



An Coimisiún
um Rialáil Fóntas
Commission for
Regulation of Utilities



REGULATORY FRAMEWORK FOR NEMO FROM OCTOBER 2022

SEM-22-070

3 OCTOBER 2022

EXECUTIVE SUMMARY

Consultation Paper SEM-22-037 was published on 15 July 2022 and closed on 12 August 2022. It considered a number of options for the framework for regulation of NEMOs in Ireland and Northern Ireland from 3 October 2022, the date which the current designation held by SEMOpx is due to expire.

The Consultation Paper provided an overview of the background to the initial NEMO designation for the SEM and the legal and regulatory context under the Commission (EU) Regulation 2015/1222 establishing a Guideline on Capacity Allocation and Congestion Management (CACM) including the regulatory framework which applied to SEMOpx between 2015-2019 and 2019-2022.

Two main areas of the regulatory framework and its application to NEMOs designated in the SEM were consulted on in SEM-22-037. These were:

- Whether the NEMO designation period should switch from three years to on an enduring basis, with SEMOpx being redesignated as NEMO based off of their submission to the RAs in January 2022; and
- Rolling over the final year of SEMOpx's current revenue regime set out in SEM-20-007, ending in September 2022, to next year and commencing a separate consultation on this matter.

The Consultation Paper also noted that options in this area are constrained by a range of factors and the RAs' preferred approach was outlined for each issue. One response was received from EirGrid Plc. and SONI Ltd, who provide NEMO services for Ireland and Northern Ireland as SEMOpx. This is published alongside the Decision Paper.

A number of areas of the regulatory framework for NEMOs, to apply from 3 October 2022, are outlined in this Decision Paper, including the timing and length of re-designation, the application of a price control and the details of regulation of one or more NEMOs in the Single Electricity Market. Based on the Decisions outlined in this paper, the regulatory framework which has been decided upon will apply in any of the following cases;

1. SEMOpx, which is currently designated to deliver NEMO services to the all-island market, seeks re-designation as NEMO for Ireland and Northern Ireland.
2. Another party is designated for Ireland and Northern Ireland as a SEM NEMO; or
3. Any additional NEMO seeks to operate in the Single Electricity Market (SEM) on the basis that they have been designated in another Member State.

The decisions made in this paper do not differ from the proposals made in SEM-22-037. They can be summarised as:

- The NEMO designation period in Ireland and Northern Ireland is an enduring one, with EirGrid plc. and SONI Ltd (operating jointly as SEMOpx) redesignated as NEMO for the next period of designation commencing 3 October 2022; and
- The final year of SEMOpx's current regulatory revenue regime, ending in September 2022, will roll over for another year in order to allow a dedicated consultation on the next revenue regime to be undertaken.

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Glossary of Terms and Abbreviations

Abbreviation or Term	Definition or Meaning
CACM	Commission Regulation (EU) 2015/1222 establishing a Guideline on Capacity Allocation and Congestion Management
CRU	Commission for Regulation of Utilities
DA	Day Ahead
ID	Intra-Day
NEMO	Nominated Electricity Market Operator
RAs	Regulatory Authorities (CRU (Ireland) and UR (Northern Ireland))
SEM	Single Electricity Market
UR	Utility Regulator

1. Introduction

1.1 Background

1.1.1 Introduction

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

The core NEMO functions are receiving orders from market participants, having overall responsibility for matching and allocating orders in accordance with the single DA coupling and single ID coupling results, publishing prices and settling and clearing the contracts resulting from the trades according to relevant participant agreements and regulations. The detailed roles and responsibilities of NEMOs are set out in Article 7 of the CACM Regulation.

Article 4(2) of CACM required that NEMOs were designated for an initial period of four years, expiring on 3 October 2019. Both EirGrid and SONI were each designated as NEMO for Ireland and Northern Ireland respectively, and were tasked, through the contractual joint venture of SEMOpx, to deliver NEMO services across the all-island bidding zone.

