

TSO Obligations under Forward Capacity Allocation Regulation

Decision Paper
13 February 2018



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 September 2017, the Utility Regulator (UR) consulted on the allocation of Transmission System Operator (TSO) obligations under the Forward Capacity Allocation (FCA) Network Code. This mirrored a similar consultation undertaken in relation to the Capacity Allocation and Congestion Management (CACM) Network Code.

This Decision Paper considers the responses received to the consultation from industry stakeholders, outlines the key observations made, provides the rationale behind the UR's response and sets out the UR's final decision.

Audience

This decision will be of interest to Transmission System Operators (TSOs) within the all-island market, market participants and other industry and statutory bodies. The consultation was undertaken in conjunction with the Commission for Regulation of Utilities (CRU).

Consumer impact

This decision is necessitated by the implementation of the Integrated Single Electricity Market (I-SEM). Through the integration of the all-island electricity market with the European electricity markets, I-SEM is expected to deliver increased levels of competition which should help put a downward pressure on prices as well as encourage greater levels of security of supply and transparency.

1. Introduction

On 6th September 2017, the Utility Regulator (the UR) and the Commission for Regulation of Utilities (the CRU) (together the Regulatory Authorities or the RAs) jointly published a consultation paper on TSO Obligations under Forward Capacity Allocation (SEM-17-068)¹ detailing their minded to position in terms of the allocation of roles and responsibilities under the Forward Capacity Allocation (FCA) Network Code (the FCA Regulation).² This paper followed a similar process to that which had previously been undertaken for the Capacity Allocation and Congestion Management (CACM) Network Code.

Comments were invited on the proposals contained within the consultation paper and were received from two participants. This decision paper sets out an overview of these comments and the RAs' response to these.

2. Background

The FCA Regulation entered into force on 17th October 2016 and provides for the establishment of a framework for the calculation and allocation of interconnector capacity as well as for cross-border trading, in forward markets. The FCA Regulation lays down detailed rules on cross-zonal capacity allocation in the forward markets; the establishment of a common methodology to determine long-term cross-zonal capacity; the establishment of a Single Allocation Platform at European level offering long-term transmission rights; and the possibility to return long-term transmission rights for subsequent forward capacity allocation or transfer of long-term transmission rights between market participants.

The FCA Regulation places a number of obligations on all Transmission System Operators (TSOs) in EU Member States. TSOs are required to comply with the obligations unless, in the case of a Member State where more than one TSO exists, these obligations are assigned under Article 1(3) of the FCA Regulation.

¹ <https://www.semcommittee.com/publication/tso-obligations-under-forward-capacity-allocation>

² Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation

Article 1(3) provides:

“In Member States where more than one TSO exists, this Regulation shall apply to all TSOs within that Member State. Where a TSO does not have a function relevant to one or more obligations under this Regulation, Member States may provide that the responsibility for complying with those obligations is assigned to one or more different, specific TSOs.”

At the request of the relevant Departments in Northern Ireland and Ireland respectively, the UR and CRU reviewed obligations arising from the FCA Regulation and allocated each to one (or more) of the TSOs present within the all-island market based on the functions that the relevant TSOs currently perform in the SEM. TSOs to whom obligations are assigned include EirGrid Plc, the System Operator for Northern Ireland (SONI), Moyle Interconnector Ltd (MIL) and EirGrid Interconnector Designated Activity Company (EIDAC) – the latter of which is due to be certified as a TSO.

It should be noted that the UR does not consider that Article 1(3) requires a decision on how TSOs will comply with the obligations once assigned but are of the view that the TSOs themselves are best placed to determine the method of compliance with the obligations which are assigned to them (whether on an individual or collective basis). The UR expects the TSOs to co-operate to identify the most appropriate allocation of responsibility.

As part of the consultation process, an accompanying matrix³ was published which explicitly detailed each obligation and the TSO(s) to whom the proposed responsibility be assigned.

