

P435 'Enabling EMRS to undertake preparatory work for potential future settlement services to LCCC'

This Modification seeks to enable EMR Settlement (EMRS) Limited to complete the necessary preparatory work, on behalf of the Low Carbon Contracts Company (LCCC), for schemes established by the Secretary of State (SoS) outside of the Capacity Market (CM) and Contracts for Difference schemes.



The BSC Panel initially recommends **approval** of P435



The BSC Panel **does not** believe P435 impacts the European Electricity Balancing Guideline (EBGL) Article 18 terms and conditions held within the BSC

This Modification is expected to impact:

- BSCCo (Elexon)
- EMR Settlement (EMRS) Limited

Phase

Initial Written Assessment

Definition Procedure

Assessment Procedure

Report Phase

Implementation

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Contact

Stanley Dikeocha

020 7380 4063

BSC.change@elexon.co.uk

Stanley.dikeocha@elexon.co.uk



About This Document



Not sure where to start? We suggest reading the following sections:

- Have 5 mins? Read section 1
- Have 15 mins? Read sections 1, 6, 7 and 8
- Have 30 mins? Read all sections
- Have longer? Read all sections and the annexes and attachments
- *You can find the definitions of the terms and acronyms used in this document in the [BSC Glossary](#)*

This is the P435 Draft Modification Report, which Elexon will present to the Panel at its meeting on 10 March 2022. It includes the responses received to the Report Phase Consultation on the Panel's initial recommendations. The Panel will consider all responses, and will agree a final recommendation to the Authority on whether the change should be made.

There are three parts to this document:

- This is the main document. It provides details of the solution, impacts, costs, benefits/drawbacks and proposed implementation approach.
- Attachment A contains the draft redlined changes to the BSC for P435.

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1 Summary

Why Change?

The activities Elexon or its subsidiaries are permitted to undertake are outlined in [BSC Section C 'BSCCo and its Subsidiaries' Annex C-1](#)¹. Currently, the services provided to Low Carbon Contracts Company (LCCC) as the Contracts for Difference (CFD) Counterparty and to Electricity Settlement Company (ESC) as the CM Settlement Body are restricted to settlement services for the two schemes (as defined in legislation). These services are delivered through Elexon's wholly owned subsidiary, EMR Settlement (EMRS).

As the electricity market evolves, the Secretary of State (SoS) for Business Energy and Industrial Strategy (BEIS) may seek to introduce additional schemes, or amend existing schemes, to deliver government policy and incentivise investment in new technology not currently covered by existing mechanisms. In the event that these schemes are managed by LCCC outside remit of the CFD Counterparty or the CM Settlement Body, they may need support from EMRS to explore and develop the necessary settlement systems and processes.

Although EMRS was established to provide settlement services with respect to the Government's CFD and CM schemes, as a subsidiary of Elexon, its vires is regulated by the BSC. Currently, the BSC would not permit EMRS to offer its expertise and experience to LCCC for any purpose other than CFD and CM settlement.

Solution

P435 seeks to enable EMRS to undertake preparatory work (such as exploring the development of processes and systems) on behalf of the LCCC/ESC, in order to facilitate the implementation of any new schemes established by, or proposed to be established by the SoS from time to time (from legislation and/or via a contract). P435 will not enable EMRS to operate any new schemes. A further change to the BSC would be needed to permit this, either via a Modification or via a direction from BEIS (granted under legislation).

Impacts & Costs

The ring-fencing of risks and liabilities between BSCCo (Elexon) and EMRS will be maintained, therefore, the cost associated with the 'preparatory work' being undertaken will be funded by LCCC and will not be funded by BSC Parties. The only expected cost to BSC Parties is the cost to progress and implement P435.

This Modification will not impact BSC Systems, nor will it impact BSC Parties and Agents. However, a minor document update to BSC Section C 'BSCCo and its Subsidiaries' Annex C-1 will be required.

Costs Estimates			
Organisation	Implementation (£k)	On-going (£k)	Impacts
Elexon	< 1k	0	Costs associated with updating BSC Section C

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¹ <https://www.elexon.co.uk/the-bsc/bsc-section-c-bscco-subsidiaries/>

Costs Estimates			
Organisation	Implementation (£k)	On-going (£k)	Impacts
Industry	TBC	0	TBC
Total	< 1k	0	

Implementation

The Panel initially recommends an implementation Date for P435 of **five Working Days (+5WDs) after the Authority's Decision**. This will enable P435 to be implemented at the earliest opportunity.

