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| Modification proposal: | Balancing and Settlement Code (BSC) P344: Project TERRE implementation into GB market arrangements P344 | | |
| 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 and other interested parties | | |
| Date of publication: | 24 August 2018 | Implementation date: | 28 February 2019 |

Background

The Trans-European Replacement Reserves Exchange (TERRE) project is the implementation project of the European platform for the exchange of balancing energy from Replacement Reserve³ (RR) pursuant to Article 19 of the European Electricity Balancing Guideline (EBGL).⁴

The goal of the TERRE project is to develop a platform that allows the Transmission System Operators (TSOs) that use the RR process⁵ to exchange balancing energy from this type of reserve. Through TERRE, Balancing Service Providers⁶ (BSP) in GB will be able to provide balancing services to other TSOs in addition to the GB Electricity System Operator (ESO). The ESO is expecting to utilise RR products for energy balancing in GB from the TERRE platform go-live date – currently scheduled between October-December 2019 and in advance of the deadline set in Article 19 of the EBGL for the establishment and operation of TERRE.

The modification proposal

The modification was first raised on 1 June 2016 by NGET. P344 aims to implement the TSO-BSP Settlement solution of the TERRE balancing platform within the GB electricity market arrangements. The modification is intended to be implemented in time for GB to participate in TERRE when the central platform commences its parallel run phase.⁷

Once used as part of GB balancing, the modification will allow TERRE to be included in the BSC calculations of imbalance prices and volumes. It will enable the payments associated with TERRE to be made between the ESO and GB BSPs, including any non-delivery charges. Payments to BSPs will be subject to validation of expected delivered volumes against actual metered data.

The P344 solution aims to facilitate BSP access to the TERRE platform by reflecting the current arrangements in place in GB. For current Balancing Mechanism Units (BMU),

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 'Replacement Reserves' or 'RR' means the active power reserves available to restore or support the required level of FRR to be prepared for additional system imbalances, including generation reserves.

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?toc=OJ:L:2017:312:TOC&uri=uriserv:OJ.L.2017.312.01.0006.01.ENG>

⁵ TSOs in Great Britain, France, Switzerland, Spain, Portugal, Italy, Czech Republic, Romania, Poland and Hungary – TSOs in Greece, Norway, Sweden, Finland and Denmark are currently observers

⁶ 'Balancing Service Provider' means a market participant with reserve-providing units or reserve-providing groups able to provide balancing services to TSOs.

⁷ The TERRE parallel run is scheduled for August 2019 – October 2019 and expected to be a full TSO wide end-to-end test, providing full test coverage, except for the physical dispatch of RR services or physical monetary transfers.

there is very little difference between the Bid Offer Acceptance process and TERRE RR bid process.

For parties that are currently not participating in the BM, P344 creates the concept of Secondary BMUs. It also creates a new category of party to the BSC, the Virtual Lead Party (VLP), which does not have to hold a supply licence. VLPs will be able to register Secondary BMUs for the sole purpose of providing balancing services to the cross-border RR market (TERRE) as well as the BM. These Secondary BMUs can be aggregated independently of their supplier, meaning that distributed generation, aggregators, and consumers will be able to register BMUs and participate directly in the BM.

The Workgroup developed two solutions for P344, a Proposed modification and an Alternative modification. The only difference between these solutions is whether customer consent is required ahead of sharing customer's Half Hourly (HH) delivered volumes data with suppliers.

1. Proposed Solution

This is a **customer consent model**, whereby the customer must consent to the relevant supplier receiving the granular data (HH Delivered Volumes). Under this solution, Elexon would only issue the data to suppliers where customers have given their consent.

2. Alternative Solution

This is the **mandating information sharing model**, whereby customer consent would not be required for suppliers to receive HH delivered volumes data.