³<https://www.semcommittee.com/sites/semcommittee.com/files/media-files/SEM-17-068a%20%20Annex%201%20to%20Consultation%20Paper%20on%20I-SEM%20TSO%20Obligations%20under%20....pdf>

3. Responses to Consultation Paper

Two responses were received during the consultation with neither being marked confidential. These were from EIDAC and a joint response from SONI and EirGrid.

In the consultation, three specific questions were asked

Que. 1 Do you agree with the CRU and UR's application of Article 1(3) in assigning obligations to the TSOs operating in the all-island market as outlined in the Annex to this Consultation Paper?

Responses Broadly speaking, EirGrid and SONI agreed with the approach that Interconnector Owners would be the primary responsible TSO for obligations under the FCA although they proposed some amendment to Article 16 and Article 31 (discussed below).

While not disagreeing with the CRU and UR's approach, EIDAC also requested clarity around the Departments' position that the RAs should use their discretion to assign roles under the FCA.

Que. 2 Do you agree that we have correctly identified the Articles of FCA Regulation which place an obligation on the TSOs?

Responses EIDAC generally agreed with the proposed assignment of responsibilities under the FCA. EirGrid and SONI were also both in agreement with the allocation of responsibilities but suggested that Articles 16 and 31 should both include a TSO role.

Que. 3 How do you think the CRU and UR should determine future changes to the assignment of TSO obligations under the FCA Regulation?

Responses In terms of future changes, EIDAC believed that they should be communicated in the appropriate manner, for example, via a consultation. SONI and EirGrid also thought that the UR and CRU should apply the same consultative approach, ensuring that engagement took place with Ofgem where necessary, in advance of consultation.

Key Observations and Responses

- i. EIDAC proposed that clarity should be provided around the Department's view that the UR use their discretion under Article 1(3) to assign FCA roles and responsibilities in a similar manner to that undertaken for CACM.

[EIDAC] *"EIDAC notes the RA's statement that they consider that the relevant Departments in Ireland and Northern Ireland have asked the RAs to use discretion when assigning responsibility under Article 1(3) of the Forward Capacity Allocation (FCA) Regulation since the Departments previously asked the RAs to use discretion under Article 1(3) of the Capacity Allocation and Congestion Management (CACM) Regulation. EIDAC seeks clarity on the Departments' position in the RAs' decision document."*

- ii. In their responses, EirGrid and SONI requested further explanation of the UR's rationale behind the assignment of roles and responsibilities.

[SONI and EirGrid] *"In response to the matrix of proposed obligations published as Annex 1 to the consultation document, EirGrid and SONI request that a greater level of granularity and explanation is applied to the RAs' decision."*

- iii. Both responses stated that the URs' assignment of roles and responsibilities should differentiate between TSOs who were obliged to meet an obligation and TSOs who were impacted by an obligation.

[EIDAC] *"It would be helpful if the matrix at Annex 1 to the consultation differentiated between TSOs who are obliged to meet an obligation versus TSOs who are impacted by an obligation. It is also important that this is mirrored in licences."*

[SONI and EirGrid] *"While all certified TSOs might have a role to play or be impacted by a certain obligation (e.g., data provision, reporting) and therefore perhaps should be potentially involved to a greater or lesser extent, this does not mean that all should be obliged to fulfil this obligation. It is important to ensure that this is mirrored in licences. In addition, it would be helpful if the matrix at Annex 1 to the consultation differentiated between those TSO(s) who are legally obliged to meet an obligation and those who are impacted by an obligation"*

- iv. EIDAC, EirGrid and SONI were all of the view that the System Operators should be included in the assignment of roles and responsibilities in respect of Articles 16 and 31.

[EIDAC] “Article 16 should include acknowledgement of a role for the TSOs regarding the splitting of timeframes on capacity calculation, albeit that EIDAC agrees that the Interconnector Owners ‘lead’ on this.”

