

Modification proposal:	Balancing and Settlement Code (BSC) P354: Use of ABSVD for non-BM Balancing Services at the metered (MPAN) level (P354)		
Decision:	The Authority ¹ directs that this modification be made ²		
Target audience:	National Grid Transmission Plc (NGET), Parties to the BSC, the BSC Panel, Non-Balancing Mechanism participants and other interested parties		
Date of publication:	18 June 2018	Implementation date:	01 April 2020

Background

The Electricity System Operator (ESO)³ procures services to balance overall electricity supply and demand, and to ensure the security and quality of supply across Great Britain. These services are called 'Balancing Services'.

Some Balancing Service Providers are instructed by the ESO to deliver these services through the Balancing Mechanism⁴ (BM Balancing Service Providers), whilst others deliver these through bilateral agreements with the ESO. When volumes are delivered through the BM, there is a system in place to adjust the energy accounts of the associated Balancing Responsible Parties (BRPs)⁵ accordingly. This ensures that the relevant BRPs do not suffer or benefit through cash out arrangements from actions taken by the associated Balancing Services Providers.

The data related to the Balancing Services volumes is called "Applicable Balancing Services Volume Data" (ABSVD). Where Balancing Services are instructed by the ESO outside of the BM, there is no mechanism in place to enable ABSVD to be assigned to the associated BRPs. This defect in the arrangements for reporting ABSVD can result in an additional "spill" payment to the BRP, often a supplier, for the "imbalance energy" created. The BRP/Supplier often passes part of that payment on to the associated non-BM Balancing Service Provider.

Conversely, Balancing Service Providers dispatched through the BM do not receive this "spill" payment⁶, as there is a mechanism for notifying ABSVD and thus allowing the relevant energy accounts to be adjusted. Therefore, Balancing Service Providers that are not dispatched through the BM gain an additional "spill" payment that BM Balancing Service Providers do not get.

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.

³ The ESO role is currently carried out by National Grid Electricity Transmission plc (NGET), which is also the owner of the transmission network in England and Wales. NGET is part of the wider National Grid plc group of companies. The ESO is due to become a legally separate function within National Grid plc from April 2019. More information:

<https://www.ofgem.gov.uk/publications-and-updates/industry-update-following-our-future-arrangements-electricity-system-operator-informal-consultation-eso-licence-drafting>

⁴ The Balancing Mechanism is a market based tool used by the ESO to balance electricity supply and demand close to real time.

⁵ Balancing Responsible Parties (BRP) refers to market participants or a chosen representative responsible for keeping their individual supply and demand in balance in commercial terms.

⁶ Except where the associated BRPs make use of the opt-out provision for BM Unit ABSVD under BSC Section Q 6.4.5.

Modification P354 accompanies the ESO's C16 ABSVD Methodology⁷; together they create a framework which aims to make sure that where "imbalance energy" is created, following an instruction to non-BM Balancing Service Providers, it is removed from the associated energy account of the associated BRP/Supplier. Modification P354 and the ESO's C16 ABSVD Methodology enable the implementation of Article 49 of the European Balancing Guideline (EBGL)⁸, which requires imbalance energy to be adjusted for all Balancing Services Providers.

While developing a solution that delivers imbalance adjustments for volumes provided by non-BM Balance Service Providers, the workgroup noted that BM Balancing Service Providers can opt-out from ABSVD when delivering mandatory frequency response. With the view to ensure consistent treatment of BM and non-BM Balancing Services Providers, P354 removes the opt-out provision for BM Unit⁹ ABSVD¹⁰.

Interactions between the ESO's C16 ABSVD methodology statement changes and BSC modification P354

On 27 March 2018, we published our decision not to use our power of direction to veto NGET's C16 statement changes, which included changes to the ABSVD Methodology relating to performance of imbalance adjustments for non-BM market participants. In that letter, we acknowledged that the proposed changes to the ABSVD methodology support the economic and efficient operation of the system and serve the interests of GB consumers¹¹. P354 can be seen as the enabling BSC modification for the ABSVD Methodology. The ABSVD Methodology requires the ESO, to provide Elexon with data¹² that allows for imbalance adjustments to be delivered in accordance with the process described in P354; therefore they are complementary.

