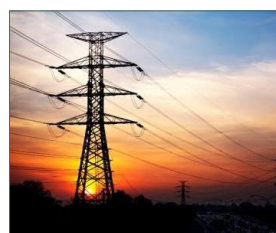


Decision on NEMO Designation for Northern Ireland
under Article 4 of the European Commission
Regulation on Capacity Allocation and Congestion
Management

Decision Paper

8 July 2019



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

To protect the short- and long-term interests of consumers of electricity, gas and water.



Our vision

To ensure value and sustainability in energy and water.



Our values

- Be a best practice regulator: transparent, consistent, proportionate, accountable and targeted.
- Be professional – listening, explaining and acting with integrity.
- Be a collaborative, co-operative and learning team.
- Be motivated and empowered to make a difference.

Abstract

As the term for NEMO designation in the Single Electricity Market ends on 3 October 2019, the Utility Regulator and Commission for Regulation of Utilities invited candidates to submit NEMO designation applications no later than 5 April 2019. One application was received from SONI Ltd for designation in Northern Ireland and one from EirGrid Plc for designation in Ireland.

This document reviews the evidence submitted by the applicants in terms of how they meet the designation criteria as required under Article 6 of the CACM Regulation and designates SONI Ltd as the NEMO in Northern Ireland under Article 4 of the CACM Regulation. A separate document designates EirGrid as the NEMO for Ireland.

Audience

This Decision Paper will be of interest to SONI Plc, other Transmission System Operators, Market Participants and other industry and statutory bodies.

Consumer impact

This Designation will facilitate the continuation of the Single Electricity Market which is expected to deliver increased levels of competition, a downward pressure on prices as well as encourage greater levels of security of supply and generation.

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Executive Summary

The European Commission Regulation on Capacity Allocation and Congestion Management (CACM or the Regulation) entered into force on 14 August 2015 and required a designation of a Nominated Electricity Market Operator for performance of day ahead and intraday market coupling for each Member State by 14 December 2015, for an initial period of four years.

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

As the term of the initial designation will end on 3 October 2019, the UR and CRU invited candidates to submit NEMO designation applications no later than 5 April 2019, to be designated for a period of three years as set out in the SEMC Decision Paper on the regulatory framework to apply to NEMOs in the Single Electricity Market, SEM-19-019. One application was received from SONI Ltd for designation in Northern Ireland and from EirGrid Plc in Ireland, setting out evidence of how the candidates meet the designation criteria as required under Article 6 of the CACM Regulation.

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

Glossary of Terms and Abbreviations

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

1. Introduction

1.1 Background

1.1.1 NEMO Designation

The Commission Regulation (EU) 2015/1222 establishing a Guideline on Capacity Allocation and Congestion Management (CACM) entered into force on 14 August 2015. The CACM Network Code requires that a Nominated Electricity Market Operator (NEMO) is designated as responsible for Day-ahead (DA) and Intraday (ID) Market Coupling in each national or regional bidding zone.

Nominated Electricity Market Operators (NEMOs) are defined under the CACM Regulation as entities 'designated by the competent authority to perform tasks related to single day-ahead or single intraday coupling'. The CACM Regulation requires designated NEMOs to establish and operate single day ahead and intraday coupling in coordination with TSOs and other NEMOs. It also sets out a governance framework for NEMOs.

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

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

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

application.

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

1.1.2 Related Documents

Information on the UR's role and relevant legislation can be found on the UR's website at www.uregni.gov.uk

- [Link](#) to Decision Paper on NEMO Designation for Northern Ireland
- [Link](#) to UR NEMO Designation Decision Appendix 1 for SONI Ltd
- [Link](#) to Appendix 2 RAs' Interpretation of NEMO Designation Criteria
- [SEM-19-003](#) Framework for NEMO Regulation from October 2019 Consultation Paper
- [SEM-19-019](#) Framework for NEMO Regulation from October 2019 Decision Paper

1.1.3 Structure of Paper

The first part of this paper provides an overview of the NEMO designation process and the RAs' interpretation of the designation criteria under Article 6 of the CACM Regulation. The second part of this paper provides an overview of the evidence submitted by SONI as part of its designation application and the UR's assessment of this evidence.

