

**Decision on Modifications to the SONI  
Market Operator Licence and SONI  
Transmission System Operator  
Licence, necessitated to implement the  
Integrated Single Electricity Market  
(I-SEM)**

1 July 2016



# About the Utility Regulator

The Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing each of the key functional areas in the organisation: Corporate Affairs; Electricity; Gas; Retail and Social; and Water. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.

## Our Mission

Value and sustainability in energy and water.

## Our Vision

We will make a difference for consumers by listening, innovating and leading.

## Our Values

Be a best practice regulator: transparent, consistent, proportional, accountable, and targeted.

Be a united team.

Be collaborative and co-operative.

Be professional.

Listen and explain.

Make a difference.

Act with integrity.

## Abstract

In order to give effect to the Integrated Single Electricity Market (I-SEM), as contained in decisions of the SEM Committee, the Utility Regulator consulted on proposed licence modifications for I-SEM on 20 April 2016. These licence modifications form part of a broader framework of regulatory changes required to implement the I-SEM.

The modifications which were consulted on in April covered certain conditions of the SONI Market Operator and SONI Transmission System Operator licences. This decision paper follows on from the consultation paper. In response to representations made by respondents, we have made changes to the licence text to amend typographical errors and to clarify drafting to more accurately reflect the policy intention set out in the statutory consultation. The Utility Regulator is of the view that none of changes to the legal text change the substance or the intent of the original licence modification proposals contained in the statutory consultation.

A second consultation will be published in September 2016 which will cover other conditions of the SONI Market Operator, SONI Transmission System Operator, Generator, Supplier and Interconnector licences in Northern Ireland.

## Audience

This document is most likely to be of interest to the SONI System Operator and SONI Market Operator. The second consultation (scheduled to be published in September 2016) is likely to appeal to a wider audience as it will focus on remaining System Operator, Market Operator, Generator, Supplier and Interconnector licence conditions which will need to be modified to facilitate I-SEM implementation.

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# 1 Introduction

## BACKGROUND

The Integrated Single Electricity Market (I-SEM) is due to go-live in Q4 2017 and will more fully facilitate coupling with the electricity markets in the rest of Europe. The I-SEM will update and (in some respects) replace the current Single Electricity Market (SEM) arrangements as it will:

- Introduce Day-ahead and Intra-Day trading through a Nominated Electricity Market Operator (NEMO), designated as EirGrid plc and SONI Ltd in each respective jurisdiction;
- Introduce a new Balancing Market through which the EirGrid plc and SONI Ltd Transmission System Operators (TSOs) will accept offers and bids from participants to move away from their traded position in order to balance generation and demand on a minute by minute basis;
- Introduce a new Capacity Remuneration Mechanism (CRM); and
- Introduce the necessary changes to the Grid Codes in each jurisdiction and other impacted SEM arrangements.

In order to develop the I-SEM, a number of key workstreams were set up within the Utility Regulator (UR) in Northern Ireland and Commission for Energy Regulation (CER) in Ireland to analyse and make proposals on the required I-SEM market design. The SEM Committee (SEMC) has published decisions<sup>1</sup> on:

- I-SEM High Level Design (SEM-14-085a);
- Energy Trading Arrangements Detailed Design Building Blocks (SEM-15-064);
- Energy Trading Arrangements Detailed Design (SEM-15-065);
- I-SEM Roles and Responsibilities (SEM-15-077);
- Aggregator of Last Resort (SEM-15-063); and
- The Detailed Design of the Capacity Remuneration Mechanism (CRM) (SEM-15-103);

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<sup>1</sup> Note that the last two of the list of decisions had not been published at the time of the publication of the statutory April licence modification consultations.

- Nominated Electricity Market Operator (NEMO) designations (SEM-15-073 and SEM-15-073b);
- Assignment of TSO obligations under Article 1.3 of CACM (SEM-15-079a and SEM-15-079b);
- Financial Transmission Rights (SEM-15-100);
- I-SEM Capacity Remuneration Mechanism Detailed Design Decision Paper 2 (SEM-16-022);
- I-SEM Market Power Mitigation Decision Paper (SEM-16-024).

On 20 April 2016, in order to implement some of those SEMC decisions, the UR and the CER published statutory consultations in each respective jurisdiction<sup>2</sup> regarding a number of licence modifications necessary to the SONI Ltd and EirGrid plc TSO and MO licences for implementation of the new wholesale electricity market for Northern Ireland and Ireland, referred to as the I-SEM.

In line with Article 14 of the Northern Ireland Electricity Order 1992 and sections 19 and 20 of the Electricity Regulation Act (1999), each respective regulator consulted on proposed licence modifications to the SONI Ltd and EirGrid plc Transmission System Operator (TSO) and Market Operator (MO) licences in either jurisdiction. Each consultation was for a 28-day period, running from 22 April<sup>3</sup> to 20 May 2016.

Our notices proposed to add or modify the following conditions:

- The Capacity Market Code condition (new to the SONI and EirGrid TSO licences)
- Transition arrangements condition (in the SONI and EirGrid MO licences)
- The Grid Code condition (in the SONI TSO licence)

We would like to thank the stakeholders who responded to our statutory consultations. Decisions in this paper take into account one response received to the Utility Regulator's statutory consultation on modifying the SONI Ltd Market Operator (MO) and Transmission System Operator (TSO) licences. Three

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<sup>2</sup> [http://www.uregni.gov.uk/publications/statutory\\_consultation\\_on\\_isem\\_licence\\_modifications](http://www.uregni.gov.uk/publications/statutory_consultation_on_isem_licence_modifications) ;  
<http://www.cer.ie/document-detail/Modifications-to-EirGrid-Market-Operator-Licence-and-Transmission-System-Operator-Licence-necessitated-to-implement-the-Integrated-Single-Electricity-Market-I-SEM/1079>

<sup>3</sup> Notices were published in the Belfast Gazette/ Irish Times on 22 April, so the 28-day consultation period commenced on 22 April.

