



NEMO Designation (The Netherlands)

Official call for applications for designation as a Nominated Electricity Market Operator (NEMO) in the Netherlands for single day-ahead and/or intraday coupling under the Regulation on Capacity Allocation and Congestion Management (CACM).

Companies can apply at the Netherlands Authority for Consumers and Markets (ACM) to be designated as a NEMO, as stated in article 4(1) of CACM. Interested companies should provide evidence that they fulfill the criteria set out in article 6(1) of CACM, which is set out in appendix 2. The application should also provide some formal information about the applicant, which is described in appendix 1.

The applicant is responsible for submitting a complete application with respect to appendices 1 and 2. All other relevant information for assessing the application should also be submitted. Please ensure that all documentation and information requested is included in the application before it is submitted to ACM.

The application should state and explain which parts are confidential. Applications in Dutch or in English will be accepted. If the application is in English, ACM wants to receive a translation of the application itself (not the appendices) in Dutch within 2 weeks after the application is submitted. The official decision will be taken and published in Dutch.

ACM accepts applications for a NEMO designation on a continuous basis. If an applicant aims to be designated on or before December 14, 2015 (4 months after the entry into force of CACM), it must apply on or before September 11, 2015.

If you have questions regarding the NEMO designation, you can contact ACM by e-mail: secretariaat.DE@acm.nl or by phone: +31 (0)70-722 2000.

The application template is to be completed and submitted with a formal application by candidates. ACM can only accept applications sent by mail (Autoriteit Consument en Markt, Directie Energie, postbus 16326, 2500 BH, Den Haag). ACM appreciates if an application is also sent electronically (secretariaat.DE@acm.nl); if the files are too large to send, please contact us for alternative ways to upload the application.



Appendix 1. Formal information about the applicant

At least the following information must be included in the application:

- Name of the applicant;
- Address of the applicant;
- Contact person for the application;
- Contact person's position, direct telephone number and e-mail address.
- Whether the applicant intends to perform the single day ahead coupling, intra day coupling, or both of them.
- A declaration, including:
 - a statement that the information provided in this application is true, correct and includes all relevant information known to the applicant in order for ACM to assess the application;
 - place and date;
 - name and signature of an authorized representative.



Appendix 2. Submitting evidence demonstrating that the applicant meets the criteria for designation set out in Article 6 (1) of CACM

If requested information cannot be submitted by the applicant, it should explain why that information is not available and instead submit information that can demonstrate compliance with the relevant criteria.

CACM Article 6.1 (a):

“.. it [*the applicant*] has contracted or contracts adequate resources for common, coordinated and compliant operation of single day-ahead coupling and/or single 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 in accordance with Article 7;”

Applications must include at least the following information:

1. certificate of registration (an extract), which is not older than two months, from the Dutch Chamber of Commerce or equivalent in another country;
2. proof of internal or externally-contracted knowledge of the relevant Dutch and EU legislation;
3. the most recent audited annual report;
4. a financial projection for the current year and next year. This projection is to be specified per type of activity: NEMO tasks, MCO tasks and the applicant's other operations, and must include:
 - a) a balance sheet and a profit-and-loss statement;
 - b) an analysis of the capital.

The projection must be signed by the Chief Financial Officer or equivalent. The projection must be accompanied by an explanation of the assumptions on which it is based.

A sensitivity analysis must also be submitted, indicating what the impact could be of a change in one of the assumptions (e.g. volumes) on the initial projection and on the capital.

The applicant must also describe how they intend to finance the operation. Should its parent company have given any guarantees (in any way), the applicant must provide the details of such guarantees.



5. A business plan including the following:

a) the operation

The applicant must describe its operation in detail, and how it corresponds to the NEMO designation.

For each operation the applicant is seeking designation for, the business plan must include detailed flowcharts for the most important core processes. Each flowchart must explain how the applicant will organize and carry out its internal control system.

b) organization of the operation

The applicant must explain how the operation is organized, using a schematic overview. The overview must indicate how many people will be working in these areas or functions.

The applicant must indicate the strengths and weaknesses in the segregation of duties, amongst others in the IT department.

The applicant must list the fraud-prevention measures.

The applicant must explain its measures that ensure the correct functioning of the day-ahead coupling methodologies, including the algorithm, in conjunction with other NEMOs.

The applicant must also indicate whether it has employees working in other companies, if the applicant shares premises and technical equipment with others, and, where appropriate, how the applicant intends to deal with any confidentiality issues that may arise as a result thereof.

c) compliance and code of conduct¹

The applicant must provide the details and contact information of the person or persons, including their position in the organization, who have been specifically assigned internally as compliance officer(s), and who have, among other tasks, the task to monitor the regulatory framework concerning the NEMO tasks.