We welcome the efforts by the ESO, Elexon, and the industry to coordinate the BSC & C16 change processes to ensure consistency between the proposed changes in P354 and in C16 ABSVD respectively.

The modification proposal

The modification was first raised on 9 February 2017 by Engie (P354 'Proposed') and an alternative solution was proposed during the industry process (P354 'Alternative'). The core of the solutions described in both proposals is similar.

In summary, where ABSVD cannot be assigned to a BM Unit, Elexon will utilise two types of data flows to map the volumes against the relevant BRP accounts. The two main information streams needed to deliver this are:

⁷ These are statements the ESO is required to establish under their C16 licence condition. The ABSVD statement sets out the information on Applicable Balancing Services that will be taken into account under the Balancing and Settlement Code for the purposes of determining Imbalance Volumes. For more information: <https://www.nationalgrid.com/uk/electricity/market-operations-and-data/transmission-licence-c16-statements-and-consultations>

⁸ Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing

⁹ A BM Unit is a unit of trade within the BM, each BM Unit accounts for a collection of plant, and is considered the smallest grouping that can be independently controlled

¹⁰ For more information please see BSC Section Q 6.4.5:

https://www.elexon.co.uk/wp-content/uploads/2017/11/Section_Q_v29.0.pdf

¹¹ For more information please see our decision letter:

https://www.ofgem.gov.uk/system/files/docs/2018/03/decision_to_approve_c16_statement_changes.pdf

¹² Where data is available

- Delivered volumes of Applicable Balancing Services, collared at the instructed amount, for the relevant MSID pairs¹³ for each applicable Settlement period by the ESO.
- Half Hourly (HH) metered volumes for the specified meters by the relevant Half Hourly Data Aggregators (HHDAs).

Exelon can then calculate non-BM Unit ABSVD for each impacted BRP, aggregate the relevant volumes to supplier BM Unit level and use this to correct the supplier's energy imbalance position. By neutralising the impact on suppliers' energy accounts, the "spill" payment will be removed. In this way the modification seeks to level the playing field amongst non-BM and BM Balancing Service Providers, and thus enable the ESO to make better dispatch decisions.

Information Disclosure

Where the two proposals diverge is whether the customers associated with the non-BM Balancing Service Providers are required to provide consent for the relevant information, used by Exelon for the imbalance adjustment, to be disclosed further.

1. Proposed Solution

This is a **customer consent model**, whereby the ESO must specify whether the customer has consented to the relevant supplier receiving the granular data (MSID ABSVD) through a 'Customer Consent Flag'. Under this solution, Exelon would only issue the data to suppliers where customers have given their consent.

Supplier BM Unit Non-BM ABSVD would not be published on the Balancing Mechanism Reporting Service (BMRS). Instead, the supplier BM Unit Non-BM ABSVD data would be included in an Exelon monthly report where the Delivered Volumes will be reported at market level in an anonymised form.

2. Alternative Solution

This is the **mandating information sharing model**, whereby customer consent would not be required for suppliers to receive MSID ABSVD data for relevant MSIDs. In addition, under the alternative solution supplier BM Unit non-BM ABSVD will be made publically available on the Balancing Mechanism Reporting Service (BMRS).

BSC Panel¹⁴ recommendation

The Panel considered the P354 Proposed and Alternative modification proposals at its meeting on 8 March 2018.

- The majority of the Panel **agreed** that the P354 **Proposed modification** better facilitates Applicable BSC Objectives (a), (b), (c), (d) and (e) compared to the current baseline.

¹³ MSID is a unique number relating to a Metering Point. The "MSID Pair Delivered Volume", is a Delivered Volume for each Metering System Identifier (MSID) Pair, which always consists of one Import Meter and in most cases one Export Meter, at a Boundary Point.

¹⁴ The BSC Panel is established and constituted pursuant to and in accordance with Section B of the BSC and Standard Special Licence Condition C3 of the Electricity Transmission Licence available at: www.epr.ofgem.gov.uk

- The majority of the Panel **disagreed** that the P354 **Alternative modification** better facilitates Applicable BSC Objectives (a), (b), (c), (d) and (e) compared to the current baseline.

The Panel agreed that the P354 **Proposed modification is better than the Alternative modification** in facilitating Applicable BSC Objectives (a), (b), (c), (d) and (e) compared to the current baseline and **therefore the Proposed modification should be approved**¹⁵.