responses were received (primarily) to the CER's statutory consultation on the EirGrid MO and TSO licences. We have considered all of the responses carefully and reviewed our decisions on the proposed modifications accordingly. In this decision paper, we set out a summary of the responses received to each modification alongside our decisions and reasoning. The UR<sup>4</sup> is publishing the licence modifications, acting on behalf of the SEMC, in Annexes 1 and 2 to this decision paper. The modifications will take effect on 1 September 2016.<sup>5</sup>

## **PURPOSE OF PAPER**

This decision paper outlines the UR decision (acting through the SEMC) on some necessary licence modifications required for the implementation of I-SEM. Although the decisions relate to the SEMC/ Utility Regulator's decisions on the SONI Ltd Market Operator and Transmission System Operator licences only, the Utility Regulator and the CER in Ireland have both had visibility of all responses received in either jurisdiction, and any summary of regulatory thinking behind decisions takes into account the content of all such responses.

The licence modifications derive from a combination of a review of all existing licence conditions, a review of SEM Committee I-SEM policy decisions to date, and consideration of stakeholder responses to our statutory consultations.

A second tranche of licence modifications for I-SEM will be consulted on in mid-September 2016. This is expected to involve further licence changes for the MO and TSO licences for which policy thinking is currently being developed, generator, supplier and interconnector licence modifications. The modifications will relate to the Market Power, Forwards and Liquidity, the Agent of Last Resort (AOLR), the Nominated Electricity Market Operator (NEMO), mitigation measures for potential conflicts of interest between entities of the EirGrid group, and any other necessary changes to allow for implementation of the I-SEM.

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<sup>4</sup> Note that reference in the paper to the Utility Regulator are to the Utility Regulator acting through its SE Committee

<sup>5</sup> Should an appeal or challenge be made to the licence mods, the statutory process and timeline will be followed in each jurisdiction

## 2 Decision on SONI licence modifications required to TSO and MO licences for I-SEM implementation

### SUMMARY OF RESPONSES

In relation to the majority of the licence modifications (as consulted upon), there will be no change to the text. In all cases both the UR and CER has considered any new arguments or evidence provided by respondents before making final decisions. The decisions incorporate some changes where the regulators have been persuaded to do so, but none of these amendments change the substance or the intent of the original proposal, so no subsequent consultation is required.

#### **Capacity Market condition**

The proposed modification was a new condition to be incorporated into both the SONI Ltd and EirGrid plc TSO licences. The purpose of the condition is to require the TSOs in each jurisdiction to sign up to, administer and maintain the new Capacity Market Code (CMC), which will set out the terms of the Capacity Remuneration mechanism.

Consultation responses in respect of this condition were received from SONI Ltd and EirGrid plc both in respect of the changes proposed to their own TSO and MO licenses. The responses stated that each respondent was broadly comfortable with the new CRM licence condition but added that the obligations placed upon the licensee should be limited to maintaining and administering the code and therefore align with the scope of the activities of the TSO.

In more detailed comments in relation to its SONI Ltd TSO licence, the respondent states that it is important that paragraph 3 clearly reflects that the mechanism is designed to secure adequate capacity at an aggregate level across the island. It also expresses the view that the condition should refer to the “Capacity Market” rather than the “Capacity Remuneration Mechanism”. The Utility Regulator has amended references to read “Capacity Market” instead of “Capacity Remuneration Mechanism” and is of the view that the licence condition as drafted for the consultation will remain. The condition refers to the capacity arrangements being designed to secure generation adequacy across the island of Ireland. This does not mean that the extent of the TSOs duties to secure such adequacy covers the island, but rather the references describe the geographic scope of the capacity

arrangements and that these will be on an all-island basis. Similar references exist in the Trading and Settlement Code setting out the rules across ‘the island of Ireland’. For these reasons, the wording will not be subject to further change.

In addition, SONI Ltd makes a number of comments about the costs that may arise based upon the work of the TSO both in relation to the development of the CMC and the operation of its obligations under the CMC. The Utility Regulator notes these comments and will address them as part of the regulated revenue reviews.

The respondent also makes some comments about the SEM Trading and Settlement Code licence condition. These will be considered as part of the proposal for changes to that condition to be included within the September tranche of licence changes.

EirGrid plc and SONI Ltd also commented on individual paragraphs of the proposed condition in their TSO licences, summarised as follows:

- Paragraph 1: The respondents state that there is no express obligation to operate the Capacity Remuneration Mechanism. The UR believes that such an obligation is properly included in paragraphs 1 and 2, which requires the licensee to administer and maintain in force the CMC and comply with its terms;
- Paragraph 2: The respondent states that they are assuming that this paragraph is sufficient to create an obligation on it to deliver the “key requirements” outlined in the various SEM Committee decisions and asks that, if this assumption is not correct that paragraph 2 should be expanded to specify the activities that it is obliged to undertake as TSO. The UR recognises that the process leading to the finalisation of the CMC will involve consultation prior to submission of the CMC to the Regulatory Authorities for designation. Once in operation, it is expected that any proposed modifications to the CMC will be required to include an impact statement from the TSO (and others impacted) so that the SEM Committee, when reaching a decision on the making of the modification proposal will be able to take account of the impact of that change. For this reason, the UR sees no reason to change this paragraph.
- Paragraph 3: The respondents suggest a number of detailed changes to the legal drafting of this paragraph. The respondents propose that we amend the beginning of the first sentence to say “... arrangements intended to promote generation ...” rather than “arrangements to secure generation” on the basis that “securing” capacity may be beyond the

capability of the TSOs. The UR does not accept this suggested change. The intention of the obligation is to secure (rather than simply promote) generation adequacy. SONI Ltd also proposes the addition of wording that makes clear that both TSOs together are responsible for the operation of the CMC. The UR does not believe that this is necessary since it is expressed very clearly at the beginning of paragraph 1. The subsequent proposed change to include more detail about the assessment and eligibility of capacity does not need to be included in the licence condition itself, being a matter for the designated code to include detailed obligations on the TSOs and other parties to the CMC. The UR accepts the suggestion that the wording “Capacity Remuneration Mechanism” should be changed to “Capacity Market” throughout the licence condition (including its title).

