. As currently set out in the guidance, the timings of the forward plan are as follows:

Proposed Timings by the UR for the Performance Assessment	
December	SONI publishes its annual performance report
Mid-March	The panel produces its evaluation of SONI performance
End of April	The UR publishes its decision on the performance incentive amount

79. Following the publication of the SONI performance assessment report, the panel will spend two and a half months on the assessment and the UR has an additional one and a half months to complete their assessment and derive the final decision.
80. As such, SONI will receive a feedback on last year's performance seven months into the next year.
81. The success of the framework depends on the UR and independent panel committing to give a clear and timely assessment of SONI performance. SONI may need to adapt its activities to consider feedback and learnings from the assessments, and the feedback and scores of the panel will provide a useful information for SONI to understand which areas it needs to focus on to improve performance.
82. The annual process EPF proposed by the UR puts SONI in a constrained position. The proposed timeframe for receiving feedback on the previous year's performance will limit the extent to which this feedback can feed into the next year's activities and limit the benefit of 'lessons learnt'. This could create limited or perverse incentives for the business and discourage

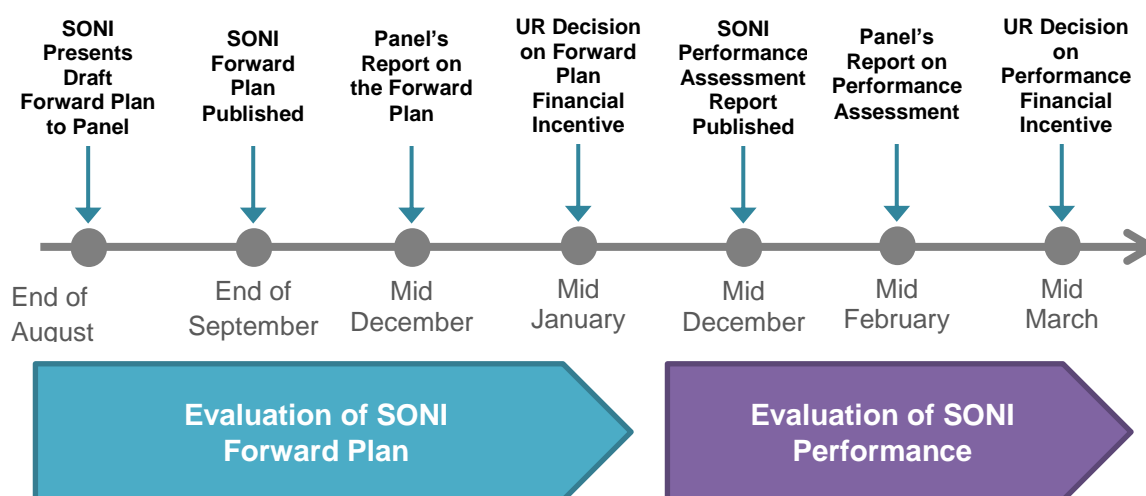
SONI from pursuing ambitious plans. Thus, the framework will fail to maximise outcomes for consumers.

83. We recognise that it is important for the panel to have appropriate time to complete the performance assessment, but we believe there is potential to condense the timeframe to allow for a timelier and beneficial feedback loop into the following assessment year.
84. Therefore, SONI requests that the timings for the assessment are reduced as follows:

Changes Proposed by SONI for the Performance Assessment	
December	SONI publishes its annual performance report
Mid-February	The panel produces its evaluation of SONI performance
Mid-March	UR publishes its decision on the performance incentive amount

4.1.2 Summary of Proposed Changes in Timings

85. While SONI is proposing some changes to the timing and sequence of events set out by the UR, we believe these are reasonable and minor, and can be accommodated while maintaining the overall objectives of the annual process that the UR seeks to achieve. An overview of SONI's proposals is set out in the figure below, which is based on Figure 4 of the main document for the Final Determination.



4.1.3 Timing of EPF in Price Control Period

86. This is a new process for all parties involved and as such it presents many challenges that need to be overcome to get it right and deliver the correct outcomes for consumers. It is clear to SONI that there will be some 'growing pains' particularly when it comes to the preparation and timings of the two assessment phases.
87. The UR has proposed a "transitional year" given the novelty of the framework where the framework would apply but without the financial incentive. SONI welcomes this proposal because we believe this will provide an opportunity for all parties involved to collectively gain insight into the practicalities of the processes proposed and make adjustments accordingly, if needed.

