

# AGENT OF LAST RESORT

## REVIEW OF RESPONSES TO CONSULTATION ON AOLR CONTRACT AND OPERATING PROCEDURES

**Version 1.0 17/08/2018**

## Contents

1. Background .....	3
2. AOLR Contract .....	3
3. AOLR Operating Procedures.....	7
4. AoLR Workshop.....	7
5. Next Steps .....	9
6. Appendix A – Participant Responses .....	10

## 1. BACKGROUND

With the introduction of I-SEM, Participants will have the opportunity to trade in multiple timeframes. Participants will have the option to buy and sell energy in the day-ahead market and the intraday market, with dispatchable generators including demand side units having bids or offers accepted in the balancing market based on commercial offers for deviations from their physical notifications as provided to the System Operators (SOs).

The SEM Committee decision on the High Level Design provided for an entity, the Agent of Last Resort (AOLR), to act on behalf of generator units where it was considered that the activity of interacting with the ex-ante markets through preparation and submission of orders would present a barrier to their participation in these markets.

The SEM Regulatory Authorities further consulted on changes to the EirGrid Market Operator and SONI SEM Operator licences. These changes included conditions relating to the Agent of Last Resort and required that EirGrid and SONI:

- prepare and submit to the Authority for approval the form of the AoLR Contract; and
- develop, administer and maintain the AoLR Procedures.

The draft AoLR Contract and Procedures was published in May 2017 for public consultation. This document covers the responses to that consultation.

## 2. AOLR CONTRACT

The draft AOLR Contract set out the commercial terms of the agency arrangement under which the AOLR will provide the bidding services described in more detail in the AOLR Operating Procedures.

The draft AOLR Contract covers:

- The agency relationship;
- The services to be provided;
- The process for making and amending AOLR Operating Procedures;
- The detail of the consultation processes for amending the AOLR Contract and AOLR Operating Procedures contemplated by the EirGrid Market Operator licence and SONI SEM Operator licence;
- Charging of fees;
- Liability and force majeure; and
- Default and termination;

amongst other issues.

The draft was prepared taking into account the requirements of the EirGrid Market Operator licence and SONI SEM Operator licence and the SEM Committee's September 2015 Decision Paper in relation to the Agent of Last Resort (SEM-15-063), particularly that the AOLR should adopt a "passive approach" and shall not assume any market risks.

A number of comments were received in respect of the AOLR Contract and are addressed in the table below.

Comment	Response
<p>In reference to Modifications – there is no clear terms of reference for those consulted to consider the AOLR Modification. Any modifications should be assessed against some guiding criteria – ideally reflecting the SEM Committee decisions on the function of the AOLR. Under the existing licence condition and contract, the Licensee is protected from taking market risk (Condition 3B, Clause 4) and partially from scope creep (Condition 3B Clause 3).</p> <p>However, there is no comparable protection for the market on the following items from the SEM Committee decision:</p> <p>“The costs of the AOLR will be borne by its participants to the extent possible but will be subject to regulatory oversight so that the associated fees are not prohibitive.”</p> <p>“The AOLR will act passively meaning it will bid volumes into the ex-ante markets based on a predefined methodology that is based on the TSOs’ wind forecast (where applicable) and unit’s technical availability”</p> <p>The AOLR objective as defined is to “facilitate the participation of eligible generators in the Ex-Ante Markets”. This is a very broad objective. Without a clearer AOLR scope or principles, creep through modifications into a more active, distortive, commercial aggregation role or implicit subsidy from other market participants is possible.</p> <p>We believe SEMO needs to include a limited scope or clear modification principles that align with the ‘last resort’ nature of the AOLR rather than simply relying on reference to the limited AOLR objective in the Market Operator licence.</p>	<p>We note the comment; however, we believe that we are unable to extend the scope beyond that already set out in the SEMC decision on the relevant licence condition.</p>
<p>(1) <b>Recital A(1)</b> outlines that the MO will offer AOLR services in the ex-Ante markets operated by SEMOpx under SEMOpx rules. However given SEMOpx is the “Designated NEMO” only until Oct 2019 what does the MO envisage for AOLR services post Oct 2019 if SEMOpx ceases to operate as a</p>	<p>Should SEMOpx cease to operate as a NEMO, then the Market Operator would need to revisit these arrangements, including the AOLR contract, to continue to meet its licence conditions.</p> <p>To better reflect the licence condition, however, Recital A(1) is to be amended to refer to facilitating</p>

