

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.

This Report Phase Consultation for P435 closes:

5pm on Tuesday 1 March 2022

The Panel may not be able to consider late responses.



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



Contact

Stanley Dikeocha

020 7380 4036

BSC.change@elexon.co.uk

Stanley.dikeocha@elexon.co.uk



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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 and 7
- Have 30 mins? Read all sections
- Have longer? Read all sections and the annexes and attachments

This is the P435 Draft Modification Report, which Elexon is issuing for industry consultation on the BSC Panel's behalf. It contains the Panel's provisional recommendations on P435. The Panel will consider all consultation responses at its meeting on 10 March 2022, when it will agree a final recommendation to the Authority on whether or not 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.
- Attachment B contains the specific questions on which the Panel seeks your views. Please use this form to provide your responses to these questions, and to record any further views/comments you wish the Panel to consider.

P435
Report Phase Consultation

15 February 2022

Version 1.0

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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](#). 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.

Impacts & Costs

Costs Estimates			
Organisation	Implementation (£k)	On-going (£k)	Impacts
Elexon	< 1k	0	Costs associated with updating BSC Section C
Industry	N/A	N/A	No impact
Total	<1k	0	

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.

Implementation

The Panel initially recommends an implementation Date for P435 of **five Working Days (+5WDs) after 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 '[P390](#) 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:

- Code manager for the Retail Energy Code (REC) – permitted via [P365](#), raised by Hudson Energy; and

- Gas Performance Assurance Framework Administrator (PAFA) – permitted via [P330](#) 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 2011](#) - 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 2015](#) – consequential changes to the BSC to allow Elexon, via EMRS to provide CfD and CM settlement services.

[EMRS](#) 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.

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 \(see pg.42\).](#)

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.

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 framework¹.

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

¹ We understand that funding for the preparatory work will be provided to LCCC/ESC via a grant from BEIS.



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.

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.

4 Impacts & Costs

Estimated implementation costs of P435

Costs will be assessed during this consultation. However, for those roles we believe will be impacted, we have indicated whether we believe the costs are likely to be high, medium or low based on the following categories. We invite you to validate and refine these estimates via this consultation:

- 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
BSCCo (Elexon)	This is primarily driven by the time and resources spent updating the BSC Section C	L

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	
No impact anticipated	

Impact on Code Subsidiary Documents	
CSD	Impact
No impact anticipated	

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>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>Add rationale and comments here</p>	Neutral
<p>3) Reduced environmental damage</p> <p>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>Add rationale and comments here</p>	Neutral
<p>5) Benefits for society as a whole</p> <p>Add rationale and comments here</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.

5 Implementation

Recommended Implementation Date

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

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

Report Phase Consultation Questions

Do you agree with the Panel's recommended Implementation Date?

The Panel invites you to give your views using the response form in Attachment C

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 3.14](#). 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 the solution is fully developed and is of inconsequential nature. 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.
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.

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 BNSC Parties it did not materially impact the Self-Governance criteria.



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 administering 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

Report Phase Consultation Questions

Do you agree with the Panel's initial unanimous recommendation that P435 should be approved?

Do you agree with the Panel's initial view that P435 should be treated as **not** a Self-Governance Modification?

The Panel invites you to give your views using the response form in Attachment C



The BSC Panel initially recommends to the Authority:

- That P435 should be **approved**;
- That P435 **does not** impact the EBGL Article 18 terms and conditions held within the BSC;
- That P435 is **not** a Self-Governance Modification Proposal;
- An Implementation Date for P435 of:
 - **5WDs** after Authority decision; and
- The draft BSC legal text for P435.

What is the Self-Governance Criteria?

A Modification that, if implemented:

(a) does not involve any amendments whether in whole or in part to the EBGL Article 18 terms and conditions; except to the extent required to correct an error in the EBGL Article 18 terms and conditions or as a result of a factual change, including but not limited to:

- (i) correcting minor typographical errors;
 - (ii) correcting formatting and consistency errors, such as paragraph numbering; or
 - (iii) updating out of date references to other documents or paragraphs;
- (b) 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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Appendix 2: Glossary & References

Acronyms

Acronyms used in this document are listed in the table below.

Acronyms	
Acronym	Definition
BEIS	Business Energy and Industrial Strategy
BSC	Balancing and Settlement Code
BSCCo	Balancing and Settlement Code Company
CfD	Contracts for Difference
CM	Capacity Market
EBGL	European Electricity Balancing Guideline
EMRS	Electricity Market Reform Settlement
ESC	Electricity Settlements Company
IWA	Initial Written Assessment
LCCC	Low Carbon Contracts Company
NETSO	National Electricity Transmission System Operator
PAFA	Performance Assurance Framework Administrator
REC	Retail Energy Code
SCR	Significant Code Review
SoS	Secretary of State
WD	Working Day

External links

A summary of all hyperlinks used in this document are listed in the table below.

All external documents and URL links listed are correct as of the date of this document.

External Links		
Page(s)	Description	URL
3, 6, 7, 11, 15	BSC Section C 'BSCCo and its Subsidiaries' Annex C-1	https://www.elexon.co.uk/the-bsc/bsc-section-c-bscco-subsidiaries/
6	Electricity Market Reform	https://www.elexon.co.uk/ord/ord005-electricity-market-reform/
7	P365 ` Enabling Elexon to tender for the Retail Energy Code (REC)	https://www.elexon.co.uk/mod-proposal/p365/
7	In 2020/21, this saved BSC Parties £932k	https://www.elexon.com/documents/about/finances-report-policies/business-plan/2022-23/elexon-business-plan-2022-23/

External Links		
Page(s)	Description	URL
8	P330 'Allowing Elexon to tender for the Uniform Network Code Gas Performance Assurance Framework Administrator (PAFA) role'	https://www.elexon.co.uk/mod-proposal/p330/
8	Warm Home Discount scheme	https://www.elexon.co.uk/ord/ord004-warm-home-discount-scheme/
8	Electricity Market Reform	https://www.emrsettlement.co.uk/
11	P390 'Allowing extensions to Elexon's business and activities, subject to additional conditions'	https://www.elexon.co.uk/mod-proposal/p390/