

Response Form

Implementation and Governance Arrangements for Market-Wide Half-Hourly Settlement Consultation

The deadline for responses is 25 June 2021. Please send this form to HalfHourlySettlement@ofgem.gov.uk once completed.

Organisation: Utilita Energy

Contact: Rachael Anderson

Is your feedback confidential? NO ☒ YES ☐

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Obligations on Parties

1. Do you agree that the balance of the duty to cooperate in licences and the more detailed obligations set out here will be sufficient to ensure that all parties are subject to the right obligations to secure timely and effective implementation of MHHS?

Yes, we are supportive of the proposed approach to mandate licenced parties through their respective licences with a duty to cooperate with the programme and more detailed Party obligations being contained within Code. We note this is similar to the approach being taken under the Switching Programme with specific party obligations being detailed under the REC Transition Schedule. We consider this approach to be working well.

2. Do you agree that the proposed obligations on all programme parties in respect of MHHS implementation, and the proposed obligations on Elexon in its roles as the BSC code administrator, are sufficiently well defined to ensure that ownership and accountability for implementation of MHHS is clear? If not, how could the proposed obligations be changed to allow this to happen?

Yes, following review we believe the proposed code drafting is sufficiently well defined to ensure that ownership and accountability for implementation of MHHS is clear (excluding DCC responsibilities which we understand is still being developed).

We observe that Ofgem has outlined the intentions for Elexon to procure additional expertise, this should be explicit to ensure Complete Strategy's recommendations are implemented as intended. For example, requiring Elexon to appoint a Mobilisation Partner to assist with robustly setting up the central programme should be specifically called out.

3. Do you have any comments on the scope or drafting of the draft obligations themselves? We would appreciate all comments, but suggestions for changes in wording where you think what is proposed does not work would be particularly helpful.

Yes, Utilita has the following comments to help build market participant confidence in the way in which the programme will be managed and implemented:

- Section 12.4.6 refers to programme costs, expenses and liabilities incurred by BSCCo are to be BSC Costs and therefore borne by BSC Parties. We believe it is important that Elexon in their role as MHHS Implementation Manager ensures any costs incurred remain cost efficient and reasonable at all times. We request that this is called out explicitly in their obligations.
- Section 12.6.2 part b) refers to the BSCCo's responsibility in disseminating programme information. We believe the obligation should go further to require the establishment of a user-friendly central document store to ensure market participants are able to access information when they require it. Still to this day we find it difficult to locate up to date Switching Programme documentation through the Salesforce Portal and we would therefore recommend lessons to be learnt for this programme.
- Section 12.8.2 details the responsibilities of the MHHS SI including part c) which obligates assistance being provided to MHHS Participants in complying with their obligations under each MHHS Test Plan. Key to this is obligation being met is providing timely and expert assistance otherwise if there is inadequate party support, this risks programme milestones not being achieved.
- Section 12.12.1 part d) refers to Market Participants refraining from any action which would compromise or unduly delay MHHS Implementation. We cannot support this obligation when there may be genuine instances where we have to take business actions to provide customers with the support they need. As Utilita is a specialist prepay supplier that operates under a price cap, Utilita may have limitations on how much resource it can provide this programme depending on the circumstances it is operating in. For example, winter cold snaps and the COVID-19 pandemic have required us to divert operational

activity and IT Development resource from future projects to support new, unexpected and unprecedented pressure on specific areas of the business. Consequentially, focus on industry driven projects which were not crucial to the day to day 'keeping the lights on' activities were reduced to allow for normal activities to be re-engineered.

Governance Structure

4. Do you support the governance structure as described in the Market-Wide Half-Hourly Settlement Governance Framework? We welcome all comments, but if you have proposals for changes to the governance structure it would be particularly helpful if you could clearly set out your preferred alternative in any specific area of the governance structure.

Utilita mostly agrees with the proposed governance structure subject to one key amendment regarding the appropriateness of the Chair of the Programme Steering Group. Overall, we are pleased to see a structure that enables all programme parties participations and engagement i.e. through the open nature of the proposed working groups. However, we believe this would have been beneficial across all stages of the programme, particularly in the early design stages.