Comment	Response
NEMO?	participation in the ex-ante markets, deleting the qualifier “operated by SEMOpx under the SEMOpx Rules”.
(2) <b>Clause 1.2.1(h) and 13.6.1</b> - The AOLR Contract and any dispute related to same shall be interpreted, construed and governed by the laws of Northern Ireland regardless of whether the participant is located in Ireland or Northern Ireland. This may not fully suit participants based in Ireland, and thus the question is asked can there be an AOLR contract for Ireland under Irish Law and Irish courts, and a separate contract for Northern Ireland under Northern Ireland Law and Northern Ireland courts?	No, the Trading and Settlement Code, Capacity Market Code and the SEMOpx Rules are all governed by the laws of Northern Ireland.
(3) <b>Clause 4.1.1</b> – The definition of “Affected Person” appears to be missing.	See first definition in section 1.1.1
(4) <b>Clause 4.1.5</b> – Typo error - Delete duplicate word “this”	Correction made
(5) <b>Clause 4.1.6</b> – It is suggested that there is a requirement to add some wording at the end of the clause - “... such further information being reasonable and directly relevant to the Modification Proposal, and such period to respond being reasonable and having due regard to the further information being requested” .	The suggested additional wording to include a “reasonableness” test is not considered necessary or effective. AOLR will be subject to regulatory oversight in performing its functions in a reasonable manner consistent with its licence requirements.
(6) <b>Clause 4.1.9</b> – This clause should be deleted given the comment that “The AOLR may decide to modify or combine Modification Proposals”. Such broad freedom to modify or combine creates the fear that the essence of any Modification may be lost by any such modification or combination process. An alternative could be to add the following wording at the end of this sentence – “...ensuring to retain the essence of the original Modification Proposal in such modified or combined Modification Proposals”	Response as per previous comment. Also, if AOLR amends a modification proposal to the extent that the essence of the original modification proposal is lost, this could be dealt with in the consultation process, or the original proposal re-submitted.
(7) <b>Clause 4.3.2(i)</b> – suggests deleting the words “and may terminate the Workshop whenever he or she thinks fit” so as to allow proper time and	AOLR will perform its functions under regulatory oversight and the Regulatory Authorities are to be invited to all such Workshops. Given this oversight, it

Comment	Response
opportunity at any such workshop to discuss issues.	is considered reasonable that the chair of a Workshop should be empowered to manage the workshop appropriately given all the circumstances.
(8) <b>Clause 4.5.3</b> – Before the AOLR makes any changes to “ <i>remove..[an]..inconsistency</i> ” the AOLR should inform Participants in writing in advance of making the change to allow Participants to comment.	It is considered that paragraphs 4.5.11 – 4.5.14 deal with this adequately – specifying that modifications cannot be implemented retrospectively, and that the effective date for any modification is to be determined by the regulatory authorities or AOLR (as applicable) having due regard for the time necessary to change processes and systems to implement the modification.
(9) <b>Clause 6.1.2</b> – Amend “reasonable endeavours” at the end of the clause to read “all reasonable endeavours”.	Legal advice suggests this would have little effect and in any case this wording is consistent with wording in the SEMOpX Rules as approved by the RAs. Introducing inconsistency in this regard is not desirable.
(10) <b>Clause 6.1.3</b> – Typo – delete surplus word “these” line 4 “breach of these this AOLR contract”	Correction made.
(11) <b>Clause 7.1.2</b> – there needs to be a definition of “material breach”	The term “material breach” is standard legal drafting and its meaning is well understood in that context.
(12) <b>Clause 7.1.7</b> – need to add the wording “ <i>(or such longer period as may be set out in the relevant Default Notice)</i> ” after “... within 10 Working Days ...”.	Agreed – change made as suggested.
(13) <b>Clause 7.1.10(c)</b> – suggest deleting this clause as not required.	Agreed - deleted
(14) <b>Clause 11</b> – there is no time period specified for resolving a “dispute” yet there is one referred to in Clause 11.1.5.	Noted – paragraph 11.1.5 amended to include a time period of 30 working days for resolution of a dispute.
(15) <b>Clause 12.1.1(c)</b> – missing word “in” before “this contract” on line 2.	Amendment made.
(16) <b>Clause 12.1.1 (d) and (e)</b> – it is suggested the reference to “SEM” should be to “I-SEM”.	No. Under applicable legislation the market will remain as the SEM. I-SEM is the name of the project