The applicant must provide a copy of the code of conduct, which at least states that its internal and external staff shall work with the utmost integrity, and explain how the code of conduct will be communicated externally, e.g. by publishing the code of conduct on

¹ The code of conduct can also be a different but recognizable document, e.g. a statement of values or ethical guidelines.



its website.

d) assignment agreements

The applicant must report whether they intend to contract a third party to perform certain activities that are essential for the operation. This report must include the nature and scope of the assignment, and, since the applicant remains responsible for activities performed by third parties, how the applicant intends to ensure that the outsourced operation will be run in accordance with the applicable rules of operation.

e) technical systems and operational reliability

The applicant must present the main IT systems and resources on which the operation depends in terms of, inter alia, ownership and/or access via operating and service agreements. The applicant must also specifically report what systems and procedures are in place for communication with the Dutch TSO, TenneT TSO B.V.

The applicant must also include a risk analysis with respect to the IT systems, a description of backup and recovery systems, and procedures for the constant monitoring and documentation of the IT systems' performance and availability.

f) management of conflicts of interest

The applicant must include a description of how the applicant will deal with potential conflicts of interest between the applicant and its owners, as well as conflicts of interest between performing an efficient MCO function and other operations.

If the applicant has adopted guidelines or other internal rules for identifying and managing conflicts of interest, it must include these in the business plan.

g) cooperation with other NEMOs and TSOs

The applicant must include a description of how cooperation with other NEMOs and TSOs is arranged.

5/8

CACM Article 6.1 (b):

“.. it [*the applicant*] shall be able to ensure that market participants have open access to information regarding the NEMO tasks in accordance with Article 7;”

Applications must at least include evidence that the applicant is able to ensure that market participants have open access to all information required to be made public by the CACM Regulation.



CACM Article 6.1 (c):

“.. it [*the applicant*] 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-subsidization;”

Applications must at least include the following information:

1. documentation demonstrating that the applicant is able to operate on a cost-efficient basis;
2. a detailed plan, with the help of a chart of accounts and distribution keys, on how the applicant intends to report separately its costs for the NEMO functions and MCO functions described in Articles 7.1 and 7.2 in the Regulation in relation to other operations. The applicant must also present its accounting processes, and how it intends to distinguish financially an operation that is faced with competition from possible revenues from a legal monopoly.

CACM Article 6.1 (d):

“.. it [*the applicant*] shall have an adequate level of business separation from other market participants;”

Applications must at least include the following information:

1. a complete overview of the ownership structure indicating shareholders, related legal parties, parent companies, and subsidiaries;
2. In case other related legal parties, parent companies, or subsidiaries are market participants, an explanation of how the applicant has organized business separation;
3. a complete overview of all operational dependencies of other market participants.

CACM Article 6.1 (e):

“.. if designated as a national legal monopoly for day-ahead and intraday trading services in a Member State, it [*the applicant*] shall not use the fees in Article 5(1) to finance its day-ahead or intraday activities in a Member State other than the one where these fees are collected;”

Applications must, if applicable, include documentation, demonstrating that they have separate accounts for services provided as a national legal monopoly for day-ahead and intraday trading services in any Member State to prevent cross-subsidization.



CACM Article 6.1 (f):

“.. it [*the applicant*] shall be able to treat all market participants in a non-discriminatory way;”

Applications must at least include the following information:

1. rules and contract terms that guarantee that all market participants are treated equally and in a non-discriminatory way;
2. a description in the public code of conduct stating that all market participants are treated in a non-discriminatory way.

CACM Article 6.1 (g):

“ .. it [*the applicant*] shall have appropriate market surveillance arrangements in place;”

Applications must at least include the following information:

1. documentation that demonstrates the existence of training and monitoring procedures to identify and report any potential issues consistent with the market surveillance arrangements, e.g. the requirements of Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (REMIT);
2. a description in the public code of conduct stating that:
 - management and employees ought to have knowledge of market surveillance arrangements, e.g. REMIT;
 - management and employees need to have awareness of possible market surveillance issues, e.g. REMIT issues;
 - management and employees have to report possible market surveillance issues, e.g. REMIT issues, to the compliance officer.

7/8

CACM Article 6.1 (h):

“.. it [*the applicant*] shall have in place appropriate transparency and confidentiality agreements with market participants and the TSOs;”

Applications must at least include appropriate transparency and confidentiality agreements (e.g. provisions of contracts) which are in place with market participants and TSOs.

CACM Article 6.1 (i):

“.. it [*the applicant*] shall be able to provide the necessary clearing and settlement services;”



Applications must at least include the following information:

Documentation demonstrating that the applicant has or has contracted an entity that is able to provide:

1. adequate capitalization and financial security, together with procedures in place to ensure satisfactory guarantees for settlements, necessary to clear and settle exchange of electricity resulting from single day-ahead and/or intraday coupling;
2. the technical, operational and contractual arrangements to clear and settle exchange of electricity resulting from single day-ahead and/or intraday coupling.
3. applicants 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, as required by Articles 45 and 57 of the CACM Regulation.

CACM Article 6.1 (j):

“.. it [*the applicant*] shall be able to put in place the necessary communication systems and routines for coordinating with the TSOs of the Member State.”

Applications must at least include a written confirmation from the Dutch TSO, TenneT TSO B.V., that necessary IT-systems and routines are in place between the applicant and TenneT TSO B.V.