- Paragraph 4: SONI Ltd makes a number of comments on the proposed objectives for the CMC set out under paragraph 4:
  - (a) the respondent proposes to restrict the operation of this objective to the obligations within this licence condition only, rather than the whole of the two TSO licences. The proposed change is not necessary. The wording as proposed does not extend the scope of joint working between TSOs to the full range of TSO activities, but rather sets out that the administration of the CMC will be designed to achieve the objective of facilitating the efficient discharge of the Licensee’s obligations under its licence. The UR does not intend to make the changes suggested by the respondent.
  - (b) The changes to this objective are firstly to replace “Capacity Remuneration Mechanism” with “Capacity Market Code”, which the UR accepts and to delete the reference to “in a financially secure manner”. The UR believes it is vital that the operation of the CMC should take notice of the financial security of the arrangements or of changes to them. This wording must remain.
  - (c) The UR notes the respondent’s arguments for the changes it proposes to this objective and accepts those changes with the addition that the words “or seeking to be engaged” should be added between “undertakings engaged” and “in the provision of Electrical Capacity”. The introduction of a new defined term “Electricity Capacity” is noted and the RAs will seek the respondent’s views on that definition as part of the September tranche of licence changes.
  - (d) The UR accepts the small typographical and editorial changes to the objectives at 4 (d) and (f), which do not alter the intention of the

condition. SONI Ltd also suggest that paragraph 4(e) should change from “to provide transparency in the operation of the Single Electricity Market” to “to facilitate transparency in the operation of the Capacity Market”. However, the UR is of the view that the proposed text should remain since the Capacity Market is incorporated within the Single Electricity Market, and the wording aligns with the content of the Trading and Settlement Code.

- (g) The UR notes SONI’s arguments that the CMC cannot be held responsible for quality or security of supply of electricity provided across the Island of Ireland. However, it is clear that both the quality of electricity provided (stability of voltage and frequency) and the security of supply can be related to the capacity provided and that any impact on those factors resulting from capacity provided could be a matter for the CMC. The UR therefore believes that these terms should remain.
- Paragraph 5: The UR notes the comment about the need for a single point of contact and accepts that the paragraph would be better phrased to refer to “a single point of contact when participating in the Capacity Market”.
  - Paragraph 6: SONI Ltd questions the need for this obligation to provide information, given other licence conditions requiring the provision of information to the UR. The purpose for adding such an obligation in this place is to emphasise the importance of the provision of information in relation to this activity. The UR considers that a licence requirement allowing the regulator to request information from the TSO concerning a newly developed Capacity Market Code or any aspect of its operation is a prudent measure of regulatory oversight which will give confidence to market participants.
  - Paragraph 7: SONI Ltd requests amendment to this paragraph to ensure alignment across jurisdictions. The UR agrees that such alignment may be necessary and, to the extent that it is, will ensure that the appointed dates in the two jurisdictions are aligned. The UR does not believe that any change to the paragraph is required.

### **Transitional Arrangements**

At present, no ‘transition’ conditions exist in the published TSO licences, however these did exist at the time of the current SEM implementation in 2007 but were removed in the interim due to their non-necessity once SEM was up and running. The UR proposed that wording be re-inserted to the same effect for I-SEM as the

transition conditions which applied to SONI Ltd in 2007.

The RAs both consulted on modifications to both 'general' and 'specific' transition conditions, acknowledging that a change was required to the 'general' conditions to acknowledge I-SEM rather than SEM, and that the 'specific' conditions requiring the licensees to do specific things which are reasonably expected to be required in support of I-SEM development and implementation.

SONI Ltd's responses in respect of the proposed transition conditions state that the consultation does not explain why the transition conditions in the TSO and MO licenses is necessary given that substantial progress has already been made with the transition to I-SEM and refers to the Agreed Approach Document<sup>6</sup> signed by CER, Utility Regulator and EirGrid plc [incorporating SONI Ltd]. The summary comment also adds that if a transition condition is to be added it should be amended to ensure it is proportionate and does not contradict/ overlap with existing governance arrangements. In more detailed comments the licensees refer to the obligations imposed by the European Network Codes and express the view that the transition to the I-SEM has progressed efficiently so far, based upon the existing licenses, EU legislation, SEM Committee decisions and an Agreed Approach Document. The TSOs are obliged under the network codes to deliver a market that is compliant with the CACM and FCA network codes before the end of 2017. SONI Ltd notes that the consultation paper does not explain why this is not sufficient for the remainder of the process.

SONI Ltd also makes the point that if a transition condition is to be included a number of changes should be made to it as follows:

- Paragraph 11: SONI Ltd states that the provision of information is covered elsewhere in the licence and it is not sure why this is duplicated here. In addition given that the established modifications processes are being followed to modify industry documents, it seems inappropriate to circumvent these processes by RAs requesting and reviewing draft legal documents before they have passed through these processes. It therefore suggests that it is deleted from the modifications or only used in exceptional circumstances. The UR is of the view that the provision of information is an important power of the regulator to adequately regulate, and that this function is also very relevant to I-SEM delivery. This condition

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<sup>6</sup> <https://www.semcommittee.com/sites/semcommittee.com/files/media-files/SEM-15-004%20Published%20AAD%209%20Jan%202015.pdf>

- should remain as consulted on.
- Paragraph 12: the licensee states that it is not sure how it would be possible to comply with paragraph 12 if they are not actually aware of the matter or circumstances in question. It is the UR view that the words “or should reasonably be aware” are intended to give the licensee proper incentive to take reasonable steps to ensure that it becomes aware of such circumstances. No further modification will be made to this condition as consulted on.
  - Paragraph 13: SONI Ltd expressed surprise about the mention of the SEM Trading and Settlement Code, given that it is already required to comply with the Code. As set out in the condition, the focus is on taking all reasonable steps to secure the effective implementation of the revised Trading and Settlement Code (i.e. to implement I-SEM arrangements).