Comment	Response
	to develop and implement the revised arrangements
<p><b>(17) Attachment 1</b></p> <p>a. 3rd Bullet Point - Reference to “the Customer” should be to “the Participant”.</p> <p>b. 4th Bullet Point - Delete as “[others?]” is not required.</p>	<p>Agreed - amended accordingly</p> <p>Agreed – deleted.</p>

### 3. AOLR OPERATING PROCEDURES

The AOLR will provide bidding services to eligible generators to enable their participation in the ex-ante markets as operated by SEMOpx. Bids will be submitted on behalf of eligible generators into the day-ahead market and the intraday auctions only. Bids will be formulated based on either TSO forecast data or forecast data provided by the participant themselves with options to identify what level of forecast should be used in each auction.

To set out how the AOLR tasks will be carried out, two Operating Procedures have been drafted as part of this consultation. These are –

- Operating Procedure 01 – Registration and Data Management; and
- Operating Procedure 02 – AOLR Operations.

Operating Procedure 01 – Registration and Data Management provides details in relation to the following:

- Registration of Units and Participants to the AOLR services;
- Provision of AOLR parameters and relative timing;
- Rules and processes supporting the submission of AOLR parameters;
- Default Data rules;
- Approval and validation of AOLR parameters;
- Communication Channels supporting the submission of AOLR parameters; and
- Market Operator response messages/error notifications on AOLR portal.

Operating Procedure 02 – AOLR Operations provides details in relation to the following:

- Calculation and submission of Trading Volume, Bids and Offers for the Ex-ante markets; and
- Data publication and Reporting.

The Operating Procedures are structured with an overview and procedural steps.

### 4. AOLR WORKSHOP

A workshop was held with respect to the AoLR on June 22<sup>nd</sup> 2017 at the Herbert Park Hotel in Ballsbridge. Presentations were made by members of the project team covering the aspects that had been published for consultation including the AoLR Contract and the two AoLR Operating Procedures as well as an overview of the system implementation.

There was a lot of feedback provided by attendees at the workshop expressing serious concerns with respect to the implementation of the AoLR particularly the service not being available to generation that has adopted the Supplier Lite structure, as well as the overall engagement of EirGrid's I-SEM project with members of the small wind industry.

Concerns were also expressed on the day regarding the lack of visibility of fees that Participants would be exposed to under the new arrangements, particularly around SEMOpx fees, SEMO fees and AoLR fees. It was suggested that decisions on the services to be offered by the AoLR should be delayed until such time as the fees had been finalised. This SEMOpx statement of charges and the RA decision on the AoLR fees has now been published.

Following on from the feedback received, the project team has further engaged with members of the small wind industry through a large workshop held at the EirGrid offices on October 7<sup>th</sup>. This workshop covered a number of topics of concern and hoped to assist members of the industry in further engagement related to the I-SEM project.

Following the close of the consultation, four written responses were received from members of industry. The comments submitted in connection with the Operating Procedures are included in the table below along with the project team's responses to these. A number of updates were made to the AoLR contract and AoLR Operating Procedures following on from the comments submitted.

