



**Response to SONI Governance  
Call for Evidence**

**A submission by SONI Ltd**

**1 October 2019**

## EXECUTIVE SUMMARY

SONI is a wholly-owned subsidiary of UK-registered holding company, EirGrid UK Holdings Limited, which is wholly-owned by EirGrid plc, a commercial state company with all shares held by the Government of the Republic of Ireland. SONI holds the Transmission System Operator and Market Operator licences in Northern Ireland and is regulated by the Utility Regulator. SONI is a significant employer in Northern Ireland, employing over one hundred professional staff in its headquarters in Belfast. EirGrid plc holds the Transmission System Operator and Market Operator licences in Ireland and through its subsidiary EirGrid Interconnector DAC is the owner and licensed operator of the East West Interconnector. The Group structure is further detailed in this submission and has remained unchanged with regard to SONI Ltd since its acquisition in 2009.

On 9 July 2019 the Utility Regulator published a '[SONI Governance Call for Evidence](#)' as part of a SONI governance review. The stated aim of the Utility Regulator's review is to:

- Ensure SONI's licence conditions on independence are clear and fit for purpose;
- Determine how SONI's governance structures work in practice;
- Identify whether these arrangements pose any risk of harm to NI consumers to require additional regulation;
- Ensure that governance arrangements are fit for purpose into the future energy transition and do not place limits on the effective regulatory discretion of the UR or policy discretion of the UK Government and Northern Ireland Executive;
- Ensure transparency and confidence in the arrangements among market participants in Northern Ireland.

In this submission, SONI has endeavoured to respond to queries raised by the Utility Regulator, answering questions and providing context to facilitate discussion. SONI looks forward to engaging with the Utility Regulator on the issues raised as part of this governance review process.

In this submission, SONI has contextualised 'independence' as it has always existed in the SONI licence conditions, a concept enshrined in the European unbundling regime for transmission systems requiring separation between TSO activities on the one hand and generation and supply activities on the other hand. Accordingly, independence from generation and supply activities, was and remains a crucial legal requirement for any TSO, hence the sale of SONI from NIE in 2009, NIE at that time being part of the vertically integrated Viridian Group. The purchase of SONI by EirGrid in 2009, addressed this legal independence requirement.

At the time of acquisition the SEM Committee determined that the purchase of SONI and the exercise of certain regulatory functions in connection with the matter constituted SEM Matters for the purposes of the relevant legislation i.e. that the exercise by the Utility Regulator and Commission for the Regulation of Utilities of their regulatory functions in this context are matters which materially affect or are likely to materially affect the SEM. It is for this reason that SONI has highlighted in this paper that matters relating to an exercise of such regulatory functions may continue to be deemed to be SEM Matters.

A number of licence changes, at the time of purchase, have been implemented in both the SONI and EirGrid licences to further protect the interests of customers in both jurisdictions. In addition governance changes to the SONI and EirGrid

respective Boards have been introduced on a voluntary basis by SONI and EirGrid to copper-fasten the protection of the interests of customers and to promote transparency and good governance.

EirGrid Group operates through an integrated management structure to ensure efficient delivery of functions. This management structure has delivered many synergies on behalf of SONI and EirGrid which are detailed further in section 5.4 of this submission and which have been beneficial to electricity consumers in Northern Ireland and also in the Republic of Ireland.

The rationale for the existing structures is outlined in this submission. The central role of the TSO is to keep the lights on. This principle has been accepted across Europe where system security requires TSOs to work together to fulfill this important task; this is equally true for TSOs within the jurisdiction of a Member State and those who are not. As the electricity system in Northern Ireland is heavily constrained in the absence of the North South Interconnector, TSO cooperation on the island of Ireland is even more crucial. Furthermore, the integrated reality of the market design of the revised SEM arrangements where the TSOs operate the balancing market, taking responsibility for energy and non-energy balancing actions, ensures that in addition to cooperation between SONI and EirGrid TSOs, the TSOs and Market Operator SEMO must cooperate to deliver the market arrangements. The market design of the revised SEM arrangements prompted a detailed governance review including consideration of perceived conflicts of interest to ensure that any such conflicts were addressed.

## ACRONYMS

BMPS	Balancing Market Principles Statement
CACM	Capacity Allocation and Congestion Management (EU Regulation)
CHCC	Castlereagh House Control Centre
CE	Chief Executive
CEPA	Cambridge Economic Policy Associates Ltd.
CMA	Competition and Markets Authority
CRU	Commission for Regulation of Utilities
CJV	Contractual Joint Venture
DAC	Designated Activity Company
DS3	Delivering a Secure, Sustainable Electricity System
EC	European Commission
EGUK	EirGrid UK Holdings Limited
EMS	Energy Management System
EU	European Union
GIPC	Grid Infrastructure Projects Committee
HR	Human Resources
ICSA	Institute of Chartered Secretaries Association
ISEM	Integrated Single Electricity Market
IS	Information Services
IT	Information Technology
MD	Managing Director
MO	Market Operators
MOA	Market Operator Agreement
NEMO	Nominated Electricity Market Operator
NI	Northern Ireland
NIE	Northern Ireland Electricity
PX	Power Exchange
Roi	Republic of Ireland
RSC	Regional Security Coordinators
SEM	Single Electricity Market
SEMO	Single Electricity Market Operator
SLA	Service Level Agreement
SNSP	System Non Synchronous Penetration
SOA	System Operator Agreement
SONI	System Operator Northern Ireland
TAO	Transmission Asset Owner
TIC	Transmission Investment Committee
TNPP	Transmission Network Pre-planning Projects
TSO	Transmission System Operator
TSSPS	Transmission System Security and Planning Standards
UK	United Kingdom
ULA	Universal Licence Agreement
UR	Utility Regulator

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# 1 INTRODUCTION

## 1.1 BACKGROUND

SONI Ltd welcomes the opportunity to respond to the SONI Governance Call for Evidence published by the Utility Regulator (UR) recognising that the management of such a critical utility across a jurisdictional border during any period of political uncertainty may raise challenges which may need to be considered. SONI recognises the importance of transparency for stakeholders and consumers and that SONI is in a unique position to provide evidence-based responses to the questions raised.

SONI Ltd holds a licence as independent electricity Transmission System Operator (TSO) and a Market Operator licence to operate (in conjunction with EirGrid plc) the Single Electricity Market (SEM), a set of trading arrangements in wholesale electricity on the island of Ireland operated by the Single Electricity Market Operator (SEMO), a contractual joint venture between SONI Ltd and EirGrid plc.

As Market Operator, SEMO administers and maintains in force the SEM Trading and Settlement Code, which includes settling the balancing and capacity markets across the island of Ireland. According to the market design of the revised SEM Arrangements, the TSOs also act as the capacity market delivery body in the SEM.

SONI and EirGrid are companies regulated respectively by the Utility Regulator (UR) and the Commission for Regulation of Utilities (CRU) with respect to each of its Market Operation and Transmission System Operation functions; and where applicable by the all-island decision making body for electricity, the SEM Committee.

SONI Ltd is a subsidiary of EirGrid UK Holdings Ltd, which itself is a subsidiary of EirGrid plc. Both EirGrid and its subsidiary SONI were certified by the European Commission as independent TSOs, thereby confirming their independence from entities with interests in electricity generation or supply. EirGrid also owns (via its EirGrid Interconnector DAC subsidiary) and operates the East West Interconnector.

Both SONI and EirGrid have roles defined by the EU Regulations which the revised SEM arrangements are required to comply with. We are each committed to delivering high quality services to all customers, including generators, suppliers and consumers across the high voltage electricity system and via the efficient operation of the wholesale electricity power market. SONI and EirGrid therefore have an acute interest in ensuring that the SEM functions as it should, facilitates security of supply, provides the optimum outcome for consumers and that both SONI and EirGrid comply with the duties mandated to each through relevant legislation, licences and industry codes.

This response is submitted by SONI having consulted with its shareholder EirGrid plc. This submission has been approved for issue by the SONI Board. SONI has not commented at this time on the specific “options for change” proposed by UR given proper consideration of any options can only follow from the publication and due consideration of the evidence that the UR has invited in publishing the Call for Evidence. Nonetheless, SONI has provided some general observations with respect to the governance review process.

## 1.2 PURPOSE

In responding to the UR Call for Evidence SONI has endeavoured to provide a comprehensive account of energy transmission on the island of Ireland, the functions of SONI as Transmission System Operator as well as an account of the role played by SONI through the Contractual Joint Venture, SEMO in delivering the Single Electricity Market (the SEM). The continued operation of a safe, reliable power system in Northern Ireland and efficient and transparent operation of the Single Electricity Market is at the heart of the SONI business. While a number of options for the future management of governance arrangements were proposed in the Call for Evidence it was already acknowledged by the Utility Regulator that changes to SONI governance and changes to the EirGrid plc licence conditions have been implemented since acquisition. As in any corporate entity consideration of governance arrangements forms part of ongoing risk assessment.