SONI Ltd also propose the removal of the words “or should reasonably know” from the definition of the revised SEM arrangements. However, the intention of this condition is that the licensees take reasonable steps to ensure that they do know about such things and as such, no changes will be made.

## **Grid Code**

Aside from minor errors in the referencing of paragraphs in the Grid Code condition of the SONI Ltd TSO licence, no other changes were proposed by the RAs.

The licensee (SONI Ltd TSO in this case) states that the original text accurately reflected the scope of the Scheduling and Dispatch Code and no change has been requested. The licensees state that no change should be made.

Aside from the minor typographical errors which have been rectified in paragraph 1(b), 1(c) and 6(d) of the Grid Code condition (to “i, ii, iii”-type references rather than “a, b, c”- type references), no other changes to the existing condition are proposed.

## **SUMMARY OF DECISION**

Since the consultation was published, only minor changes<sup>7</sup> to the initially proposed licence conditions for this decision are proposed as follows:

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<sup>7</sup> None of the modifications to the original licence modifications which were consulted on in April 2016 are significant, nor do they change the intent of the regulator’s proposal. They therefore do not need to be consulted on again.

## TSO licences

### Capacity Remuneration Mechanism (Capacity Market):

- The title of the condition will change to 'Capacity Market'
- References to 'Capacity Remuneration Mechanism' will be replaced with 'Capacity Market'
- Additional wording will be included in paragraph 4(c) for clarification
- Paragraph 4(d), and 4(f) will be subject to very minor typographical changes and clarification
- Wording of paragraph 5, while not changing the intent of the condition, will change to read "...a single point of contact when *participating in the Capacity Market*" rather than "... a single point of contact when *interfacing with Transmission System Operation*".

### Transitional arrangements:

- No further modifications are proposed to the licence condition which was consulted on in April 2016

### Grid Code (SONI TSO licence only):

- No further modifications are proposed to the licence condition which was consulted on in April 2016

## MO licences

### Transition

- No further modifications proposed to the licence condition consulted on in April 2016

## DECISION

The Utility Regulator, acting through its SEMC, directs that new licence conditions as set out in Annexes 1 and 2 should be made in the respective licences of the SONI Ltd TSO and MO. The annexes show a mark-up of the modifications which were consulted on in April for ease of reading. The Licence conditions are change-marked from the detail of the condition published for consultation on 20 April 2016.

## 3 Next Steps

The licence modifications described above will come into effect in the SONI Ltd TSO and MO licences from 1 September 2016.

A second licence modification consultation on changes required to implement I-SEM including more modifications to the TSO and MO licences, will be published in mid-September 2016. Generator, Supplier and Interconnector licence modifications will also be subject to consultation at this time.

The following key issues will be considered in the September licence modification consultation papers:

- Licence definitions
- Balancing Market Principles Statement (BMPS)
- Agent of Last Resort (AOLR) role
- Forwards & Liquidity
- Market Power
- Nominated Electricity Market Operator (NEMO) role
- Mitigation measures for potential conflicts of interest amongst entities of the EirGrid group

In parallel with development of the September licence modification consultations, the RAs are also working with the TSOs to develop a revised Trading and Settlement Code, Capacity Market Code and related documents including the Terms of Reference for a Balancing Market Principles Statement. It is envisaged that a consultation on a 'red-line' Trading and Settlement Code will take place in December 2016. A similar consultation paper on a Capacity Market Code is scheduled to take place in March 2017.

# Annex 1: SONI TSO Licence Modifications Proposed

## SONI Transmission Operator Licence, ~~CAPACITY REMUNERATION MECHANISM~~ MARKET

### NEW CONDITION

1. The Licensee shall enter into and, in conjunction with the Republic of Ireland System Operator, at all times administer and maintain in force, the Capacity Market Code, being a document which:
  - (a) makes provision in respect of the capacity arrangements described in paragraph 3;
  - (b) is designed to facilitate achievement of the objectives set out in paragraph 4; and
  - (c) contains modification procedures which provide that any modifications to the Capacity Market Code (but not, necessarily, to the Agreed Procedures) must be subject to the prior approval of the Authority and which enable the Authority to propose modifications to the Capacity Market Code;and the Licensee shall be taken to have complied with this paragraph to the extent that it:
  - (d) adopts, on the date of such designation, as the Capacity Market Code the document designated as such by the Authority for the purposes of this Condition; and
  - (e) on an on-going basis reviews and proposes such modifications to that document (in accordance with the modification provisions therein) as would be necessary to ensure that that document meets the requirements of this paragraph 1.
2. The Licensee shall comply with the Capacity Market Code insofar as it is applicable to it as the holder of a licence granted under Article 10(1)(b) of the Order.
3. The capacity arrangements referred to in paragraph 1(a) are arrangements to secure generation adequacy and capacity to meet the demands of consumers including (without limitation) rules and procedures for the application for and allocation of agreements to remunerate the provision of electricity capacity (whether through the provision of generation, electricity supplied via interconnectors, reduction in demand or otherwise) across the island of Ireland. Those arrangements taken together with the arrangements for

calculation and settlement of such remuneration (which are dealt with under the provisions of the Single Electricity Market Trading and Settlement Code), are referred to in this Condition as the “Capacity Remuneration Mechanism”.

