

Balancing and Settlement Code (BSC) P482: Allow Elexon to more flexibly split BSC Agent services and to put in place appropriate contracts for the delivery of MHHS (P482)

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| Decision | The Authority ¹ directs that this modification be made ² |
| Target audience | National Energy System Operator (NESO), Parties to the BSC, the BSC Panel and other interested parties |
| Date of publication: | 26 November 2024 |
| Implementation date: | 28 November 2024 |

Background

On 9 October 2024, Ofgem rejected BSC modification proposal P471 'Amendment to BSC Section E to allow more flexibility in procurement of BSC Agents'. Ofgem rejected the proposal because we did not consider that there was any compelling evidence to suggest that a blanket removal of the requirement for competitive tendering for BSC Agents - as envisaged by P471 - would promote efficiency in the implementation and administration of the BSC. We also considered that such a significant modification to the requirement to procure BSC Agents on a competitive basis did not appear to better facilitate objective (c) and even risked undermining it.

Following this rejection, P482 was raised as an alternative solution. The BSC Panel recommended that P482 be treated urgently at a Panel meeting on 10 October 2024. Although Elexon and the BSC Panel were aware that CR055 had been raised within the MHHS Programme proposing to extend the M10 date, they took the view that they could not prejudge any Ofgem decision on CR055 and therefore that they must proceed against the existing timetable and milestone plan. On the same day, the BSC Panel Chair wrote in those terms to Ofgem.

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

Ofgem agreed with the Panel that it could not be assumed that Ofgem would approve MHHS Programme Change Request CR055. Consequently, Ofgem took the view that the request for urgency had to be considered in the context of the existing MHHS Implementation Timetable in which BSC Central Systems must be ready in March 2025. On that basis, we agreed with the Panel that in the absence of granting urgency, the existing requirement for Elexon to run a competitive process for the appointment of the SVAA BSC Agent roles created a risk of delay to the Programme and, as a result, a risk of a significant commercial impact on parties via higher implementation costs that would likely be passed on to their consumers. In addition, it would risk delaying the realisation of consumer benefits from MHHS. For those reasons, Ofgem granted P482 'urgent status' on 18 October 2024.

Section E of the BSC requires that Elexon appoint a single company (a BSC Agent) to deliver each BSC service (as set out in each BSC Service Description). Thus, Elexon must appoint a Supplier Volume Allocation Agent (SVAA) for the Supplier Volume Allocation Service and a Settlement Administration Agent to deliver the Settlement Administration Service. The appointment process includes a requirement to procure competitively in all circumstances. The introduction of Market-Wide Half-Hourly Settlement (MHHS) will create new BSC services including the Load Shaping Service (LSS), the Market-wide Data Service (MDS) and the Volume Allocation Service (VAS). In order to support the transition to MHHS, Elexon will need to enter into contracts for the operation of these new services. Elexon has stated that being required to complete competitive procurements for the operation of these new services before the start of transition would "very likely cause delay to the MHHS Programme, increasing costs and uncertainty for Suppliers and other parties". To reduce any risk of delay to the start of MHHS transition, Elexon's preferred approach to the implementation of this Service Description is (subject to the outcome of commercial negotiation with the service providers) to leverage the knowledge and resources of the service providers already appointed (via a competitive process) to develop and test the new systems, so that:

- existing 'legacy' elements of the SVAA service would continue to be operated by the existing BSC Agent, for the duration of the existing contracts (which run until 2026);

- new systems (such as the LSS, MDS and VAS) would be operated by the parties who developed them (for a limited period of time but at least for the duration of the MHHS transition period);
- BSC Agents will be subject to a new re-procurement activity for these new services, with new contracts that come into force after MHHS transition completes; and
- activities required to coordinate the effective delivery of the service (such as operating an online service desk for parties, and overall coordination of incident response services) would be carried out by Elexon.

Such an approach would require a modification of section E to give Elexon more flexibility in how it procures BSC Agents.

