



Recommendation of the Energy Community Regulatory Board

on regulatory measures supporting early implementation of day-ahead market coupling in the Energy Community Contracting Parties

1. Introduction - relevant legislative framework

With the Treaty establishing the Energy Community ('the Treaty'), the Energy Community was established as an international organisation with the primary objective to extend the EU internal energy market beyond the borders of the EU to its neighbouring countries.¹ The signatories have committed legally and politically to support the integration of the internal market and as such to transpose the Energy Community *acquis communautaire* (hereafter 'acquis') into national law including for the purpose of day-ahead and intraday market integration.

Currently, the EU internal (energy) market is governed by the Third Energy Package, consisting of Directive 2009/72/EC and Regulation 714/2009 for electricity, currently being under reform on EU level. This legislative package is already part of the Energy Community acquis.²

a. CACM Regulation

Regulation 714/2009 sets the basic principles for integrated cross-border market and triggers the development of network codes and guidelines that take the form of legally binding Regulations and govern cross-border electricity market functioning and system operations alongside. More specifically, single day-ahead and intraday market coupling are governed by the EU Regulation 2015/1222 which establishes a guideline on the capacity allocation and congestion management (hereinafter '**CACM Regulation**').³ This guideline, in essence, provides a framework for the harmonisation of provisions concerning single day-ahead and intraday market coupling. The purpose of market coupling and the CACM Regulation is to provide a framework for the harmonisation of single day-ahead and intraday market coupling, in order to ensure an efficient capacity allocation and congestion management, increasing the competitiveness and utilisation of cross-zonal capacity.

b. Nominated Electricity Market Operators

The CACM Regulation within the objective and context of market coupling defines the roles and responsibilities of transmission system operators (TSOs) and day-ahead market operators, in the market coupling process. In order for day-ahead market operators to be institutionally integrated into the process of market coupling, the CACM Regulation defines a framework for a designation of a so-called **Nominated Electricity Market Operators** (NEMOs).⁴ The NEMOs' role is operation of the day-ahead and/or intraday markets under the market coupling regime as defined in the CACM Regulation. The CACM Regulation also provides detailed criteria according to which NEMOs shall be designated and operate.

¹ The Treaty establishing the Energy Community can be found under <https://www.energy-community.org/legal/treaty.html>

² To see the current applicable, or in force, Energy Community acquis please go to <https://www.energy-community.org/legal/acquis.html>.

³ For EU Commission Regulation (EU) 2015/1222 establishing a guideline on capacity allocation and congestion management please see <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015R1222>.

⁴ Also required by the CACM Regulation.

c. Shipping and Shipping Agent

Each NEMO needs to act as, or be represented, by a Central Counter Party (CCP) for clearing and settlement of the exchange of energy resulting from day-ahead coupling and intraday coupling and thus shall set up the required contractual and financial arrangements. These arrangements include shipping functions which further include shipping across any of the bidding zone borders. Article 68 of the CACM Regulation concerning clearing and settlement for single day-ahead- and intraday-coupling defines the legal basis for these agreements.⁵

As a simplified concept, shipping means that when the NEMOs are matching buy and sell curves in their scheduling areas, usually the optimal trading result requires transfer of electricity between the scheduling areas. Since the CACM Regulation states that the NEMOs are responsible for these transfers, they need to perform hand-overs of the electricity. In a theoretical sense market participants hand over the electricity to the NEMO and NEMOs further hand over the electricity over the scheduling areas (to themselves or to another NEMO).

As for the roles in shipping, the CACM Regulation discusses about **Shipping Agent**. Usually shipping agents are NEMOs, but it is also possible for TSOs to take this activity in line with the Article 8 (l) of the CACM Regulation. Moreover, in line with the Article 68 (6.) of the CACM Regulation a shipping agent may act as a counter party between different central counter parties for the exchange of energy, if the parties concerned conclude a specific agreement to that effect.

For Energy Community Contracting Parties it is also recommended to refer to a NEMO (i.e. market operator) to align with the CACM Regulation's provisions.⁶

2. Early implementation

a. Market coupling pilot projects

Implicit allocation of cross-zonal capacity by way of market coupling, as an alternative to explicit allocation, is already **embedded in the Third Package, which is binding for Contracting Parties**. On EU level most of the EU Member States already implemented market coupling mechanisms well *before* the CACM Regulation entered into force, under the framework of EU Regulation 714/2009 with the approval of national regulatory authorities.⁷ Furthermore, this mechanism was made binding by the CACM Regulation, which establishes also the governance process.

While the CACM Regulation is currently not yet part of the Energy Community acquis, the objective of Contracting Parties to integrate into European internal electricity market remains unchallenged. Even more, a Memorandum of Understanding was signed in April 2016 (hereafter referred to as MoU) by Western Balkan Contracting Parties and 15 neighbouring EU Member States' stakeholders with the purpose of promoting the regional cooperation with the focus on the implementation of market coupling and cross-border balancing via the **Western Balkan 6** (WB6) governance structures.⁸ As part of this project, several initiatives (**'pilot projects'**) for market coupling have developed and the relevant

⁵ Specifically paragraphs (1), (3) and (5).