Recommendation

The Panel initially and unanimously agree that P435 should be **approved**. There was unanimous agreement that the Modification better facilitates Applicable BSC Objective (d), however, majority of the Panel disagreed with the view of the Proposer that this Modification would better facilitate Applicable BSC Objective (b). All Members agreed that P435 was neutral against all other Objectives and that it should be **submitted to Ofgem for decision**. The Panel **do not** believe P435 impacts the EBGL Article 18 terms and conditions.

2 Why Change?

What is the issue?

The activities Elexon or its subsidiaries are permitted to undertake are outlined in BSC Section C 'BSSCo and its Subsidiaries' Annex C-1. Currently, the services provided to LCCC as the CfD Counterparty and to ESC as the CM Settlement Body are restricted to settlement services for the CfD and CM schemes. These services are delivered through Elexon's wholly owned subsidiary, EMRS.

The Secretary of State (SoS) and BEIS may seek to introduce additional market schemes, or amend existing schemes, to deliver government policy and incentivise investment in new technology, to cater for the evolving electricity market.

When new or amended market schemes are designated to the LCCC to manage, EMRS may be called upon to offer its expertise. Although EMRS was established to provide settlement services with respect to the Government's CfD and CM schemes, as a subsidiary of Elexon, its vires is governed by the BSC.

Currently, the BSC would not permit EMRS to undertake the necessary preparatory work, should a request from the LCCC or ESC be submitted to Elexon. Therefore, EMRS will not be in a position to offer its expertise and experience to support the schemes.

To clarify, 'preparatory work' in the context of this Modification means the development of the necessary systems and/or processes to support potential future work. It does not include the operation of any new services or schemes. The operation will require another amendment to the BSC, either via Modification or subject to the relevant legislation, a direction from the SoS.

Background

Elexon Vires

Elexon "vires" set out what Elexon is allowed to do and are outlined in BSC Section C 'BSSCo and its Subsidiaries', with subsection 1.2 'Role and powers, functions and responsibilities of BSSCo' stating in 1.2.2 that:

"Subject to the further provisions of this Section C, BSSCo shall have the powers, functions and responsibilities set out in or assigned to it pursuant to the Code, and shall not undertake any business or activity other than as provided for in the Code."

These provisions mean that whenever an opportunity originates where Elexon might be able to extend the company's business activities beyond those stipulated in the Code, either the 'P390² route' must be used to bid for and win the work, or a Modification is required to implement a change to expand the vires.

Extensions of Elexon's Vires via Modifications Proposals

Two Previous Modifications were approved by Ofgem, which saw the extension of Elexon's vires and the scope of activities that it is permitted to undertake. There were:

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² <https://www.elexon.co.uk/mod-proposal/p390/>

- Code manager for the Retail Energy Code (REC) – permitted via [P365³](#), raised by Hudson Energy; and
- Gas Performance Assurance Framework Administrator (PAFA) – permitted via [P330⁴](#) raised by Scottish Power.

Both of these Modifications used the same model, but were for different activities. P390 'Allowing extensions to Elexon's business and activities, subject to additional conditions' took this agreed model and built upon it to enable the Elexon Board to determine whether Elexon can undertake additional activities provided certain conditions are met, and with the consent of Ofgem. The 'P390 route' is applicable when any new activities are to be offered via a competitive tender process.

Extension of Elexon's vires via directions

Two directions to the BSC have been made by the Secretary of State to allow Elexon to undertake new activities:

- [Warm homes in 2011⁵](#) - facilitating the establishment and operation of a reconciliation mechanism in connection with the Warm Home Discount Scheme established under Part 2 of the Energy Act 2010.
- [EMR in 2015⁶](#) – consequential changes to the BSC to allow Elexon, via EMRS to provide CfD and CM settlement services.

[EMRS⁷](#) was set up as a wholly owned subsidiary of Elexon Limited in March 2014, after BEIS, recognised Elexon having the experience and capabilities to be the EMR Settlement Services Provider.

Electricity Market Reform (EMR) was introduced by the UK Government to deliver the low carbon energy and reliable supplies that the United Kingdom (UK) needs, while minimising cost to consumers. The reforms introduced two key mechanism to provide incentives for the investment required in our energy infrastructure:

- Contracts for Difference (CfD) - designed as an incentive for investment in new low-carbon electricity generation.
- Capacity Market (CM) - designed to ensure sufficient and reliable capacity during peak demand i.e. when there is not enough electricity available on the Transmission System.