SONI is committed to engaging constructively with the Utility Regulator as part of this proposed governance review process, noting that any such review process should be considered within the confines of the current context which is further set out in our response.

## 1.3 STRUCTURE OF THIS SUBMISSION

This submission will follow the structure below, mirroring where possible the structure of the Utility Regulator's Call for Evidence responding to issues raised by the Utility Regulator and providing further information where necessary to provide relevant context.

**An Executive Summary** prefaces this introductory section 1 highlighting evidence for consideration by the Utility Regulator. This **Section 1** provides an introduction to this paper summarising the background, purpose and structure of this submission.

**Section 2** contextualises independence and governance issues for SONI, considering TSO independence, the legal underpinning of the market arrangements, as well as subsequent changes to licences and governance arrangements in this context.

**Section 3** considers SONI as an entity, corporate governance of SONI including the role of the SONI Board, and interaction within EirGrid Group. This section also details the funding and financing arrangements of SONI, cost-allocation and the development of policy by SONI, for example the SONI Strategy 2020 -2025.

**Section 4** reflects on the operation and management of SONI.

**Section 5** reflects on the rationale for the existing arrangements: the benefits of the existing arrangements for SONI and the Northern Ireland customer and synergies provided by the existing arrangements. This section also considers the nature of the TSO function on the island of Ireland and across Europe as well as considering in particular cooperation of the SONI and EirGrid TSOs with each other and with SONI and EirGrid in their joint role as Market Operator in the revised SEM arrangements.

**Section 6** provides some general observations on the governance review process.

**Section 7** responds to the questions for SONI raised in the Utility Regulator's Call for Evidence.



## 2 INDEPENDENCE ISSUES FOR SONI

### 2.1 TSO INDEPENDENCE

The concept of TSO ‘independence’ stems from the European unbundling regime for transmission systems and TSOs which itself represents one of the building blocks of the Electricity Directive<sup>1</sup>. The Electricity Directive and the Gas Directive of the Third Energy Package introduced a structural separation between Transmission System Operator activities on the one hand, and generation, and supply activities on the other hand. The goal is to avoid the distortion of competition through discrimination against competitors and cross-subsidisation of activities by undertakings which simultaneously control both the transmission of electricity and, its generation or supply. At the time of its acquisition in 2009, SONI was owned by NIE which was part of the vertically integrated Viridian Group.

A TSO can only be approved and designated as a TSO following the certification procedure laid down in Article 10 of Electricity and Gas Directives in combination with the provisions of Article 3 of the Electricity Regulations. These rules must be applied to all TSOs for their initial certification, and subsequently where a reassessment of a TSO’s compliance with the unbundling rules is required.<sup>2</sup>

In light of this unbundling regime as described, independence of SONI from NIE was crucial as a matter of law. However, given that the European Commission has certified SONI as a TSO, this would indicate that as a matter of law, this issue has been fully addressed. Further detail on the certification process is included in Section 2.6 of this submission.

### 2.2 LEGAL CONTEXT OF THE ACQUISITION OF SONI

The SEM Memorandum of Understanding between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland in December 2006 bringing openness and transparency in the SEM envisaged that the System and Market Operator activities conducted by SONI would need to be conducted by a company with no affiliate conducting generation or supply. At that time Viridian/ Northern Ireland Electricity plc (NIE was the owner of SONI) which functioned as both System Operator and Market Operator in Northern Ireland. Consequently it was agreed by all relevant parties that NIE would voluntarily divest SONI. The divestment was also in line with EU policy on unbundling of transmission system operation from competitive activities of generation and supply. Following a corporate sales process, NIE selected EirGrid as the preferred bidder for the purchase of the entire issued share capital of SONI.

The SEM Committee at that time determined that the purchase of SONI and the exercise of certain regulatory functions in connection with the matter constituted SEM Matters for the purposes of the relevant legislation i.e. that the exercise by the Utility Regulator and the Commission for the Regulation of Utilities of their regulatory functions are matters which materially affect or are likely to materially affect the SEM. The SEM Committee formed the view that the various licences held by SONI and EirGrid should be modified to take account of the new ownership structure (principally by removal of NIE specific references where appropriate) and to ensure that consumers of electricity in Northern Ireland continue to be protected.

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<sup>1</sup> Directive 2009/72/EC of the European Parliament and the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.8.2009 p. 55) and Directive 2009/73/EC of the European Parliament and the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJ L 211, 14.8.2009, p. 94).

<sup>2</sup> [https://ec.europa.eu/energy/sites/ener/files/documents/2010\\_01\\_21\\_the\\_unbundling\\_regime.pdf](https://ec.europa.eu/energy/sites/ener/files/documents/2010_01_21_the_unbundling_regime.pdf)

## 2.3 CHANGES MADE AT THE TIME OF ACQUISITION

At the time of SONI acquisition by EirGrid protection of the interests of Northern Ireland customers was something that was to the forefront of discussions. For this reason EirGrid made a public commitment, which the SEM Committee noted *“will not be effected by means of licence conditions: (i) to Change its [EirGrid’s] internal corporate documents to inter alia recognise SONI and its system and market operation roles and to extend its corporate responsibility to protect the interests of Northern Ireland consumers; and to seek and obtain constitutional change to its founding legislation – to the effect that two independent directors of appropriate standing with extensive Northern Ireland backgrounds, shall sit on the EirGrid board of directors.”*<sup>3</sup> This move required statutory amendment to extend the number of directors on EirGrid’s board from 8 to 10.

In considering the issue of SONI independence, the SEM Committee acknowledged in its consultation paper on the proposed acquisition of SONI Ltd by EirGrid plc [SEM-08-176](#), that *“nothing within the applicable general duty of independence shall act so as to constrain EirGrid and SONI, as separate businesses, from harnessing beneficial economies of scale and other synergies (such as costs saving on shared services) for the betterment of customers.”*

Following Consultation Paper [SEM-08-176](#) and its subsequent Decision Paper [SEM-09-019](#), an amendment to the EirGrid TSO licence took place which became effective from 2 March 2009. Licence Condition 3.1(j) was inserted to require that the Licensee shall *“when carrying out the functions in paragraphs (a) – (h) at all times have regard to the need to protect the interests of consumers of electricity in Northern Ireland and Ireland.”* Furthermore Condition 4 paragraph 1(e)(i)-(iv) was amended to provide that the licensee shall *“at all times protect the interests of consumers of electricity in Northern Ireland and Ireland.”*

Finally, a change was made to the EirGrid plc Memorandum and Articles of Association to reflect the new obligation of EirGrid plc when carrying out its functions to have regard to the need to protect the interests of consumers of electricity in Northern Ireland and Ireland. In a similar vein, a change was made to the EirGrid Directors’ Code of Conduct to reflect the premise of having regard to the need to protect the interests of consumers of electricity in Northern Ireland and Ireland.

As the above issues of independence and governance were at the time of acquisition considered by the SEM Committee to be SEM matters, amendments that might now be made to these arrangements on foot of the Call for Evidence may require consideration by the SEM Committee.

## 2.4 IMPACT OF ACQUISITION OF SONI

The impact of the changes to the SONI licence and board governance changes for SONI and separately for EirGrid meant that from acquisition, SONI has had regard to the need to protect the interests of customers in Northern Ireland. Separately, since the acquisition of SONI by virtue of the presence of two independent directors ‘of appropriate standing with extensive Northern Ireland backgrounds’, and by virtue of the newly created board obligation, Board Members of EirGrid plc equally have had regard to the need to protect the interests of customers in Northern Ireland.

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<sup>3</sup> SEM-08-176 Page 7 Paragraph 18

## 2.5 SUBSEQUENT UTILITY REGULATOR CONSIDERATION OF CONDITION 12

The current licence condition pre-dates the acquisition by EirGrid and was drafted in the context of the requirement for the TSO to be independent of entities with an interest in electricity generation or supply. These circumstances no longer apply.

The current iteration of Condition 12 of SONI's TSO Licence requires the licensee to maintain "the full operational independence" of the TSO Business. The Condition sets out a number of specific duties in order to facilitate compliance with this duty, and requires SONI to prepare and submit to the Utility Regulatory a compliance plan and appoint a compliance manager. However, Condition 12 needs to be considered in the light of its historic context to be understood.