⁶ There might be special cases where cable/interconnect owner is a merchant. Then normally the owner will tender the Shipping Agent role for the interconnector, where the Shipping Agent could be also some other entity than NEMO. However, since NEMOs are already widely operating the Shipping Agent role in the Europe, they are best placed to make the most competitive bid for the Shipping Agent role in these cases.

⁷ Often referred to as early implementation of the CACM Regulation.

⁸ For more details on the Western Balkans 6 initiative consult: www.energy-community.org - regional initiatives.



stakeholders are cooperating on making those projects go live and national regulatory authorities of both the Contracting Parties and of the neighbouring EU Member States are actively involved in these discussions.⁹ Such market coupling projects are seen as the first step towards full integration of the Western Balkans into Single European Day-Ahead Market Coupling. The intention is not to solely foster a market coupling among WB6 Contracting Parties but also between Contracting Parties and EU Member States.

b. Rationale – need for regulatory support measures

Discussions under the WB6 Day-ahead Market Integration Programme Steering Committee (DA MI PSC) carved out the need for regulatory measures supporting the realization of the market coupling pilot projects. In addition to applicability of the Third Energy Package in the Contracting Parties, application of some regulatory requirements stemming from the CACM Regulation will be needed to ensure adequate regulatory and institutional framework - allowing the pilot projects to go live before implementation of the CACM Regulation. This follows the related early implementation processes on EU level. In this context, it is of utmost importance that the roles and responsibilities for market coupling are defined and aligned with those in the EU Member States, i.e. in line with those stated in the CACM Regulation.

While implementation of the CACM Regulation together with other market and system operation network codes and guidelines remains the ultimate target for the Contracting Parties, the present ECRB recommendation aims at **providing guidance to regulators as to support market coupling pilot projects with national regulatory rules, procedures or guidelines** in the meantime. Once the CACM Regulation will be adopted for the Contracting Parties, these interim solutions will be replaced by the legally binding concepts of the CACM Regulation. Having this in mind, it is of utmost importance to align the early implementation regulatory measures as much as possible with the requirements of the CACM Regulation.

The present ECRB Recommendation in its Annex 1 includes a **guidance to regulators to ensure that the entities performing market coupling, the designated NEMOs and the TSOs in Contracting Parties, meet the conditions under the CACM Regulation**. The ECRB Recommendation remains open for future amendments providing further annexes for regulatory measures supporting the realisation of the early implementation pilot projects, should related need be identified by stakeholders and/or regulators.

3. Recommendation

a. Designation of NEMOs in the Contracting Parties

In order to put in place a framework that facilitates early implementation of market coupling ahead of the implementation of the CACM Regulation in the Energy Community, a harmonised mechanism for designation of NEMOs in the Contracting Parties is essential, also to enable their early involvement in discussions on EU level on designing the market coupling framework, methodologies and rules, as well in institutions such as the NEMO Committee. Only where reflection of Contracting Parties' positions is as early as possible enabled by integrating the relevant Contracting Party stakeholders in the currently

⁹ Cf Roadmap and pilot projects established under the Western Balkans 6 Day Ahead Market Integration Project Steering Committee (DAMI PSC).

ongoing shaping of the market coupling rules under the CACM Regulation a smooth implementation of the Regulation in the Energy Community can be targeted.¹⁰

To ensure uniform standards of operation and alignment with the CACM Regulation, the roles and responsibilities of NEMOs and TSOs should be outlined clearly in a regulatory act, which, subject to Contracting Parties' regulatory framework may be in the form of a separate regulatory decision, recommendation or embedded in the regulatory decision for approval of implicit allocation or market coupling. This should also include the allocation of the shipping role to the designated NEMO(s) or, as the case may be, to another entity.

ECRB recommends that the national regulatory authorities of the Contracting Parties make every endeavour to adopt the conditions laid down in the act, as attached in Annex 1, therefore ensuring also the NEMO designation process; or, where NEMO designation may be done by an institution other than the national regulatory authority, to have such conditions fully reflected in a recommendation or opinion as well as in the national regulatory authority's decision for approving market coupling, in line with their competences under the applicable national legislation.

To this end, a regulatory decision of the national regulatory authorities regarding the adoption of condition laid down in this act would:¹¹

- establish clear rules, conditions and criteria under which an entity, market operator, obtains and maintains the NEMO designation ;
- provide clarity on the roles and responsibilities of the NEMO in the market coupling process;
- provide clarity on the roles and responsibilities of the TSOs in the market coupling process;
- facilitate the establishment of clear operation of the market coupling process for day-ahead and intraday market for stakeholders;
- define the shipping agent responsibility.

The adoption of the conditions laid down in the attached act as is in Annex 1 is a flexible and convenient answer to the regulatory commitments by the Contracting Parties and more specifically for the national regulatory authorities of WB6, commitments undertaken by signing of the aforementioned WB6 MoU. To assure compliance with and thus alignment with the relevant Articles of the CACM Regulation, the regulatory act, as contained in Annex 1, mirrors as far a possible the structure, content, and wording of the CACM Regulation.

