

Switching Programme
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

16th November 2020

Dear Rachel,

LCCC & ESC's response to Ofgem's proposals for version 1.1 of the Retail Energy Code

The Low Carbon Contracts Company (LCCC) and The Electricity Settlements Company (ESC) are private companies wholly owned by the Secretary of State for Business, Energy and Industrial Strategy (BEIS). They perform central functions in the operation of the Contracts for Difference (CfD) and Capacity Market (CM) schemes. LCCC carries out the functions of its sister company ESC, via a cost-sharing arrangement.

LCCC & ESC welcome the opportunity to respond to the Ofgem proposals for version 1.1 of the Retail Energy Code (REC) and believe they will bring greater efficiency to the energy industry, benefiting consumers.

We wish to highlight below our key messages on the proposals for version 1.1 of the REC:

- Impacts on the CfD and CM schemes, alongside EMR legislation, should be codified in the REC in a similar manner as the Balancing and Settlement Code (BSC) and assessed as part of the REC's Change Management Schedule's preliminary Impact Assessment (IA) process.
- This will avoid divergence from the government's stated policy intent and legislated position.

We would welcome the opportunity to discuss this issue in more detail if that would be helpful to you.

Yours sincerely,

Omer Ahmad
Policy and Regulations Manager
Low Carbon Contracts Company
Electricity Settlements Company

Q4.1: Do you support our proposals regarding the production of preliminary and detailed IA?

The CfD and CM schemes are central to the government's drive towards Net Zero whilst also maintaining security of electricity supply at the lowest cost to the consumer. This is laid out in legislation in the Energy Act (2013)¹ and subsequent Regulations as part of Electricity Market Reform (EMR). With this in mind it is key that any industry code change must consider impacts on the EMR schemes before implementation. Unexpected impacts on these schemes can lead to diversion from the government's stated policy intent and legislated position.

To ensure this does not occur, clause 1.1.9(e) is codified in the BSC's Section F²- Modification Procedures:

1.1.9 Notwithstanding paragraph 2 and subject to paragraph 1.1.10, the following Code provisions may not be amended without the prior written consent of the Secretary of State:

(e) any reference elsewhere in the Code to a CFD Settlement Services Provider, a CfD Counterparty, a Contract for Difference, a CM Settlement Services Provider, the CM Settlement Body, the Capacity Market Rules and/or an EMR Legal Requirement.

Additionally, included in the BSC's Modification Proposal Form³ in section 3 which performs a high-level IA on relevant objectives. Objective F considers:

"Implementing and administrating the arrangements for the operation of contracts for difference and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation"

This reminds the modification proposer to consider potential impacts on EMR at the beginning of the change process to avoid potentially costly and time consuming amendments to the modification further down the line.

It is proposed in your consultation that the REC Change Management Schedule includes carrying out a preliminary IA within 15 working days of the request of the Code Manager. **It is LCCC's recommendation that impacts on the CfD and CM schemes, alongside EMR legislation, should be codified in the REC in a similar manner as the BSC and assessed as part of the REC's Change Management Schedule's preliminary IA process.**









¹ <https://www.legislation.gov.uk/ukpga/2013/32/enacted> part 2.


² <https://www.elexon.co.uk/the-bsc/bsc-section-f-modification-procedures/>

³ See attached below

BSC Modification Proposal Form		At what stage is this document in the process?
<p>PXXX</p> <p><i>(Mandatory for BSC Change Analyst to complete.)</i></p> <p>Mod Title: [Insert text here]</p> <p><i>(Mandatory for Proposer to complete.)</i></p>		<p>01 Modification</p> <p>02 Workgroup Report</p> <p>03 Draft Modification Report</p> <p>04 Final Modification Report</p>
<p>Purpose of Modification: <i>(Please insert a short statement of intent; mandatory for Proposer to complete.)</i></p> <p>[Insert Text Here]</p>		
<p>Is this Modification likely to/Does this Modification <i>(delete as appropriate: former for Assessment Mods, latter for Report Phase)</i> impact any of the European Electricity Balancing Guideline (EBGL) Article 18 Terms and Conditions held within the BSC?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p><i>Please provide an initial view of the preferred governance route and how you want the Modification to be progressed</i></p> <p>The Proposer recommends that this Modification should: <i>(delete as appropriate)</i></p> <ul style="list-style-type: none"> not be a Self-Governance Modification Proposal be treated as a Fast Track Self-Governance Modification Proposal be assessed by a Workgroup and submitted into the Assessment Procedure be sent directly into the Report Phase be treated as urgent and progressed under a timetable agreed by the Authority <p>This Modification will be presented by the Proposer to the BSC Panel on <i>DD MMM YYYY (BSC Change Analyst to provide date)</i>. The Panel will consider the Proposer's recommendation and determine how best to progress the Modification.</p>		
<p>High Impact: <i>Insert Parties and Party Agents impacted</i></p> <p>[Insert text here]</p>		