88. However a “transitional year” is not in fact a year long process because, as currently outlined in the guidance, there is a preparation period required before the start of the assessment year and also the final assessment is determined at the end of the April following the transitional year. This means the entire process lasts over 18 months and the key elements of this framework (the publication of the SONI performance assessment report and the Panel’s and the UR’s assessment of SONI performance) are occurring after the “transitional year” is complete and the framework is in full effect.
89. Considering the extent of further engagement we expect to have on the development of the guidance and due to this mismatch in timings discussed above, SONI do not believe that the transition year in 2021/22 will have the desired effect of facilitating learnings and insights, and will not allow either SONI or UR to take these forward to the full framework.
90. Therefore, SONI proposes the following timings to ensure a robust framework is implemented. This approach will allow for further development of the framework and processes required to make the EPF a success, provide ample time for the formation and education of a suitable panel, and will allow UR to engage with stakeholders on their involvement in the process.
- Q2/2021: Acceptance of price control licence modifications and associated guidance.
 - Q3 to Q4/2021: The UR to recruit the panel and SONI to recruit and train staff to undertake the EPF.
 - Q1/2022: SONI to engage with panel to explain the roles of the company and the industry specifics and present worked examples of the various stages of the framework.
 - Q2/2022: SONI to prepare the forward plan and undertake stakeholder engagement.
 - September 2022: SONI to publish the forward plan and commence trial year (without incentives).
 - September 2023: Full EPF and incentives apply.
91. SONI notes that the UR has an ambitious work plan for 2021/22 however the implementation of the EPF does not feature. SONI requests that adequate resource is allocated within the UR to ensure the framework is implemented effectively.

4.2 Process

4.2.1 Assessment Process and UR Involvement

92. The assessment process that is defined in the guidance document currently allows the UR to make the final decision, and if they determine, award an alternative grade for each SONI role for both the forward plan and the performance assessment which is different than that of the panel:

3.34 As part of the decision, for each SONI grade, we set out whether we have accepted the grade recommended by the panel or determined an alternative grade (giving reasons for any alternative grade).

93. This will then feed into the financial reward and penalty for SONI



Justification for Changes in Grades

94. It is unclear in what circumstances the UR will deem it necessary to determine a grade that differs from the grade from the panel.
95. As outlined by the guidance document, the panel will have to undertake a structured assessment of both the SONI forward plan and performance assessment based on a defined criterion and deciding for each of the criteria if this exceeds, meets or falls short of the baseline.
96. Considering this, it is unclear on what basis the UR will feel it is necessary to change the grade and whether this will be due to the UR viewing the initial assessment from the panel against the criteria is incorrect (step 1 above) and therefore will undertake their own assessment, or whether the UR will accept the assessment against the criteria but could disagree with how these have mapped to the final grade (step 2 above).
97. The purpose of the panel is to create an independent group to assess the performance of SONI and by having this additional assessment by the UR it has the potential to undermine the role and independence of the panel and the decisions they make.
98. SONI requests guidance on the circumstances that the UR will need to intervene and how the grades provided by the panel will be re-evaluated. The shared understanding of the process will avoid unexpected changes of the grade by the UR. SONI is concerned that the UR may use its discretion to much greater extent and adjust SONI's grades. The UR's assessment of the panel's evaluation should be similar to the DIWE provision. Grades recommended by panel should not be changed unless the UR demonstrates that assessment was incorrect or lacked the justification. The UR should adjust grades only when the panel's evaluation is not consistent with defined criteria.
99. SONI requests that the UR clarify the interaction between itself and the panel. Unless this is clearly specified, there is an increased risk for SONI and may lead to risk averse behaviour, which is not in interests of consumers. SONI welcomes additional guidance on the framework and clarity on the interaction of the UR and the panel.

How the Scores are Determined by the Panel

100. It is unclear through the guidance the exact approach that is to be used to arrive at a final score made by the panel on an annual basis, whether each member is expected to make their own scores or if this is done by the panel collectively 'by committee'. SONI would expect this process to occur in a meeting with all panel members. The UR, acting as secretariat, should be able to raise procedural concerns during that meeting and minute such interventions. SONI would welcome clarification on this process.

