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Date: 30<sup>th</sup> January 2007

Dear Donna,

EirGrid welcomes the opportunity to comment on the First Consultation Paper on Proposed Conditions of System Operator Licences (Ref. AIP/SEM/232/07). EirGrid has focused its comments on matters of general principle and looks forward to the opportunity to engage further with the Regulatory Authorities on the precise wording of the System Operator licences to ensure they support the operation of SEM and reflect the general intent of the Authorities in a practicable manner. In the main EirGrid is confining its comments to the draft EirGrid SO licence, and comments on the SONI licence only to the extent it materially impacts upon EirGrid's own obligations, or EirGrid's ability to fulfil its statutory and licence obligations.

As an appendix to this response, EirGrid has attached an overview of 'common' observations and concerns which it shares with SONI (including references to EirGrid's SO Licence Conditions) concerning the arrangements as they will pertain on an all-island basis under the new market. It is both EirGrid and SONI's view that these require to be considered carefully by the Regulatory Authorities to ensure that the general intent of these conditions in the licences can be delivered in practice by the SOs. In addition EirGrid is keen that the approach adopted should not hinder the Regulatory Authorities ability to regulate effectively both those matters which are jurisdictional in nature and those which will, in the future, come under the joint regulatory arrangements.

EirGrid concurs with much of the general intent set out in the Regulatory Authorities' paper and is primarily concerned with implementing and codifying it in the licences in such a manner as is practicable for its implementation. In a number of areas, the specific licence wording as currently set out is, in EirGrid's opinion, overly prescriptive or not practicable and may suggest a somewhat unrealistic view concerning its implementation. It may be more appropriate that the licences address issues of principle without being overly prescriptive on detail process matters which can be better determined in other fora – such as the various harmonisation work-streams - and that the System Operator Agreement (SOA) is worded, where appropriate, to provide the requisite level of detail. In many cases these issues are today being actively discussed within the relevant TSO Harmonisation work-streams with the involvement of, and input from, the Regulatory Authorities. We would suggest therefore that the outcome of the deliberations under these work-streams be taken into account in determining the most appropriate means to deliver a solution which best supports the single market.

In addition to our common observations on the general arrangements that we have made in conjunction with SONI, EirGrid has comments on a number of specifics. Firstly, the Consultation Paper and draft SO Licence indicate an intention on behalf the Regulatory Authorities for the SOs to procure assets and services jointly. This would give rise to a number of concerns, not least because there would be many instances where one SO would need to procure assets or services which may have no relevance to the other. In the SONI licence the procurement of ancillary services on a joint basis is discussed and we imagine that this is also what is envisaged here and would request the appropriate changes to the wording to reflect this be inserted. However, should this not be the intent, EirGrid requests that the Regulatory Authorities provide the scope of what it is intended to cover here so as to ensure that the scope of joint procurement can be appropriately bounded.

Secondly, with respect to applications for system connections within Northern Ireland, EirGrid understands that the wording relating to provision of an “offer” to SONI is intended to mean the provision of the necessary information to SONI following feasibility studies performed by EirGrid relating to any contingent works on its system. EirGrid also understands that any payments referred to in relation to this condition refer to the costs of such feasibility studies and not the costs of any contingent works. We would suggest the wording in the licences is clarified to make this understanding explicit.

Thirdly, EirGrid would like to fully understand the intent behind the proposed condition which obliges it to explore and develop opportunities to interconnect the All-Island Transmission Networks with other systems. On the face of this it this seems to suggest, for example, that EirGrid would be obliged to explore the possibility of developing interconnectors between Northern Ireland and other systems, which would appear to be outside EirGrid’s jurisdictional authority. Again this may be something which is not intended and appropriate changes to the wording can reflect this.

As a general point, EirGrid notes that the process for development of the SONI licence was further advanced at time of consultation, in terms of discussions with the Regulatory Authorities’ advisor, than the stage which EirGrid licence discussions had reached. In this regard, and in order to ensure consistency, where similar provisions exist in both draft licences these should be drafted identically in the final licences of both EirGrid and SONI. EirGrid believes that, in particular the following conditions:- Term of Licence, Interpretation and Construction (insofar as applicable and relates to identical terms in both licence), General Functions, System Operator Agreement, Connection to and Use of Transmission System, Single Electricity Market Trading and Settlement Code, Forecast Statement and Development Plan (and equivalents) Central Dispatch and Merit Order, Economic Procurement of Assets, Services and Ancillary Services must be identical.

In order to ensure that EirGrid’s licence conditions are written in such a way as to ensure that they are practical and achievable going forward, EirGrid believes that a forum to enable interactions with personnel representing both the Authorities on the delivery of SEM and the supporting Commission representatives who have day to day experience in regulating the transmission system operator business in Ireland (and who will continue to

have this responsibility into the future) would be fruitful in bringing closure to this matter. However, EirGrid is concerned that the licence must ultimately reflect any amendment to statute – there are a number of Conditions which are currently caveated by suggesting they may require amendment as a result of any amendment in legislation. EirGrid trusts that the Commission and the Authority will engage constructively with EirGrid as part of any such changes which may arise as part of this process.

EirGrid looks forward to constructively engaging with the Regulators and their advisors in order to reach agreement on appropriate wording for the EirGrid System Operator licence while ensuring that, where appropriate, a consistent approach is adopted in respect of the SONI licence, in order to enable the benefits intended through the introduction of SEM to be delivered.

If you would like to discuss any matter contained in this response, please do not hesitate to contact me.

Yours sincerely,

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Fergal Egan  
SEM Establishment Project  
EirGrid

# Appendix

## Response to the Proposed Conditions of System Operator Licences and Consultation Paper dated 9 January 2007 (the “Consultation Paper”)

In this appendix, references to licence conditions are references to EirGrid System Operator Licence conditions.