Impact assessment

We considered whether we should carry out a section 5A Impact Assessment (IA) on P354. We reached the conclusion that we do not consider it necessary, appropriate or practicable to publish a section 5A IA. The reasons for reaching this conclusion are described below.

First, the main impact of modification P354 arises out of the removal of the “spill” payment, as a result of the imbalance adjustments. It may be the case that this payment has a financial impact on non-BM Balancing Service Providers. We note however that imbalance adjustments are required by Article 49 of EBGL, which is an EU requirement. Further, EBGL has already been subject to an IA¹⁶, meaning that the impacts of the decision are already well-understood. A section 5A IA would in this respect simply replicate consideration of the impacts which have already been undertaken, in circumstances where the Authority has very limited discretion (if any) as to its decision.

Consequently, we considered whether assessing the impact of the two potential solutions (the Proposed and Alternative modifications) would inform our decision. As we have described earlier in this letter, the main difference between the two modification proposals is whether the customers associated with the non-BM Balancing Service Providers are required to provide consent for the relevant supplier to receive granular metering data. We note that parties have discussed this matter exhaustively in the context of the relevant P354 consultations and workgroup meetings. We have taken note of industry consultations and when considering the merits of the Proposed and Alternative modification proposals. A total of five consultations considering the issue of data sharing have taken place through code modification P344¹⁷ and P354, in which the overall questions and responses received broadly similar reactions. We therefore consider that stakeholders have had ample opportunity to provide their views on the potential impacts of the solutions.

Furthermore, we note that the Alternative modification, which mandates information sharing, does not consider compliance with the EU General Data Protection Regulation (GDPR)¹⁸ and Data Protection Act 2018. This limits the scope of available options, and reduces further the value of performing an impact assessment. Accordingly, we consider that an impact assessment is unnecessary.

¹⁵ P354 Final Modification Report, Chapter 10 – Panel’s Final Discussions, P53
<https://www.ellexon.co.uk/wp-content/uploads/2017/01/P354-Final-Modification-Report.zip>

¹⁶ For more information on the IA for EBGL:
https://ec.europa.eu/energy/sites/ener/files/documents/20130610_eu_balancing_master.pdf

¹⁷ Project TERRE implementation into GB market arrangements. More information on the P344 can be found here: <https://www.ellexon.co.uk/mod-proposal/p344/>

¹⁸ For more information on GDPR:
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN>

A section 5A IA would, also in this respect, simply replicate considerations of the impacts which have already been undertaken.

As such, we do not consider it necessary, appropriate or practicable to publish a section 5A IA. Nor do we consider that such publication and consultation would be in the best interests of stakeholders and consumers value of performing an impact assessment.

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 9 March 2018. We have considered and taken into account the responses to the industry consultations, attached to the FMR¹⁹, as well as the BSC Panel's recommendation.

We have concluded that:

- implementation of the **Proposed** modification proposal will better facilitate the achievement of the applicable objectives of the BSC²⁰; and
- directing that the modification be made is consistent with our principal objective and statutory duties²¹.

Reasons for our decision

We consider both modification proposals will better facilitate BSC Objectives (a), (b), (d) and (e) and, the Proposed modification proposal also better facilitates BSC Objective (c). Both have a neutral impact on the other applicable objectives.

For clarity, the two modification proposals are as follows²²:

- The **Proposed** modification; is the **customer consent model**
- The **Alternative** modification; is the **mandating information sharing model**

(a) the efficient discharge by the licensee of the obligations imposed upon it by this licence

Licence Condition C16 of the System Operator Standard Conditions requires the ESO to, "co-ordinate and direct the flow of electricity onto and over the National Electricity Transmission System in an efficient, economic and coordinated manner." We agree with the view expressed by the ESO in their response to the P354 consultation that neutralising imbalances relating to non-BM Balancing Services providers will ensure that the tendered costs for services will better reflect the actual costs of service provision. This should better facilitate non-discriminatory procurement of Balancing Services, which should be more economic for the end consumer. Both the Proposed and Alternative modification proposals enable imbalance adjustment for imbalances relating to non-BM Balancing Service Providers, and therefore facilitates Objective (a).