In SEM-08-176 the SEM Committee notes that "*Condition 12 of the SONI TSO licence (and Condition 10 of the SONI MO licence) was drafted to ensure that SONI was managerially and operationally independent from NIE and its vertically integrated group of companies (with an equivalent Condition 10 of the MO licence).*"<sup>4</sup> However the SEM Committee emphasised: "*the SEM Committee are of the view that the fulcrum of this original condition can be adapted somewhat to render the intent of the proposed modifications more fitting with the kind of "separation" which is more fitting in the context of EirGrid owning SONI.*"<sup>5</sup>

It is clear from this SEM Committee statement that the original purpose of Condition 12 of the SONI TSO licence and Condition 10 of the SONI MO licence, namely to maintain a separation between generation or supply and system operation (i.e. NIE from SONI) was clearly different from its perspective use following the SONI acquisition where there was no longer an applicable European legal requirement obliging separation or ownership unbundling. The "full managerial and operational independence to the Transmission System Operator Business from any Associated Business" therefore became instead "the full operational independence of the Transmission System Operator Business."

In September 2012, the UR implemented licence changes to Condition 12 of SONI's TSO Licence, including a provision to permit the MO to access the premises occupied by the TSO (although a corresponding provision in the MO licence, to allow the TSO to access premises used by the MO, was not introduced).

## 2.6 CERTIFICATION OF SONI AS INDEPENDENT BY EUROPEAN COMMISSION

On 21 May 2013, the European Commission published a decision, certifying SONI Ltd as electricity transmission system operator (TSO) under the unbundling arrangements of the EU's energy liberalisation package.

The certification arrangements are designed to ensure that the TSO is independent of generation and supply interests, and possesses the necessary resources and responsibilities to develop and operate the transmission system. The NI system is unusual in Europe, in that the transmission system is owned by NIE which is part of an integrated generation and supply business, but operated by an independent system operator, SONI. Rather than the unbundling models adopted in most other Member States, the NI government opted for the exceptional "Article 9(9)" model, in which the applicant is required to demonstrate that the existing arrangements are more effective in guaranteeing the independence of the TSO than the "independent transmission operator" model, in which the transmission business

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<sup>4</sup> SEM-08-176 Paragraph 33

<sup>5</sup> SEM-08-176 Paragraph 33

remains vertically integrated but is heavily ring-fenced. The certification decision in these Article 9(9) cases is taken by the European Commission itself rather than the national regulator.

In its decision the European Commission concluded that:

*“SONI brings a level of independence and responsibility to transmission system operation in Northern Ireland which would not be present in the independent transmission operator model.”<sup>6</sup>*

## 2.7 FURTHER CHANGES TO GOVERNANCE IN THE CONTEXT OF SEM-16-041

In 2015 and 2016 a complete governance review took place reviewing existing licence arrangements of both SONI and EirGrid in each of their respective roles as TSO and MO. This review consisted in a SEM ISEM Roles and Responsibilities Consultation Paper ([SEM-15-016](#)) and subsequent Decision Paper ([SEM-15-077](#)), an information paper [SEM-16-041](#) to update the market on developments thus far as well as two rounds of licence modifications to implement any required mitigation measures to counter any perceived conflicts of interest in the EirGrid Group.

In the wake of SEM-16-041 governance changes were introduced on a voluntary basis to the SONI Board, whereby the Chief Executive Officer of EirGrid no longer sat on the SONI Board.

## 2.8 THE HOLDER OF TWO LICENCES

While it is acknowledged that the Call for Evidence concerns the TSO business only, the TSO is not an entity but rather a licensed activity of SONI Limited. Therefore all issues of independence and governance must be considered in the overall corporate context.

SONI holds two licences; a licence to participate in the transmission of electricity granted to it under Article 10 of the Electricity (Northern Ireland) Order 1992 (“the TSO licence”) and a licence to operate as SEM Operator granted to it under Section 4 of “the SEM Operator licence” (the Market Operator licence). The SONI Board has no different duties in respect of SONI’s TSO licensed business than it has in respect of SONI’s SEM operator licensed business. The role of the SONI Board must be thought of and considered in the context of both licensees.

Certain SONI TSO licence conditions, for example conditions 22A, 23A and 23B, of the SONI TSO licence are to be carried out in co-operation with, and in conjunction with the Republic of Ireland TSO; a concept which is defined in Condition 1(7) of the SONI TSO licence to include using “*all reasonable endeavours to work together with the Republic of Ireland System Operator in so doing*”). The remaining conditions are largely the typical regulatory protections which relate to all licensed entities and are not specifically related to SONI’s TSO functions.

SONI Ltd also has an obligation under its SEM Operator licence to enter into a Market Operator Agreement (MOA) with the holder of a comparable licence within the Republic of Ireland to enable each other to fulfil their licensed functions.<sup>7</sup> The requirement to act “in conjunction with the Republic of Ireland Market Operator Licensee” has an identical definition as the same concept in the SONI TSO licence, e.g. to use “*all reasonable endeavours to work together with the Republic of Ireland System Operator in so doing.*” The remaining conditions are largely the typical

<sup>6</sup> European Commission Decision of 12 April 2013 C(2013) 2170 final, Paragraph 66

<sup>7</sup> EirGrid Plc holds the licence to operate as Market Operator in the Republic of Ireland in accordance with Section 14(1)(j) of the Electricity Regulation Act, 1999 (as amended).

regulatory protections which relate to all licensed entities and are not specifically related to SONI's SEM Operator functions.

## 2.9 "INDEPENDENCE" IN THE CONTEXT OF SONI'S LICENCES

Both SONI's TSO licence and SONI's SEM Operator licence contain conditions concerning independent operation of the licensed business from Associated Businesses<sup>8</sup> engaged in generation and supply – Condition 12 of SONI's TSO licence and Condition 10 of SONI's SEM Operator licence. These conditions are effectively identical<sup>9</sup>. They can only be construed together; amendment to one requires amendment to the other.

A decision to modify both the SONI TSO and SONI MO licence as well as the EirGrid TSO licence was taken by the SEM Committee on 26 February 2009 as part of the acquisition of SONI Ltd by EirGrid plc<sup>10</sup> as the arrangements were determined by the SEM Committee to be a SEM Matter.<sup>11</sup> It is likely that any proposal to amend SONI's TSO licence in areas previously considered by the SEM Committee would also be a SEM Matter. It is also likely that any changes made to the SONI TSO licence would require changes to the EirGrid TSO licence.

The European energy framework does not distinguish between the role of TSO and Market Operator; rather the European framework distinguishes between TSOs and Nominated Electricity Market Operators (NEMOs).<sup>12</sup> SONI fulfils a number of the functions required of TSOs in the European context whether through the Directive, or as part of the European Network Codes, through its SEM Operator licence. The management of the all-island capacity auction process is an example of an issue that is jurisdictional in nature but which is managed through the SEMO joint venture and overseen by the SEM Committee. Consequently the boundary between SONI's TSO licence and SONI's SEM Operator licence is increasingly interwoven. The governance and management of the SONI Ltd business can only be considered and must be thought of in the context of both licences.

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<sup>8</sup> Associated business is defined in the SONI TSO Licences and SONI MO Licence as meaning "any business of the Licensee (or any affiliate or related undertaking of the Licensee) other than a relevant holding company."

<sup>9</sup> Condition 12(2)(b) of the SONI TSO licence mandates that the TSO does not hold or acquire shares in a holding company of the Licensee or in any electricity undertaking engaged in the generation or supply of electricity on the Island of Ireland. Condition 12(2)(e)(i) of the SONI TSO licence mandates as far as legally possible that any director of the Licensee is not at the same time also a director of a company which carries on an Associated Business engaged in the generation or supply of electricity. Condition 12(2)(e)(ii) mandates in so far as is legally possible that the Licensee prevent any person who has ceased to be engaged in the management or operation of the TSO Business from being engaged in the activities of any Associated Business that is engaged in the generation or supply of electricity until the expiry of an appropriate time [...]. Condition 10 of the SONI Market Operator licence replicates these exact provisions substituting obligations on the TSO for those related to Market Operation Activity and / or the NEMO Activity and always requiring separation from generation and supply. The same caveats are in place with respect to the obligations, for example: "in so far as is legally possible".

<sup>10</sup> A copy of the Notice of Modification is appended to this submission to the Call for Evidence

<sup>11</sup> A SEM Matter is a matter which the SEM Committee of the Authority determines to be a SEM matter i.e. that the SEM Committee has determined that the exercise of a relevant function in relation to that matter materially affects or is likely to materially affect the SEM.