### 1. SO Role (paragraph 3.2 of the Consultation Paper)

With reference to paragraph 3.2 of the Consultation Paper and Condition 1, and in particular to the list of “all-island” considerations or aims and objectives which pervade the draft SO Licences, whilst we agree in principle that these are valid and desirable aims for the new “all-island” arrangements as a whole, we have concerns with the way in which they are applied to the SO through the draft SO Licence. For example, we believe that further consideration needs to be given to whether the SO alone or even both SOs working together can necessarily meet such objectives in the way intended and how practically these overarching aims and objectives can best be reflected in the SO Licences.

Furthermore, we have concerns over the reference in paragraph 3.2 and the accompanying footnote which make reference to the SO licensees performing functions “in conjunction” with one other. Whilst again we understand the need for closer cooperation between the two SOs, and indeed are working hard to put in place the necessary systems and processes needed to facilitate this, we believe that it is important to draw a distinction between, on the one hand, EirGrid and SONI as SOs working more closely together in a number of specific areas and, on the other, EirGrid and SONI coming together to carry out the function of Market Operator. The Consultation Paper seems to suggest that the two situations are the same when in fact they are quite different. The business functions of EirGrid and SONI as SOs are to remain separate whereas those of EirGrid and SONI in relation to the Market Operator are not.

### 2. System Operator Agreement (paragraph 3.3 of the Consultation Paper)

Paragraph 3.3 of the Consultation Paper describes the purpose and design of the System Operator Agreement. We agree that the SO Licences should not seek to prescribe precisely what the System Operator Agreement should cover as we believe that the SOs need to retain a degree of flexibility in relation to the subject matter of the System Operator Agreement. There are, however, a number of instances where both the Consultation Paper and the draft SO Licences (Condition 5) are overly prescriptive as to what the System Operator Agreement must contain, such as in relation to connection to and use of the systems.

Moreover, we remain concerned that the way the System Operator Agreement is described, both in the Consultation Paper and the draft SO Licences (Condition 4), could give the impression that it is something which it is not. For example, the purpose of the System Operator Agreement is described as enabling each SO

licensee to obtain from or to provide to the other SO licensee such things as are required by it in order to comply with its licence and statutory obligations. Whilst on one level this is true, it is not the case that the System Operator Agreement on its own will enable each SO licensee on an ongoing basis to comply with all its licence or statutory obligations.

The System Operator Agreement will provide an important contractual interface between the two SOs and will, by necessity, cover those areas where under the new arrangements the SOs will be working more closely with one another. It will not be, however, an all-encompassing tool by which each SO licensee will automatically comply with its statutory or licence obligations. We believe the way in which the System Operator Agreement is described therefore requires some amendment.

### **3. Connection and Use of Systems (paragraph 3.4 of the Consultation Paper)**

Paragraph 3.4 of the Consultation Paper states that the SO licensees will be required to set out in the System Operator Agreement the arrangements between them in relation to the connection to and use of the “all-island system in aggregate”. The Consultation Paper and the draft SO Licence (Condition 5) are very prescriptive on what the System Operator Agreement must contain here which gives the impression that, despite stating that they do not wish to prescribe what is in the System Operator Agreement, the Regulatory Authorities are particularly concerned with connection and use of system generally. Given that the System Operator Agreement is to contain this detail we feel that the level of detail in the draft SO Licences in relation to this area is in any event unnecessary. Moreover, we do not necessarily believe that the Condition as set out would in any case facilitate each licensee in fulfilling its obligations under the process for connection to and use of the system. Should such prescription in the Regulatory Authorities view be required – a view not shared by the SOs – the SOs would like to work with the Regulatory Authorities to devise a set of workable arrangements

We also remain concerned that in paragraph 3.4 of the Consultation Paper reference is still being made to “the all-island system” when what we in fact have is two separate transmission systems being operated by two separate SOs under a single market.

### **4. Scheduling and Dispatch (paragraph 3.5 of the Consultation Paper)**

We continue to have a number of concerns in relation to the proposed approach to scheduling and dispatch. Our main concern is to ensure that procedure for scheduling and dispatch that is set out in the SO Licences (Condition 10) reflects the reality of day-to-day operational practice for the scheduling and dispatch of generation by both SOs in both jurisdictions. We believe that this has to be the case from day 1 and we believe that there is further work to be done in this area.

**5. Confidentiality (paragraph 3.10 of the Consultation Paper)**

We take the issue of confidentiality very seriously and we agree that it is important that the SO Licence (Condition 21) continues to contain provisions dealing with the handling of commercially sensitive information. We do have some concerns over the way in which the confidentiality provisions in the draft SO Licence are drafted and would encourage the Regulatory Authorities to ensure that the provisions maintain the same scope that is afforded in the current SO licence.

**6. Consistency of Statements and Plans**

A definition of “consistent basis” is provided in the draft SO Licences (Conditions 7, 8 and 9). While, once again the SOs concur with the general intent as set out in the Consultation Paper, for example in paragraph 3.6 the examples given are consistent forecasts of demand and cross border flows, some aspects of this definition may be difficult to implement and could potentially have adverse effects on both costs and overall efficiency, and timely delivery. In some instances it may not be most appropriate or beneficial to utilise the same methodologies, as in some cases technical considerations may mean that different methodologies are more appropriate. The wording of the definition of “consistent basis” therefore requires to be revised to ensure that the end result of such consistency delivers real benefits and improvements.

The comments and points raised in this appendix are intended to give the Regulatory Authorities an overview of the principal areas of concern for the SOs in relation to the Consultation Paper and draft SO Licences. We look forward to having the opportunity to discuss these areas further with you.