Governance

EMRS is delivered via a wholly owned subsidiary of Elexon and a managed services agreement is in place setting out the arrangement for the provision of shared services and resources between Elexon and EMRS.

In addition, contractual arrangements are in place between LCCC and ESC and EMRS, for the provision of the relevant Services.

³ <https://www.elexon.co.uk/mod-proposal/p365/>

⁴ <https://www.elexon.co.uk/mod-proposal/p330/>

⁵ <https://www.elexon.co.uk/ord/ord004-warm-home-discount-scheme/>

⁶ <https://www.elexon.co.uk/ord/ord005-electricity-market-reform/>

⁷ <https://www.emrsettlement.co.uk/>

Funding

EMRS operating costs are funded via LCCC and ESC through the CfD and CM schemes. These funds are recovered from licenced electricity Suppliers, via the Operational Costs Levy and Settlement Costs Levy. BEIS consult on the LCCC and ESC Operational Costs every three years. EMRS's costs defray certain BSC Costs, such as overheads form office space. [In 2020/21, this saved BSC Parties £932k \(see pg.42\)⁸](#).

Future outlook

As the electricity market evolves, the SoS for BEIS may seek to introduce additional schemes to deliver government policy and incentivise investment in new technology not currently covered by existing mechanisms. LCCC/ESC believe it is likely that the CfD Counterparty or the CM Settlement Body will manage any new scheme.

Desired outcomes

The Proposer seeks to enable EMRS to complete the necessary preparatory work, including the development of systems and processes on behalf of the CFD Counterparty or CM Settlement Body, in order to facilitate the implementation of any new schemes established by, or proposed to be established by the SoS from time to time (from legislation and/or via contract).

After the successful implementation of this Modification, EMRS will be in a position to implement the necessary processes and systems to support future schemes established by the SoS, should it be awarded, but will not enable the operation of any new services or schemes.

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⁸ <https://www.elexon.com/documents/about/finances-report-policies/business-plan/2022-23/elexon-business-plan-2022-23/>

Proposed solution

This Modification seeks to enable EMRS, as a wholly owned subsidiary of Elexon, to undertake the necessary preparatory work, on behalf of LCCC or ESC, in relation to schemes established by, or proposed to be established by, the SoS from time to time.

Under the solution, EMRS shall be enabled by the BSC to prepare and undertake work on the processes and systems to support the facilitation of new scheme established by the SoS.

The existing provisions of Section C that ring-fences EMRS activities from the BSC and BSC Parties will remain in force (for example the protections contained in Section C10.2).

These protections are:

- BSCCo shall not transfer, lease, licence, or lend any sum or sums, asset (including non-financial resources), right, or benefit to a Permitted Affiliate;
- BSCCo shall not enter into any borrowing for or on behalf of a Permitted Affiliate;
- BSCCo and each Permitted Affiliate shall implement agreed contractual arrangements to ensure that:
 - Shared cost between BSCCo and a Permitted Affiliate that are incurred will be allocated reasonable; and
 - When BSCCo incur costs associated with the services provided to a Permitted Affiliate, such cost shall be recovered from the Permitted Affiliate; and
- Parties will not be obligated to provide financial support to a Permitted Affiliate in respect of its performance of Permissible Activities.

Using EMRS will remove some of the overheads associated with establishing a new legal entity, which will improve the efficiencies that this Modification seeks to achieve. As with the existing CfD and CM arrangements, all funding and governance mechanisms would be operated outside of the BSC by the LCCC or ESC with its own separate agreements and legal framework⁹.

To implement the solution to this Modification, amendments will be required to:

- BSC Section C 'BSCCo and its Subsidiaries' Annex C-1 to expand the scope of EMRS's activities.

Draft legal text for this Modification can be found in Attachment A.

Benefits

Enabling EMRS to be involved in the development and preparation of the necessary systems and processes required for schemes established by, or proposed to be established by the SoS will contribute to the efficient development and operation of those schemes. The expertise and knowledge possessed by EMRS, its status as a trusted central service provider that already operates reliable settlement services for similar schemes, and its



Ring-fence

A ring-fence is a set of legal and contractual arrangements that prevents BSCCo (Elexon) from funding EMRS liabilities or from providing it with benefits on non-commercial terms

⁹ We understand that funding for the preparatory work will be provided to LCCC/ESC via a grant from BEIS.

established close working relationship with LCCC and ESC, makes it best placed to support LCCC and ESC in implementing these schemes. As an existing market expert, that regularly engages with industry stakeholders, EMRS will be able to mitigate challenges associated with developing new schemes.