2. Designation and Assessment Process

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

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

Criterion	CACM Article 6 Designation Criteria	Application of the Criteria in Ireland and Northern Ireland
6.1(a) Adequate Resources	<i>'it has contracted or contracts adequate resources for common, coordinated and compliant operation of single day-ahead coupling and/or single intraday coupling, including the resources necessary to fulfil the NEMO functions, financial resources, the necessary information technology, technical infrastructure and operational procedures or it shall provide proof that it is able to make these resources available within a reasonable preparatory period before taking up its tasks in accordance with Article 7.'</i>	Applications must provide evidence of capability to deploy necessary resources to fulfil the NEMO functions including financial resources, the necessary information technology, technical infrastructure and operational procedures.

6.1(b) Access to information	<i>'it shall be able to ensure that market participants have open access to information regarding the NEMO tasks in accordance with Article 7.'</i>	Applications must provide evidence that they have the capability to publish and make available to market participants in Ireland and Northern Ireland all relevant information for the day ahead intraday market set out in CACM Article 7. Access to such information should be available to all market participants on an equal and non-discriminatory basis.
6.1(c) Cost Effective	<i>'it shall be cost-efficient with respect to single day-ahead and / or intraday coupling and shall in their internal accounting keep separate accounts for MCO functions and other activities in order to prevent cross-subsidisation.'</i>	Applications will be expected to provide evidence that they can ensure the implementation of the most cost-effective solutions for performing the day ahead and intraday market operation functions in the SEM. Applications must also demonstrate that they will be able to provide a breakdown between the MCO activities and other NEMO or market operator costs.
6.1(d) Adequate Business Separation	<i>'it shall have an adequate level of business separation from other market participants.'</i>	Applications should state clearly the legal entity applying for designation and provide detail of its corporate structure. The RAs shall monitor the level of business separation between NEMO functions and TSO functions in accordance with their duties under Article 4 and 5 of CACM taking into account synergies and conflicts of interest between the market operator and TSO roles in the SEM.
6.1 (e) No cross subsidisation for national	<i>'If designated as a national legal monopoly for day-ahead and intraday trading services in a Member State, it shall not use the</i>	N/A

legal monopolies	<i>fees in Article 5(1) to finance its day-ahead or intraday activities in a Member State other than the one where these fees are collected.'</i>	
6.1(f) Non-discriminatory treatment of market participants	<i>'it shall be able to treat all market participants in a non-discriminatory way.'</i>	Applications shall provide evidence of their ability to treat all market participants in a non-discriminatory way; and that market participants in the SEM shall be sufficiently informed and consulted on the day to day management and development of the single day ahead and intraday coupling.
6.1(g) Market Surveillance	<i>'it shall have appropriate market surveillance arrangements in place.'</i>	Applications must include evidence of training and monitoring procedures or the capability to put such procedures in place to identify and report on any potential market abuse consistent with Regulation (EC) 1227(2011) on REMIT.
6.1(h) Transparency and Confidentiality	<i>'it shall have in place appropriate transparency and confidentiality agreements with market participants and the TSOs.'</i>	Applications shall provide evidence of appropriate transparency and confidentiality agreements / proposed transparency and confidentiality agreements with the applicant intends to implement related to market information with market participants and TSOs.
6.1(i) Clearing and Settlement Services	<i>'it shall be able to provide the necessary clearing and settlement services.'</i>	Applications must include evidence that they have or can contract an entity which is able to provide adequate capitalisation and financial security, together with procedures in place to ensure satisfactory guarantees for settlements, necessary to clear and settle exchange of energy resulting from single day ahead and/or intraday coupling along

		with technical, operational and contractual arrangements for this.
6.1(j) Communication systems with TSOs	<i>'it shall be able to put in place the necessary communication systems and routines for coordinating with the TSOs of the Member State'</i>	Applications must provide evidence that they are capable of putting in place the necessary communication and technical systems and agreements for coordinating with the TSOs in Ireland and Northern Ireland including the Moyle and East West interconnectors and contingency plans for communicating with the TSOs.

Table 1

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

The assessment consists of analysis of the application submitted by SONI Ltd and EirGrid Plc to the UR and CRU respectively. Section 3 of this paper provides a summary of the evidence provided to demonstrate continued compliance with the designation criteria by SONI Ltd and the UR's view of the evidence provided (with a separate paper also published by CRU based on this assessment). A similar submission has been provided to CRU by EirGrid Plc.