It is envisaged that the mechanism as proposed in the regulatory act in Annex 1 shall stay in place until the CACM Regulation will be included into the Energy Community acquis and has been transposed into national legislation of the Contracting Parties. Consequently, the regulatory act recommended in Annex 1 should not be seen as a replacement of the CACM Regulation, especially not on a permanent basis, but rather as a stop-gap solution to allow the pilot project progression prior to the CACM Regulation

¹⁰ On TSO level involvement of Contracting Parties' electricity transmission system operators is largely promoted via their membership to the European Network of Electricity Transmission Operators (ENTSO-E). For regulators a newly established, in 2018, initiative of joint workshops of the Agency for the Cooperation of Energy Regulators (ACER) and ECRB aims at aligning regulatory approaches and understanding under the CACM Regulation.

¹¹ It is needed to be stressed that while the expectation and recommendation is for the national regulatory authority to adopt the attached regulatory act, it is possible, subject to the relevant applicable national legislation that the adoption occurs by another entity.

being adopted into the Energy Community acquis and accordingly into the respective national legislative and regulatory acquis.

b. Powers of regulators

ECRB understands that national regulatory authorities of the Contracting Parties should be considered competent for issuing a regulatory act which includes the conditions recommended in Annex 1 based on the following arguments

- *Third Energy Package*: implicit allocation of cross-zonal capacity by way of market coupling, as an alternative to explicit allocation, is already embedded in the Third Energy Package, which is binding for Contracting Parties.
- *Capacity allocation and congestion management*: national regulatory authorities by virtue of the Third Energy Package and its implementation in the Contracting Parties' national legislation are competent to set or approve the rules for allocation of electricity cross border capacities and related congestion management.¹² The concept of day ahead and intraday market coupling does not introduce other than regulatory capacity allocation and congestion management rules.
- *Licensing*: the national regulatory authority can make use of this act to ensure that the entity licensed as the TSO and those licensed, or to be licensed, as day-ahead and/or intraday market operator are bound with the roles and responsibilities outlined in this regulatory act for the functions related to market coupling.

It is worth to be noted that the second and third argument is likewise supported by the Second Energy Package. To this extent the competences necessary for the purpose of issuing the regulatory act recommended in Annex 1 can be also assumed for Contracting Parties that did not transpose the Third Energy Package yet.¹³

On the other hand, for jurisdictions where national legislation empowers an authority other than the national energy regulator for designation of NEMOs,¹⁴ ECRB encourages the respective authorities to make use of the approach recommended in Annex 1 when exercising its power in approving implicit allocation or market coupling regime. This should not prevent regulators of these Contracting Parties to perform obligations related to monitoring and supervising the activities of NEMOs.

¹² Article 37 paragraph 6 litera (c) of Directive 2009/72/EC.

¹³ E.g. Bosnia and Herzegovina.

¹⁴ E.g. North Macedonia.

Annex 1

Decision [no. xxx] of [date] of [NRA]¹⁵ on the requirements and procedures for designation of Nominated Electricity Market Operator(s) (NEMO) in [Contracting Party] and roles and responsibilities of NEMOs and electricity transmission system operators in market coupling.

By this Decision the following rules applicable for designation of NEMOs in [Contracting Party] by [NRA] and the roles and responsibilities of NEMOs and electricity transmission system operators (TSO) in market coupling are adopted.

[Note two alternative versions for Article 3 – application is subject to national legislation]

Article 1

Scope

1. This Decision sets out the conditions and procedures for designation of [a] Nominated Electricity Market Operator[s] (NEMO[s]) as well as the revocation of such designation in [Contracting Party] by [national regulatory authority].
2. This Decision defines the tasks that a NEMO designated in [Contracting Party] shall perform with regards to market coupling process.
3. This Decision defines the tasks that [TSO of CP] shall perform with regard to market coupling process.

Article 2

Definitions

[Note: definitions hereinafter are in line with the CACM Regulation – should national legislation of the relevant Contracting Party include any of the definition, the hereinafter provided definition may be replaced by reference to national legislation]

‘Applicant(s)’ refers to entities which have submitted applications to become the designated NEMO.

‘CACM (Regulation)’ refers to EU Commission Regulation (EU) 2015/1222 of 24 July 2015 on establishing a guideline on capacity allocation and congestion management.

‘Congestion income’ means the revenues received as a result of capacity allocation;

‘Continuous trading matching algorithm’ means the algorithm used in intraday coupling for matching orders and allocating cross-zonal capacities continuously;

‘Central counter party’ means the entity or entities with the task of entering into contracts with market participants, by novation of the contracts resulting from the matching process, and of organising the transfer of net positions resulting from capacity allocation with other central counter parties or shipping agents;

¹⁵ References to [NRA] throughout the entire document by the relevant national body/institution that is in charge of designation!



'Day-ahead market time-frame' means the time-frame of the electricity market until the day-ahead market gate closure time, where, for each market time unit, products are traded the day prior to delivery; 'day-ahead coupling' means the auctioning process where collected orders are matched and cross-zonal capacity is allocated simultaneously for different bidding zones in the day-ahead market;

'Day-ahead market gate closure time' means the point in time until which orders are accepted in the day-ahead market;

'Energy Community Regulatory Board' (ECRB) refers to the Regulatory Board of the international organisation that was formed by the Treaty establishing the Energy Community.