¹⁹ BSC modification proposals, modification reports and representations can be viewed on the Elexon website. The link to P354 can be found here: <https://www.elexon.co.uk/mod-proposal/p354/>

²⁰ As set out in Standard Condition C3(3) of NGET's Transmission Licence: <https://epr.ofgem.gov.uk>

²¹ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989.

²² We note that, following the Second Assessment Procedure Consultation, the Proposer adopted the original Alternative modification as the proposed modification.

(b) the efficient, economic and co-ordinated operation of the national electricity transmission system

We agree with the view expressed by the ESO and most workgroup members that the removal of the “spill” payment should result in the more efficient and economic procurement of Balancing Services, which should ultimately be beneficial for consumers.

Some workgroup members expressed the view that the P354 Proposed solution is detrimental to BSC Objective (b) as it allows customers to not provide consent for the relevant MSID ABSVD to be reported to suppliers. They were concerned that the costs associated with the provision of Demand Side Response (DSR) by customers for balancing purposes will then be “smeared” across the wider customer base and paid for by consumers that have not been involved in the provision of balancing services. Therefore, the true costs of DSR may not be reflected if compensation of the supplier for the energy sold on by the customer does not take place. This could result in competition between providers being distorted, and the less efficient procurement of balancing services.

We have previously published²³ our views in an Open Letter on the benefits to the market for cost reflective pricing in relation to DSR actions aggregated by parties other than the customers’ supplier. Whilst we note the concern above, we consider that the relevant risks may be effectively managed by the involved parties, even where customer does not consent to the relevant Supplier receiving the granular data (MSID ABSVD). We also note that at present the volumes involved in the imbalance adjustment for DSR are relatively small. The extent to which the impact of this potential risk will become material will depend upon both on the growth of DSR volumes and the effectiveness of the arrangements between customers and suppliers.

Therefore, we are of the opinion that both the Alternative and the Proposed modifications better facilitate Objective (b).

(c) promoting effective competition in the generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity

Both the Proposed and Alternative modification proposals enable imbalance adjustment. This should ensure that risks and rewards are more appropriately allocated, allowing the true costs of providing services to be reflected in commercial bids. By removing the spill payment from non-BM Balancing Service providers, both the Proposed and the Alternative P354 modifications level the playing field in the provision of Balancing Services, better facilitating competition among providers.

The two modification proposals differ on whether the customers associated with the non-BM Balancing Service Providers are required to provide consent for the relevant data (MSID ABSVD) to be disclosed further. The views of the workgroup members were divided as to whether the Proposed or the Alternative better facilitate BSC Objective (c).

On one hand, some workgroup members stressed that mandating the provision of MSID ABSVD to suppliers would better facilitate the BSC Objectives, because it would allow

²³ “Ofgem’s views on the design of arrangements to accommodate independent aggregators in energy markets.” 24 July 2017:
https://www.ofgem.gov.uk/system/files/docs/2017/07/ofgem_s_views_on_the_design_of_arrangements_to_accomodate_independent_aggregators_in_energy_markets.pdf

suppliers to accurately bill customers that engage in the provision of flexibility through DSR aggregators. They argued that mandating data sharing is important to avoid potential cross-subsidy between customers providing services, and those not providing services.

On the other hand, Demand Side Response (DSR) aggregators were concerned that under both proposals suppliers can get access to granular data, which is in their view commercially sensitive. They argued that sharing MSID ABSVD would inform suppliers about which customers are able to provide balancing services through DSR. In their view this information may have a commercial value in itself, as DSR aggregators deployed significant resources to identify customers with this capability. These workgroup members were concerned that this information could give suppliers the ability to “heavily incentivise” those customers to provide balancing services through them, by threatening unfavourable changes to customers’ supply agreements. They expressed their preference for the Proposed modification (customer consent model), as according to them, it reduces the relevant risks compared to the approach under the Alternative solution (mandating data sharing).

In our Open Letter, we expressed that *“a careful balance may need to be struck between enabling information flows to support efficient contractual arrangements, and the potential impact on competition in the market for flexibility.”* We believe that the Proposed modification better strikes this balance when compared to the Alternative. In particular, we consider that the Proposed modification, by not mandating data sharing, *enables* information flows to support efficient contractual arrangements, and at the same time, allows for the commercial confidentiality matters to be agreed between the concerned parties if and where deemed appropriate.