High and Low Grades

101. The UR states in their guidance that the panel can indicate if a grade is 'high' or 'low' when given their assessment and that this may be used by the UR when they make their final decision.
102. SONI believes that this in effect creates a 15 point scale rather than a 5 point scale, adding complexity and further subjectivity which is in contradiction to the aim of the UR to reduce complexity and subjectivity in the framework. This proposal by the UR to use these "low" or "high" grades also adds an additional level of risk to the process and may be asymmetric against SONI as it is unlikely that the UR will decide to award a higher grade than the panel has awarded, but may award a lower grade (if the panel indicate a 'low' assessment).
103. SONI requests that the guidance is simplified and that the panel should simply allocate a grade for each role rather than indicating a low or high rating.

Appeals Process

104. In paragraph 2.147, Annex 2 of the Final Determination, the UR mentions the appeal process of the evaluation outcomes, but there is no guidance on the appeal arrangements provided in the draft EPF guidance consultation. The UR states:

"Under this approach, SONI or other parties would be able to seek judicial review of the UR's decision on the financial reward or penalty to apply in a given year".
105. A judicial review does not focus on whether decisions were correct, but rather whether correct process was followed. The grounds to take a judicial review are illegality, procedural impropriety and irrationality / proportionality. On this basis, it is important that the draft EPF guidance is sufficiently clear and predictable so that SONI, the UR and the independent panel are able to understand the decision making process. SONI does not believe that the draft EPF guidance provides the necessary clarity in this regard and proposes that this can be reached by addressing the queries and providing clarity as SONI has requested in this response.
106. One option that the UR may wish to consider is to make the panel fully independent. This would allow the UR to act as the appeals body if SONI or stakeholders disagree with the panel's assessment. This would also address SONI's concerns in relation to the ability for the UR to overrule the panel's findings. SONI requests that the UR set out the process to be followed should SONI disagree with the score awarded. Additionally, the EPF guidance should clearly set out under what circumstances the UR would change the score awarded by the panel, and the process it would follow if this were to occur. SONI believes this is critical for the EPF to not undermine trust between the parties.

4.2.2 SONI Self-Assessment

107. The guidance states that SONI should include a self-assessment as part of the annual forward plan and performance report and propose a grade or grade range for each role.
108. By the design of the process SONI is judged on the ambition of the plan (as well as the alignment to strategic priorities, how stakeholders' views have been considered and the service accountability) and the deliverability of that plan through the performance assessment.

Therefore, SONI is directly incentivised to submit a plan which it views as being above the baseline as well as achievable.

- 109. SONI does not envisage a situation where a plan would be submitted that is knowingly below the baseline for the criteria.
- 110. The whole purpose of the plan is to set out what SONI intends to do, how this delivers for consumers and to evidence this through stakeholder engagement. Through the structure of the assessment of the forward plan, the plan itself becomes a self-assessment on SONI's ambition and deliverability.
- 111. SONI does not that consider that requesting SONI to assign self-assessment grades for the plan and performance is an appropriate step in the process. It will only seek to provide an artificial 'cap' on the grades that could be determined by the panel (the panel is unlikely to award a higher grade than SONI grades itself).
- 112. It is the panel role to assess the plan and the performance based on the evidence provided by SONI and we see little benefit in SONI providing a quantitative assessment and the real possibility of introducing negative bias in this assessment. We request that the UR remove this requirement from the guidance.

4.2.3 Future Amendments to this Guidance

- 113. SONI notes that the draft EPF guidance does not refer to the processes the UR will follow with regard to future updates of this document. This is a fundamental omission and does not provide any comfort for SONI around the approach to the consultation exercise. We ask that the draft EPF guidance is updated to include the process for future updates, including a reference to UR's own consultation policy¹, or any other applicable standard to ensure that future changes are transparent and fully consulted on in line with good regulatory practice.

4.3 Scope

- 114. While SONI welcomes the positive changes made to the EPF as set out in the UR's Final Determination, a number of concerns regarding the scope of the framework remain. In the Final Determination, the UR proposes a number of items to be included and/or excluded from the EPF.

4.3.1 TNPP's and EPF Framework

- 115. SONI understands the reason for excluding the Transmission Network Pre-construction Projects (TNPP) costs from the EPF framework. We note that this activity is an important area for stakeholders. SONI requests clarity on the URs expectations of the TNPP and whether the activities are within the scope of the TNPP. It is unclear from the current drafting of the guidance.