## 5. AOLR ELIGIBILITY

With respect to comments and responses on the eligibility requirements, the project team considered that the services being offered in the draft procedures were fully compliant with those required under the SEM Committee decisions and did not consider it within the remit of the team to reconsider such decisions. However, following on from the written and oral feedback, particularly with respect to the eligibility of below the de-minis generators who have adopted the Supplier Lite structure to use the AoLR service, the project team engaged in further discussions with the SEM Regulatory Authorities with respect to the interpretation of the eligibility criteria set out in the original decision which excluded demand, represented as Supplier Units in the SEM, from use of the service.

Following these discussions, the SEM RAs wrote to the project team and advised the following –

- Having reviewed the Decision Paper and giving it due consideration, the RAs can confirm that “Supplier Lite” units are not demand participants, furthermore there is no explicit text which precludes “Supplier Lite” units from participating in the AoLR.

The SEM RAs referenced this point in the SEMO Price Control Final Determination Paper (SEM-18-003) which noted –

- Considering the subset of eligible generators, including registered renewable units above and below the de-minis and generators who have adopted the Supplier Lite structure;

This provides public confirmation of the SEM RAs clarification to the project team on their original decision. Following from this, the eligibility requirements set out in the AoLR Operating Procedure 01 -Registration and Data Management have been updated. The original text read as follows –

- (a) Eligibility of units: AoLR services are available for

- i. any Generator Unit below the De Minimis Threshold (Maximum Export Capacity less than 10MW) and any renewable Generator Units;

This has now been amended to read as follows –

- (a) Eligibility of units: AOLR services are available for
  - i. any generation below the De Minimis Threshold (Maximum Export Capacity less than 10MW);
  - ii. any renewable Generator Units; and
  - iii. any hybrid Generator Unit where the individual elements satisfy conditions (i) and (ii) above.

By replacing the clause “**Generator Unit** below the De Minimis Threshold” with “**generation** below the De Minimis Threshold”, this means that the service is available to generation of this size regardless of whether they have registered as a Generator Unit or a Supplier Unit under the Trading & Settlement Code. This removes the restriction on generation that has registered under the Trading & Settlement Code as a Supplier Unit using the Supplier Lite structure.

This represents the most significant amendment to the draft procedures.

## 6. NEXT STEPS

Following publication of this paper, the updated and finalised AOLR Operating Procedures will be published on the SEMO website in both clean and red-lined version. These procedures will be applicable after the I-SEM go-live date.

## 7. APPENDIX A – PARTICIPANT RESPONSES

Document	Comment	Response
Registration and Data Management	The Price Trading Range Upper and Lower will be set at Exchange standard PMAX and PFLOOR values as default – we’d suggest that an alternative range of €-100 to €1000 would be more appropriate, given the large potential exposure a small generator (and subsequently the AOLR) could be taking on in the event of sustained period of negative prices.	We note the comment but believe that providing for a cap and floor that is below the market value as a default amounts to a commercial decision by the AoLR. We are satisfied that the current decision allows participants to set at lower levels as required and if a participant believes that €-100 to €1000 is a more appropriate price range, the service has the facility to allow this.
Registration and Data Management	For the AOLR Minimum Trading Quantity – there should be a default value set in the operating procedure reflecting either the minimum quantity available as a bid/offer on the exchange or a higher default value to prevent inefficient trades taking place – no order should take place if the technical availability is less than this threshold.	While we note the comment, we believe that the decision is best left with participants with the AoLR service to set a minimum trading quantity or not.
Operations	<p>We cannot see why Physical Notifications are being submitted to the TSO by the AOLR under 2.2 – there is no requirement to do so for many of the units eligible for participation in the AOLR and there is no active BM commercial data being submitted. Under the finalised T&amp;SC, by submitting a PN, the units will also need to specify in their participation notices that they are Dispatchable. This will not be true for the majority of the units considering AOLR as a route to market.</p> <p>If some AOLR users would require PNs this should be specified as an optional feature of AOLR operations rather than a default feature. If PNs are submitted for wind as a default this could have knock-on impacts on data quality for the imbalance market. Therefore, the assumption should be that PNs are not submitted unless the</p>	This is consistent with the SEMC decisions on the AoLR service. The finalised TSC allows for submission of PNs by non-dispatchable and / or non-controllable generators and does not restrict this facility to dispatchable generators. However, we note the comment and will revise the procedure to ensure that PN submission is optional and a participant with the AoLR may elect to opt-out.