4. The objectives referred to in paragraph 1(b) are:
  - (a) to facilitate the efficient discharge by the Licensee of the obligations imposed on it by this licence, and to facilitate the efficient discharge by the Republic Of Ireland System Operator of the obligations imposed on it by the Republic of Ireland System Operator Licence;
  - (b) to facilitate the efficient, economic and coordinated operation, administration and development of the Capacity ~~Remuneration Mechanism~~ Market and the provision of adequate future capacity in a financially secure manner;
  - (c) to facilitate the participation of undertakings including electricity undertakings engaged ~~or seeking to be engaged in the provision of Electricity Capacity in the generation, supply and sale of electricity in the Capacity Market Remuneration Mechanism;~~ **or seeking to be engaged in the provision of Electricity Capacity** in the generation, supply and sale of electricity in the Capacity ~~Market Remuneration Mechanism~~ Market;
  - (d) to promote competition in the provision of ~~Electricity~~ **Capacity** ~~in~~ to the Single Electricity Market;
  - (e) to provide transparency in the operation of the Single Electricity Market;
  - (f) to ensure no undue discrimination between persons who are **or may seek to become** parties to the Capacity Market Code; and
  - (g) through the development of the Capacity ~~Remuneration Mechanism~~ Market, to promote the short-term and long-term interests of consumers of electricity with respect to price, quality, reliability, and security of supply of electricity across the island of Ireland.
5. The Licensee shall, in conjunction with the Republic of Ireland System Operator, ensure that persons who are a party to the Capacity Market Code or who wish to become a party to the Capacity Market Code have, to the extent that is reasonably practicable, a single point of contact when **participating in the Capacity Market** and interfacing with Transmission System Operation.
6. The Licensee shall provide to the Authority such information as the Authority may request concerning the Capacity Market Code or any aspect of its operation.

## Coming into Effect

7. The provisions of this Condition (other than those of this paragraph which shall come into immediate effect) shall come into effect on such day, and subject to such transitional arrangements, as the Authority may by discretion appoint. Different days may be so appointed for different provisions and for different purposes.

## Definitions

8. In this Condition:

“Agreed Procedures” means the detailed procedures that form part of the Capacity Market Code, but which are subsidiary to the main provisions of the code, as (subject thereto) such expression is defined in the code;

## **SONI Transmission System Operator Licence, TRANSITION**

### **NEW CONDITION**

#### General Requirement

1. The Licensee shall take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to give full and timely effect to the revised SEM arrangements, so that the Licensee is able to comply with them from the time at which they are effective (or intended to be effective).

#### Requirement to Co-operate

2. Without prejudice to paragraphs 1 and 3, the Licensee shall cooperate with authorised electricity operators and Republic of Ireland electricity operators (and with the Department, the Authority and such other persons as the Authority may direct) and shall take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to enable:
  - (a) authorised electricity operators to comply with their statutory or licence obligations to give full and timely effect to the revised SEM arrangements, so that such authorised electricity operators are able to comply with them from the time at which they are effective (or intended to be effective);
  - (b) authorised electricity operators to comply with any directions by the Authority under a provision of their licences equivalent to paragraph 4; and
  - (c) Republic of Ireland electricity operators to comply with their statutory or licence obligations to prepare for the coming into effect of the revised SEM arrangements,and in the event of any dispute between the Licensee and such other person as to whether a particular step, or thing, is reasonable, the Licensee or such other person may refer the matter to the Authority for determination (which determination shall be final for the purposes of this paragraph).

#### Requirements to Comply with Directions

3. Without prejudice to paragraphs 1 and 2, the Licensee shall take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to comply with any direction made from time to time by the Authority in accordance with paragraph 4 (and shall by so doing be taken to have complied with such direction).
4. The Authority may issue directions to the Licensee setting out the steps (including without limitation those referred to in paragraph 5) to be taken (or procured) by the Licensee which are, in the Authority's reasonable opinion, appropriate in order to give full and timely effect to the revised SEM arrangements, so that the Licensee is able to comply with them from the time at which they are effective (or intended to be effective).
5. The directions made by the Authority under paragraph 4 (with which the Licensee is, in accordance with paragraph 3, required to take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to comply) may include requirements regarding the following steps:
  - (a) to secure or facilitate the amendment or establishment of any of the core industry documents; and
  - (b) to effect the novation of (or other transfer of rights and obligations under) any of the core industry documents from the Licensee or an authorised electricity operator to the Licensee or an authorised electricity operator.
6. The Authority may, at any time, by a further direction in accordance with paragraph 4 (in order to give (or continue to give) full and timely effect to the revised SEM arrangements amend or cancel any direction (or part thereof) previously made under paragraph 4.
7. The Authority may not make a direction under paragraph 4 until it has undertaken such period of prior consultation with the Licensee (and such other persons as the Authority deems appropriate) as is reasonable in the circumstances. No direction made under paragraph 4 shall be effective until a copy is served on the Licensee.

Requirement not to Frustrate

8. Without prejudice to any public or administrative law right, or statutory right, that the Licensee may have to bring any claim against any public body or person, the Licensee shall not take any step, or exercise any right, which is intended to hinder or frustrate the giving of full and timely effect to the revised SEM arrangements.

#### Potential Conflict

9. If the Licensee is aware of any conflict between its compliance with the provisions of this Condition or any direction under paragraph 4 and its compliance with any other Condition of the Licence, the Licensee shall promptly inform the Authority of such conflict.
10. Provided the Licensee complies with paragraph 9, the other Conditions of the Licence shall prevail over this Condition in the event of conflict. If there is any conflict between a direction made under paragraph 4 and another requirement of the Licence, the provisions of the direction shall prevail.

#### Information

11. The Licensee shall provide to the Authority, in such manner and at such times as the Authority may reasonably require, such information and shall procure and furnish to it such reports as the Authority may reasonably require or deem necessary or appropriate to enable the Authority to monitor the Licensee's compliance with the requirements of this Condition, including (without limitation):
  - (a) information as to the Licensee's readiness concerning the revised SEM arrangements; and
  - (b) status reports concerning those matters referred to in sub-paragraph (d) of the definition of the revised SEM arrangements, and drafts of any legal documents by which such matters are to be achieved.
12. If the Licensee is aware (or should reasonably be aware) of any matter or circumstance which it considers will (or which the Licensee should reasonably consider likely to) hinder or frustrate the giving of full and timely effect to the revised SEM arrangements, the Licensee shall promptly inform the Authority of such matter or circumstance.