<sup>12</sup> In 2015 and again in 2019 SONI Ltd has been designated as NEMO in accordance with [CACM Regulation](#) (Commission Regulation of 24 July 2015 establishing a guideline on capacity allocation and congestion management). (See NEMO Designation Order and Decision for SONI Ltd: [https://www.uregni.gov.uk/sites/uregni/files/media-files/UR\\_NEMO\\_Designation\\_Order.pdf](https://www.uregni.gov.uk/sites/uregni/files/media-files/UR_NEMO_Designation_Order.pdf); and [https://www.uregni.gov.uk/sites/uregni/files/media-files/UR\\_NEMO\\_Designation\\_Decision\\_Paper.pdf](https://www.uregni.gov.uk/sites/uregni/files/media-files/UR_NEMO_Designation_Decision_Paper.pdf))

## 3 SONI CORPORATE GOVERNANCE

### 3.1 A CORPORATE ENTITY

SONI Ltd is incorporated in Northern Ireland (Registered Number NI038715) with a registered office at Castlereagh House, 12 Manse Road, Belfast. The Company's objectives include:

- *"to carry on all or any of the businesses of operating, developing, managing, maintain and/or controlling a co-ordinated electricity system, whether in relation to transmission, distribution or interconnectors and whether in Northern Ireland or elsewhere" [...] and*
- *"to do anything that an operator of a co-ordinated electricity system or electricity market or trading system or an electricity generator, electricity distributor, electricity supplier or electricity transmitter is empowered or required to do, whether in Northern Ireland or elsewhere under or by virtue of, or under licence granted under, any enactment" [...] and*
- *"to do all other acts, matters and things which shall at any time appear conducive or expedient for the advantage or protection of the Company." [...] and*
- *"to carry on business as a general commercial company."*

The Companies Act 2006 prescribes duties for company directors which apply to the SONI Board Members and with which the Board Members have and continue to comply namely:

- To act in accordance with the company's constitution and to exercise powers only for the purposes for which they are conferred<sup>13</sup>;
- To act in the way he or she considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole<sup>14</sup>;
- To exercise independent judgment<sup>15</sup>;
- To exercise reasonable care, skill and diligence<sup>16</sup>;
- To avoid conflicts or potential conflicts of interest<sup>17</sup>;
- Not to accept benefits from third parties<sup>18</sup>;
- To declare any interest in a proposed transaction or arrangement<sup>19</sup>.

The Board's role is set out in company law and in the corporate governance literature. The Institute of Directors defines the role of the Board as:

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<sup>13</sup> Companies Act 2006 section 171

<sup>14</sup> Companies Act 2006 section 172

<sup>15</sup> Companies Act 2006 section 173

<sup>16</sup> Companies Act 2006 section 174

<sup>17</sup> Companies Act 2006 section 175

<sup>18</sup> Companies Act 2006 section 176

<sup>19</sup> Companies Act 2006 section 177

*Ensuring the company's prosperity by collectively directing the company's affairs, while meeting the appropriate interests of its shareholders and relevant stakeholders*

The UK Corporate Governance Code gives further guidance;

*In law the company is primarily accountable to its shareholders. The relationship between the company and its shareholders is the main focus of the Board.[...] The Board should set the company's strategic aims, ensure that the necessary financial and human resources are in place for the company to meet its objectives and review management performance.*

The SONI Board, the structure of which was considered in SEM-16-041, is structured to fulfil these functions. The Board comprises three directors: the SONI Managing Director, the Group Director of 'DS3+' (Chairperson of the Board), and the EirGrid Chief Financial Officer.

## 3.2 A SUBSIDIARY

The corporate governance arrangements in SONI reflect the fact that it is a subsidiary company operating in a group context. Directors of a parent company have a duty to safeguard the assets of the company; which would include in the case of EirGrid its investment in SONI. There is also a duty on directors, increasingly recognised in case law, to keep themselves informed of the business of the company, which in the context of EirGrid would include the business of the Group. On the other hand it is recognised that the directors of a subsidiary must have regard to the fact that they owe their duties to the subsidiary as a separate legal entity. While the directors of a subsidiary company such as SONI are expected to take into account Group-wide policies and procedures and have regard to the wider Group interest they must not act in a manner which prejudices the interest of the subsidiary as a separate legal and commercial entity. It is recognised that there is a balance to be struck between the oversight exercised by the parent company and the autonomy that is required for the subsidiary to operate as an independent legal entity. The Call for Evidence places much greater emphasis on the latter than the former and largely ignores the requirement of parent company oversight. The UK Corporate Governance Code (the UK Code) outlines that a holding company board not only needs to be in control of the holding company but needs adequate cooperation within the group to enable it to discharge its governance responsibilities.

In accordance with good corporate practice there is a requirement for SONI to comply with certain EirGrid Group policies with regard to treasury and risk management, capital expenditure approval and Group accounting policies. This is consistent with good practice in a group situation. Meetings of the SONI Board are held on a regular basis and detailed minutes are maintained. At these meetings SONI management report on operational matters, financial performance and significant contracts are approved. It also deals with statutory requirements such as the approval of financial statements, Letters of Representation addressed to the auditors and approval of regulatory accounts and directors' certificates required by licence. At other times there is also consideration of significant matters such as the actuarial valuation of the SONI defined benefit pension scheme, regulatory decision papers and in the recent past the legal and financial arrangements underpinning the transfer of planning staff from NIE to SONI and the establishing of Local Reserve Agreements with Northern Ireland generators.

The Group Chief Executive of EirGrid plc is not a member of the SONI Board. The absence of the Chief Executive of EirGrid or any representatives from the EirGrid plc Board on the SONI Board is noteworthy. There are in fact no cross directorships between the EirGrid and SONI Boards. As observed by Cambridge Economic Policy Associates Ltd (CEPA)

in a report commissioned by the Utility Regulator on NIE Governance in 2011<sup>20</sup> ([CEPA Report](#)), it is normal practice for parent companies to have representation on subsidiary boards – and even parents of regulated companies have a legitimate interest in the performance of their subsidiaries:

*“Parent companies have a legitimate interest in the business strategy, performance, financing and governance of their subsidiaries. As such, it is relatively common practice for senior managers/ group board directors from the parent company to sit on the subsidiary board, alongside independent directors and perhaps the Managing Director and Finance Director of the subsidiary.”*

### 3.3 HOW SONI RELATES TO THE GROUP STRUCTURE

In a group context, a parent company holds ultimate responsibility for all subsidiaries within that group. These responsibilities would typically include defining controls, approving authority levels, overseeing management and reporting to the shareholder.

EirGrid plc is the parent company in the EirGrid Group structure and the EirGrid Board oversees the performance of all Group companies. In accordance with the requirements of both SONI’s TSO and MO licences EirGrid has provided a Parent Company Undertaking to SONI. In assessing its potential exposure on foot of this undertaking EirGrid monitors closely the financial performance of SONI and ensures that adequate financial controls are in place. EirGrid is a commercial state company with all shares held by the Government of the Republic of Ireland. EirGrid holds the Transmission System Operator and Market Operator licences in Ireland and through its subsidiary EirGrid Interconnector DAC is the owner and licensed operator of the East West Interconnector. The Group structure is set out below. It has remained unchanged with regard to SONI since the acquisition in 2009.

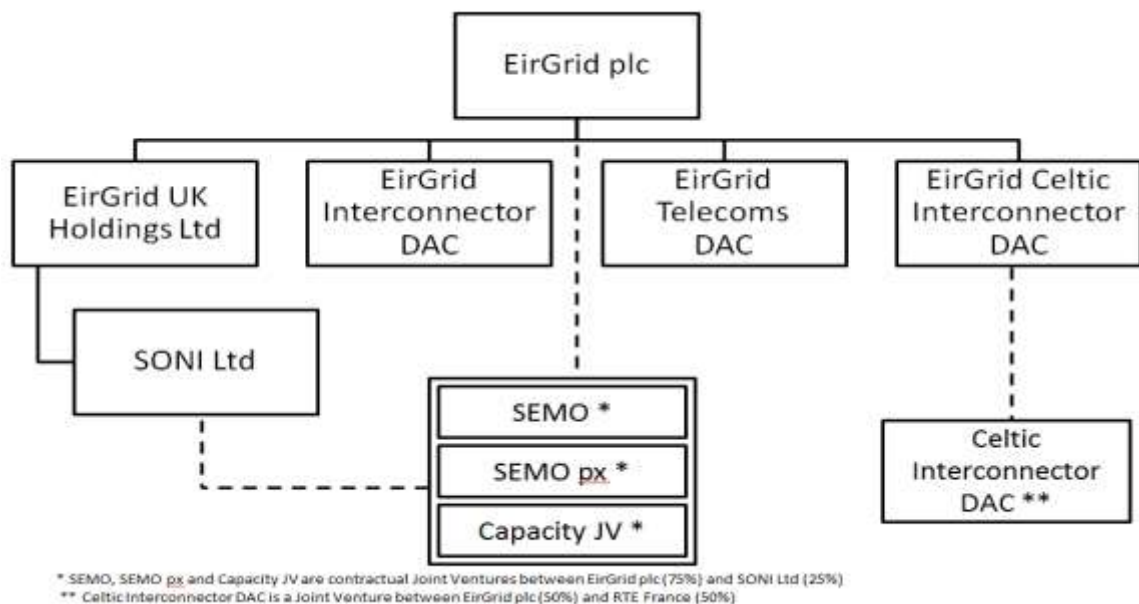


Figure 1: Structure of entities within the EirGrid Group<sup>21</sup>

<sup>9</sup> [https://www.uregni.gov.uk/sites/uregni.gov.uk/files/media-files/Annex\\_A\\_-\\_CEPA\\_NIE\\_Governance\\_Report.pdf](https://www.uregni.gov.uk/sites/uregni.gov.uk/files/media-files/Annex_A_-_CEPA_NIE_Governance_Report.pdf)



The EirGrid Board consists of a Chairperson and nine other directors of whom the Group Chief Executive is the only executive director. The Group Chief Executive of EirGrid plc is not a member of the SONI Board nor do any EirGrid Board members sit on the SONI Board.