“Article 31, regarding product decision (PTR/ FTR, timeframes) should include a TSO role. Note that Article 31 also covers the PTR/FTR decision which we suggest is also of interest to System Operators, and we consider should be aligned with the Day Ahead Fallback considerations that need to apply under CACM (Art. 44 which is assigned to all TSOs).”

[SONI and EirGrid] “EirGrid and SONI propose a change to Articles 16 and 31. For Article 16 (Splitting Methodology), although the leading role in proposing a methodology should lie with the Interconnector Owners, the onshore System Operator is likely to have a role in terms of the impact of splitting the timeframes on capacity calculation. In this regard, we note that Ofgem explicitly included an obligation on the Interconnector owners to consult with the System Operators when discharging this duty, and would welcome a similar provision being included here. The main System Operator consideration on Article 16 is that there are grid models and capacity calculations to support the long term timeframes being sold, but that is really determined by the product decision (PTR/FTR, timeframes) under Article 31. As such, we suggest there should be a System Operator role in Article 31. Note that Article 31 also covers the PTR/FTR decision which we suggest is also of interest to System Operators, and we consider should be aligned with the Day Ahead Fallback considerations that need to apply under CACM (Art. 44 which is assigned to all TSOs).”

- v. In their response, SONI and EirGrid suggest that, as per Ofgem’s approach, the UR should allocate some responsibility to the Transmission Owner (TO).

[SONI and EirGrid] *“We welcome the consistency between this proposal and the allocation of equivalent roles under CACM in Ireland and Northern Ireland, and also the fact that it in general mirrors GB. The one area of difference is that Ofgem has also allocated some responsibility under FCA to the Transmission Owner (TO) it may be that in Ireland and Northern Ireland, corresponding obligations may need to be placed upon the TO to provide any necessary assistance.”*

- vi. SONI and EirGrid outlined a concern that although a number of methodologies are finalised in the European Network of Transmission System Operators for Electricity (ENTSO-E), not all TSOs are actually members of ENTSO-E and, therefore, their involvement in the development of proposals may be limited.

[SONI and EirGrid] *“It should be noted that a number of the terms and conditions and methodologies referred to are currently in the process of being finalised in ENTSO-E (e.g. Harmonised Allocation Rules). The annex assigns obligations for the development of some of these terms and conditions and methodologies to all TSOs. However, not all TSOs are members of ENTSO-E and actively involved in delivering these obligations. As the obligations are on all TSOs at a pan-European or regional level it is important that TSOs are involved in developing the terms, conditions and methodologies in ENTSO-E, either directly or through an existing ENTSO-E member, particularly [if] they have been assigned an obligation that is being carried out under the auspices of an ENTSO-E work plan.”*

4. UR Response to Submissions

- i. Clarity on the Department's position in terms of the UR using discretion to assign responsibilities under Article 1(3) of the FCA Regulation.

The UR are in receipt of a letter from the Department requesting that they assess what obligations should apply to TSOs under the FCA Regulation. The letter states that the Department does not consider that the UR need to decide how TSOs will comply with obligations once assigned.

The UR have therefore assigned obligations based on their assessment of which TSOs carry out the relevant functions for each of the obligations under the FCA Regulation. This is considered a proportionate approach to assigning obligations and mirrors the method previously adopted for the consultation on the TSO roles and responsibilities under the Capacity Allocation and Congestion Management (CACM) Regulation.

- ii. Granularity and explanation behind the RA's decision.

In response to the requests for further explanation behind the UR's decisions, the UR have updated and provided additional explanations in the matrix of proposed obligations set out in the annex to this paper (Annex 1).

This is in line with the approach (both in terms of format and level of granularity) taken by Ofgem in respect of assigning FCA Regulation obligations, as well as the approach taken by the UR in respect of assigning obligations under the CACM Regulation.