'Economic surplus for the single day-ahead or intraday coupling' means the sum of (i) the supplier surplus for the single day-ahead or intraday coupling for the relevant time period, (ii) the consumer surplus for the single day-ahead or intraday coupling, (iii) the congestion income and (iv) other related costs and benefits where these increase economic efficiency for the relevant time period, supplier and consumer surplus being the difference between the accepted orders and the clearing price per energy unit multiplied by the volume of energy of the orders;

'Intraday market time-frame' means the time-frame of the electricity market after intraday cross-zonal gate opening time and before intraday cross-zonal gate closure time, where for each market time unit, products are traded prior to the delivery of the traded products;

'Intraday coupling' means the continuous process where collected orders are matched and cross-zonal capacity is allocated simultaneously for different bidding zones in the intraday market;

'Intraday cross-zonal gate opening time' means the point in time when cross-zonal capacity between bidding zones is released for a given market time unit and a given bidding zone border;

'Intraday cross-zonal gate closure time' means the point in time where cross-zonal capacity allocation is no longer permitted for a given market time unit;

'Market Coupling Operator function' (MCO function) refers to the undertaking of matching orders from the day-ahead and intraday markets for different bidding zones and simultaneously allocating cross-zonal capacities;

'matching' means the trading mode through which sell orders are assigned to appropriate buy orders to ensure the maximisation of economic surplus for single day-ahead or intraday coupling;

'National legal monopoly' refers to and is defined as such in the case that national law of the relevant Contracting Party designates one sole entity for the provision of day-ahead and/or intraday trading services.;

'Nominated Electricity Market Operator' (NEMO) refers to a legal entity that has been designated by [NRA] to perform the task related to day-ahead and/or intraday market coupling according to this Decision;

'NTC based capacity calculation' is the net transmission capacity means the capacity calculation method based on the principle of assessing and defining ex ante a maximum energy exchange between adjacent bidding zones;

'Order' means an intention to purchase or sell energy or capacity expressed by a market participant subject to specified execution conditions;

'Price coupling algorithm' means the algorithm used in day-ahead coupling for simultaneously matching orders and allocating cross-zonal capacities;

'Settlement' is the completion of a transaction or of processing with the aim of discharging participants' obligations through the transfer of funds and/or securities;

'Shipping agent' means the entity or entities with the task of transferring net positions between different central counter parties;

'Transmission System Operator' (TSO) means a natural or legal entity that is responsible for the operation, maintenance, and, if necessary, further developing the transmission system in a specified area and, where applicable, its interconnections with other systems in line with Article 2.4 of Electricity Directive 2009/72/EC¹⁶ and Article [add reference to national legislation].

Article 3

[VERSION FOR CPs WHERE NATIONAL LEGISLATION DOES NOT DEFINE THE MO AS MONOPOLY]

NEMOs designation and revocation of the designation

1. An application for designation of NEMO activities in [Contracting Party] shall be filed with [NRA] in written format either via email or mail addressed to the following contact: [email and postal contacts]
2. The applicant shall use the form found in Annex 1.a. To demonstrate compliance with the criteria listed in Article 4 of this Decision the applicant must submit the documents listed in Annex 2 of this Decision.
3. Upon receipt of a request for NEMO designation [NRA] shall issue a decision within [two] month.
4. The designation of a NEMO remains valid until incorporation of the CACM Regulation into national legislation of [Contracting Party] following which the NEMO designation shall be confirmed according to the rules of the CACM Regulation.
5. [NRA] shall revoke the designation if a NEMO designated in accordance with this Decision fails to maintain compliance with the criteria in Article 4 and is not able to restore compliance within [six] months of being notified of such failure by [NRA].
6. [NRA] will publish the designation and revocation of NEMOs on its official website and will inform the ECRB.

Article 3

[VERSION FOR CPs WHERE NATIONAL LEGISLATION DOES DEFINE THE MO AS MONOPOLY]

NEMOs designation and revocation of the designation

1. An application for designation of NEMO activities in [Contracting Party] shall be filed with [NRA] in written format either via email or mail addressed to the following contact: [email and postal contacts]

¹⁶ OJ L 211 of 14.08.2009, p 55 et seq adapted and adopted by Decision of the Energy Community Ministerial Council 2011/02/MC-EnC.

2. The applicant shall use the form found in Annex 1.a. To demonstrate compliance with the criteria listed in Article 4 of this Decision the applicant must submit the documents listed in Annex 2 of this Decision.
3. Upon receipt of a request for NEMO designation [NRA] shall issue a decision for a national monopoly for day-ahead and intraday trading services within [two] months
4. The designation of a NEMO remains valid until incorporation of the CACM Regulation into national legislation of [Contracting Party] following which the NEMO designation shall be confirmed according to the rules of the CACM Regulation.
5. In case there are several applicants to be designated as the only NEMO, [NRA] will designate the applicant which best meets the criteria listed in Article 4. When deciding upon an application, any discrimination between applicants shall be avoided.
6. [NRA] shall revoke the designation if the NEMO designated in accordance with this Decision fails to maintain compliance with the criteria in Article 4 and is not able to restore compliance within [six] months of being notified of such failure by [NRA].
7. [NRA] will publish the designation and revocation of the NEMO on its official website and will inform the ECRB.
8. [NRA] will fix or approve the NEMO fees for trading in the day-ahead and intraday markets, sufficiently in advance of their entry into force and before start of operation as a NEMO, or specify the methodologies used to calculate them.