¹ https://www.uregni.gov.uk/sites/uregni.gov.uk/files/media-files/Consultation_Guidance.pdf

4.3.2 Funding Requests

116. In its consultation on the EPF guidance, the UR is very clear that it would like SONI to use the EPF in a way that enables the business to be flexible, innovative and act collaboratively. The uncertainty mechanisms within the price control are structured to allow SONI to submit additional funding requests at any point however, the EPF guidance suggests that this should be done in sufficiently far in advance in order that it can be included in the forward plan.

117. In assessing SONI's performance, the UR has categorically ruled out any consideration of funding requests on which it has not yet made a decision. Paragraph 4.15 of the guidance document states:

"In making the assessment for this criterion, the panel should:

- ...Disregard aspects of the plan which are conditional on us making increases to price control allowances which have not yet been approved or which the UR has rejected..."*

118. It is not clear to SONI why the UR has decided to take this approach. In SONI's view, this approach leaves little to no room for SONI to act in an innovative or flexible fashion and be recognised for this under the EPF. Given the level of change expected as part of the energy transition over the next five years, the proposed approach may restrict SONI in their delivery of outcomes for consumers, as SONI may be incentivised to defer projects until the next year's performance assessment. This is likely to be an area of frustration for stakeholders, and SONI would encourage the UR to find a more flexible, adaptable solution to this scenario.

119. SONI proposes that funding requests for initiatives that have been submitted to the UR for approval should be included in the forward plan. This seems like an area where SONI and the UR can proactively work together to include initiatives within the forward plan, even where the approval is outstanding, in circumstances where the need is accepted and the proposed initiative will deliver on the innovation and outcomes that are central to this framework.

120. A recent example that demonstrates the challenges faced by SONI is the MIP Solver project. This project was delivered in time for the capacity auctions in January 2021. SONI submitted the Zt/Dt request as per the existing process and progressed the project (at risk) in parallel with the UR assessment of the funding request. The UR provided funding approval one week before the project was completed and 'live'. Under the draft guidance, SONI would not have received any credit for this delivery in the performance assessment. SONI requests the UR revisit this requirement and we look forward to discussing this aspect of the guidance.

4.3.3 All Island Matters

121. In paragraph 2.23 of the EPF guidance consultation document, the UR states:

"For areas of performance which have significant all-island aspects:

- We and SONI would provide input to the panel, to highlight the relevance of all-island issues and interactions to the panel's evaluation of SONI's forward plan and performance.*

- *We may instruct the panel, in specific cases, to disregard certain aspects of SONI's performance if we consider this to be necessary in consequence of decisions taken by the SEM Committee."*

122. In addition, the UR has included SEM related costs in the scope of the EPF. Paragraph 2.22 of the draft EPF guidance states:

"The costs incurred by SONI which are within scope of evaluative performance framework are as follows:

- *System service support and market operation (or balancing) external costs."*

123. In its response to the Draft Determination, SONI raised concerns with the UR's inclusion of all-island matters within the EPF (Paragraph 3.57 of main response):

'SONI also notes that many of UR's service expectations include areas that are all-island in nature or those managed by SEMO, however this overlap in responsibilities is not acknowledged. While we accept UR's desire to focus on SONI, it is critical that the evaluation framework reflects the all-island nature of the work that we carry out with EirGrid. This joint working provides significant benefit to the Northern Ireland consumer and it does need to be given due regard in the framework so as not to lead to impractical and unintended consequences'

124. Stakeholders raised similar concerns regarding all island matters, as acknowledged and discussed by the UR in paragraph 6.24 of the Final Determination main document:

"Stakeholders were concerned about the need for all-island coordination. We have taken account of the regulatory direction of travel on matters which may be considered all-island. We and CRU operate under two different jurisdictions, with two different legislative frameworks and two different price control approaches. So what is decided upon in one jurisdiction may not be appropriate for the other jurisdiction. That being said, we do co-ordinate, particularly where such aspects of SONI TSO activity may have an all-island impact, and where we are working strategically with CRU. We will continue to do so as SONI further develops its service scope in these areas."