#### Further requirements

13. Without prejudice to the generality of the foregoing provisions, the Licensee shall:
  - (a) take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to secure the co-ordinated and effective commencement and implementation of, and operations under the Single Electricity Market Trading and Settlement Code in light of its modification or amendment (or intended modification or amendment) under or by virtue of the revised SEM arrangements (including the development, testing, trialling and start-up of the systems, processes and procedures employed in such implementation and employed by authorised electricity operators and others in connection with such operations); and
  - (b) carry out a review of the regulatory documents in order to identify any changes which may in the Licensee's opinion be necessary or expedient in light of the revised SEM arrangements (the "identified changes") and provide a report (by such date as the Authority may direct) on the outcome of that review and on the action which the Licensee proposes to give effect to the identified changes.
  - (c) with the Republic of Ireland Transmission System Operator Licence holder develop the changes to the Grid Codes necessitated by the changes to the SEM trading arrangements and propose such changes to the Regulatory Authorities no later than three months before Go-Live.

#### Coming into Effect and Cessation of Effect

14. The provisions of this Condition (other than those of this paragraph and of paragraphs 15 and 16 which shall come into immediate effect) shall come into effect on such day, and subject to such transitional arrangements, as the Authority may by direction appoint. Different days may be so appointed for different provisions and for different purposes.
15. This Condition shall cease to have effect on 30 June 2018, without prejudice to the continuing enforceability of any right or obligation (including any requirement to comply

with a direction of the Authority issued prior to that date) which may have accrued or otherwise fallen due for performance prior to that date.

## Definitions

16. In this Condition, unless the context otherwise requires:

- “core industry documents” means those documents relating to the revised SEM arrangements which may from time to time be designated, by direction of the Authority, as such for the purposes of this Condition;
- “regulatory documents” means those codes, agreements and other documents which the Licensee is required to prepare, be party to or have in effect (or with which the Licensee is required to comply) under or by virtue of this Licence or the Order, including without prejudice to the generality, the Grid Code and the System Operator Agreement; and
- “revised SEM arrangements” means:
- (a) any modifications made (or which the Authority has formally indicated are likely to be made) to the Licence, or to the licences of any authorised electricity operator, for the purpose (in each case) of implementing the high level design set out in the document entitled, “Integrated Single Electricity Market (I-SEM): SEM Committee Decision on High Level Design”, with reference SEM-14-085a and published on 17 September 2014;
  - (b) the conditions of the Northern Ireland Market

Operator Licence and the Licence;

- (c) the terms imposed in any exemption granted pursuant to Article 9 of the Order that reflect a modification referred to in sub-paragraph (a);  
and
- (d) the matters that the Licensee knows (or should reasonably know) are envisaged by the modifications and conditions referred to in sub-paragraphs (a) and (b) (including, without limitation, the establishment, amendment or termination of, or the transfer of rights and obligations under, core industry documents);

including, without prejudice to the generality, any of the provisions or matters described above by which the Licensee is bound (or intended to be bound).

## SONI Transmission System Operator Licence, GRID CODE

### Condition 16. Grid Code

#### Establishment of the Grid Code

1. The Licensee shall prepare and at all times have in force, and shall (subject to paragraph 12) implement and comply with, a Grid Code:
  - (a) covering all material technical aspects relating to connections to and the operation and use of the total system or (insofar as relevant to the operation and use of the total system) the operation of electric lines and electrical plant within Northern Ireland connected to the total system or any other system in Northern Ireland for the transmission or distribution of electricity and (without prejudice to the foregoing) making express provision as to the matters referred to in paragraph 6; and
  - (b) which is, in respect of the transmission system, designed so as to:
    - (i) permit the development, maintenance and operation of an efficient, co-ordinated and economical system for the transmission of electricity in Northern Ireland as part of efficient, co-ordinated and economical systems for the transmission of electricity on the Island of Ireland;
    - (ii) facilitate the transmission system being made available to persons authorised to supply or generate electricity in Northern Ireland, on terms which neither prevent nor restrict competition in the supply or generation of electricity on the Island of Ireland; and
    - (iii) subject to sub-paragraphs (i) and (ii), promote the security and efficiency of the electricity generation, transmission and distribution system in Northern Ireland as a whole.
  - (c) which is, in respect of the distribution system, designed so as to:
    - (i) permit the development, maintenance and operation of an efficient, co-ordinated and economical system for the distribution of electricity; and

- (ii) neither prevent nor restrict competition in the generation and supply of electricity in Northern Ireland, or, to the extent that the Grid Code, in respect of the distribution system, may have such effect, on the Island of Ireland.

#### **Reviews of the Code**

2. The Grid Code in force at the date on which this Condition becomes effective shall be the document approved as such by the Authority. Subsequently, the Licensee shall (in consultation with electricity undertakings and the Republic of Ireland System Operator, to the extent such persons are liable to be materially affected thereby) periodically review (including upon the request of the Authority) the Grid Code and its implementation. Following any such review, the Licensee, shall send to the Authority:
  - (a) a report on the outcome of such review;
  - (b) any proposed revisions to the Grid Code from time to time as the Licensee (having regard to the outcome of such review) reasonably thinks fit for the achievement of the objectives referred to in paragraphs 1(b) and (c); and
  - (c) any written representations or objections from any electricity undertakings or the Republic of Ireland System Operator (including any proposals by such persons for revisions to the Grid Code not accepted by the Licensee in the course of the review) arising during the consultation process and subsequently maintained.