Document	Comment	Response
	feature is requested.	
General	IWEA has specific concerns with the proposed ALR structure, including the following, but noting that future responses to the issues raised below could require additional clarification at a later date.	Noted.
General	The ALR requires the generator to register in the market; however, this will remove any De Minimis benefits which a sub 10MW generator is currently entitled.	The eligibility requirement has been updated following on from discussions with the SEM RAs
General	To participate in the SEMOpx, the latest day for registration is the 1st December. It is not clear what total costs the generator will incur to be an ALR participant. It would be very useful if these costs were outlined clearly.	SEMOpx costs have been published.
General	The cost of being a participant has not been quantified. This is expected to be available later in 2017. It is not clear if these costs will be socialised or fully allocated to the ALR participants. IWEA requests further clarity around these costs.	The funding arrangements of the AoLR service will be made available according to the current schedule.
General	ALR is only available to specific generators and is not available to suppliers, therefore is not available to 'supplier-lite' arrangements.	The eligibility requirement has been updated following on from discussions with the SEM RAs
General	The generator is still responsible for managing their collateral commitments, clearing bank arrangements and registration in the various SEMOpx markets. This is likely to be a significant burden on these companies. The ALR design relieves very little of the burdens and costs of I-SEM participation for small generators.	The proposed implementation is consistent with the SEMC decision which set out that the AoLR only offers bidding services and does not do any financial management on behalf of generators. This consultation does not have the remit to revisit existing SEMC decisions.

Document	Comment	Response
General	<p>During the workshop organised by SEMO, it was proposed that a person would be appointed to liaise and work with the smaller generators. This is a welcome proposal and the industry asks that this is done without delay.</p>	<p>SEMO noted the request made by attendees at the AoLR workshop. We intend to further engage with small wind generators and to facilitate this have been in discussions with representatives of the relevant participant associations.</p>
Registration and Data Management	<p>In the first instance, Indaver has been seeking clarification on whether hybrid plants (over the de-minimis level) are eligible to participate in the AoLR. In the case of Meath Waste to Energy, circa 50% of the output is classified as renewable.</p> <p>The SEM Committee AoLR Decision paper (SEM-15-063) categorised eligible participants as “... all generation below the 10MW de-minimis level, and all renewable generation, including wind, will be entitled to use the AoLR. Given this facility exists, the SEM Committee considers that there will be commercial incentives on generators above a certain size, or with specific characteristics, to bid independently into the ex-ante markets.”</p> <p>While it mentions “all renewable technologies regardless of size” there is no definitive guidance regarding the eligibility of hybrid technologies. Clarification on this matter would be most appreciated.</p>	<p>The project team has further engaged with the SEM RAs on this question. It was agreed that an explicit reading of the SEMC decision would mean that this type of unit is eligible for the AOLR service.</p> <p>This would be on the basis that</p> <ul style="list-style-type: none"> <li>• all renewable, and</li> <li>• all below de-minimis.</li> </ul> <p>are eligible.</p> <p>If 50% of the station is renewable, this leaves the remaining non-renewable as being less than the de-minimis threshold (although the combined unit is above), this would mean that the plant is eligible.</p>
Operations	<p>It is foreseen that the Forecast Trading Quantities will be automatically triggered at the proposed time of 9h00 on D-1, 2 hours from the DAM Gate Closure. Given that it could be based on Participant Availability Forecast data, and keeping in mind that the DAM Gate Closure is at 11h00, a deadline of 30 minutes to 1 hour later would be more convenient. In a similar vein to discussions on the timing of the IDA1 auction, moving the deadline to 9h30 or 10h00 would allow for decisions on forecasting to be taken during typical working hours (i.e. a team meeting would be needed in</p>	<p>The timings are based on the provision of wind forecast data which is the primary intent of the AoLR. However, it is likely that these timings can be configured within the IT system on a user by user basis.</p>