The composition and operation of the EirGrid Board are tailored to best serve the interests of customers across the island of Ireland. The following particular arrangements have also been put in place to ensure the fullest possible representation of Northern Irish interests at EirGrid Board level:

- At the time of the acquisition in 2009 changes were made at the level of the EirGrid Board to meet the concerns of UR in respect of the protection of the interests of electricity customers in Northern Ireland. Under Condition 3 of the EirGrid TSO licence all EirGrid directors have a duty to have regard to the need to protect the interests of consumers of electricity in Northern Ireland. This obligation is also included in the EirGrid Constitution and in the Directors' Code of Conduct.
- As outlined in section 2.3 there is a requirement for the Board to include at least two Northern Ireland directors. At the moment there are three Northern Ireland directors, one of whom is the Deputy Chairperson. The interests of Northern Ireland customers are represented and considered with respect to all decisions by the EirGrid Board. In addition, the Staff Representative on the EirGrid Board is currently a SONI staff member.

In a similar vein to the duties of SONI Board Members under Northern Ireland law, duties of the EirGrid Board are set out in Irish company law and the requirements are very similar. EirGrid also seeks to comply where relevant with the corporate governance standards that apply in the UK. As companies in the EirGrid Group hold a range of regulated licences EirGrid plc also has a duty to ensure licence compliance by EirGrid plc and all subsidiaries.

In accordance with its responsibilities as a Group Board for the overall strategic direction and performance of the group there is a schedule of matters reserved to the EirGrid Board. This includes:

- Approving and regularly reviewing the group risk management framework
- Approval of treasury management policies
- Approval of the principles to be adopted in Price Control submissions
- Approval of significant changes to pension arrangements across the group
- Appointment of the Group Chief Executive
- Determination of policy on senior management remuneration
- Approval of all finance facilities
- Approval of individual costs commitments by Group companies with a value in excess of €5 million
- Approval of all capital expenditure in excess of €1m or €10m (inclusive of TAO expenditure ) for transmission projects

The reservation of such matters to the EirGrid Board is in accordance with corporate governance best practice. It helps ensure that the group operates as a cohesive organisation and that controls are adequate and appropriate across the Group.

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<sup>21</sup> In addition, on 2 October 2015, and subsequently on 8 July 2019, SONI and EirGrid were designated as Nominated Electricity Market Operators (NEMOs) in Northern Ireland and Ireland respectively.

In addition to the deliberations of the SONI Board, consideration is also given to SONI matters at EirGrid Board level. This aligns with the additional requirements within the EirGrid TSO licence, and the Directors' Code of Conduct to consider the interests of electricity customers in Northern Ireland.

Reference is made in the Call for Evidence to the compliance with the UK Corporate Governance Code (the "Code"). While some of the principles of the Code would be applicable to subsidiaries, the focus of the Code is the premium listed company with a disparate shareholder base.

*"The Code is applicable to all companies with a premium listing, whether incorporated in the UK or elsewhere. For parent companies with a premium listing, the board should ensure that there is adequate cooperation within the group to enable it to discharge its governance responsibilities under the Code effectively. This includes the communication of the parent company's purpose, values and strategy."*

The Code sets out many fundamental principles of good governance but it is not appropriate to apply it wholesale to a wholly owned subsidiary, in particular a subsidiary of the scale of SONI Limited. The principles of good corporate governance highlight the requirement for a level of parent company control over subsidiary companies rather than, as in the Call for Evidence, as a means of "decoupling" the subsidiary from the parent.

*"... to achieve best practice in relation to [good corporate governance] in particular an effective board, with sound risk management and internal control systems,...a board not only needs to be in control of the listed parent company but also equally in control of all group subsidiaries." <sup>22</sup>*

It is also worth noting that the associated guidance on Risk Management, Internal Control and Related Financial and Business Reporting provides at paragraph 47 that *"all reporting [on risk management and internal control] should be from the perspective of the group as a whole."*

### 3.4 FINANCE AND FUNDING

SONI is an unusual TSO in a European context as it does not own the transmission assets. These assets are owned by NIE Networks. As such SONI is asset light: its only significant assets being periodic, relatively large investments in short-life assets, such as the recent investment in the revised SEM arrangements. It is also responsible for funding the pre-construction phase of grid projects, and most significantly the working capital requirements associated with unexpected movements in Dispatch Balancing Costs (DBC). These characteristics, which also apply to EirGrid in its TSO capacity, can give rise to significant volatility in reported earnings and present challenges in the negotiation of banking facilities.

Prior to the 2017 appeal (of its TSO licence) to the Competition and Markets Authority, SONI did not meet the finance-ability criteria set by lenders and was unable to secure independent streams of funding. It was entirely reliant on intra Group loans from EirGrid. At one stage the level of this lending to SONI stood at £28 million. Following conclusion of the appeal, SONI is funded by a mixture of bank debt and equity. This has enhanced its standalone financial

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<sup>22</sup> ICSA, *Subsidiary Governance*, 2013

independence from EirGrid. Since acquisition no dividend has been drawn from SONI even though the parent company EirGrid has a dividend obligation to its own shareholder.

SONI benefits from being a member of the EirGrid Group in its dealings with banks, both in terms of access to funds and the pricing of funds. An example of this is the £45 million DBC facility for SONI which was secured in parallel with a similar €150 million facility for EirGrid; the proportions of the respective DBC facilities for each of SONI and EirGrid are consistent with the Market Operator Agreement between SONI and EirGrid in which costs are allocated to each of SONI and EirGrid on a 25:75 percent basis. In negotiating the terms of this funding SONI benefitted from the expertise of the Group Treasury function, the wider banking relationships developed by EirGrid over a number of years and the financial stability of the EirGrid Group.

### 3.5 COST ALLOCATION AND RECHARGE ARRANGEMENTS

Prior to 2009, SONI was a wholly owned subsidiary of NIE, part of the wider Viridian Group. It has therefore throughout its existence operated as a subsidiary member of a larger group benefiting from certain corporate services and systems provided by its parent. As noted previously, in making decisions SONI directors have a duty to act and do act in the interests of SONI the company. Furthermore, the SONI Directors pursuant to each of the SONI Market Operator and Transmission System Operator licences, are required to certify to the Utility Regulator on an annual basis that SONI has sufficient financial resources and financial facilities to enable SONI to carry out its obligations for a period of twelve months. Any such resources may include resources from EirGrid which are recharged pursuant to the Group Cost Allocation and Recharge Arrangements detailed below.

In light of the pooling of expertise and resources, a very important element of the corporate governance arrangements in SONI is the Group Cost Allocation and Recharge Policy. The policy was developed jointly by the finance teams in SONI and EirGrid, and is reviewed on an annual basis. The overarching purpose of the policy is to ensure a fair and supportable basis for costs to be attributed to business units / licensees across the Group. The policy must satisfy the requirement that costs are fairly allocated and that there is no cross-subsidisation across licences and businesses. It must also ensure compliance with the relevant revenue authority's transfer pricing regulations in the UK or Ireland as applicable. The current policy is a pure cost recharge / allocation policy and no cost mark-up is applied by the charging entity. The policy has previously been shared with the regulators in both Northern Ireland and Ireland and no issues have been raised by either Regulatory Authority with respect to this policy. The SONI Compliance and Assurance Officer confirms on an annual basis compliance with Condition 5 of the SONI TSO Licence – Prohibition of Cross Subsidies. Separately the Policy has also been reviewed by Internal Audit and as part of the annual statutory audit process for all Group companies.