125. While we welcome this clarity, we remain concerned about the large number of all island matters which the UR references where it appears that they expect SONI to act unilaterally. Nonetheless, it is the SEM Committee which is the decision maker on the island of Ireland for wholesale electricity where it has been granted a relevant function in legislation and where the SEM Committee itself determines that the matter concerned is a "SEM Matter".

126. The SEM Committee is a creature of statute, with its basis in Schedule 2, Article 6(1) of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 as amended ("the Order"). Given, that the SEM Committee which also operates in Ireland having its basis in Irish legislation, we refer to the SEM Committee meaning "the SEM Committee of the Utility Regulator" of which members of the Utility Regulator are a component part.

127. “The SEM Committee of the Utility Regulator”, comprises representatives from the Utility Regulator, Commission for Regulation of Utilities and Independent Member and Deputy Independent Member.

Decisions of the SEM Committee

128. Decisions of the SEM Committee apply and take effect as specified in the Order or other relevant legislation. SONI notes therefore that although it is correct to say that the UR and CRU operate in different jurisdictions with different legislative frameworks, it is important to note that the issue of note here is that the relevant statutory body makes decisions to the extent and in the manner prescribed in the relevant legislation. This may mean also that in certain instances where matters have previously been considered “SEM Matters” by the SEM Committee and where the SEM Committee has a relevant function that it should be through its SEM Committee that the Utility Regulator opines and makes decisions again to the extent and in the manner provided in statute.
129. In addition, SONI is unclear where the UR expects to derive value as a result as savings are generally calculated on an all island basis with Northern Ireland receiving 25% of the benefit. Areas that we believe are the remit of the SEM Committee, but are proposed for inclusion in the EPF guidance are:

Reference	Matter Raised by the UR for Inclusion in EPF
Paragraph 2.22, draft EPF Guidance	<p><i>The costs incurred by SONI which are within scope of evaluative performance framework are as follows:</i></p> <ul style="list-style-type: none"> • <i>System service support and market operation (or balancing) external costs.</i>
Paragraph 11.4, Annex 2, draft EPF guidance	<p><i>Developing markets through competition and stakeholder engagement and collaboration. The way SONI designs and procures system services and its approach to dispatch and scheduling can affect providers’ ability to compete and revenue available, and affect price signals and cost in wholesale market.</i></p> <p><i>We consider that SONI should be actively and as swiftly, as is possible, addressing barriers to market participation by non-traditional technologies and actors. SONI should be ensuring the rules and processes for procuring system services (and/or dispatch and scheduling) maximise competition where possible (e.g. continue to move to more market based approaches where in consumer interests), and are fair (e.g. design facilitates existing and new providers to compete on a level playing irrespective of size or type) and transparent. SONI should be actively partnering, innovating and collaborating with industry and other 3rd parties, including new actors, in preparing and implementing future projects and programmes of work where it can see additional benefit for consumers.</i></p>
Paragraph 11.5, Annex 2, draft EPF guidance	<p><i>SONI should be considering ways to seek to minimise the imposition of constraint groups in dispatch to that extent only necessary for system security and safety in line with its obligations. Constraint groups should be continually tested for necessity and SONI should seek to find higher degrees of granularity within the groups so as to avoid unnecessary divorcing of the dispatch instructions sent to generators from the optimal economic schedules and Physical Notifications produced by the scheduling software and markets respectively. SONI should proactively test their assumptions around the limits of equipment that might otherwise be ‘taken as read’ as inputs to the formulation of the constraint groups. Powerflow, transient stability and other appropriate studies should be regularly and actively reviewed to challenge the necessity of</i></p>