As a not for profit company, any financial benefit that Elexon gains through EMRS providing the support envisaged by this Modification will be used to defray BSC Costs and thus benefits all BSC Parties by reducing their BSC costs via the funding shares

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4 Impacts & Costs

Estimated central implementation costs of P435

This is a document only Modification and will not materially impact market participants or the BSC central systems. The cost associated with the preparatory work **will not** be funded by BSC Parties.

The estimated cost to amend the relevant BSC Section is expected to be <£1k. No ongoing costs are expected.

- High: >£1 million
- Medium: £100-1000k
- Low: <£100k

Implementation cost estimates			
Organisation	Item	Implementation (£k)	Comment
Elexon	Systems	N/A	No impact
	Documents	0.5 to 1	Low
	Other	N/A	No impact
NGESO	Systems	N/A	No impact
	Other	N/A	No impact
Industry	Systems & processes	N/A	No impact
Total		<1	

Estimated on-going costs of P435

On-going cost estimates		
Organisation	Implementation (£k)	Comment
Elexon	N/A	-
NGESO	N/A	-
Industry	N/A	-
Total	0	No ongoing costs from P435

P435 impacts

Impact on BSC Parties and Party Agents		
Party/Party Agent	Impact	Estimated cost
N/A	No impact anticipated	L

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Impact on the NETSO	
Impact	Estimated cost
No impact anticipated	N/A

Impact on BSCCo		
Area of Elexon	Impact	Estimated cost
EMRS	EMRS will be impacted should LCCC/ESC ask them to prepare systems and processes for any activities outside the CfD and CM schemes.	M

Impact on BSC Settlement Risks	
No impact on BSC Settlement Risks	

Impact on BSC Systems and process	
BSC System/Process	Impact
No impact anticipated	

Impact on BSC Agent/service provider contractual arrangements	
BSC Agent/service provider contract	Impact
No impact anticipated	

Impact on Code	
Code Section	Impact
BSC Section C 'BSSCo and its Subsidiaries' Annex C-1	To include the legal text which permits EMRS to develop the necessary processes and systems to support the delivery of future market schemes.

Impact on EBGL Article 18 terms and conditions and objectives	
No impact anticipated	

Impact on Code Subsidiary Documents	
CSD	Impact
No impact anticipated	

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Impact on other Configurable Items	
Configurable Item	Impact
No impact anticipated	

Impact on Core Industry Documents and other documents	
Document	Impact
No impact anticipated	

Impact on a Significant Code Review (SCR) or other significant industry change projects
An SCR exemption request was sent to Ofgem on 3 February 2022. Ofgem confirmed an SCR exempt status for P435 on 10 February 2022.

Impact of the Modification on the environment and consumer benefit areas:	
Consumer benefit area	Identified impact
<p>1) Improved safety and reliability</p> <p>The Proposer believes that this Modification would ensure that EMRS can support the efficient development and operation of industry schemes to deliver government policy to secure the future of the Great Britain (GB) energy system and indirectly aid facilitation of the government's net zero pledge.</p>	Positive
<p>2) Lower bills than would otherwise be the case</p> <p>This Modification will not contribute to the lowering of customer bills, therefore has no impact on this benefit.</p>	Neutral
<p>3) Reduced environmental damage</p> <p>The Proposer believes that by implementing this Modification, EMRS will indirectly aid the facilitation of the UK government's net zero pledge, thereby, contributing to the reduction of environmental damage.</p>	Positive
<p>4) Improved quality of service</p> <p>This Modification will have no impact on quality of service to consumers.</p>	Neutral
<p>5) Benefits for society as a whole</p> <p>This Modification will have no impact, negative or positive, on society.</p>	Neutral



What are the consumer benefit areas?

1) Will this change mean that the energy system can operate more safely and reliably now and in the future in a way that benefits end consumers?

2) Will this change lower consumers' bills by controlling, reducing, and optimising spend, for example on balancing and operating the system?

3) Will this proposal support:
 i) new providers and technologies?
 ii) a move to hydrogen or lower greenhouse gases?
 iii) the journey toward statutory net-zero targets?
 iv) decarbonisation?

4) Will this change improve the quality of service for some or all end consumers. Improved service quality ultimately benefits the end consumer due to interactions in the value chains across the industry being more seamless, efficient and effective.

5) Are there any other identified changes to society, such as jobs or the economy.

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5 Implementation

Recommended Implementation Date

The Panel recommends an implementation Date for P435 of **5WDs** after the Authority's decision is received.