The Cost Allocation and Recharge Policy was developed jointly between SONI and EirGrid. A particular focus of the policy is the treatment of costs associated with joint procurement exercises conducted on behalf of SONI and EirGrid. These include significant IT capital and operating costs such as those associated with the recent I-SEM Project. They also include the software licence and maintenance costs that are jointly procured from major international vendors. This is similar to the procedure for telecoms costs which are jointly procured by SONI and NIE Networks. These SONI / EirGrid costs for jointly procured services are generally shared on a 25:75 basis, consistent with the cost-sharing proportions previously approved by the regulators in Northern Ireland and the Republic of Ireland. Certain central Group costs such as the Group Board costs, Chief Executive Office and Group Finance and Treasury costs are allocated to licensees on a headcount basis. Shared management resources are allocated based on the individual manager's best estimate of the time they dedicate to each licenced activity. This approach avoids unnecessary duplication of

resources and reliance on expensive consultants for specialist skills. It is without doubt that it gives rise to significant cost savings and efficiencies for the benefit of electricity consumers in Northern Ireland.

### 3.6 SONI POLICY DEVELOPMENT: SONI STRATEGY 2020-2025

An example of the consideration of policy by SONI as it applies in Northern Ireland can be seen through the development of SONI Strategy 2020 - 2025, a strategic plan for SONI, developed by SONI and informed by extensive consultation with key stakeholders in Northern Ireland including industry participants, government officials, the Utility Regulator and customers, as well as management and staff. There are several requirements in Northern Ireland that inform the new strategy. SONI must ensure that it can meet the future needs of electricity users and to contribute to meeting the UK emission targets. The UK Government has set a target of net zero carbon emissions by 2050 which is consistent with global best practice. While Northern Ireland has yet to set a legislative target, the move to clean energy is well underway. SONI must also continue to ensure that the grid can support the Northern Ireland economy. Key projects like the North South Interconnector are central to this. SONI is committed to delivering for Northern Ireland consumers and businesses. We are committed to stewardship of the environment and supporting its biodiversity. SONI is committed to leading the decarbonisation of Northern Ireland for the good of everyone who lives and works there.

The SONI strategy was developed in parallel with the EirGrid strategy, as many of the considerations for both organisations are similar. While SONI needs to respond to the unique factors that affect the electricity system in Northern Ireland the fundamental requirements of those who use electricity are universal. All electricity users across the island expect a reliable and competitively-priced supply of electricity. The strategy recognises that energy policies can be different in Northern Ireland and the Republic of Ireland but that benefits exist for both parties in a co-ordinated approach to strategy development.

### 4.1 MANAGEMENT STRUCTURE

The management of all Group activities is organised on an integrated basis, with executive directors responsible for each functional area across the Group. Details of the current structure are shown below.



Figure 2: EirGrid Group Structure

The integrated model ensures that operational efficiencies are secured in the interests of electricity customers in Northern Ireland and the Republic of Ireland. Expertise is pooled and available to all licensees. This avoids duplication of systems and resources and, as SONI does not have sufficient scale to hire on a full-time basis the necessary range of specialist expertise, obviates a potential dependency on expensive external advisors and consultants.

The operational working arrangements between SONI and EirGrid are governed by respective Market Operator and Transmission System Operator licences, a Market Operator Agreement (MOA) and a System Operator Agreement (SOA) together with a number of industry codes by which SONI and EirGrid are bound. In this section we consider the SONI-EirGrid SOA which was referred to in the Utility Regulator’s Call for Evidence in section 8.25 (i) and (v). In particular we consider the engagement to date with the Utility Regulator with respect to the SOA in the interests of clarity and transparency.

In previous correspondence between the UR and SONI in June 2013<sup>23</sup>, SONI observed that:

*“the bringing together of SONI Ltd. with the Republic of Ireland System Operator under a single governance structure has effectively internalised the requirement to enable each other to fulfil the other’s functions and therefore overcomes many of the obstacles that could potentially be present under separate governance”;*

The letter also assured that *“SONI maintains full operational independence of the Transmission System Operator business”*, which was put in place *“to ensure that SONI operates independently of upstream and downstream interests in the exercise of its functions”*.

<sup>23</sup> Letter from SONI to the Utility Regulator entitled “Compliance Report for SONI Ltd’s licence to Participate in the Transmission of Electricity”, dated 28 June 2013.

## 5 RATIONALE BEHIND EXISTING ARRANGEMENTS

### 5.1 NEED FOR TSO COOPERATION

The central role of the TSO function is to keep the lights on. Given that both demand and the electricity systems to transmit and distribute electricity differ across regions and jurisdictions, it is standard across Europe, including countries outside of the European Union that system operators enter into agreements to trade electricity to balance systems and to maintain system security. TSOs across Europe have worked together for decades to keep Europe's electricity system up and running. Nonetheless blackouts can occur posing real threat to commercial activity and substantial disadvantage to consumers. In a direct response to this issue TSOs set up the first regional grid cooperation entities (Coreso) in 2008.<sup>24</sup> They have since been joined by a number of other Regional Security Coordinators (RSCs) to contribute to the security of the grid by organising coordinated activities between TSOs.

The European Commission supported this initiative and incorporated an operating framework for the new entities into its Network Codes, a series of legally binding rules to govern the operation of European power markets. The significance of this is that it transformed the RSCs from voluntary to mandatory structures, effectively requiring all TSOs to cooperate for the first time. It is clear therefore that across Europe, system security is requiring TSOs to work together to keep the lights on; and this is equally true for TSOs within the jurisdiction of a Member State and those who are not.

### 5.2 THE IMPORTANCE OF TSO COOPERATION ON THE ISLAND OF IRELAND

The electricity demand in Northern Ireland has been relatively flat in the last number of years. There is an expectation that electricity demand will remain fairly stable in the near future. There have been some enquiries and a connection application related to possible new Data Centre demand.

According to the All-Island Generation Adequacy Report 2019, on completion of the second North South interconnector we can consider the all-island system to be capable as operating electrically as one, i.e. with all the generation capacity from both jurisdictions to meet the combined load. One of the advantages of an all-island system is a capacity benefit, i.e. in general, it takes less capacity for the combined all-island system than for the sum of two single-jurisdiction studies. According to the [All-Island Generation Capacity Statement 2019 - 2028](#)<sup>25</sup> and based on the assumptions of a Median demand scenario, the Northern Ireland system does not have sufficient capacity from 2025.

The electricity system in Northern Ireland is heavily constrained<sup>26</sup>. Operational constraints restricting the options available to SONI in dispatching the system are outlined in the relevant [Operational Constraints Update](#). These constraints include system stability constraints whereby there must be at least 3 of the 5 operating generators on-load at all times in Northern Ireland to ensure dynamic stability. Other constraints further restrict actions of SONI to prevent system voltage collapse in the northwest of Northern Ireland.

This means that TSO cooperation is crucial on the island of Ireland to ensure generation adequacy and therefore the protection of the interests of consumers, vulnerable customers and business in Northern Ireland.

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<sup>24</sup> <https://energypost.eu/regional-cooperation-eu-transmission-system-operators-tsos/>

<sup>25</sup> <http://www.eirgridgroup.com/site-files/library/EirGrid/EirGrid-Group-All-Island-Generation-Capacity-Statement-2019-2028.pdf> Page 10

<sup>26</sup> [https://www.sem-o.com/documents/general-publications/OperationalConstraintsUpdateVersion1\\_84\\_July\\_2019.pdf](https://www.sem-o.com/documents/general-publications/OperationalConstraintsUpdateVersion1_84_July_2019.pdf)

### 5.3 THE REQUIREMENT OF TSO COOPERATION IN THE REVISED SEM ARRANGEMENTS

The revised SEM Arrangements, being the market arrangements put in place to facilitate compliance with the European Target Model, and which went live on 1 October 2018, have resulted in greater interaction between the Transmission System Operator and the Market Operator than in the pre-existing SEM. This development is a result of the market design and specifically the operation of balancing market across Europe and therefore the revised SEM Arrangements. In the ISEM Roles and Responsibilities Decision ([SEM-15-077](#)), the SEM Committee appointed SONI and EirGrid in their respective capacities as TSOs to function as the SEM Balancing Market Operator, who would take responsibility for energy and non-energy balancing in the revised SEM arrangements. This change in the market design by the SEM Committee meant that the TSOs now operate the balancing market. The actions that the TSOs take in balancing the system are detailed in the [Balancing Market Principles Statement](#)<sup>27</sup> (BMPS) and there is a TSO licence obligation on each of SONI and EirGrid to ensure that the BMPS accurately reflects the steps taken in balancing the market.

The revised SEM Arrangements prompted a detailed governance review which included considering areas of perceived conflicts of interests and addressing any such conflicts where they were considered to exist. As part of this review, no conflicts either actual or perceived, were identified between SONI in its capacity as SO and its capacity as MO or indeed between SONI and EirGrid.

