

Modification proposal:	Balancing and Settlement Code (BSC) P392: Amending BSC Change Process for EBGL Article 18 (P392)		
Decision:	The Authority ¹ directs that this modification be made ²		
Target audience:	National Grid Electricity System Operator (NGESO), Parties to the BSC, the BSC Panel and other interested parties		
Date of publication:	18 June 2020	Implementation date:	25 June 2020

Background

On 8 October 2019, we confirmed, upon satisfaction of certain conditions, that some provisions of the BSC form the national terms and conditions (T&C) related to balancing³ required by Article 18 of the Regulation (EU) 2017/2195 establishing a guideline on electricity balancing (the EBGL Regulation).⁴ One of the conditions is the completion of P392.

Once all the conditions are met, the T&C take effect. Any future changes to the T&C related to balancing must be made in accordance with Articles 4 to 7 and Article 10 of the EBGL Regulation.

Currently, the change process of the BSC is not fully aligned with the change process in the EBGL Regulation. The EBGL Regulation requires among others that a one-month consultation takes place and gives responsibility to the Electricity System Operator (ESO) to give justification for the inclusion or omission of consultation responses.⁵ The approval of a modification to the T&C must also come from the Authority.

It is also worth noting that, in accordance with Article 13 of the EBGL Regulation, the ESO has delegated the tasks of the consultation to the BSC Company (BSCCo) and resulting justification to the BSC Panel for any modifications of the BSC that affect the T&C.

The modification proposal

The ESO (the proposer) raised this modification proposal on 27 September 2019. P392 proposes to amend a number of sections of the BSC to align the BSC amendment process with the amendment process of the EBGL Regulation for a BSC modification affecting the T&C related to balancing. The changes to the BSC governance process include:

1. Introducing a one-month consultation, held at report phase;

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 Our 8 October 2019 decision is accessible at: <https://www.ofgem.gov.uk/publications-and-updates/decision-transmission-system-operators-proposal-terms-and-conditions-related-balancing>

⁴ Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing. The EBGL came into force on 18 December 2017. Accessible at: <https://eur-lex.europa.eu/legalcontent/EN/TXT/PDF/?uri=CELEX:32017R2195&from=EN>

⁵ In accordance with our multiple TSO allocation, available at: <https://www.ofgem.gov.uk/publications-and-updates/decision-assignment-transmission-system-operator-obligations-under-guideline-electricity-balancing-regulation-within-gb>

2. Providing a sound justification as to why any responses to the consultation were included or omitted from the final modification;
3. Requiring Authority approval on any modification that affect the T&C, hence removing the option for self-governance on these modifications; and
4. Inserting a two months deadline for the resubmission of modifications that affect the T&C, if it follows an official send back from the Authority.

P392 also proposes to amend the BSC to reflect the fact that the BSCCo and BSC Panel will carry out the consultation and provide justification for inclusion or omission of any responses in place of the ESO.

The proposer considers that P392 would have a positive impact on applicable BSC objectives (a),⁶ (d),⁷ and (e).⁸ The proposer reasoned that P392 better facilitated these objectives as:

- delegation to the BSCCo and BSC Panel for BSC modifications increases efficiency when managing modifications to the BSC that affect the T&C related to balancing;
- capturing the required amendment processes of the EBGL Regulation in the BSC ensures efficient management of the BSC in line with the EBGL Regulation; and
- P392 ensures compliance with processes required by the EBGL Regulation.

BSC Panel⁹ recommendation

At the BSC Panel meeting on 14 May 2020, the BSC Panel unanimously considered that P392 would better facilitate the applicable BSC objectives and the Panel therefore recommended its approval. The panel unanimously agreed with the original proposer that P392 better facilitates the applicable BSC objectives (a), (d) and (e).

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 28 May 2020. We have considered and taken into account the responses to the industry consultation(s), which are attached to the FMR.¹⁰ We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable objectives of the BSC;¹¹ and
- directing that the modification be made is consistent with our principal objective and statutory duties.¹²

⁶ BSC Objective (a) is the efficient discharge by the Transmission Company of the obligations imposed upon it by the Transmission Licence.

⁷ BSC Objective (d) is promoting efficiency in the implementation of the balancing and settlement arrangements.

⁸ BSC Objective (e) is Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

⁹ 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

¹⁰ BSC modification proposals, modification reports and representations can be viewed on the ELEXON website at www.elexon.co.uk

¹¹ As set out in Standard Condition C3(3) of the Electricity Transmission Licence: <https://epr.ofgem.gov.uk>

¹² 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.

Reasons for our decision

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

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

The panel unanimously agreed that P392 better facilitates the applicable BSC objective (a). We agree with the assessment of the panel. P392 allows for the ESO's delegation of certain tasks required in the EBGL change process to the BSC Panel and BSCCo to be reflected in the BSC. Through this combined process, the ESO is better able to manage its obligations under the EBGL Regulation without the need to create additional steps outside the BSC. We therefore consider P392 to have a positive impact on objective (a).

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

The panel unanimously agreed that P392 better facilitates the applicable BSC objective (d). We again agree with the assessment of the panel. P392 ensures that the change processes required by the EBGL Regulation are captured by the BSC. This enables the efficient management of the BSC and gives industry clarity on the process should a BSC modification arise that affects the T&C related to balancing. As a result of this modification, a single code modification can comply with both the rules of the BSC and the EBGL Regulation. We therefore consider P392 to have a positive impact on objective (d).

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

The panel unanimously agreed that P392 better facilitates the applicable BSC objective (e). We again agree with the assessment of the panel. P392 aligns the BSC with the EBGL Regulation, which complements the Electricity Regulation, and ensures that any modification to the T&C related to balancing follows the required change process. We therefore consider P392 to have a positive impact on objective (e).

Decision notice

In accordance with Standard Condition C3 of the Transmission Licence, the Authority hereby directs that modification proposal BSC P392: Amending BSC Change Process for EBGL Article 18 be made.

Leonardo Costa
Senior Manager SO/DSO

Signed on behalf of the Authority and authorised for that purpose