This approach will enable P435 to be implemented at the earliest opportunity.

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What are the Applicable BSC Objectives?

(a) The efficient discharge by the NETSO of the obligations imposed upon it by the Transmission Licence

(b) The efficient, economic and co-ordinated operation of the National Electricity Transmission System

(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

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

(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]

(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

(g) Compliance with the Transmission Losses Principle

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6 Panel's Initial Discussions

The Panel agreed to designate Low Carbon Contracts Company (LCCC) as the Proposer to raise P435 in accordance with [BSCP40 3.14¹⁰](#). The designation request can be found on the P435 webpage. The Panel unanimously agreed that the Modification should be progressed to the Report Phase and it should be approved. This decision was made on the basis that P435 is fully developed, industry will be consulted on the proposal and the solution builds on a model already established under the BSC. Therefore, it would not benefit from a Workgroup assessment.

Clarifications

The Panel asked some questions which Elexon clarified as summarised below:

1. Any additional predatory work EMRS conducts on behalf of LCCC/ESC outside the CfD and CM services will be fully funded by LCCC/ESC.
2. P435 will not enable EMRS to operate any new schemes, only to prepare for them. The operation of any schemes awarded to EMRS from LCCC or ESC by the SoS will require a further extension of Elexon's vires (either via a New Modification Proposal or via a direction from BEIS, granted under legislation).
3. Any preparatory work conducted by EMRS will be subject to the Elexon board's authorisation and its consideration of the 'P390 criteria' (see section 3 for details).

A Panel Member noted that the risk to BSC Parties is limited, which provides him comfort on the openness of this Modification i.e. that it is not limited to a specific scheme, rather any and all schemes that LCCC or ESC may wish to pass through to EMRS. Further, he asked what risk to CM and CfD parties. LCCC and EMRS confirmed that any preparatory work would likely come from existing resources and would not impact CM or CfD activities.

Applicable BSC Objectives

The Panel believes and agreed that P435 better facilitates Applicable BSC Objective (d) as it allows fixed costs of Elexon to be shared across other activities, creating the opportunity for Costs to BSC Parties to be defrayed. Additionally, new activities will enable Elexon to retain, attract and develop its people for the benefit of the industry, as there will be opportunities for them to work on a wider range of activities.

The Panel did not agree with the Proposer that P435 better facilitated Applicable BSC Objective (b). The Proposer believed P435 would aid the efficient development and operation of the Transmission System by facilitating industry schemes that support system balancing, whilst ensuring that guidance and support is consistent with industry expectations and reduce the fragmentation of services for the benefit of stakeholders. The Panel believed P435 was neutral against Objective (b) as they did not believe it would provide any direct benefits for ESO in operating the Transmission System.

¹⁰ <https://www.elexon.co.uk/documents/bsc-codes/bscps/bscp40/>

Self-Governance

The Panel unanimously considered P435 as **not** a Self-Governance Modification, therefore, should be submitted for Authority decision. The proposed changes, if implemented, are expected to materially impact (b) (v), the Code's governance procedures of the Self-Governance criteria, as BSCCo's (Elexon) vires will be extended.

The Panel did not agree with the Proposer that P435 should be treated as a Self-Governance Modification Proposal. The Proposer believed as P435 would not impact the operation of the BSC or BSC Parties, as it did not materially impact the Self-Governance criteria.



What is the Self-Governance Criteria?

A Modification that, if implemented:

(a) is unlikely to have a material effect on:
(i) existing or future electricity consumers; and
(ii) competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity; and
(iii) the operation of the national electricity transmission system; and
(iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and
(v) the Code's governance procedures or modification procedures; and

(b) is unlikely to discriminate between different classes of Parties.

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7 Report Phase Consultation Responses

The Report Phase Consultation was circulated on Tuesday 15 February 2022, with comments welcome by Tuesday 1 March 2022 (10WDs). Industry were reminded to respond through the standard BSC communication channels.

We did not receive any response from Industry to the P435 Consultation.

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8 Recommendations

We invite the Panel to:

- **AGREE** that P435:
 - **DOES** better facilitate Applicable BSC Objective (d);
- **AGREE** that P435 does not impact the EBGL Article 18 terms and conditions held within the BSC;
- **AGREE** a recommendation that P435 should be **approved**;
- **APPROVE** an Implementation Date of:
 - **5WDs** after Authority decision;
- **APPROVE** the draft legal text ; and
- **APPROVE** the P435 Modification Report.

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