Article 4

NEMO designation criteria

1. An applicant shall only be designated as a NEMO if it complies with all of the following requirements:
 - (a) it has contracted or contracts adequate resources for common, coordinated and compliant operation of single day-ahead and/or intraday coupling, including the resources necessary to fulfill 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 5;
 - (b) it shall be able to ensure that market participants have open access to information regarding the NEMO tasks in accordance with Article 5;
 - (c) it shall be *cost-efficient* with respect to single day-ahead and intraday coupling and shall in its internal accounting keep separate accounts for MCO functions and other activities in order to prevent cross-subsidisation;
 - (d) it shall have an adequate level of business separation from other market participants;
 - (e) [litera (e) only applicable if NEMO designated as a national legal monopoly for day-ahead and intraday trading services] it shall not use the fees in Article 3(8) to finance its day-ahead or intraday activities in a Party other than the one where these fees are collected;
 - (f) it shall be able to treat all market participants in a non-discriminatory way;
 - (g) it shall have *appropriate market surveillance arrangements in place*;

- (h) it shall have in place *appropriate transparency and confidentiality agreements* with market participants and [TSO of CP];
 - (i) it shall be able to provide the *necessary clearing and settlement services*;
 - (j) it shall be able to put in place the *necessary communication systems* and routines for coordinating with [TSO of CP].
2. The designation criteria set out in paragraph 1 shall be applied in such a way that competition between NEMOs is organised in a fair and non-discriminatory manner. [Paragraph 2 only applicable if NEMO **not** designated as a **national legal monopoly** for day-ahead and intraday trading services]

Article 5

NEMO tasks

1. NEMOs shall act as market operators in [Contracting Party] or regional markets to perform in cooperation with [TSO of CP] single day-ahead and intraday coupling. [Their/its] tasks shall 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 the trades according to relevant participant agreements and regulations.

With regard to single day-ahead and intraday coupling, NEMO shall in particular be responsible for the following tasks:

- (a) implementing the MCO functions set out in paragraph 2 in coordination with other NEMOs;
- (b) implementing the requirements for the single day-ahead and intraday coupling, requirements for MCO functions and the price coupling algorithm as set on EU level with respect to all matters related to electricity market functioning in accordance with paragraph 2 of this Article;
- (c) implementing maximum and minimum prices as set on EU level in accordance with maximum and minimum prices set on EU or regional level;
- (d) making *anonymous*, such that it cannot be attributed to a single market participant, and sharing the received order information expressed in Euro, necessary to perform the MCO functions provided for in paragraph 2 of this Article;
- (e) assessing the results calculated by the MCO functions set out in paragraph 2 of this Article, allocating the orders based on these results, validating the results as final if they are considered correct and deliver the results to TSOs, who should validate them in accordance with the allocation constraints and validated cross-zonal capacity;
- (f) informing the market participants on the results of their orders without unjustifiable delay;
- (g) acting as central counter parties for clearing and settlement of the exchange of energy resulting from single day-ahead and intraday coupling in line with the methodology developed by the EU stakeholders;
- (h) agree and implement jointly with relevant NEMOs and TSOs back-up procedures for national or regional market operation if no results are available from the MCO functions, taking account of fallback procedures agreed by the TSO. These back-up procedures shall on a national and regional

level allow for the allocation of capacity in the event when coupling processes are unable to produce results;

- (i) providing single day-ahead and intraday coupling cost forecasts and cost information to competent regulatory authorities and TSOs where NEMO costs for establishing, amending and operating single day-ahead and intraday coupling are to be covered by the concerned TSOs' contribution;
- (j) coordinate with TSOs to establish arrangements concerning more than one NEMO within a bidding zone and perform single day-ahead and/or intraday coupling in line with the approved arrangements. These arrangements shall be in line with best practices in regard to multiple NEMO arrangements. These arrangements shall contain proposals for cross-zonal capacity calculation and allocation and other necessary arrangements for such bidding zones in cooperation with concerned TSOs and NEMOs as well as to ensure that the relevant TSOs and NEMOs provide the necessary data (such as through using single end-point for data exchange) and financial coverage for such arrangements to allow for efficient consideration of several NEMOs in one bidding zone. These arrangements shall allow additional TSOs and NEMOs to join these arrangements in the future;
- (k) performing the role of a shipping agent if decided by the [NRA of the CP].