	Medium Impact: <i>Insert Parties and Party Agents impacted</i> [Insert text here]
	Low Impact: <i>Insert Parties and Party Agents</i> [Insert text here]

Contents		 Any questions?
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Timetable		
<p><i>Please provide Proposer and Proposer Representative contacts and an indicative timetable. The BSC Change Analyst will update the contents and provide any additional Specific Code Contacts. The BSC Change Analyst can provide specific dates based on your Implementation Approach.</i></p>		
<p>The Proposer recommends the following timetable: <i>(amend as appropriate)</i></p>		
Initial consideration by Workgroup	DD MMM YYYY	
Assessment Procedure Consultation	DD MMM YYYY - DD MMM YYYY	
Workgroup Report presented to Panel	DD MMM YYYY	
Report Phase Consultation	DD MMM YYYY - DD MMM YYYY	
Draft Modification Report presented to Panel	DD MMM YYYY	
Final Modification Report submitted to Authority <i>[not Self-Governance]</i>	DD MMM YYYY	
Final Modification Report published <i>[Self-Governance]</i>	DD MMM YYYY	

 [Insert number]

Guidance on the use of this template: Please complete all sections unless specifically marked for the BSC Change Analyst to complete.

Green italic text is provided as guidance and should be removed before submission.

The BSC Change Analyst is available to help and support the drafting of any Modifications, including providing guidance on completion of this template and the wider Modification process. For questions and support please contact BSC Change at bsc.change@exelon.co.uk.

Why Change?

*Please concisely set out **why** a Modification of the BSC is proposed (i.e. **why** the identified defect needs to be addressed, what happens if the change isn't made, what is driving the change, and what Parties/Party Agents are impacted. Proposers should also consider whether additional context and/or background should be included here that is not forming part of the proposal but will assist wider understanding.*

What is the issue?

[Insert text here]

Desired outcomes

Please explain what the desired outcomes of the modification will be (i.e. and what you wish to achieve through this Modification, this can be in list format if easier).

[Insert text here]

Solution

Please concisely set out in detail the Code changes that are proposed, setting out specific document changes and system changes required.

This section is "owned" by the Proposer and will not be altered by the Workgroup and so should set out the change you, as Proposer, wish to see made. This can be amended later to take into account issues raised by a Workgroup or in response to consultation responses.

Proposed Solution

[Insert text here]

Benefits

Please explain the benefits to industry participants and/or consumers that this Modification will realise, and concisely explain the rationale, this can be in list format if easier.

[Insert text here]

Relevant Objectives

Impact of the Modification on the Relevant Objectives:	
Relevant Objective	Identified impact
a) The efficient discharge by the Transmission Company of the obligations imposed upon it by the Transmission Licence	Choose an item.
(b) The efficient, economic and co-ordinated operation of the National Electricity Transmission System	Choose an item.
(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	Choose an item.
(d) Promoting efficiency in the implementation of the balancing and settlement arrangements	Choose an item.
(e) 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]	Choose an item.
(f) Implementing and administrating the arrangements for the operation of contracts for difference and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation	Choose an item.
(g) Compliance with the Transmission Losses Principle	Choose an item.

Please explain how this change will positively or negatively impact the Applicable BSC Objectives. Where you have identified an impact, concisely explain the rationale.

[Insert text here]

Potential Impacts

Impacts on Core Industry Documents

Impacted Core Industry Documents			
<input type="checkbox"/> Ancillary Services Document	<input type="checkbox"/> Connection and Use of System Code	<input type="checkbox"/> Data Transfer Services Agreement	<input type="checkbox"/> Use of Interconnector Agreement
<input type="checkbox"/> Master Registration Agreement	<input type="checkbox"/> Distribution Connection and Use of System Agreement	<input type="checkbox"/> System Operator Transmission Owner Code	<input type="checkbox"/> Supplemental Agreements
<input type="checkbox"/> Distribution Code	<input type="checkbox"/> Grid Code	<input type="checkbox"/> Transmission License	<input type="checkbox"/> Other (please specify)

Please provide rationale to support the identified impacts. Please also consider any potential inconsistencies the proposed modification may have with the Capacity Market Documents and/or the CFD Documents. ELEXON will be able to support you with this.

Impacts on BSC Systems

Impacted Systems				
<input type="checkbox"/> CRA	<input type="checkbox"/> CDCA	<input type="checkbox"/> PARS	<input type="checkbox"/> SAA	<input type="checkbox"/> BMRS
<input type="checkbox"/> EAC/AA	<input type="checkbox"/> FAA	<input type="checkbox"/> TAAMT	<input type="checkbox"/> NHHDA	<input type="checkbox"/> SVAA
<input type="checkbox"/> ECVA	<input type="checkbox"/> ECVA Web Service	<input type="checkbox"/> ELEXON Portal	<input type="checkbox"/> Other (Please specify)	

Please provide rationale to support the identified impacts. ELEXON will be able to support you with this.