#### **Revision of the Code**

3. Revisions to the Grid Code proposed by the Licensee and sent to the Authority pursuant to paragraph 2 shall require the Authority's approval before they may be made.
4. Having regard to any written representations or objections referred to in sub-paragraph 2(c), and following such further consultation (if any) as the Authority may consider appropriate, the Authority may issue directions requiring the Licensee to revise the Grid Code in such manner as may be specified in the directions, and the Licensee shall forthwith comply with any such directions.
5. The Authority shall be entitled, in order to implement the requisite arrangements referred to in condition 60 of the NIE Energy Supply Licence, to issue directions to the

Licensee requiring the Licensee to revise the Grid Code in such manner and with effect from such date as may be specified in the directions, and the Licensee shall comply with any such directions, provided that such revisions shall not affect the rights or obligations of any party to:

- (a) a power purchase agreement that is not a cancellable generating unit agreement;  
or
- (b) a cancellable generating unit agreement that has not, at the relevant time, been the subject of a cancellation direction, under that agreement, beyond what may reasonably be regarded as de minimis in relation to that party.

### **Content of the Code**

6. The Grid Code shall include:

- (a) connection conditions specifying the technical, design and operational criteria to be complied with in respect of any connection or proposed connection at an entry or exit point on the total system;
- (b) a set of operating codes specifying conditions and procedures under or in accordance with which the Licensee shall operate the total system, and under or in accordance with which other persons shall operate their plant and/or systems for the distribution of electricity in relation to the total system (including procedures and conditions relating to outages of generation sets and associated power station equipment), insofar as is necessary to protect the security and quality of supply and to ensure the proper and safe operation of the total system under both normal and abnormal operating conditions or in order to give effect to paragraph 2 of Condition 22;
- (c) a planning code specifying the requirements for the supply of information by persons connected (or seeking connection) at an entry point or an exit point on the total system, or in respect of the applications envisaged by Condition 27, (in each case) in order for the planning and development of the total system to be undertaken, and specifying the technical and design criteria and procedures to be applied in the planning and development of the total system and to be complied with by other persons connected or seeking connection at an entry point or an

exit point on the total system in the planning and development of their own plant and systems;

- (d) a set of scheduling and dispatch codes specifying conditions and procedures for the scheduling and dispatch of generation sets connected at an entry point or exit point on the total system which are either:
  - (i) required to be subject to central dispatch instructions under the terms of any exemption granted under Article 9 of the Order or any licence granted under Article 10 of the Order; or
  - (ii) are agreed by the operator of that generation set to be subject to central dispatch; and which may include provisions relating to the management of emissions.
- (e) a metering code setting out requirements and procedures for metering.

#### **Copies of the Code**

- 7. The Licensee shall ensure that a copy of the Grid Code is given or sent to the Authority and the Department and is published on the Licensee's website.
- 8. The Licensee shall (subject to paragraph 9) ensure that a copy of the Grid Code is given or sent to any person requesting it.
- 9. The Licensee may make a charge for any copy of the Grid Code given or sent pursuant to paragraph 8 of an amount which will not exceed any amount specified for the time being for the purposes of this Condition in directions issued from time to time by the Authority.

#### **Non-Discrimination**

- 10. In preparing, implementing and complying with the Grid Code the Licensee shall not:
  - (a) unduly discriminate against or unduly prefer any person or class or classes of persons in favour of or as against any other person or class or classes of persons; or
  - (b) restrict or prevent competition in generation or supply on the Island of Ireland.
- 11. The Licensee shall keep and maintain such records concerning its implementation of and compliance with the Grid Code as are in accordance with such guidelines as the Authority

shall from time to time have given to the Licensee and are, in the opinion of the Authority, sufficient to enable the Authority to assess whether the Licensee is performing the obligation imposed upon it under paragraph 10 concerning these matters and the Licensee shall furnish to the Authority such records (or such of these as the Authority may require) in such manner and at such times as the Authority may require.

### **Derogations**

12. The Authority may from time to time (following consultation with the Licensee) issue directions relieving the Licensee of its obligations to implement or comply with, or to enforce against any other person any provision of, the Grid Code in respect of such parts of the transmission system and/or the distribution system to such extent as may be specified in the directions.

### **Long Form Distribution Code**

13. Until such time as the Authority has approved, and the Transmission Owner has implemented, a Distribution Code designed so as to achieve the objectives referred to in paragraph 1(c) without substantial cross reference to the provisions of the Grid Code, the Licensee shall, to the extent that any provision of the Grid Code is designed so as to achieve the objectives referred to in paragraph 1(c):
  - (a) only propose revisions to the relevant parts of such provisions with the agreement of the Transmission Owner; and
  - (b) undertake any consultations undertaken in accordance with paragraph 2 that relate to the relevant parts of such provisions in cooperation with the Transmission Owner.
14. Once a Distribution Code, as described in paragraph 13, is approved and implemented, as described in paragraph 13, this Condition shall automatically be modified by the deletion of paragraph 1(c) and (subject to any contrary direction by the Authority) by the replacement of all references to "total system" with "transmission system. The Licensee shall, as soon as reasonably practicable following any such modification, undertake a review of the Grid Code in accordance with paragraph 2.

### **Definitions**

15. In this Condition, unless the context otherwise requires:

"cancellable generating unit agreement" shall have the meaning given to that term in the NIE Energy Supply Licence.

"power purchase agreement" shall have the meaning given to that term in the NIE Energy Supply Licence.

# Annex 2: SONI MO Licence Modifications Proposed

## SONI Market Operator Licence, TRANSITION

### NEW CONDITION

#### General Requirement

1. The Licensee shall take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to give full and timely effect to the revised SEM arrangements, so that the Licensee is able to comply with them from the time at which they are effective (or intended to be effective).

#### Requirement to Co-operate

2. Without prejudice to paragraphs 1 and 3, the Licensee shall cooperate with authorised electricity operators and Republic of Ireland electricity operators (and with the Department, the Authority and such other persons as the Authority may direct) and shall take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to enable:

- (a) authorised electricity operators to comply with their statutory or licence obligations to give full and timely effect to the revised SEM arrangements, so that such authorised electricity operators are able to comply with them from the time at which they are effective (or intended to be effective);
- (b) authorised electricity operators to comply with any directions by the Authority under a provision of their licences equivalent to paragraph 4; and
- (c) Republic of Ireland electricity operators to comply with their statutory or licence obligations to prepare for the coming into effect of the revised SEM arrangements,

and in the event of any dispute between the Licensee and such other person as to whether a particular step, or thing, is reasonable, the Licensee or such other person may refer the

matter to the Authority for determination (which determination shall be final for the purposes of this paragraph).