BSC Panel⁸ recommendation

At the BSC Panel meeting on 14 June 2018, the BSC Panel unanimously considered that both the P344 Proposed and Alternative Modifications would better facilitate the BSC objectives compared to the baseline. The Panel by a small majority (6-4 votes) considered that the P344 Alternative Modification (mandatory data sharing) is better than the P344 Proposed Modification (customer consent) in regards to objective (d) and therefore recommended the approval of the Alternative Modification. This was a change from the Panel's recommendation on P354⁹ which addressed a similar question, as well as their interim view at the P344 Report Phase Consultation stage¹⁰ (in each of these cases, the Panel preferred an approach requiring customer consent).

The Panel's recommendation was on the grounds that:

- P344 **Proposed Modification** (customer consent) would better facilitate Applicable **BSC Objectives (c) and (e)**; and
- P344 **Alternative Modification** (mandatory) would better facilitate Applicable **BSC Objectives (c), (d) and (e)**.

As a result, the Panel provided a view that the P344 **Alternative Modification should be approved**.

⁸ 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

⁹ More information on the P354 can be found here: <https://www.elexon.co.uk/mod-proposal/p354/>

¹⁰ P344 Report Phase consultation documents: <https://www.elexon.co.uk/wp-content/uploads/2016/06/P344-Report-Phase-Consultation.zip>

Impact assessment

The Authority has a duty to carry out an impact assessment (IA) where it appears to the Authority that a proposal is important under Section 5A of the Utilities Act 2000.

We have not reached a definitive conclusion on whether the modification is in fact "important" but in any event considered whether we should carry out a section 5A IA. 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 P344 will be on BSC Trading Parties, market participants that wish to participate in the TERRE platform (customers and independent aggregators), the Transmission Company and a number of BSC Agents. TERRE will create new revenue streams that are likely to affect how these parties will compete within TERRE and the broader balancing services market.

The implementation of a European platform for the exchange of balancing energy from replacement reserves is required by Article 19 of the EBGL. In addition, Article 18(3)(b) requires that the national terms and conditions for balancing service providers and balance responsible parties must respect the framework for the establishment of European platforms for the exchange of balancing energy pursuant to Article 19.

Delivering this requirement is not optional, and the EBGL has already been subject to an IA,¹¹ meaning that the potential 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 as to its decision, such as Code modifications proposed by industry, there is no need for the Authority to perform an IA.

Consequently, we considered whether assessing the impact of the two potential solutions (the Proposed and Alternative modifications) would inform our decision. As described earlier in this letter, the main difference between the two modification proposals is whether the customers associated with currently 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 P344 consultations and workgroup meetings. We have taken note of industry consultations 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 P344 and P354 and the responses raised very similar reactions across the two modifications. 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)¹² and Data Protection Act 2018. This limits the scope of available options, and reduces further the value of performing an impact assessment.

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.

¹¹ https://ec.europa.eu/energy/sites/ener/files/documents/20130610_eu_balancing_master.pdf

¹² For more information on GDPR:

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

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 19 June 2018. We have considered and taken into account the responses to the industry consultation which are attached to the FMR.¹³ We have concluded that:

- implementation of the Proposed Modification proposal (customer consent) will better facilitate the achievement of the applicable objectives of the BSC;¹⁴ and
- directing that the modification be made is consistent with our principal objective and statutory duties.¹⁵

Reasons for our decision

We consider both modification proposals will better facilitate BSC Objectives (b) 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 follows:

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

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

P344 should improve the efficiency, co-ordination and economic operation of the electricity system. TERRE should lead to greater competition for RR as the ESO will have access to BSPs outside GB, increasing the options available to the ESO to balance the National Electricity Transmission System (NETS). GB BSPs will also be able to provide services to other SOs.

Moreover, through the TERRE information submitted to the Balancing and Settlement Code Company (BSCCo), and made available to users via the Balancing Mechanism Reporting Service,¹⁶ there should be greater transparency of SO-SO trades and the netting of TSO imbalance needs. Combined, this should result in greater liquidity in the market, therefore increasing operational efficiencies and making the NETS more economical to operate due to the greater amount of balancing options available to the ESO.

In addition, the introduction of TERRE will provide easier access to the BM by BSPs located at the distribution level. This should increase the number of options available to the ESO to operate the system, allowing it to enhance the economic and efficient operation of the National Electricity Transmission System (NETS).