2. NEMOs shall carry out MCO functions jointly with other NEMOs. Those functions shall include the following:

- (a) implement the algorithms, systems and procedures for single day-ahead and/or intraday coupling as set on EU level. If market coupling between two or more bidding zones does not involve an EU Member State in the first step, a temporary solution may be agreed and implemented, subject to the approval of [NRA] and in close cooperation with TSOs and other NEMOs involved, that mimics the algorithms, systems, and procedures for day-ahead and/or intraday coupling applicable in the EU as far as possible while allowing for the peculiarities of the two bidding zones;
- (b) processing input data on cross-zonal capacity and allocation constraints provided in the process of coordinated capacity calculation by the TSOs or coordinated capacity calculator acting on behalf of TSOs. Such input data should be submitted to relevant NEMOs no later than one hour before the day-ahead market closing time and no later than 15min before the intraday cross-zonal gate opening time;
- (c) operating the price coupling and continuous trading matching algorithms as set by on EU level. If market coupling between two or more bidding zones does not involve an EU Member State in the first step, a temporary solution may be agreed and implemented subject to the approval of [NRA] and in close cooperation with TSOs and other NEMOs involved, that mimics the algorithms applicable in the EU as far as possible while allowing for the peculiarities of the two bidding zones;
- (d) validating and sending single day-ahead and intraday coupling results to the NEMOs and TSOs.

3. Cooperation between NEMOs shall be strictly limited to what is necessary for the efficient and secure design, implementation and operation of single day-ahead and intraday coupling. The joint performance of MCO functions shall be based on the principle of non-discrimination and ensure that no NEMO can benefit from unjustified economic advantages through participation in MCO functions. This largely shall reflect and thus prohibit the use of proprietary information that is not available to the public by the NEMO to give it unfair advantage over existing or potential competitors or for use to maximize economic profit.

Article 6

TSOs' tasks related to day-ahead and intraday coupling

1. Once a NEMO has been designated in [Contracting Party] according to this Decision, [name of national TSO] should participate in the day-ahead and intraday market coupling. TSOs shall coordinate with NEMOs in ensuring efficient implementation of market coupling.

2. [name of national TSO] shall:

- (a) work closely with the TSOs from Energy Community Contracting Parties and/or EU Member States in ensuring functioning of the price coupling and continuous trading matching algorithms for all aspects related to capacity allocation as set on EU level;
- (b) contribute in joint validation of the matching algorithms against the requirements as set on EU level;
- (c) in coordination with other TSOs perform NTC based capacity calculation in D-2 to support market coupling;
- (d) calculate, confirm with other TSOs and send cross zonal capacities and allocation constraints to relevant NEMOs latest 1 hour before the gate closure of the day-ahead market. If TSOs are unable to provide such input data they shall inform the relevant NEMO and provide such input data no later than 30min before the gate closure of day-ahead market;
- (e) verify single day-ahead coupling results in terms of validated cross-zonal capacities and allocation constraints;
- (f) respect the results from single day-ahead and intraday coupling calculated in accordance with paragraph (e) of this Article;
- (g) establish and operate fallback procedures as appropriate for capacity allocation;
- (h) agree with other TSOs and propose the intraday cross-zonal gate opening and intraday cross-zonal gate closure times aligned with EU processes;
- (i) share congestion income in accordance with the methodology agreed with other relevant TSOs aligned with EU methodologies;
- (j) where so agreed, act as shipping agents transferring net positions.
- (k) performing the role of a shipping agent if decided by the [NRA of the CP]



Annex 1.a

Sample application form

1. Information on the legal entity:

- a) **Name of application:** [insert name of entity]
- b) **Address of applicant:** [insert address at which the application is registered]

2. Contact information for application

- a) **Name of contact person:** [insert name of contact person]
- b) **Position of contact person:** [insert the position held by contact person in the applicant]
- c) **Contact person phone number:** [insert phone number of contact person]
- d) **Contact person email address:** [insert email address of contact person]
- e) **Contact person postal address:** [insert postal address of contact person]

3. Statement of whether the applicant is applying for designation in [name of contracting party] for single day-ahead and/or intraday coupling:

[Entity] is applying for the designation in [Contracting Party] as the NEMO to operate [delete as appropriate: for single day-ahead and intraday coupling; single day-ahead coupling; intraday coupling].

If more than one Bidding zone exists indicate for which bidding zone the application is for:

[If applicable, insert for which bidding zone the application is intended for]

4. Has the applicant entity applied for NEMO designation in any other party and if yes in which party/bidding zone:

[Insert name of party & bidding zone for which the entity has applied for]

Has any application been rejected, if yes in which party and for what reason:

[Insert party and reason]

5. Statement whether the entity is active as a legal monopoly in another market: [Delete as appropriate]

[Entity] is not active as a legal monopoly in another market/[Entity] is active a legal monopoly in [insert market].

6. Statement of whether all or part of the application is confidential, the reasons why, and which section:

a) **Does the application contain confidential information:**

[Delete as appropriate] Yes/No

b) **Is the entire or parts of the application confidential:**

[Delete as appropriate] The Entire/ Parts of the application are confidential.

If only parts of the application is confidential please highlight these in the text where they appear.

c) **Justification for confidentiality:**

[Insert justification for confidentiality]



7. Signature and statement to the correctness of the information submitted:

I, [insert name], am authorized to submit the application for the designation as NEMO and certify that the submitted information and documents as part of this application are true, correct, and include all relevant information known to [entity] in order for [NRA] to assess [entity's] application.

[Signature, name of authorized signatory and position, place and date]

List of documents submitted as part of this application:

[List documents]

Annex 1.b

Interpretation of Article 4 and the associated support documents to be submitted pursuant to it, taking into account best practice examples from EU Member States

Criteria set forth in Article 4.1.a:

It has contracted or contracts adequate resources for common, coordinated and compliant operation of single day-ahead and/or 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.