3. Assessment of Application against CACM Criteria

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

Overview of SEMOpx

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

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

3.1 Article 6.1(a)

It has contracted or contracts adequate resources for common, coordinated and compliant operation of single day-ahead coupling and/or single intraday coupling, including the resources necessary to fulfil the NEMO functions, financial resources, the necessary information technology, technical infrastructure and operational procedures or it shall provide proof that it is able to make these resources available within a reasonable preparatory period before taking up its tasks in accordance with Article 7;

3.1.1 Evidence Provided

Evidence has been provided in order to demonstrate that SONI and EirGrid, through the SEMOpx contractual joint venture, together with SEMOpx's service providers, have adequate

resources for operation of the NEMO function, including adequate financial resources, information technology, technical infrastructure and operational procedures.

Evidence of Adequate Resources:

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

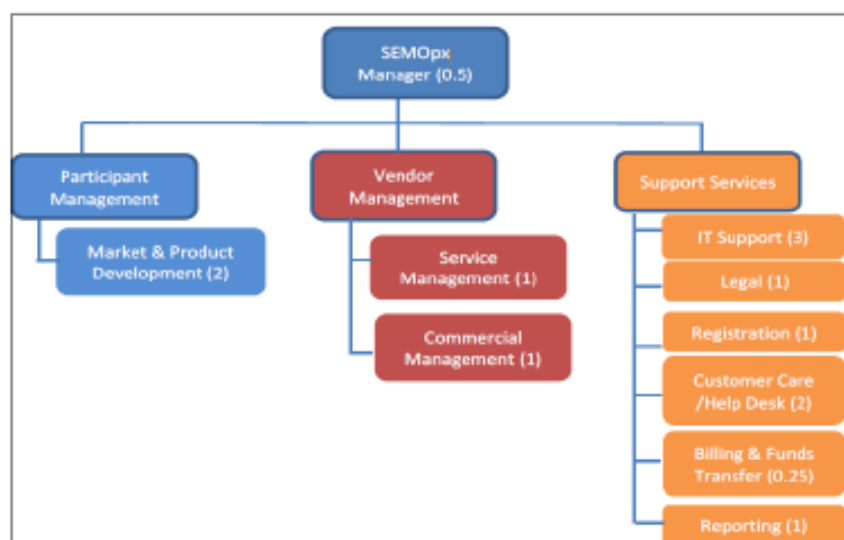


Figure 1

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

SEMOpX have also procured service providers in order to provide a subset of the NEMO tasks set out in Article 7. EPEX Spot¹ provides Trading Operations and Trading Systems while European Commodity Clearing AG² provides settlement and clearing services. EPEX and ECC

¹ EPEX Spot provides power exchange trading for day-ahead and intraday markets for its own power exchange and to other power exchanges such as SEMOpX

² ECC provides clearing and settlement services to a number of power exchanges in Europe.

have the required personnel in place to perform trading operations and settlement and clearing activities, as demonstrated through the efficient and effective operation of the trading, settlement and clearing process of SEMOpx since go-live of the new market in October 2018. EPEX's team includes resources to manage the four SEM auctions over extended business day operations and to manage the SEM continuous market on a 24/7 basis. EEC's team includes resources for clearing and settlement of the day-ahead and intraday auctions and the continuous market during normal business hours and for physical settlement and a 24/7 basis.

Fulfilment of the NEMO Functions

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

NEMO Function	Description	Provider
Registration	Provide support for the registration of new Exchange Members wishing to participate in the day-ahead and intraday markets	SEMOpX
Customer Care	First level support for queries related to the operation and participation in the day-ahead and intraday markets	SEMOpX
Operation of the Day-Ahead and Intraday Markets	Provide trading systems and trading operations for single day-ahead and intraday coupling as well as a local continuous market. With functions including: <ul style="list-style-type: none"> receiving orders from market participants, matching and allocating orders in accordance with the single day-ahead and intraday coupling results, publishing prices informing participants on the results of their orders executing with relevant NEMOs and TSOs back-up procedures for national or regional market operation 	EPEX
Operation of Market Coupling Operator (MCO)	<ul style="list-style-type: none"> Performing market coupling services on behalf of SEMOpX in co-ordination with other NEMOs. Including: <ul style="list-style-type: none"> Reception of Available Transfer Capacities from the TSOs and transfer to Coupling System Operating Coupling System (in rotation with other co-ordinators) Submission of preliminary results to TSOs Reception of TSOs results validation Triggering of any necessary Backup or Fallback procedures 	EPEX
Clearing and Settlement of Internal and Cross-border trades	<ul style="list-style-type: none"> Acting as central counterparty for clearing and settlement of the exchange of energy resulting from single day-ahead and intraday coupling and local markets Acting as a shipping agent for cross-border physical and financial shipping 	ECC
Market Surveillance	<ul style="list-style-type: none"> Market Surveillance and REMIT reporting obligations 	SEMOpX

