

31 July 2008



Anna Kulhavy
Senior Economist - GB Markets
Ofgem
9 Millbank
London SW1P 3GE

Dear Anna

ELEXON Response to the Ofgem/BERR Consultation on Distributed Energy – Further Proposals for More Flexible Market and Licensing Arrangements (Ref 87/08)

ELEXON welcomes the opportunity to comment on Ofgem and BERR's further proposals for more flexible market and licensing arrangements to facilitate Distributed Energy (DE). This response focuses on the areas of the consultation document that have a potential impact to the Balancing and Settlement Code (BSC).

Chapter 3 – Wholesale Market Trading

The Ofgem/BERR consultation document proposes that the Authority should exercise its power as set out in section F2.1.1(c) of the BSC to designate a third party representative with DE interests or expertise to raise modifications. If this proposal is taken forward, then an independent third party is required to act on behalf of the DE community.

Should this power be exercised in respect of BSC modifications, ELEXON believes that the power should similarly be granted for the designated third party to propose changes to the Code Subsidiary Documents. If this proposal is progressed, ELEXON would raise a complimentary change proposal to BSCP40 'Change Management' to include reference to a designated third party within the list of parties able to raise change proposals.

We also assume that the designated third party would have the same rights as BSC Parties in terms of the type of modification / change proposal that could be raised i.e. there would be no limitation on the subject matter.

Education and Support to the BSC change processes

One of the stated criteria for such a representative is an understanding of the BSC modification procedures. ELEXON recognises that to the uninitiated the modification procedures can appear somewhat daunting. ELEXON already provides education and support in this area, and would do the same for any designated third party, or their community.

ELEXON also acknowledges that the Modification Proposal reports whilst comprehensive are often voluminous. ELEXON has embarked on a programme to overhaul the document suite (our "Write for the Reader" programme) and would welcome views from all communities on how the documentation could be improved, whilst continuing to meet the requirements of Section F of the BSC.

Submitting a Modification Proposal

The process for submitting a Modification Proposal requires a written submission, but it is not onerous. Three key elements that the DE representative would need to identify are:

- A description of the issue or defect that the proposed modification seeks to address;
- A description of the proposed modification and of its nature and purpose; and
- The reasons why the Proposer believes the proposed modification would better facilitate achievement of the Applicable BSC Objective(s) as compared to the then current version of the Code.

These elements each require the provision of reasonable but not excessive detail. ELEXON staff are always available to help any Proposer with the BSC change procedures and to provide comments on their initial drafting.

Presentation of the Modification Proposal to the BSC Panel

The BSC requires the Proposer (or their representative) to attend the first BSC Panel meeting at which the proposed change is being considered. They may be, and historically always have been, invited to present the Modification Proposal to the Panel. In parallel with this presentation, ELEXON provides an initial assessment that amongst other things proposes how the Modification Proposal should be progressed (including the timetable), who it should be considered by (where required, identifying which Modification Group will assess the change) and how it should be assessed (through specifying the Terms of Reference). In producing the initial assessment ELEXON discusses the proposal, its complexity, importance and priority with the Proposer. The Panel will use this information when determining whether the modification should be sent straight to the report phase (as self evidently right or wrong), or whether it requires further definition or assessment.

Attendance at Modification Groups

Where the modification is submitted to definition or assessment, then a Modification Group is established and the Proposer is entitled to appoint a member of the group. Experience shows that by being an active member of the Modification Group, the Proposer can help catalyse the debate. Involvement in a modification should therefore ideally extend beyond merely raising the proposal.

Contributing to Assessments and Consultations

During the course of the Modification Procedures, consultations and impact assessments are conducted. Responses from the DE community would greatly help inform the deliberations of the Modification Group and Panel and ultimately the Authority. ELEXON seeks to use various avenues to publicise these processes and to encourage active participation. Where a specific community is identified as being potentially impacted then we will seek to alert that community and garner their views. We would welcome the opportunity to speak with the DE community on both the operation of BSC change procedures and the details of pertinent changes. We would also welcome views from the DE community on any additional avenues we should be exploring for communicating this information and promoting their involvement. Were a DE Representative appointed, they could greatly assist the BSC change procedures by acting as another conduit for disseminating information to, and encouraging responses from, the DE community.

Chapter 5 – Operating as an Exempt Supplier on a Licensed Distribution Network

The consultation document proposes to switch off certain conditions in the Supply Licence including the requirement for a Licensed Supplier to become a party to the BSC. From a BSC perspective this would mean that certain DE Licensed Suppliers would be treated in the same way as Exempt Suppliers are currently treated, i.e. ELEXON currently has no visibility of Exempt Suppliers, as a third party Licensed Supplier is responsible for all activities under the BSC.

We note the issue regarding a breakdown in the relationship between the DE and third party Licensed Suppliers, specifically in terms of Supplier of Last Resort. Although this issue would be managed by Ofgem outside of the BSC, ELEXON would be required to carry out actions to transfer Metering Systems to a new Supplier. We would therefore require clear instructions in relation to such a transfer.

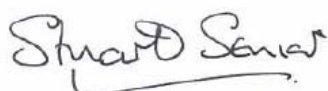
We would also like to highlight a potential change to the BSC that would be needed should Ofgem's proposal be progressed. Section K1.2.2b (i) states that the Party responsible for an Import shall be the person who supplies electricity to those premises. In the scenario set out in the consultation document, one Supplier is registering the Metering System (the third party Licensed Supplier) whilst a different Supplier supplies the electricity (the DE Licensed Supplier). It should be noted that this issue has recently been flagged up in relation to the current treatment of Exempt Suppliers, therefore any change to the BSC should be designed to allow both scenarios to work.

Conclusion

As stated in our response to the earlier DE consultation, we would like to re-iterate that ELEXON and the BSC Panel continually review internal processes and consider potential changes to the BSC arrangements with the aim of reducing any barrier to entry. With this in mind, the subject of the BSC Review currently being undertaken by ELEXON relates to Section A¹ of the BSC. This section of the BSC covers Accession to the BSC; Participation Capacities; Registration in Central Systems; Withdrawal from the BSC; and Expulsion from the BSC. As part of this review ELEXON intends to identify issues that parties have in this area and highlight improvements that can be made. Comments from DE bodies would be welcome.

Should you wish to discuss any of the points raised in this submission, please contact either Sarah Jones (sarah.jones@elexon.co.uk) or Laone Roscorla (laone.roscorla@elexon.co.uk) in the first instance.

Yours sincerely



ELEXON Stuart Senior
Chief Executive

¹ Section A 'Parties and Participation.