The reality of the revised SEM Arrangements means that the SEM is more integrated than was previously the case with increased participation by the TSOs in the Balancing Market, which was not evident to the same extent in the pre-existing market.

### 5.4 BENEFITS OF CLOSE COOPERATION FOR SONI AND NORTHERN IRELAND CUSTOMERS

A number of synergies are delivered by SONI in cooperating with EirGrid to provide a considerable value-add to consumers across the island of Ireland but particularly in Northern Ireland. These synergies are many and include the SEM, and the Energy Management System which delivers the market and TSO IT systems. Value is also delivered to customers in Northern Ireland through considerable efficiencies which are considered below:

Examples of synergies between SONI and EirGrid include:

#### **Integration of IT Services**

Over the past 10 years, the IT Strategy for the SONI business is to standardise, simplify and consolidate IT Services. Approximately 80% - 90% of Group IT services are now provided as an all island service which creates operational efficiencies and enhanced performance.

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<sup>27</sup><https://www.sem-o.com/documents/EirGrid-and-SONI-Balancing-Market-Principles-Statement-V2.0.pdf>

## New Energy Management System

Each TSO operates and controls the transmission grid in each respective jurisdiction through the integrated Energy Management System (EMS) which is a single application that monitors and controls both power systems. This system allows for key operations to be rotated between SONI and EirGrid control centres (including energy scheduling, balancing market and energy dispatch).

The EMS provides the all-island network model since it has power system representation of both Northern Ireland and Republic of Ireland, reducing the maintenance required of duplicate parallel models.

## DS3 System Services

This world-leading programme has enabled SONI and EirGrid to increase levels of renewable generation on the system (System Non Synchronous Penetration or (SNSP)) from 50% to 65%.

The internal governance of this programme ensured SONI and EirGrid joint managerial control. This streamlined structure has facilitated an increase of approx. 3,800MW<sup>28</sup> of wind generation on the island of Ireland over the past 10 years.

## System Planning

Although system planning has more jurisdictional programmes of work, there is significant knowledge sharing across the functions to ensure a best practise approach is applied in Northern Ireland and in the Republic of Ireland, with respect to day-to-day operations, longer term strategic outlooks and specific projects.

- **Day-to-day Operations** – greater support from each jurisdiction during fault / system incidents including reserve sharing and access to both interconnectors for support.
- **Longer Term Strategic Outlooks** – enhanced availability of specialist expertise has been key for SONI with respect to more challenging power system analysis. In addition, there is reduced cost sharing expertise as there is a reduction in the need for duplication of specialist resources.
- **Specific Projects** - SONI and EirGrid have worked together and leveraged the experience of the other with respect to specific projects such as the North-South Interconnector. This type of knowledge-sharing arrangement is crucial in ensuring that SONI continues to provide system security to the customers of Northern Ireland.

## Cyber Security

Cyber Security is of particular importance to SONI as the provider of critical national infrastructure. With an ever developing and sophisticated set of threats in the cyber security arena, it would not be acceptable if these services were unavailable even for a short time as a result of poor security.

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<sup>28</sup> An increase from 1,200MW to 5,000MW. In the previous 10 years, the wind generation levels grew by about 1,000 MW.



Given the level of interconnection between the SONI, EirGrid and SEMO IT services at the infrastructure, application, and database level, it is vitally important that the design and implementation of Cyber security services are delivered at a Group level to ensure there is a consistent standard approach to protecting the SONI, EirGrid and SEMO businesses. SONI could not provide the level of Cyber Security protection to the standard currently being provided within the integrated IT system on its own.

## Procurement

Procurement of supplies, works and services for SONI is governed by EU Directive 2014/25/EU, "Procurement by entities operating in the water, energy, transport and postal services sectors" and is managed by the Group Procurement function. A list of service requirements is submitted to Group Procurement by each directorate as part of the annual business planning process. Procurement develops this list into a tender programme for the year, agreeing a procurement strategy for each requirement with the relevant teams.

Where possible, similar requirements are aggregated into a single tender competition to maximise the economies of scale and scope and deliver volume discounts from service providers. In addition, where more than one group company requires the same or similar services such services may be procured on a joint basis.

The benefits of jointly procuring services are felt throughout the procurement lifecycle and include:

- More efficient use of internal resources to develop tender documents, define requirements, criteria, evaluate submissions and so on;
- Minimising duplication of effort for internal resources and supplier companies;
- Increased competition and better engagement from the supply market as larger contracts are viewed as more attractive;
- Reduced service costs through economies of scale and additional volume discounts;
- More effective supplier relationships and enhanced service levels; and
- Reduction in the risk of a procurement challenge.

SONI has over the last 10 years benefited greatly from its ability to make purchases and secure contracts on a group wide basis. For example, significant cost savings arose from the Oracle Universal Licence Agreement for the Group Data Integration Project. A significant benefit has been identified as attributed to Group Integration over 4 years, amounting to noteworthy savings for SONI each year on this licence alone.

## 6 GENERAL OBSERVATIONS ON PROPOSED OPTIONS APPROACH

### 6.1 RATIONALE AND BASIS FOR INTERVENTION

The Call for Evidence does not state why regulatory intervention is needed at this time. SONI looks forward to engagement with the Utility Regulator on this issue and understands in particular that in order for any harm to be prevented or mitigated, identification of the harm in question is necessary, together with a consideration as to why the existing governance and licencing arrangements do not currently allow any possible harm to be addressed.

In section 5 of the Call for Evidence “Energy Transition” is considered to create a potential for policy divergence:

*“EU Exit also has the potential to create policy divergence. The strategic policy direction in NI may therefore take a steer from what is happening in GB and could therefore be different in emphasis from government policy in Ireland.”*

SONI is of the view that at this stage it is premature to attempt to predict whether there will be such divergences or what form they will take. The suggestion of potential future divergence in policy areas does not reflect the continued commitment of the UK and Irish governments to the SEM.

The all-island arrangements are designed to bring about benefit to Northern Ireland customers. The SEM Committee at the time of the SONI acquisition determined that the purchase of SONI and the exercise of certain regulatory functions in connection with the matter constitute SEM Matters for the purposes of the relevant legislation i.e. that the exercise by the Utility Regulator and the Commission for the Regulation of Utilities of their regulatory functions are matters which materially affect or are likely to materially affect the SEM. It was for this reason that changes were made to the EirGrid plc licences to ensure that the licensee would have regard to customers in Northern Ireland in carrying out its functions. This would suggest that any changes that are proposed to be made to these arrangements may also be SEM matters.

## Call for Evidence Questions for SONI

### 6.2 GENERAL OBSERVATIONS

SONI has confined itself to answering only the questions that have been specifically addressed to SONI. A wide range of questions has been put to other stakeholders. SONI looks forward to further engagement with the Utility Regulator following consideration of the responses received.

Many of the questions addressed to SONI have been already answered through the body of this submission. Where information additional to sections of this submission was required SONI responds specifically to these questions below. For clarity, the questions as set out in the UR's Call for Evidence paper are included in **blue**.

### 6.3 QUESTIONS FOR SONI

**Section 8.25 (i) We invite SONI to set out the nature of the day to day interactions between it and EirGrid, the governance structures which facilitate these interactions, together with a SONI organisation chart. We would invite SONI to provide commentary on how it meets the licence requirements that SONI has both to all-island consumers through the System Operator Agreement, and more specifically to Northern Ireland consumers.**

The **nature of the day to day interactions** reflect the integrated management model described earlier in section 4.1 of this submission and highlighted in figure 2.

Executives have full responsibility for their functional areas across all Group activities. Management and staff, regardless of whether they are employees of SONI Ltd or EirGrid plc, carry out the day to day tasks with payroll costs allocated to the respective licensed activities in accordance with the Group Cost Allocation and Recharge Policy. This pooling of specialist resources delivers better performance and cost efficiencies for electricity consumers in Northern Ireland and the Republic of Ireland.

The nature of the all-island market requires day to day interaction between SONI and EirGrid with respect to both TSO and MO functions and across these functions. This interaction promotes the sharing of best practice processes and the sharing of local knowledge and experience. The points below draw on some of the practical ways through which SONI and EirGrid interact on a day to day basis:

- **System Operations:** The revised SEM Arrangements means that the SEM is more integrated, with increased participation by the TSOs in the Balancing Market as Balancing Market Operator, which was not the case in the pre-existing market. This has increased the need for TSO cooperation, collaboration, participation and partnership between SONI and EirGrid.  
**Market Operation:** SONI and EirGrid, through a contractual joint venture, SEMO operate the Single Electricity Market. SEMO functions operationally as one unit comprising staff of both SONI and EirGrid to ensure the market is operated on a seamless basis for the benefit of market participants in the all-island market and consumers in Northern Ireland and Republic of Ireland.
- **System Security and Planning:** SONI and EirGrid staff each contributes to the Transmission System Security and Planning Standards. SONI and EirGrid staff work together, share knowledge and seek advice where relevant.
- **Procurement:** SONI and EirGrid work together on the joint procurement of goods and services. This delivers benefits both in terms of financial savings and enhanced services as outlined further in section 5.4 of this

submission. Appropriate cost allocation ensures that no cross subsidisation occurs between licences and in the case of the Market Operator, between the SEMO and SEMOpx businesses.