Following this assessment we agree with the BSC Panel’s view that, on balance, the Proposed modification better facilitates Objective (c).

However, if we receive any evidence of anticompetitive behaviour, as a result of suppliers receiving MSID ABSVD where customers opt-in²⁴, this would be duly considered under the Supply Licence Conditions, and wider Competition Law obligations.

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

The settlement process was carefully designed to not change a party’s energy imbalance position as a result of the delivery of Balancing Services. We agree with the workgroup that this process has been by-passed due to the growth of non-BM Balancing Services without the application of ABSVD, and that the scope of the settlement process expanding to account for non-BM volumes will correct this inefficiency.

BRP/Suppliers expressed concerns that, under the Proposed modification, where customers do not opt-in for ABSVD MSID to be shared with them, they would be unable to verify whether their accounts were properly adjusted. Whilst we acknowledge that this may be a potential drawback of the Proposed modification, we note that Elexon (and the ESO) have a responsibility to put in place the relevant monitoring framework to make sure imbalance adjustments are performed in an accurate way to ensure the integrity and accuracy of the process. If inefficiencies in the balancing and settlement arrangements develop over time, or if this arrangement does not align with other

²⁴ Where customers opt-in for the relevant data to be shared with the supplier for billing purposes

developments, participants can bring this to our attention and raise changes through the code modification process.

(e) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency

We acknowledge that both the Proposed and Alternative modification Proposals facilitate the implementation of Article 49 of the EBGL, a binding obligation, in relation to performing imbalance adjustment for all Balancing Services providers.

Wider Considerations on Data Privacy and Data Sharing

In addition to assessing how the Proposed and Alternative modifications perform against the BSC Objectives, we considered whether the proposals are consistent with our Principal Objective, general duties and wider legal considerations.

We believe the Alternative modification does not properly consider compliance with the Supply Licence, the Data Protection Act²⁵, and the GDPR. This is because it mandates sharing of data, for not only business customers but individuals²⁶ too. This is not the case for the Proposed modification, which ensures that an appropriate level of protection is in place for customers and is therefore consistent with our Principal Objective, general duties and wider legal considerations.

Furthermore, we are currently examining access to data and data privacy more widely in the context of other policy areas, including Half Hourly Settlement²⁷ and our review of the supply market arrangements²⁸. We are mindful of the developments in these areas and believe the Proposed solution is less likely to impact negatively upon the outcomes of these other projects. If inefficiencies in the arrangements occur over time, or if this arrangement does not align with other developments, participants can bring this to our attention and raise changes through the code modification process.

Implementation Date

The P354 FMR presents two recommended Implementation Dates, which are common for both proposals:

- 1 April 2019 if the Authority decision is received on or before 30 March 2018; or
- 1 April 2020 if the Authority decision is received after 30 March 2018.

The date of our decision means that implementation will take place on 1 April 2020. We believe that this date is appropriate for two reasons:

- It will give industry adequate time to make the necessary contractual and system changes.

²⁵Data Protection Act 2018: http://www.legislation.gov.uk/ukpga/2018/12/pdfs/ukpga_20180012_en.pdf

²⁶ P354 does not differentiate between domestic and non-domestic consumers. Domestic customers and some micro-businesses are subject to more protections than larger non-domestic customers, including through the Supply Licence, the Data Protection Act, and the GDPR.

²⁷ <https://www.ofgem.gov.uk/electricity/retail-market/market-review-and-reform/smarter-markets-programme/electricity-settlement>

²⁸ <https://www.ofgem.gov.uk/publications-and-updates/future-supply-market-arrangements-call-evidence>

- It would potentially align the phasing out of other market distortions with the facilitation of wider access to the BM under Project TERRE (P344), which is expected to be implemented by the end of 2019, subject to the Authority's approval. This is in line with the ESO and some workgroup members' views that this modification needs to be seen as part of a wider package of changes that could level the playing field between market participants.

Decision notice

In accordance with Standard Condition C3 of NGET's Transmission Licence, the Authority hereby directs that **Proposed** modification proposal *BSC P354: Use of ABSVD for non-BM Balancing Services at the metered (MPAN) level* be made.

Mark Copley

Deputy Director, Wholesale Markets

Signed on behalf of the Authority and authorised for that purpose