The modification proposal

On 10 October 2024, BSC modification proposal P482 (the proposal) was raised by the BSC Panel (the proposer). The proposal would:

- temporarily remove the requirement for BSC Agents to be competitively procured only insofar as this may be required for the delivery of MHHS. The requirement for competitive tendering for MHHS-related BSC Agent appointments would be reintroduced no later than 24 months after the completion of MHHS migration. In the meantime, Elexon would have the flexibility to take other approaches, such as making 'single source' BSC Agent appointments, for the purpose of delivering MHHS, provided that the BSC Panel agrees. The proposer considers that allowing the existing service providers, who were competitively procured for the delivery of the new MHHS systems, to operate the new SVAA systems and services will reduce costs and risks for Parties during the delivery of MHHS;
- give Elexon the flexibility to appoint multiple service providers to deliver a single BSC Agent service, without necessarily having to go through the process of reconfiguring

the Service Description and consulting parties on the proposed reconfiguration. This element of the proposal is not restricted only to MHHS; and

- make clear that Elexon would be responsible for undertaking activities required to coordinate the effective delivery of these services, such as managing an online service desk and incident response service.

The proposal was issued for consultation on 21 October 2024 and, in light of responses, the BSC Panel discussed a draft Modification Report on 6 November 2024.

BSC Panel³ recommendation

At the BSC Panel meeting on 6 November 2024, the BSC Panel considered that P482 would better facilitate the BSC objective (d) and the Panel therefore unanimously recommended its approval.

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR)⁴ dated 7 November 2024. We have considered responses to the industry consultation(s) which are attached to the FMR. We note that all three respondents supported the modification. We also consider that Elexon has responded appropriately, through the FMR, to the issues raised by those respondents. In that connection, we would like to reiterate our view - as previously expressed in our rejection of P471 - that introducing a general ability for Elexon to appoint multiple service providers to deliver a BSC Service Description would be a sensible change that would be likely to increase administrative efficiency.

We have therefore concluded that:

³ The BSC Panel is established and constituted pursuant to and in accordance with Section B of the BSC and Condition E1 of the Electricity System Operator Licence.

⁴ BSC modification proposals, modification reports and representations can be viewed on the Elexon website at www.elexon.co.uk

- implementation of the modification proposal will better facilitate the achievement of the applicable objectives of the BSC;⁵ and
- directing that the modification be made is consistent with our principal objective and statutory duties.⁶

Reasons for our decision

We consider this modification proposal will better facilitate BSC objective (d) and will have a neutral impact on the other applicable objectives.

(d) promoting efficiency in the implementation and administration of the balancing and settlement arrangements

The Panel unanimously agreed that this modification proposal will better facilitate the achievement of Applicable BSC Objective (d) as it will enable timely implementation of MHHS by allowing existing service providers to operate systems during and after the MHHS transition period. This will reduce costs for parties (and ultimately consumers) by reducing any risk of delay to the delivery of MHHS, and subsequently to its predicted benefits. Therefore, we agree with the Panel's view. Furthermore, the FMR sets out that introducing an ability for Elexon to appoint multiple service providers to deliver a BSC Service will increase administrative efficiency and will allow Elexon to better manage risk, by having the option to move away from a single provider and instead have more specialist vendors for each service. We agree with this. Consequently, we consider that the proposal will better facilitate BSC objective (d).

P482 enables Elexon to make certain single source appointments without the need for a competitive tender, provided that the BSC Panel agrees. Although this represents a relaxation of standard procurement principles, we are satisfied that the scope of the relaxation is appropriately limited in scope and duration and is a proportionate response that mitigates one risk to the timely delivery of MHHS. It does not, therefore, risk undermining BSC objective (c).

⁵ As set out in Condition E1 of the Electricity System Operator Licence.

⁶ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed in the Electricity Act 1989.

Decision Notice

In accordance with Condition E1 of the Electricity System Operator Licence, the Authority hereby directs that modification proposal BSC P482: 'Allow Elexon to more flexibly split BSC Agent services and to put in place appropriate contracts for the delivery of MHHS' be made.



Melissa Giordano, Deputy Director Retail Systems and Processes

Signed on behalf of the Authority and authorised for that purpose