- **IT Systems:** significant improvements have been made over the past 10 years in standardising, simplifying and consolidating IT services across the Group. Systems are designed and delivered to run in two locations. The key feature of this model is in the creation of operational efficiencies that enhance performance and allow for the on boarding of new IT services. It also allows for specialist areas such as cyber security to be shared across the Group's TSO and MO activities.

**Section 8.25 (ii) We invite SONI to set out what Group policies apply to SONI (such as the Cost Allocation and Recharge Policy and the EirGrid Information Services (IS) Strategy for 2015 -2017), and whether these policies are decided by the EirGrid plc board. NI stakeholders need to understand who establishes SONI's purpose, values, and strategy, the extent that role is undertaken by the EirGrid plc rather than the SONI board, and be content that this is in the best interests of NI consumers;**

All Group companies are expected to comply with the Group Risk Policy and the Group Treasury Policy as approved by the EirGrid Board. The Board has also approved a Whistleblowing Policy and a Group policy for the Approval of Unlimited Indemnities. Consistent Group accounting policies apply to all Group companies. There is also a range of IT policies approved at management level dealing with such issues as Acceptable Use of IT, Technical Vulnerability Management, IT Physical and Environmental Policy etc.

As outlined above the Group Cost Allocation and Recharge Policy was developed jointly by the finance teams in EirGrid and SONI and was approved by the Group Executive Team. Management at local level oversees separate SONI and EirGrid policies in respect of Transmission System Security and Planning Standards. Any changes to these policies require regulatory notification and approval. EirGrid has a range of other technical policies dealing with issues such as transformers, harmonics, busbar configuration etc. A similar suite of policies has not been developed for SONI and reliance is still placed on NIE Networks policies and practices.

The development of the SONI Strategy 2020 – 2025 was a detailed and lengthy process, commencing almost a year ago and only recently concluded. Work to support the delivery of the strategy, its underlying values and culture is continuing.

**Section 8.25 (iii) We invite SONI to set out how the structure of the Group and the composition of the various boards provide benefit to NI stakeholders;**

We have set out in sections 3.1 - 3.3 of this submission details on the composition of the SONI Board and how it relates to the EirGrid Board (section 3.3) and how this is consistent with corporate governance best practice. In addition, SONI and EirGrid each appoint a representative to the SEMO Governing Committee and SEMOpx Governing Committee which meet regularly, and review the operational performance of SEM in the context of each individual Contractual Joint Venture. Consumers in Northern Ireland benefit from the good governance that is represented by these arrangements and also by the duty imposed on all EirGrid directors to act in the interests of all electricity consumers on the island.

The all-island arrangements are designed to create benefits for customers in Northern Ireland and Northern Ireland stakeholders.

**Section 8.25 (iv) we invite SONI to set out how the integrated structure works and is managed in practice, including: how decisions are made, and authority is delegated downwards in the organisation; how decisions about allocation of staff resources (both SONI and EirGrid staff) are made, and the pros and cons of these arrangements;**

The Group Control Framework specifies those matters reserved to the EirGrid Board. All authority, other than for matters reserved to the EirGrid Board is delegated to the Group Chief Executive. The Chief Executive in turn approves a Delegated Control Framework which specifies what approval levels are retained by the Chief Executive and what level of authority is delegated to Executives and Management in all Group companies. These authority levels relate to a range of issues including:

- Capital expenditure for Grid Projects
- Other capital expenditure
- Purchase Order approval
- Supplier Invoice approval
- Recruitment decisions
- Staff Remuneration
- Legal Agreements

There is also a schedule of matters that are reserved to the Boards of all Group subsidiaries. These include approval of:

- Appointment of auditors
- Bank mandates that are not in accordance with Group Treasury Policy.
- Finance facilities where the subsidiary company is an obligor.
- Guarantees or unlimited indemnities to be issued by the company
- Power of attorney
- Use of the company seal
- Annual financial statements (including regulatory accounts)
- Significant contractual agreements.
- Actuarial reports and funding proposals
- All items requiring approval under regulatory licence conditions.

SONI has clear corporate governance procedures in place to oversee capital investment proposals for network projects. Projects in Northern Ireland are scrutinised by the Transmission Investment Committee (TIC), a committee of Group Executives which is attended by the relevant project managers. In Northern Ireland transmission network pre-planning projects (TNPPs) require approval by the Utility Regulator. In light of this, the approval by TIC for Northern Ireland projects ensures compliance with Group governance procedures and confirms that the investment proposal is sufficiently robust for submission to the Utility Regulator.

These governance arrangements outlined above are consistent with best practice and ensure that an adequate systems of internal control operate across the Group.

**Section 8.25 (v) Similarly, we request that SONI provide information about the scope of TSO functions that are integrated with EirGrid, including identifying which of these are SEMO functions, which are functions under the SOA, and which are NI-only functions, and which are EirGrid-only functions. We particularly wish to understand the contractual or other arrangements with EirGrid for sharing resources and staff, and how the SLA works in practice. We invite SONI to explain how it monitors that it is getting value for money for the services it receives from EirGrid under the SLA and, in particular, what services are received, how frequent a review is undertaken of the effectiveness and value for money being provided and, what the results of those reviews have been;**

Due to the SEM Committee's market design as provided for in the revised SEM arrangements, the role of the Transmission System Operator as Balancing Market Operator is more pronounced than it had been in the previous market arrangements. This is reflected in the SONI TSO licence; where there are 19 obligations imposed on SONI which are structured on an all-island basis and which require close co-operation with EirGrid.

A System Operator Agreement (SOA) is in place to ensure that both parties fulfil these functions. As has previously been referred to, in previous correspondence between the UR and SONI in June 2013, SONI observed that:

*"the bringing together of SONI Ltd. with the Republic of Ireland System Operator under a single governance structure has effectively internalised the requirement to enable each other to fulfil the other's functions and therefore overcomes many of the obstacles that could potentially be present under separate governance";*

It is evident from day-to-day operations, that the bringing together of SONI with the Republic of Ireland TSO EirGrid under a single management structure has allowed both parties to fulfil the other's functions. This enables many of the obstacles which may be present if separate governance arrangements applied, to be overcome. The current all-island structure and the sharing of resources and staff means a greater knowledge-share across the island and that SONI can continue to develop the critical skills required under both its licences.

The Service Level Agreement (SLA) referred to is a legacy agreement provided to UR in 2011 which has since been terminated by the parties.

**Section 8.25 (vi) We invite SONI to set out how the current governance arrangements apply to NI-facing activities, such as planning, and the extent to which this work is wholly managed and directed within SONI;**

The main body of the document refers to the current governance arrangements that apply to SONI. In respect of Northern Ireland-facing activities, SONI has a dedicated team which focuses on Northern Ireland projects, led by the SONI Manager of Grid Development.

**Section 8.25 (vii) We invite SONI to set out any measures it has in place to ensure the retention of specific, detailed local knowledge relating to the NI transmission system.**

As in any organisation importance is placed on the retention of staff across SONI, and in particular in retaining core expertise in the Castlereagh House Control Centre (CHCC). Staff retention is carefully managed ensuring training of staff and development and implementation of appropriate succession planning -for example, formal dispatch training and certification for all operators. The recruitment for CHCC engineers commences in advance of any existing employees retiring, with additional time-limited resources in place to facilitate additional training when required. SONI actively engages with the Utility Regulator through its price controls to ensure that adequate financial resources are in place to carry out licence functions for the benefit of consumers in Northern Ireland.

Over the past two years, there has been a focussed programme of training for both Control Centre engineers and other operations engineers. We have completed a dedicated power system restoration exercise for Northern Ireland in the dispatch training simulator to enhance the expertise should a power system blackout occur. As mentioned above, formal certification of Control Centre engineers in Belfast is in place for scheduling and dispatch activities.

A blackstart communications exercise was recently completed with key stakeholders in Northern Ireland and staff and management from SONI operations in Belfast. These are all activities designed to enhance power system knowledge and preparedness for emergency type scenarios in Northern Ireland and indeed, on the island of Ireland. SONI can confirm that, the systems and capabilities are in place to operate the Northern Ireland power system from the control room in Castlereagh House.