Reference	Matter Raised by the UR for Inclusion in EPF
	<p><i>the imposition of the constraint groups, and to find opportunities to relax any components that can be relaxed without compromising prudent system operation. SONI should also regularly engage with NIE Networks, Moyle and with generators in the pursuit of constraint group optimisation. While we expect close co-operation with the EirGrid TSO, SONI should not necessarily be bound by decisions or assumptions made by EirGrid TSO on the constraint groups imposed in the Republic of Ireland and should also demonstrably and actively challenge constraints imposed or proposed to be imposed in the Republic of Ireland.</i></p>
<p>Paragraph 11.5, Annex 2, draft EPF guidance</p>	<p><i>In terms of capacity market delivery, SONI should co-ordinate with EirGrid in delivering the CRM and the Capacity Auctions, to ensure that all milestones and associated processes are met on time in keeping with published and approved timetables. SONI should also continuously improve quality control checks related to the CRM, to ensure the avoidance of errors that could negatively impact market participants. For example, errors in the qualification processes, auction processes and in the other processes contained in the Capacity Market Code. SONI should strive to support market participants with regard to facilitating the entry of new capacity within the market and should be proactive in its engagement with market participants and ensure that any administrative barriers to the entry of new capacity are minimised to ensure that the CRM is as simple as possible for market participants to navigate. For example, this could include ensuring that SONI has a formal process which reviews CRM processes, and considers customer feedback, to ensure that onboarding / registration / qualification are not more detailed / complex than is necessary; and that SONI works pragmatically and responsively to help its diverse base of market participants by proactively providing them with the information they need. SONI should ensure that the rules and processes associated with Capacity Market Code Modifications are adhered to. This includes meeting milestones in regards to reporting and ensuring that change records are updated as and when required following the implementation of a modification to the code. As experience is gained in operating the CRM, SONI should propose novel Code modifications to improve the transparency and efficiency of the processes within it.</i></p>
<p>Paragraph 2.215, Annex 2, Service and Outcomes</p>	<p><i>For instance, SONI will have an opportunity under the evaluative framework to explain the influence of all-island issues and interactions on aspects of its performance or plans. This might include cases where all-island factors operate as a constraint on how SONI operates, which lead to a different approach than might be taken from a Northern Ireland perspective in isolation. Likewise, stakeholders have an opportunity to raise potential concerns with performance and plans if they considered that all-island issues and interactions are not being taken into account sufficiently well as part of SONI's roles.</i></p>

130. Where the UR wishes to see a change in all island processes and decisions that are the remit of the SEM Committee, SONI would expect the UR to progress these changes through the SEM Committee itself and in conjunction with the CRU. SONI is bound by the decisions of the SEM Committee and does not have the level of flexibility the UR suggests.
131. In line with good practice, SONI requests that these matters are removed from the EPF and discussed further with all the relevant parties. Furthermore, SONI opines, based on legislation governing the actions of the SEM Committee, that it is the SEM Committee who decides whether a matter is in fact a “SEM Matter”. The decision as to whether a matter is a “SEM Matter” is itself a question for the SEM Committee where the SEM Committee has a relevant function. It is for this reason that SONI considers that the UR may be overreaching if it proposes to determine whether certain matters are in fact “all island matters” or “SEM Matters” when it is the SEM Committee who should make this determination.
132. A fundamental issue with the draft guidance is the inclusion of the system service support and market operation (or balancing) external costs. SONI requests that this requirement is removed from the guidance as we do not believe that their inclusion aligns with the SEM arrangements. We provide further information on the SONI position on this element of the guidance in Appendix 1, with a focus on the value of calculating the P50 value for System Services and Dispatch Balancing Costs.
133. SONI requests further engagement with the UR. Based on the significant impact of the UR proposed approach we request engagement with both the Networks and Wholesale directorates of the UR.

5 Alignment with Licence Modifications

134. As the licence modification consultation has not yet been published by the UR, SONI cannot comment on how the EPF has been codified.
135. SONI will comment on the proposed licence modifications when published, but reserves the right to further clarify its response to the EPF guidance once the licence modifications are published and SONI can evaluate the interaction between the guidance and the TSO Licence.

Appendix 1. Concerns on the Inclusion of SEM Related Costs

Considerations on the value of calculating the P_{50} value for System Services and Dispatch Balancing Costs

Overview

Since around 2012, the SEM committee has been actively working with the TSOs to gradually rebalance generator revenues to ensure that the correct signals are sent to attract the type of units that are useful in the context of the all-island system, while also providing exit signals for those that do not deliver value.

This rebalancing covers three main markets elements of service provider revenues:

- Wholesale energy market
 - Energy market income (SMP)
 - Dispatch balancing payments
- Capacity mechanism related income
- System Services income

These three sources of revenue are determined by competition between service providers across the island, and procured on an All-island basis and have been considered by the SEM Committee to be “SEM Matters” and are therefore governed by the SEM Committee to the extent that the SEM Committee has a relevant function and authority under statute in these matters.