#### Requirements to Comply with Directions

3. Without prejudice to paragraphs 1 and 2, the Licensee shall take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to comply with any direction made from time to time by the Authority in accordance with paragraph 4 (and shall by so doing be taken to have complied with such direction).
4. The Authority may issue directions to the Licensee setting out the steps (including without limitation those referred to in paragraph 5) to be taken (or procured) by the Licensee which are, in the Authority's reasonable opinion, appropriate in order to give full and timely effect to the revised SEM arrangements, so that the Licensee is able to comply with them from the time at which they are effective (or intended to be effective).
5. The directions made by the Authority under paragraph 4 (with which the Licensee is, in accordance with paragraph 3, required to take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to comply) may include requirements regarding the following steps:
  - (a) to secure or facilitate the amendment or establishment of any of the core industry documents; and
  - (b) to effect the novation of (or other transfer of rights and obligations under) any of the core industry documents from the Licensee or an authorised electricity operator to the Licensee or an authorised electricity operator.
6. The Authority may, at any time, by a further direction in accordance with paragraph 4 (in order to give (or continue to give) full and timely effect to the revised SEM arrangements amend or cancel any direction (or part thereof) previously made under paragraph 4.
7. The Authority may not make a direction under paragraph 4 until it has undertaken such period of prior consultation with the Licensee (and such other persons as the Authority

deems appropriate) as is reasonable in the circumstances. No direction made under paragraph 4 shall be effective until a copy is served on the Licensee.

#### Requirement not to Frustrate

8. Without prejudice to any public or administrative law right, or statutory right, that the Licensee may have to bring any claim against any public body or person, the Licensee shall not take any step, or exercise any right, which is intended to hinder or frustrate the giving of full and timely effect to the revised SEM arrangements.

#### Potential Conflict

9. If the Licensee is aware of any conflict between its compliance with the provisions of this Condition or any direction under paragraph 4 and its compliance with any other Condition of the Licence, the Licensee shall promptly inform the Authority of such conflict.
10. Provided the Licensee complies with paragraph 9, the other Conditions of the Licence shall prevail over this Condition in the event of conflict. If there is any conflict between a direction made under paragraph 4 and another requirement of the Licence, the provisions of the direction shall prevail.

#### Information

11. The Licensee shall provide to the Authority, in such manner and at such times as the Authority may reasonably require, such information and shall procure and furnish to it such reports as the Authority may reasonably require or deem necessary or appropriate to enable the Authority to monitor the Licensee's compliance with the requirements of this Condition, including (without limitation):
  - (a) information as to the Licensee's readiness concerning the revised SEM arrangements; and
  - (b) status reports concerning those matters referred to in sub-paragraph (d) of the definition of the revised SEM arrangements, and drafts of any legal documents by which such matters are to be achieved.

12. If the Licensee is aware (or should reasonably be aware) of any matter or circumstance which it considers will (or which the Licensee should reasonably consider likely to) hinder or frustrate the giving of full and timely effect to the revised SEM arrangements, the Licensee shall promptly inform the Authority of such matter or circumstance.

#### Further requirements

13. Without prejudice to the generality of the foregoing provisions, the Licensee shall:
  - (a) take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to secure the co-ordinated and effective commencement and implementation of, and operations under the Single Electricity Market Trading and Settlement Code in light of its modification or amendment (or intended modification or amendment) under or by virtue of the revised SEM arrangements (including the development, testing, trialling and start-up of the systems, processes and procedures employed in such implementation and employed by authorised electricity operators and others in connection with such operations); and
  - (b) carry out a review of the regulatory documents in order to identify any changes which may in the Licensee's opinion be necessary or expedient in light of the revised SEM arrangements (the "identified changes") and provide a report (by such date as the Authority may direct) on the outcome of that review and on the action which the Licensee proposes to give effect to the identified changes.

#### Coming into Effect and Cessation of Effect

14. The provisions of this Condition (other than those of this paragraph and of paragraphs 15 and 16 which shall come into immediate effect) shall come into effect on such day, and subject to such transitional arrangements, as the Authority may by direction appoint. Different days may be so appointed for different provisions and for different purposes.
15. This Condition shall cease to have effect on 30 June 2018, without prejudice to the continuing enforceability of any right or obligation (including any requirement to comply with a direction of the Authority issued prior to that date) which may have accrued or

otherwise fallen due for performance prior to that date.

## Definitions

16. In this Condition, unless the context otherwise requires:

- “core industry documents” means those documents relating to the revised SEM arrangements which may from time to time be designated, by direction of the Authority, as such for the purposes of this Condition;
- “regulatory documents” means those codes, agreements and other documents which the Licensee is required to prepare, be party to or have in effect (or with which the Licensee is required to comply) under or by virtue of this Licence or the Order, including without prejudice to the generality, the Market Operator Agreement; and
- “revised SEM arrangements” means:
- (a) any modifications made (or which the Authority has formally indicated are likely to be made) to the Licence, or to the licences of any authorised electricity operator, for the purpose (in each case) of implementing the high level design set out in the document entitled, “Integrated Single Electricity Market (I-SEM): SEM Committee Decision on High Level Design”, with reference SEM-14-085a and published on 17 September 2014;
  - (b) the conditions of the Northern Ireland Market Operator Licence and the Licence;

- (c) the terms imposed in any exemption granted pursuant to Article 9 of the Order that reflect a modification referred to in sub-paragraph (a); and
- (d) the matters that the Licensee knows (or should reasonably know) are envisaged by the modifications and conditions referred to in sub-paragraphs (a) and (b) (including, without limitation, the establishment, amendment or termination of, or the transfer of rights and obligations under, core industry documents);

including, without prejudice to the generality, any of the provisions or matters described above by which the Licensee is bound (or intended to be bound).