Although there is no guidance in CACM for designation periods beyond the initial four years, the RAs, following Consultation Paper SEM-19-003, selected a period of three years for redesignation in Decision Paper SEM-19-019. EirGrid plc. and SONI Ltd, who operate jointly as SEMOpx, were redesignated at that point and has operated as a NEMO in the intervening period.

Consultation Paper SEM-22-037 proposed to move from a three-year period for designation to on an enduring basis, where compliance with the requirements to provide NEMO services are regularly checked against those laid out in CACM. This Decision Paper provides a summary of that proposal and of the responses received to the Consultation.

The RAs received one response to the consultation from EirGrid plc. and SONI Ltd, who jointly provide NEMO services for the all-Island SEM as SEMOpx.

Relevant Legislation

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

In addition, CACM requires that designating authorities must determine whether candidates meet the criteria set out in Article 6 of the Regulation. Designating authorities must apply these criteria

regardless of whether one or more NEMOs are appointed and avoid discrimination between applicants. Article 6 of CACM states that an applicant shall only be designated as a NEMO if it complies with all ten listed requirements.

1.1.2 Related Documents

SEM-22-048 – [SEMOpX Revenue Requirement for 2022/23 Information Paper](#)

SEM-22-037 – [Regulatory Framework for NEMO from October 2022 Consultation Paper](#)

SEM-20-007 – [SEMOpX Price Control Decision Paper](#)

SEM-17-096 - [SEMOpX Price Control Final Determination Paper](#)

1.1.3 Structure of Paper

Section 2 of this Decision Paper summarises the proposals made in SEM-22-037. Section 3 describes the responses received to the Consultation paper along with RA commentary. Section 4 provides the RAs' decision on the proposals made in SEM-22-037.

Section 5 discusses next steps, including suggestions for future engagement between SEMOpX and the RAs regarding implementation of this Decision Paper.

2. Summary of Proposals in the Consultation Paper

2.1 Proposed process for redesignation

In SEM-22-037, the RAs proposed that:

- EirGrid plc. and SONI Ltd, operating jointly as SEMOpx, are redesignated as NEMO for the next period of designation commencing on 3 October 2022; and
- The length of the designation period switches from three years to on an enduring basis.

SEMOpx made a submission to the RAs on 18 January 2022, requesting to continue their designation as NEMO upon expiry of the current period for a further three years, in line with Decision Paper SEM-19-019. The RAs review of this submission can be found in Annex 1 of SEM-22-037.

2.2 Revenue control of SEMOpx

In the absence of competition for NEMO services, the RAs remain of the view that there is still a clear rationale for licence conditions and an associated revenue control being applied to SEMOpx.

The incumbent price control for SEMOpx is due to end in September 2022. The RAs considered that there would not be sufficient time to do a thorough review of SEMOpx's revenue requirement to be ready in time for the beginning of the next price control period.

Instead, the RAs proposed to rollover the final year of the incumbent price control for a further year. The requirement to consult separately on the future revenue recovery approach for SEMOpx remains.

3. Summary of Responses

The RAs received one response to the Consultation Paper, from EirGrid plc. and SONI Ltd, who, through a Contractual Joint Venture, jointly deliver NEMO services for the all-Island SEM as SEMOpx.

3.1 Proposed process for redesignation

SEMOpx expressed concern about the following text from Section 2 of the Consultation Paper:

“Following engagement with SEMOpx, the RAs now understand that SEMOpx are comfortable to receive an enduring designation, subject to ongoing monitoring of their compliance with the CACM criteria, and therefore there is no need to consider the circumstances where SEMOpx might decide to no longer offer services in the event that another NEMO enters the market and makes SEMOpx no longer viable.”