In Section 4.8 of the consultation document, Ofgem describes that the Programme Steering Group (PSG) will make decisions which are to be taken by the SRO i.e. Elexon. We also note that the programme SRO will Chair the PSG. We believe it is much more appropriate that Ofgem (or Elexon with Ofgem oversight) appoint an independent Chair to the PSG to ensure the PSG establishes a balance of interests between industry participants and the SRO when determining decisions. Where consensus cannot be reached by the group, we would expect the Chair to make objective recommendations, reflecting discussions of the different representatives of the group to the Independent Assurance Provider (IAP) and/or the Authority. Also, due to the fact that the PSG can task the IAP, we believe this further provides the rationale that the Chair must be independent from the Elexon Programme to avoid any conflicts of interest arising.

5. Do you agree with the approach of Ofgem designating the governance structure as set out in the Governance Framework as a baselined document in the BSC, that Elexon and all programme parties will have to comply with? If not, can you suggest an alternative method of embedding the governance structure, contained in the Governance Framework, in the programme and providing confidence to all programme parties?

Yes, we believe the Governance Framework document should be a baselined programme document, referenced within the MHHS BSC code obligations and subject to change control. However, the document, as well as any other MHHS documents and artefacts should not be subject to the usual BSC Change Process which would cause delays in keeping the document up to date. It is not yet clear to us how the programme change process will work but it must be easily accessible and transparent to MHHS participants.

Independent Programme Assurance

6. Do you have any comments on the proposed Assurance Principles?

Utilita is largely supportive of the proposed assurance principles and welcomes Ofgem's decision to take on the responsibility of procurement of the IPA. Although we understand Ofgem's rationale for placing Elexon responsible for the contract management of the IPA as Programme Manager, we consider it to be more appropriate that the PSG (with an independent chair – as mentioned above) has overall responsibility for managing the scope and work order of the IPA. The PSG may then delegate certain day to day management responsibilities to Elexon as the SRO. We believe the PSG will contain representatives across both Elexon as the SRO and industry who are jointly responsible for the delivery of MHHS and therefore should be responsible for managing any programme assurance activity. We are also uncomfortable with the approach being proposed where Elexon who is subject to Programme assurance has management authority over the assurer. This also reaffirms our views of the importance of an independent Chair being appointed to the PSG, separate to any MHHS party.

Ofgem's Role

7. Do you agree that specific thresholds should be set for Ofgem intervention to avoid the risk of Ofgem being drawn into day-to-day management of MHHS implementation?

Yes, if the programme is to be successful in being industry-led then we support Ofgem as Programme Sponsor, being only involved in the proposed scenarios, particularly in cases where previous Ofgem decisions i.e. to the preferred TOM design or programme's baselined plan are materially impacted.

The procurement of the IPA must introduce a source of independent, well considered advice into the programme, including the provision of fully justified recommendations where conflicts arise between MHHS participants. However, where conflicts are unable to be resolved which may materially impact the integrity of the programme's objectives, we believe there is a role for Ofgem to step in and considering the most appropriate way forward.

8. Do you agree that Ofgem intervention should be based on the five key criteria of: adherence to the TOM, delivery of benefits and costs, timeliness of delivery, impact on competition and consumer impact? Do you agree with the specific TOM, cost and timeliness thresholds? If not, what others would you propose?

Yes, we believe the specific TOM, cost and timeliness thresholds for Ofgem interventions seem sensible and have no further suggestions at this stage.

9. Are there any other criteria that you consider may warrant Ofgem intervention? Please give reasons why.

No, we agree that the proposed criteria should form the basis of Ofgem intervention and should sufficiently prevent decisions that may materially impact the overall fulfilment of the programme's objectives being made without Ofgem consideration.

10. Do you also agree that Ofgem should have a role in ensuring that conflicts of interest are properly managed within MHHS implementation?

Yes, we believe this is fundamental and will provide industry parties with confidence that Ofgem remains within the programme as a point of escalation, i.e., where acts to resolve conflicts have not been successful.