Figure 2

Financial Resources:

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

Information Technology, Technical Infrastructure and Operational Procedures:

NEMO applications and infrastructure have been developed in order to provide NEMO services, which have been operational since October 2018 and have successfully operated the day-ahead and intraday markets. A list of the key NEMO systems has also been provided which includes an energy trading system for submission of Exchange Member bids and offers for day-ahead and intraday auctions and a continuous trading system which is used for bids and offers

in the intraday continuous market. This also includes a website for publishing guidance, information and market data, a settlement system to provide settlement, clearing and collateral reports and an application for sending required REMIT and transparency information to ACER and ENTSO-E.

Operational Procedures

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

3.1.2 UR Assessment

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

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

In terms of financial resources, under Article 7.1(g) of CACM the NEMO is responsible for acting as central counter party for clearing and settlement of the exchange of energy resulting from single day-ahead and intraday coupling. The central counterparty turns each matched trade into two separate trades and is responsible for financial delivery of each trade. SEMOpx has procured a third party service provider, ECC, to carry out this role.

Evidence of the necessary information technology, technical infrastructure and operational procedures being in place has also been provided and the UR is of the view that this meets the requirements for compliance under Article 6.1(a). Adherence to these criteria will continue to be monitored by the RAs.

3.2 Article 6.1(b)

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

3.2.1 Evidence Provided

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

Open Access to Information:

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

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

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

3.2.2 UR Assessment

Evidence has been provided in the application and separately verified through a review of the information published on the SEMOpx website and the requirements under the SEMOpx Rules and Operating Procedures, showing compliance with the requirement to publish information related to day-ahead and intraday market outcomes. This includes, for example, delivery of results to market participants as per Article 7.1(f), the delivery of single day ahead coupling results and continuous trading results as per Articles 48 and 52 of the Regulation and notification of where fallback procedures may be applied as per Article 50.

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

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

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

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

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

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

3.3 Article 6.1(c)

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

prevent cross-subsidisation;

3.3.1 Evidence Provided

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

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

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

3.3.2 UR Assessment

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

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

The evidence provided in the submission and the license condition under the SONI Market Operator licence which requires separate accounts for separate businesses (Condition 2 Preparation of Accounts) demonstrates that costs between the SEMOpx business and the EirGrid Group are accounted for separately with separate accounts for the MCO function. In June 2017, the UR approved the plan for the implementation of the MCO function as required under Article 7.3 of CACM, which sets out how NEMOs will set up and perform the Market Coupling Operator Functions.

3.4 Article 6.1 (d)

It shall have an adequate level of business separation from other market participants;

3.4.1 Evidence Provided

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

3.4.2 UR Assessment

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

As part of the implementation of the I-SEM project, the RAs carried out a review of the TSO and MO licences (granted to SONI and EirGrid respectively) to facilitate the new wholesale market arrangements and to address any conflicts of interest, actual or perceived, to exist between the NEMO and the TSOs. Conditions 2 (Preparation of Accounts) and 5 (Prohibition of Cross-Subsidies) of the SONI MO licence were modified to reflect the role of SONI as designated NEMO for Northern Ireland. These modifications provided for the provision of accounts with respect to the NEMO Activity separately from those of the Market Operation Activity and to include prohibition of subsidies or cross-subsidies between the Market Operation Activity and NEMO Activity.

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

3.5 Article 6.1 (e)

If designated as a national legal monopoly for day-ahead and intraday trading services in a Member State, it shall not use the fees in Article 5(1) to finance its day-ahead or intraday activities in a Member State other than the one where these fees are collected.

In the invitation for NEMO applications for I-SEM (SEM-15-033n) published on 13 May 2015,

and with reference to a letter received from DCENR, the CRU indicated that Ireland did not intend to invoke Article 5 of CACM. With reference to a letter received from DETI, UR also confirmed that a National Legal Monopoly does not exist in Northern Ireland. Accordingly, Article 6.1(e) does not apply.