The interrelated nature of these revenue streams and their optimisation at an all-island level means that there is limited value in focusing on any individual items at an NI level. While it is possible to calculate the income received by providers in NI and the costs borne by NI consumers, it is not possible to disaggregate SONI's influence on these in a meaningful way.

There are linkages between capacity market income and energy market income in terms of reference pricing and also some linkages between energy market position and system services income potential. The linkages between these markets are set to increase with the development of Future Market arrangements for System Services by the SEM Committee that is already underway.

Given the potential overlaps between proposed courses of action by the relevant statutory body be it the Utility Regulator or the SEM Committee with respect to SONI regulation, SONI is of the view that it may be appropriate, certainly in matters which have been considered as “SEM Matters” by the SEM Committee, that the Utility Regulator acts through its SEM Committee in considering next steps.

Dispatch Balancing Costs

Because the Day ahead market is run on an unconstrained basis (i.e. ignores all technical constraints on the system) the market schedule often does not meet the actual physical and

technical needs of the system. Therefore, the TSO has to intervene to dispatch plant to make sure that system is secure and meets demand.

This results in the TSOs moving some plant away from market schedule and the Dispatch Balancing Cost (DBC) is the cost of moving such plant away from market schedule for security reasons. SONI's licence obliges us to focus on the least cost deviation from the positions determined by the ex-ante markets (as reflected in the final physical notifications provided by market participants). For example, high DBC on a particular day could be a result of one particularly cost effective source of reserve being out on forced outage and so the TSO has to move other more expensive plant to a dispatch position to ensure the required amount of reserve is available; however this quickly becomes complicated when assessed against other plant constraints and a constantly changing dispatch schedule. An ex-post algorithm identifies (with hindsight) which of the decisions made in the control room relate to each 5 minute energy (balancing) and non-energy (system security) actions. This process is known as flagging and tagging.

Dispatch instructions tagged as "energy actions" feed into the calculation of the System Marginal Price, while non-energy actions (those actions identified as system security actions) are settled as dispatch balancing costs.

Increased levels of renewable generation have placed downward pressure on the System Marginal Price (SMP), which means that the delta between SMP and plant that is constrained on for balancing and system security reasons tends to increase.

Given the complexity of this process, and the challenges involved in separating out the TSO decisions that have reduced/increased DBC from those due to other factors, the SEM Committee previously set up an annual process whereby an ex-post modelling exercise was undertaken. However, the SEM Committee has decided that such an exercise is no longer appropriate for the revised SEM arrangements.

The SEM Committee considers that matters relating to governance and decision making around dispatch balancing costs are SEM Matters and is currently considering appropriate methods for assessing TSO impact on these costs under the current market rules.

We are unsure why the UR would be considering the introduction of a parallel, but different, process which focuses on an undefined P_{50} value. At a minimum this would double the volume of modelling work being undertaken, while also introducing confusion into the public arena because it would focus on a different measure that is not directly related to tariffs.

The timelines for the SEM Committee ex-post review are incompatible with the SONI EPF framework, with the decision being made in the August following the year in question. For example, the decision paper for the year ending 30 Sept 2019 was published in August 2020.

We see no value in undertaking a costly, parallel modelling exercise in compressed timelines, that is more complex than that required by the SEM Committee, particularly when the UR has not explained how the panel will use this data within its decision making process. We therefore urge alignment with the SEM Committee on this matter and that the UR act through its SEM Committee in formulating next steps.

System Services Costs

The payments for system services are harmonised across the island, and the procurement is under SEM Committee governance. The rules and processes which govern the process have been developed through extensive industry consultation and the overall framework of the arrangements is approved by the SEM Committee, this includes decisions that have a strong bearing on the price paid, for example the obligation on the TSOs to compensate providers if they would have received a higher income under the position they secured in the ex-ante markets than that achieved under the actual dispatch.

This System Services market is in development, with greater competition being introduced through industry consultations by the SEM Committee and regular interaction between SONI/EirGrid and the UR/CRU. At present the SEM Committee is consulting on future arrangements for system services. The focus will be on ensuring that the revenues available are appropriate to attract the range of service providers required to support the energy transition.

We are unsure why the UR would seek a statistical P_{50} estimate of the system services costs when this is only one part of the picture, and one that will become more challenging to predict as participant behaviour develops over the initial years of the evolving arrangements.

This would require new, complex statistical modelling which would add costs into the SONI TSO business without any indication of benefits for consumers.