Interpretation of meaning:

Applicants must include information pertaining to:

- Having sufficient capitalisation and financial security to cover its activities and risk exposure in order to operate efficient, reliable, and stable single day-ahead and/or intraday coupling;
- Having the necessary user platforms and interfaces, including necessary information technology (software), technical equipment (hardware & infrastructure), and or contractual service level agreements for the provision of these services, together with contingency plans, to operate efficient, reliable, and stable single day-ahead and/or intraday coupling;
- Having the needed operational arrangements and contractual arrangements with NEMOs, TSOs and other relevant market participants as well as contingency plans for emergency cases, that demonstrate how the NEMO will deliver on its assigned tasks:
 - These must include that the applicant has or will enter into the operational and contractual arrangements required where there is more than one NEMO operating in a bidding zone;
 - As well as evidence that contingencies are in place that allow for new TSOs and NEMOs to enter under the same arrangements.

Necessary document for proof:

Accordingly, the applicant is expected to submit the following supporting documents:

1. Certification of registration;
2. Evidence of sufficient internal (or contracted) understanding of relevant legislation;
3. The latest audited annual report;
4. Financial plan that project current and next year income and consist as it pertains to the NEMO tasks and consist of:
 - a. Balance sheet;
 - b. Profit-loss statement;
 - c. Analysis of the capital;
 - d. Clear statement of assumptions underlying projections;
 - e. A sensitivity analysis of the projections given changes to assumptions;
 - f. A clear breakdown of how the applicant intends to finance the operation including details of any guarantees given to the applicants that are intended to be used.
5. A Business Plan as pertaining to its NEMO task that includes:

- a. Detailed operational breakdown including core processes;
- b. Clear description and explanation of how it will operate single day-ahead and /or intraday coupling, including organisational chart;
- c. Organisational structure including the HR staffing per operation and in particular relating to IT service provisions;
- d. Code of conduct and compliance programme;
- e. Intention, nature, and scope of assigning of task to be executed by third parties and the procedure which the applicants intend to employ to assure delivery of the third party;
- f. Detailed exposition of the technical and IT system intended to be used and the operational reliability of said system;
- g. If applicable how the applicant intends to identify and manage or avoid any conflict of interests;
- h. Detailed exposition of the plan on how the applicant intends to cooperate with other NEMOs and TSOs and assurances that any agreement will be in place no later than 2 months after being approved as designated NEMO;
- i. Detailed exposition as relating to process in place to identifying and managing risks and appropriate contingency planning.

Criteria set forth in Article 4.1.b:

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

Interpretation of meaning:

Applications must demonstrate and assure that they will be able to openly publish information and data (i.e. arrangements, methodologies, rules, processes, and data) as require and that this access will be available on equal basis to all market participants.

Necessary document for proof:

Accordingly, the applicant is expected to submit the following supporting documents:

1. A clear communication strategy that includes:
 - a. Description and prove of where and how market participants will be able to access information;
 - b. Process for data publication;
 - c. Description of contingency planning to make sure this information is available.

Criteria set forth in Article 4.1.c:

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

Interpretation of meaning:

Applications must include evidence that they have separate accounts for the MCO functions and other NEMO activities, and can report a clear breakdown of all their NEMO costs. This shall allow the [NRA] to ascertaining to what degree the provision of services is cost-effective. This can be done either through

comparison with other applications, if more than one application was submitted, or through approaching other NRAs who are or have in the past designated NEMOs.

Necessary document for proof:

Accordingly, the applicant is expected to submit the following supporting documents:

1. Clear description and explanation of accounting processes that will allow the applicant to identify and separate MCO and NEMO costs;
2. Clear description and explanation of separate accounts that will be used for MCO and NEMO costs;
3. Clear description of processes to report a clear breakdown of all its NEMO costs, including MCO costs;
4. A comparison of the applicants cost relative to EU examples broken down by each NEMO and MCO costs.

Criteria set forth in Article 4.1.d:

it shall have an adequate level of business separation from other market participants.

Interpretation of meaning:

Applications must include evidence of a sufficient business separation to the extent that any associated business is not able to use NEMO and MCO information that is not privy to the public to their unfair advantage. This includes that the application should include, for transparency, any potential conflict of interest arising due to ownership by or association with market participants. That is, the applicant should not be in a position where information can be accidentally or intentionally shared to favour a market participant that is an owner of or associated with the applicant. Moreover, should the applicant have potential conflict of interest, the applicant should demonstrate a process and mechanism to assure sufficient separation.

Necessary document for proof:

Accordingly, the applicant is expected to submit the following supporting documents:

1. Clear description and explanation of the applicant's corporate structure including, but not exhaustively, the composition of its board or other governing bodies and directors as well as, if it is applicable, their interest in the market apart from their association with the applicant;
2. Information regarding possible other business by the applicant than day-ahead and intraday trading services;
3. Statement regarding whether the applicant is active in other parties and if yes what activities the entity is undertaking in these parties;
4. A complete overview of all operational dependencies of other market participants;
5. Information concerning the makeup and identity of direct of direct and indirect owners, other related legal parties, parent companies, and subsidiaries;
6. In case shareholders, other related legal parties, parent companies, or subsidiaries are market participants, an explanation of how the applicant has organized business separation.