SEMOpx was of the view that this implies that SEMOpx would be expected to continue to provide NEMO services even in a situation where it is no longer viable for them to do so. The RAs are of the view that it would not be appropriate to require SEMOpx to provide NEMO services in this scenario for a prolonged period. Although there is no guidance around service withdrawal in the current CACM Regulation, ACER Recommendation No 02/2021¹ proposes to include a provision in the next iteration (‘CACM 2.0’) which states:

“If a NEMO designated or granted a passport decides to withdraw its designation or passporting or its offering of trading services in a Member State, it shall notify the competent authority and ACER at least twelve months prior to its termination of offering of trading services in this Member State.”

The RAs request that, in the event that EirGrid and SONI deem that it is no longer viable for SEMOpx to provide NEMO services, that they give notice of at least twelve months prior to termination, in line with the proposed amendment to CACM.

EirGrid and SONI expressed support for the proposal to move the NEMO designation period from a three-year period to on an enduring basis additionally stating that they *“are committed to operating in line with the requirements of CACM in the provision of NEMO services”*.

3.2 Revenue control of SEMOpx

In relation to the RA proposal to consult separately on the future revenue recovery approach for SEMOpx (if EirGrid and SONI are redesignated as NEMO) given the current lack of competition

¹ [Recommendation No 02/2021 Annex I CACM Regulation](#) - ACER

in Ireland for NEMO services, EirGrid and SONI understands this approach and asked for the following principles to be considered in the future approach, which feature in the incumbent one:

- *“All efficient costs of providing a NEMO service, irrespective of market share or additional costs associated with price floors for minimum volumes in each of the day ahead and intraday auctions, as set out in SEM-19-019, are provided for while such revenue control arrangements are applied regardless of whether competition arises in the market during this time.*
- *Any incremental costs imposed on SEMOpx that can be directly attributable to a Participant will be treated as a pass-through cost.*
- *Volume based fees, greater than forecast or that do not meet the fixed costs (i.e., lower than the floor in the respective contracts) which form part of the contracted services and market coupling costs will be treated on a pass-through basis.”*

Additionally, it was suggested that, in the context of a proposed enduring designation, that the associated tariffing and fee structure needs to be flexible in the event of another NEMO entering the market.

Finally, SEMOpx stated an interest in engaging with the RAs regarding the future revenue recovery approach, to *“explore the potential to introduce regulated revenue control arrangements reflective of the proportionate scale of SEMOpx”*, with a view to having in place *“arrangements that provided the RAs with sufficient clarity and oversight of NEMO charges, where SEMOpx is the only provider of NEMO services in the SEM, while limiting any unnecessary burden on either SEMOpx or the RAs”*.

The RAs confirm that the suggestions made by SEMOpx for the future revenue recovery approach will be considered during its development and will work closely with SEMOpx and wider industry in order to address any concerns raised.

4. RA Decision

4.1 Proposed process for redesignation

The RAs have made the decision to implement the proposals made in SEM-22-037. The outcome of this is:

- EirGrid plc. and SONI Ltd, operating jointly as SEMOpx, is designated as NEMO under CACM for Ireland and Northern Ireland respectively, for the period beginning on 3 October 2022.
- The NEMO designation period in Ireland, set at three years in SEM-19-019, will switch to being on an enduring basis. Compliance with any entity designated to provide NEMO services in Ireland and/or Northern Ireland will be checked against the requirements of Article 6 of CACM once a year, based on submissions made by NEMOs.

4.2 Revenue control of SEMOpx

Although no consultation questions were posed in relation to this topic in SEM-22-037, the RAs proposed to roll over the final year of the current revenue recovery approach (which ends in September 2022) to next year, and to consult separately on the future revenue recovery approach for SEMOpx. The RAs have made the decision to make no changes to this initial proposal. Further information on SEMOpx's revenue requirement for 2022/23 can be found in Information Paper SEM-22-048.

5. Next Steps

The RAs will separately communicate to EirGrid and SONI, operating jointly as SEMOpx to provide NEMO services in Ireland and Northern Ireland, that they will be redesignated as NEMO on an enduring basis. The RAs will contact SEMOpx regarding the methodology for checking their ongoing compliance with the listed requirements in Article 6 of CACM in due course.