3.6 Article 6.1 (f)

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

3.6.1 Evidence Provided

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

- Issuing of publicly available messages in relation to the operation of the day-ahead and intraday markets. Market information is published to the SEMOpx website for access by Exchange Members and interested parties.
- Provision of information on relevant market developments through a distribution list which all participants can sign up to.
- Meetings, including training sessions and workshops, are open to all interested parties and the content and minutes of each meeting is provided publicly on the SEMOpx Events Calendar. Training pages on the SEMOpx website are open to all interested parties.
- Provision of a market helpdesk for participant queries which are routed through the same query management process.
- The Exchange Committee modifications process allows for Exchange Members and interested parties to take part in the process for modifications to the SEMOpx Rules and Procedures. The Exchange Committee is comprised of representatives from a number of Exchange Members and considers modifications to the SEMOpx Rules, Operating Procedures and NEMO systems.

The application also states that the Board and Executive of SONI and EirGrid are committed to

ensuring that SEMOpx operates under appropriate and effective procedures to ensure that it meets all its non-discriminatory obligations.

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

3.6.2 UR Assessment

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

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

3.7 Article 6.1 (g)

3.7.1 Evidence Provided

It shall be subject to appropriate market surveillance arrangements;

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

A specific section of the SEMOpx Rules defines the measures and obligations applied to

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

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

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

3.7.1 UR Assessment

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

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

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

3.8 Article 6.1 (h)

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

3.8.1 Evidence Provided

In the application, it is stated that the main instrument for ensuring appropriate transparency and confidentiality agreements are in place is the SEMOpX Rules, which all Exchange Members and SEMOpX are bound by. SEMOpX receives a large volume of commercially sensitive and

confidential information and the obligations with regard to treatment of this information are detailed in section B 4.7.1 and section H.6 of the SEMOpx Rules.

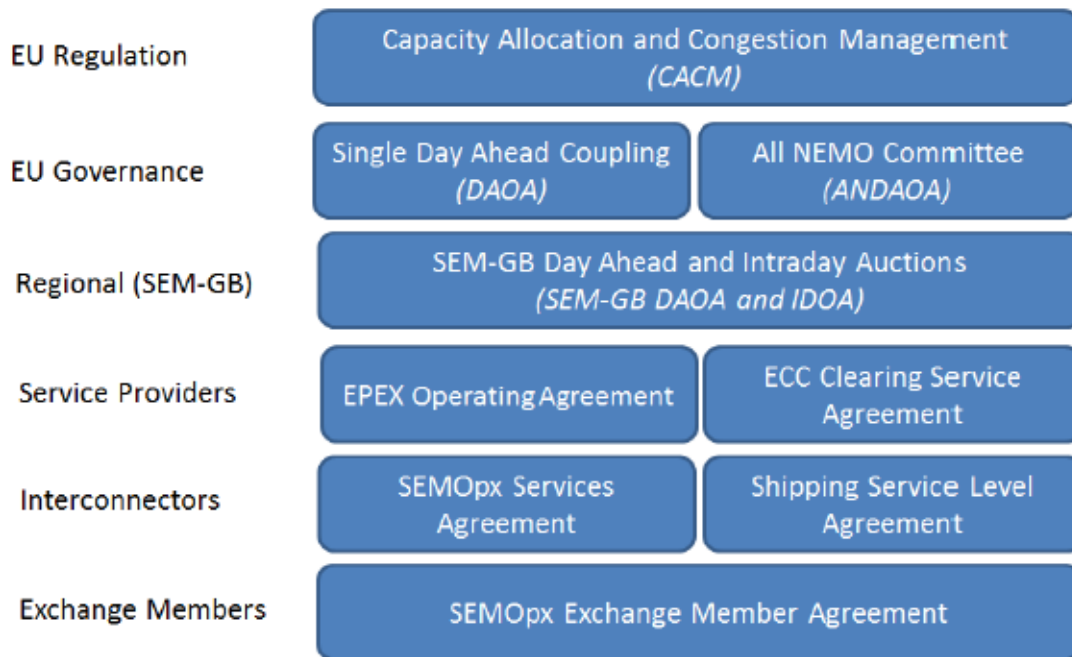
A number of transparency arrangements are also in place through the SEMOpx Rules and through publication of information on the day-ahead and intraday markets through the SEMOpx website and NEMO Trading and Clearing Systems.