Document	Comment	Response
	some instances before submitting this information).	
Operations	The Allocation of volumes to the IDM would takes into account the updated Forecast Trading Quantity submitted by the Participant. Section 2.3 Trade in the Intraday Market in Operating Procedure 2 provides a worked example of increasing Trading Quantities; it is also possible that the volume allocated at a certain IDM would become negative (i.e. the updated Trading Quantity would be lower than the volume already sold in the DAM). Would this ‘negative’ volume also be brought to the market? In effect, this would be very useful in case of an unplanned outage or the wind suddenly falling away.	The current implementation is based on sales into the ex-ante markets and not purchases.
General	The consultation paper outlines the proposed contract that the Market Operator (EirGrid and SONI) proposes to use for the provision of Agent of Last Resort (AOLR) services for Generators (below de-minimus (<10MW) and all renewable generators) to interact with the ex-ante markets (Day Ahead and Intra-Day) in I-SEM, and the operational procedures related to same. The consultation appears to provide sufficient detail as to the nature of this service. The service as outlined does provide access to the ex-ante markets for Generators in a manner that takes account of the SEM Committee decision (SEM-15-063) particularly in relation to the AOLR adopting a “passive approach” and not assuming any risk. Given the aforementioned Energia believes the paper outlines an AOLR service which appears to be workable, and reasonable.	Noted.
General	Energia believes the paper outlines an AOLR service which appears to be reasonable and workable in the new I-SEM market, and which takes due account of the type of service envisaged in the SEM Committee decision (SEM-15-063) on AOLR in 2015. As such Energia is minded to support the proposed service solution subject to the	Noted.

Document	Comment	Response
	specific comments made in Clause 3.	
Registration and Data Management	(1) Clause 1.2 a. Query Management is excluded from Procedure 1 and not mentioned in Procedure 2 – hence where is it addressed? b. Reference to “any renewable Generator Units with a fuel type” – this appears to be a typo (refer to Clause 2.1(a)) and the following should be deleted “with a fuel type”.	a. There is no specific query management processes for AoLR. As the AoLR is contained within the SEMO licence, general queries to SEMO relating to AoLR services will be subject to the same processes and KPIs that apply to all other SEMO general queries. Disputes are handed under the Contract. b. Text has been deleted as suggested.
Registration and Data Management	(2) Clause 2.1(d) – Clarification required – it implies that signing the AOLR Contract registers the Unit of the Participant to the T&SC – is this correct?	Registration under the Trading & Settlement Code and with SEMOpx are among the eligibility requirements for access to the AoLR. This is included in clause 2.1(c)  We have reviewed the text and do not believe any amendment is required.
Registration and Data Management	(3) Trading Parameters a. Parties must advise the AOLR how they wish to split up 100% of generation between the DAM and the IDM. However there is no default mentioned but perhaps this should be included. Further there is no mention of what would happen in the event that not all the selected DAM % clears in the DAM, and if this occurs what does the MO do with that remaining % of the DAM volume?	We have considered this and believe that the addition of a default value could amount to commercial decisions being made by the AoLR on behalf of the participant which is prohibited under the SEMC decisions.  The Operations procedure explains how volumes not cleared are included in subsequent auctions.
Operations	(1) Clause 2.1 a. Forecast Trading Quantities for IDM will be calculated in advance of each SEMOpx IDM Auction. Clarity is sought as to whether this means there will be no trading in the Continuous IDM Auctions?	This is correct. As per the SEMC decision, the AoLR will only provide services in relation to the intraday auctions.