Criteria set forth in Article 4.1.e:

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

Interpretation of meaning:

Applicant must, if being designated a national monopoly, include documentation that demonstrates separate accounting for services provided as a national legal monopoly for day-ahead and intraday trading services from any other activities.

Necessary document for proof:

Accordingly, the applicant is expected to submit the following supporting documents:

1. Clear description and explanation of its accounting processes for any legal monopoly activities.

Criteria set forth in Article 4.1.f:

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

Interpretation of meaning:

Applications will need to demonstrate evidence that they can and will treat all market participants in the same and non-discriminatory way. This shall include process that allow for new market entries to be allowed to enter in the same agreements as they apply to existing market participants.

Necessary document for proof:

Accordingly, the applicant is expected to submit the following supporting documents:

1. Detailed exposition of the processes for market participants to join and use the applicant's services that shall not allow for discrimination;
2. The market rules that will be applied to all market participants to ensure non-discrimination;
3. Internal processes that shall be written such that operational arrangements, contractual arrangements, and services to market participants are not discriminatory.

Criteria set forth in Article 4.1.g:

it shall have appropriate market surveillance arrangements in place

Interpretation of meaning:

Applicants will need to demonstrate that they have or will implement a training programme and monitoring procedures that should allow the applicants to identify and report any potential issues relating to the wholesale energy market integrity and the associated transparency and non-discrimination principles.

Necessary document for proof:

Accordingly, the applicant is expected to submit the following supporting documents:

1. Detailed exposition of training programmes including:
 - a. That management and employees have or will have knowledge of market surveillance arrangements;

- b. That management and employees are or will be aware of possible market surveillance issues, e.g. REMIT issues;
 - c. That management and employees are aware of their responsibilities to report possible market surveillance issues.
2. Clear and detailed exposition and explanation of its monitoring schemes and processes to:
- a. retain data;
 - b. monitor trading activities;
 - c. identify possible cases;
 - d. assess and investigate possible cases;
 - e. escalate potential case internally and in line with the relevant authorities;
 - f. and who within the entity will take primary responsibility and whether for this purpose a new unit will be established.

Criteria set forth in Article 4.1.h:

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

Interpretation of meaning:

Applicants will need to demonstrate that they have or will implement or rather enter with the relevant market participants and TSOs into agreements that cover transparency and confidentiality of all involved parties.

Necessary document for proof:

Accordingly, the applicant is expected to submit the following supporting documents:

1. Detailed exposition of how the applicant will assess, agree, and implement transparency and confidentiality agreements with current and future market stakeholders and TSOs;
2. Submit any existing agreements that are applicable.

Criteria set forth in Article 4.1.i:

it shall be able to provide the necessary clearing and settlement services

Interpretation of meaning:

Applicants shall need to demonstrate that they are or have contracted 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.
- The technical, operational and contractual arrangements to clear and settle exchange of energy resulting from single day-ahead and/or intraday coupling. In particular, candidates applying for day-ahead and / or intraday coupling must demonstrate they have or will enter into operational and contractual arrangements that allow more than one NEMO to operate day-ahead and / or intraday coupling.

Necessary document for proof:



Accordingly, the applicant is expected to submit the following supporting documents:

1. Detailed exposition of operating costs and collateral requirements and holding;
2. Clear description and explanation of processes to establish what guarantees are needed for settlement;
3. Risk assessment and sensitivity analysis undertaken to demonstrate ongoing adequacy;
4. Clear description and explanation of how the applicants plans to clear and settle, including:
 - a. The applicable rules;
 - b. Member requirements,
 - c. Processes for clearing and settlement, including with other NEMOs and TSOs.
5. Clear description and explanation of the contractual arrangements necessary to deliver the clearing and settlement processes, including with other NEMOs and TSOs, and confirmation the operation and contractual arrangements allow or will allow other NEMOs and TSOs to operate day-ahead and / or intraday coupling.

Criteria set forth in Article 4.1.j:

it shall be able to put in place the necessary communication systems and routines for coordinating with the TSOs

Interpretation of meaning:

Applicants shall need to provide evidence that they are capable of putting in place the necessary communication and technical systems and agreements for coordinating with the TSOs.

Necessary document for proof:

Accordingly, the applicant is expected to submit the following supporting documents:

1. Description and explanation of how it will communicate with TSOs, including ownership and contractual arrangements for operating and servicing this equipment;
2. Description and explanation of contingency arrangements and risk planning;
3. A letter of the relevant TSOs confirming their acceptance of the above requested description and explanation and their confirmation that their approach, software, and hardware on their side is compatible.

Criteria set forth in Article 4.2:

it shall be able to put in place the necessary communication systems and routines for coordinating with the TSOs

Interpretation of meaning:

Applicants shall need to provide evidence that they are capable of putting in place the necessary communication and technical systems and agreements for coordinating with the TSOs.

Necessary document for proof:

Accordingly, the applicant is expected to submit the following supporting documents:

1. Description and explanation of how it will communicate with TSOs, including ownership and contractual arrangements for operating and servicing this equipment;



2. Description and explanation of contingency arrangements and risk planning.