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

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

- Only authorised users are able to access information in the NEMO systems and procedures are in place which include regular audits of user access. Under the SEMOpx Rules, only authorised persons for an Exchange Member are able to view or request actions related to the commercially sensitive information of an Exchange Member.
- Market data is categorised as either private or public data and only relevant recipients have access to private data.
- All information received and sent to the market systems is encrypted and information received is subject to authentication. NEMO systems are isolated from the wider internet to mitigate the risk of unauthorized access.
- SEMOpx internal training includes training on confidentiality.
- Pre-set publication timings of information from the day-ahead and intraday markets ensure that information such as trades per member and unit is not published until is allowed to become public under the SEMOpx Rules.

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



DAOA = Day Ahead Operating Agreement
ANDAOA = All NEMO Day Ahead Operating Agreement
IDOA = Intraday Operating Agreement

Figure 3

3.8.2 UR Assessment

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

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

- (a) use the Confidential Information only for the purpose of performing its obligations under these SEMOpX Rules and for no other purpose whatsoever;
- (b) not at any time disclose, reveal, or otherwise disseminate the Confidential Information to any person or Party whatsoever or permit any person or Party any form of access to the Confidential Information without the prior written consent of the Disclosing Party;

- (c) treat and safeguard as private and confidential all Confidential Information received at any time keeping it and treating it with the same care as any Prudent Industry Operator would be expected to exercise;
- (d) not use the Confidential Information, or permit or assist a third party to use the Confidential Information, to procure a commercial advantage over, or an advantage which is in any way likely to be prejudicial, whether directly or indirectly to, the Disclosing Party or to its business, goodwill or reputation; and
- (e) not use the Confidential Information or permit or assist a third party to use the Confidential Information to attract management, employees, advisors, agents, representatives, consultants, contractors, sub-contractors or customers away from the Disclosing Party.

SEMOpX is required to comply with the provisions of these Exchange Rules under Condition 15A of the SONI Market Operator licence. Under Article 81 of the CACM Regulation, 'Delegation of tasks', in the event that all or part of any task is delegated to a third party, the delegating party is required to ensure that suitable confidentiality agreements have been put in place prior to delegation. In the application, evidence has been provided that such agreements are in place with EPEX and ECC.

3.9 Article 6.1 (i)

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

3.9.1 Evidence Provided

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

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

3.9.2 UR Assessment

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

3.10 Article 6.1 (j)

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

3.10.1 Evidence Provided

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

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

Interface	Function
Cross-zonal Capacities	<ul style="list-style-type: none">• Submission of the available interconnector capacities from the TSOs for the use in the market coupling process.
Preliminary/Final Market Coupling Results	<ul style="list-style-type: none">• Communication of the preliminary/final SEM-GB market coupling (interconnector flows) to the TSOs based on the day-ahead and intraday auctions.
Validation of Market Coupling Results	<ul style="list-style-type: none">• Interfaces to allow the TSOs to confirm/reject the preliminary and final market coupling flows based on the technical abilities of the interconnectors prior to final confirmation of the market coupling results.
Cross-border Nominations	<ul style="list-style-type: none">• Submission of cross-border nominations related to market coupling to the GB TSO and GB Market Operator.
Local Nominations	<ul style="list-style-type: none">• Submission of the contacted quantities to the TSO/MO, determined from the day-ahead and intraday auctions and the continuous market. For use in imbalance settlement.

Figure 4

Examples of key agreements and procedures have also been provided and are set out Figure 5 below.

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

Figure 5

3.10.2 UR Assessment

At the time of the original designation, the applicant had demonstrated the capability to put in place the necessary communication systems and routines for coordinating with the TSOs, based on experience of the market operator and TSOs putting in place systems and routines through the Trading and Settlement Code, Agreed Procedures and Operating Procedures.

The current application has provided detail on the communication systems and procedures which have been put in place between the NEMO and TSOs and which have now been in operation for a number of months. At this stage, the UR is of the view that this demonstrates compliance with this CACM requirement but will monitor compliance with Article 6.1 (j) on an ongoing basis in conjunction with CRU.

4. Decision on NEMO Designation Application of SONI Ltd

4.1 Decision of the Designating Authority for Northern Ireland

On the basis of the assessment of the application submitted by SONI Ltd, the Utility Regulator considers that this application meets the designation criteria set out in the CACM Regulation and that SONI Ltd should therefore be designated as NEMO in Northern Ireland for day-ahead and intraday coupling. The Designation Order for SONI Ltd is published with this Decision Paper.

A separate decision paper published alongside this paper outlines the Commission for Regulation of Utility's decision to designate EirGrid Plc as a designated NEMO in Ireland.

4.2 Meaning and Terms of a Successful Designation

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

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