In general terms, the UR have assigned responsibility based on an assessment of which TSO(s) currently perform the relevant functions required to comply with each of the obligations under the FCA Regulation. As noted above, this is considered a proportionate approach.

- iii. Differentiation between TSOs being obliged to fulfil obligations and being impacted by their implementation.

The UR are of the opinion that Article 1(3) of the FCA Regulation permits them to use discretion in assigning TSO responsibilities under the FCA, with the default position being that all TSOs have a responsibility to comply with all FCA obligations. The UR do not consider the action of distinguishing between obligated TSOs and impacted TSOs to fall under

this remit. Instead, where multiple TSOs have been assigned an obligation, the TSOs are best placed to agree this among themselves.

iv. TSOs should be included in the assignment of roles under Article 16 and Article 31.

After further deliberation, the UR agree with the view proposed by both respondents in respect of the System Operators (SOs) in relation to Article 16. That is, that whilst the responsibilities under Article 16 should be assigned to the Interconnector Owners, the Interconnector Owners should also be placed under an obligation to consult with the SOs when undertaking their responsibilities.

As the owners of capacity, Interconnector Owners are responsible for the design of long-term transmission rights. As the design process should not impact on the role of the SO, the UR do not believe that SOs should be included in Article 31. Therefore, the UR have decided not to alter their proposed position outlined in the consultation.

v. Inclusion of Transmission Owners as obligated TSO.

In alignment with our previous consultation on TSO roles and responsibilities under the CACM Regulation, TOs have not been assigned any role(s) under Article 1(3) of the FCA Regulation.

The UR are satisfied that in I-SEM, the functions relevant to the obligations Ofgem have assigned to Transmission Owners are performed by TSOs and not TOs. In light of the above, and for the purposes of assigning roles and responsibilities arising from FCA Regulation, our position remains that obligations should not be assigned to Transmission Owners (TOs).

vi. TSOs being members of ENTSO-E.

The UR believe that responsibility for involvement in the development of terms and conditions and methodologies under the FCA Regulation should lie with the individual TSOs. Therefore, their desired level of involvement in ENTSO-E is a matter for the TSOs themselves.

5. Decision

The UR welcomes the range of comments that were received in relation to the consultation and notes the general support for the proposed assignment of TSO obligations under the FCA Regulation.

The UR have set out the assignment of TSO obligations in Annex 1, with some additional comments being provided. As requested by the respondents we have expanded our comments on the assignment of each obligation to provide a greater level of granularity and explanation of the UR's decision in respect of each assignment.

It should be noted that Article 16 has been amended with the Comments box now including the text "*Obligation on Interconnector Owners with SOs being appropriately consulted throughout the process.*" This is the only substantive change to the assignment of obligations matrix included at the Annex as compared to the equivalent matrix which was annexed to the consultation and outlined the RAs' proposed modifications. In particular, as noted above, the UR's proposed position in relation to Article 31 remains the same, with no further amendment. The UR will review the assignment of roles and responsibilities under the FCA Regulation as outlined in this decision paper in the following instances:

After Developments of Methodologies and Terms and Conditions

The UR may review the assignment of roles where one or more TSOs provide clear evidence that the original assessment does not reflect an enduring function for the TSOs and that to fulfil this obligation unnecessary costs would be imposed on the consumer.

When there is a change in TSO activity

It is the responsibility of the TSO concerned to notify the UR of any change in TSO activity. The UR may, dependent on evidence provided, determine whether to review TSO assignment of obligations in the event of a change in TSO activity.

A new TSO becomes operational

Should a new TSO become operational in the I-SEM, the UR may review the assignment of TSO roles and responsibilities under the FCA.

Amendments to FCA Regulation

Where amendments are made to FCA Regulation, the TSOs must provide justifications for a review of the assignment of TSO obligations. The UR will consult on any proposed changes to the assignment of TSO obligations as set out in Annex 1 to this decision.