We therefore consider that by facilitating the implementation of TERRE, the P344 solution should better facilitate BSC Objective (b).

¹³ BSC modification proposals, modification reports and representations can be viewed on the Elexon website at www.elexon.co.uk

¹⁴ As set out in Standard Condition C3(3) of NGET's Transmission Licence: <https://epr.ofgem.gov.uk>

¹⁵ 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.

¹⁶ The Balancing Mechanism Reporting Service (BMRS) is the primary channel for providing operational data relating to the GB Electricity Balancing and Settlement arrangements.

(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 will expand the provision of balancing services from a national to a European level. This is likely to promote increased competition between BSPs from different countries.

The cross border sharing of RR should increase the ESOs access to a wider range of RR providers as well as increase access to potentially cheaper energy from interconnected markets. The modification will also allow GB BSPs wider access to provide balancing services to the ESO in a level-playing field with traditional providers. This should increase supply of services overall and as a result increase competition for the provision of balancing services from generation and from the demand side. Additionally, the changes will also facilitate access to the BM, which should maximise competition in that market.

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 (Half Hourly Delivered Volumes) to be disclosed further.

The majority of workgroup members considered that the P344 Alternative solution would better facilitate objective (c) of the BSC objectives compared to the Proposed modification. They suggested that the Alternative solution would be preferable due to increased information available to Suppliers in the interests of maintaining the integrity of Settlement.

However, one Workgroup member representing independent aggregators did not agree with this view, and expressed a concern that the Alternative solution has the potential to decrease competition, therefore having a negative impact on Applicable BSC Objective (c) compared to the Proposed solution.

Overall, the Panel unanimously agreed that both the Proposed and Alternative modifications better facilitate Objective (c) with respect to the current baseline. However, the Panel voted in favour of the Alternative proposal (mandatory data sharing) by 6:4.

One Panel member noted that they couldn't determine between the Proposed and Alternative in relation to Applicable BSC Objective (c). Another highlighted concerns with competition and suggested that the Alternative modification would harm competition.

We have previously published our views on this issue in an Open Letter,¹⁷ where 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. 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.

¹⁷ "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

In addition, we have recently made a decision on a very similar issue for P354.¹⁸ This modification also considered the issue of data sharing, specifically regarding ABSVD MSID data, and on that occasion the panel voted in favour of the P354 Proposed modification (opt-in data sharing). We agreed with the Panel's position on this issue and chose to approve the P354 proposed modification.

In our assessment of the Proposed and Alternative solutions, we have taken on board the opinions and recommendations of both the Workgroup and the Panel and on balance, have taken the view that the Proposed modification better facilitates Objective (c).

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

Balance Responsible Parties/Suppliers expressed concerns that under the Proposed modification, if customers do not opt-in for HH Delivered Volumes to be shared with them, they would be unable to verify whether their accounts were properly adjusted.

We note that the BSCCo has an obligation 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 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

The EBGL became entered into force on 18 December 2017. Article 19 of the EBGL mandates those TSOs using the RR products to develop a European platform for the exchange of balancing energy from RR.

This modification proposal facilitates the implementation of EBGL Article 18(3)(b) which requires that the national terms and conditions for balancing service providers and balance responsible parties must respect the framework for the establishment of European platforms for the exchange of balancing energy pursuant to Article 19 EBGL.

The modification proposal also facilitates the implementation of EBGL Article 18(4)(a,b,c,d) which defines requirements for the provisions of balancing services, allow aggregation in order to offer balancing services, and allow the specified trading parties to become balancing service providers

Both the P344 Proposed and Alternative Modification Proposals will facilitate the implementation of Articles 18 and 19 of the EBGL and therefore better facilitate objective (e).

Decision notice

In accordance with Standard Condition C3 of NGET's Transmission Licence, the Authority hereby directs that the **Proposed** modification for BSC P344: 'Project TERRE implementation into GB market arrangements' be made.

¹⁸ <https://www.ofgem.gov.uk/publications-and-updates/p354-use-absvd-non-bm-balancing-services-metered-mpan-level>

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Signed on behalf of the Authority and authorised for that purpose