Impacts on BSC Parties

Impacted Parties			
<input type="checkbox"/> Supplier	<input type="checkbox"/> Interconnector User	<input type="checkbox"/> Non Physical Trader	<input type="checkbox"/> Generator
<input type="checkbox"/> Licensed Distribution System Operator	<input type="checkbox"/> National Electricity Transmission System Operator	<input type="checkbox"/> Virtual Lead Party	<input type="checkbox"/> Other (Please specify)

Please provide rationale to support the identified impacts. ELEXON will be able to support you with this. For a description of market roles, please refer to our [Market Role Guide](#).

Legal Text Changes

Please provide details of the changes you believe will need to be made to the BSC. As a minimum, this should identify sections of the BSC that will require changes. ELEXON will be able to support you with this.

Governance

Please state clearly which governance procedures apply and why (i.e. how the Modification should be progressed).

Self-Governance (choose one)

<input type="checkbox"/> Not Self-Governance – A Modification that, if implemented:	
<input type="checkbox"/> materially impacts the Code’s governance or modification procedures	<input type="checkbox"/> materially impacts sustainable development, safety or security of supply, or management of market or network emergencies
<input type="checkbox"/> materially impacts competition	<input type="checkbox"/> materially impacts existing or future electricity consumers
<input type="checkbox"/> materially impacts the operation of national electricity Transmission System	<input type="checkbox"/> is likely to discriminate between different classes of Parties
<input type="checkbox"/> involves any amendments to the EBGL Article 18 Terms and Conditions related to Balancing; except to the extent required to correct an error or as a result of a factual change	
<input type="checkbox"/> Self-Governance – A Modification that, if implemented: Does not materially impact on any of the Self-Governance criteria provided above	

Please provide your reasons why the proposal should or should not be treated as a Self-Governance Modification proposal.

Progression route (choose one)

<input type="checkbox"/> Submit to assessment by a Workgroup – A Modification Proposal which: does not meet any criteria to progress via any other route.	
<input type="checkbox"/> Direct to Report Phase – A Modification Proposal whose solution is typically:	
<input type="checkbox"/> of a minor or inconsequential nature	<input type="checkbox"/> deemed self-evident
<input type="checkbox"/> Fast Track Self-Governance – A Modification Proposal which meets the Self-Governance Criteria and: is required to correct an error in the Code as a result of a factual change including but not limited to:	

<input type="checkbox"/> updating names or addresses listed in the Code	<input type="checkbox"/> correcting minor typographical errors
<input type="checkbox"/> correcting formatting and consistency errors, such as paragraph numbering	<input type="checkbox"/> updating out of date references to other documents or paragraphs
<input type="checkbox"/> Urgent – A Modification Proposal which is linked to an imminent issue or current issue that if not urgently addressed may cause:	
<input type="checkbox"/> a significant commercial impact on Parties, Consumers or stakeholder(s)	<input type="checkbox"/> a Party to be in breach of any relevant legal requirements.
<input type="checkbox"/> a significant impact on the safety and security of the electricity and/or gas systems	

Further information about Ofgem’s Urgent Criteria can be found in the [Guidance on Code Modification Urgency Criteria](#) document on the Ofgem website.

Please provide additional information to support your preferred next steps, such as any critical events driving the timeline or rationale for the progression route. For example, the reason why the proposals should go straight to the Report Phase. Where you are requesting urgency, please provide the reasons why the proposal should be treated as such.

[Insert text here]

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

Please provide the main impacts so that readers have an overview of how the change proposed will affect the identified SCR/project. If you do not believe your proposal impacts an open SCR, please request your proposal is treated as an SCR Exempt Modification Proposal.

[Insert text here]

Does this Modification impact any of the EBGL Article 18 Terms and Conditions held within the BSC?

Please provide an overview of any impacts that this modification will have on the EBGL Article 18 Terms and Conditions held within the BSC, along with your view of any impact on the EBGL objectives. The relevant BSC provisions can be found in [Section F Annex F-2](#) alongside those EBGL Article 18 terms and conditions to which they constitute.

[Insert text here]

Does this modification impact on end consumers or the environment?

Please provide an overview of the impacts that this modification will have on electricity consumers and the environment (positive and negative).

[Insert text here]

[Impact on the Environment (delete tables as appropriate). This should detail what impact the change is likely to have on the environment and greenhouse gas emissions. Where it is believed the impact on greenhouse gas emissions will be material a quantifiable assessment should be undertaken. An indication of whether the change is consistent/inconsistent or neutral, which may include insufficient information to say with the Governments net zero target for greenhouse gases: This Modification is [consistent/inconsistent/neutral with the net zero target]

Impact on the Environment

This Modification is consistent with the net zero target.

Impact on the Environment

This Modification is neutral with the net zero target.

Impact on the Environment

This Modification is inconsistent with the net zero target.

Implementation approach

Please provide any views you have on implementation timescale. If possible, also include the costs and benefits of implementation options and an assessment on how the costs will be recovered.

[Insert text here]