




BSC Modification Proposal Form		At what stage is this document in the process?
<p>Mod Title: Amendment to provisions for Parties to bring claims against BSC Agents in BSC Section E</p>	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid green; background-color: #28a745; color: white; padding: 5px; display: flex; align-items: center; justify-content: center;"> 01 Modification </div> <div style="border: 1px solid #17a2b8; padding: 5px; display: flex; align-items: center; justify-content: center;"> 02 Workgroup Report </div> <div style="border: 1px solid #6c757d; padding: 5px; display: flex; align-items: center; justify-content: center;"> 03 Draft Modification Report </div> <div style="border: 1px solid #fd7e14; padding: 5px; display: flex; align-items: center; justify-content: center;"> 04 Final Modification Report </div> </div>	
<p>Purpose of Modification:</p> <p>BSC Section E ‘BSC Agents’ paragraph 2.4.1 (and related provisions) allows Parties to bring claims against BSC Agents. These requirements, which have always been heavily caveated, have never been used. Moreover, their benefit to Parties has gradually eroded over time, due to the increased complexity in the delivery of BSC Agent services, resulting in the distribution of service delivery responsibilities across software developers, other Technology Services Providers, and BSC Agents. Exelon believe the increased cost of BSC Agent services arising from maintaining these provisions now exceeds any benefit Parties are ever likely to obtain from them, and the requirement should be removed entirely or replaced with an alternative mechanism for ensuring accountability of BSC Agents.</p>		
<p>Is this Modification likely 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 checked="" type="checkbox"/> No</p>		
	<p>Exelon recommends that this Modification should:</p> <ul style="list-style-type: none"> be raised by the Panel in accordance with provisions of Section F 2.1.1(d)(i); not be a Self-Governance Modification Proposal; and be assessed by a Workgroup and submitted into the Assessment Procedure. <p>Exelon will present this Modification to the BSC Panel on 11 April 2024. The Panel will consider whether to raise the Modification in accordance with BSC Section F 2.1.1(d)(i) and determine how best to progress the Modification.</p>	
	<p>High Impact: None.</p>	
	<p>Medium Impact: None.</p>	



Low Impact:
Elexon
BSC Parties
BSC Agents

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Any questions?

Contact:

Anshu Choudhary



Anshu.choudhary@elexon.co.uk



020 7380 4294

Proposer:

BSC Panel

Proposer's representative:

Lorna Lewin



Lorna.Lewin@elexon.co.uk



0207 380 4305

Timetable

The Proposer recommends the following timetable:

Initial consideration by Workgroup	W/C 06 May 2024
Assessment Procedure Consultation	01 August 2024 - 12 August 2024
Workgroup Report presented to Panel	12 September 2024
Report Phase Consultation	16 September 2024 - 27 September 2024
Draft Modification Report presented to Panel	10 October 2024
Final Modification Report submitted to Authority	16 October 2024

1 Why Change?

What is the issue?

BSC Section E2.4.1 (and related provisions) require that BSC Agent Contracts (between Elexon and the BSC Agents delivering BSC Services) should include terms allowing BSC Parties to bring claims directly against BSC Agents (for losses they suffer as a result of service failures).

These provisions were introduced at go-live of the New Electricity Trading Arrangements (NETA) in 2001, when the model for delivery of BSC Agent services was simpler, and a single service provider was much more directly responsible for delivery of the entire service, because:

- The new IT systems introduced for NETA were greenfield developments with minimal interfaces to legacy systems;
- The BSC Agent contract was much broader in scope, covering various aspects including business process operation, application maintenance and development, and hosting infrastructure; and
- The BSC Agent contract specified the service as a 'black box', with the BSC Agent committed to delivering specified business outcomes in Service Descriptions, with flexibility in choosing the method of delivery.

Since 2001 the delivery model has become significantly more complex, with a trend (accelerating in recent years) for the responsibilities of the BSC Agent to reduce and/or become shared with other parties:

- For many years, the maintenance and development of IT systems has been separated out from the BSC Agent role, and potentially provided by a third party. The BSC Agent has typically undertaken significant acceptance testing activity prior to putting amended software into operational use, but we are now looking to reduce our reliance on manual acceptance testing in order that Parties can benefit from more modern software testing practices (such as test automation and continuous integration);
- More recently, the migration of computation and data to the cloud has removed the need for the BSC Agent to provide hosting services. BSC Modification P456 ('Enable Elexon to procure [ancillary Technology Services for use by BSC Agents](#)') removed any requirement for the BSC Agent to procure these cloud services, further reducing the scope of the BSC Agent role; and
- New technology delivered by the 'Elexon Kinnect' programme has replaced manual processes with online self-service processes, reducing the need for the BSC Agent to operate manual business processes (to handle registrations and other customer interactions).

All these changes have reduced the scope of the traditional BSC Agent role, but contracts have not changed to reflect that, due to the Section E requirement that Elexon contract to deliver the Service Description.

This gradual shift in the nature of the BSC Agent role has undermined the value of the E2.4.1 requirements, by reducing the benefit they offer to Parties, while also potentially making them more difficult to implement:

- The changed model for delivery of BSC Agent services means that a BSC Agent is more constrained in how services are delivered, and therefore the contractual terms holding them liable for failure to deliver have to be subject to caveats that reflect that. In practice this would make any attempt by a Party to take action against a BSC Agent more complex and risky.
- At the same time, potential ambiguity and doubt over the extent to which Parties could take action under the E2.4.1 requirements may increase the perceived risk of entering into BSC Agent

contracts and potentially deter some potential service providers from taking on the role. This may reduce the value for money that Parties can obtain from BSC Agent contracts.

This potential issue has not prevented Elexon from modifying the current BSC Agent contract to allow for implementation of Elexon Kinnect (possibly because the incumbent BSC Agent has a deeper understanding of the potential risks than potential new service providers would).

However, Elexon believe it could have a material impact on the value for money that can be achieved from any new BSC Agent contracts. The first such instance of this will arise later this year, when we are required to appoint a BSC Agent to operate the new BSC Central Systems needed for Market Wide Half-Hourly Settlement (MHHS), so that these systems can be moved to live operation for the start of MHHS transition. These new systems include the Load Shaping Service (LSS), Market-wide Data Service (MDS) and Volume Allocation Service (VAS).

Desired outcomes

The desired outcome is to amend BSC Section E to remove the requirement for Parties to be able to bring claims against BSC Agents. There will of course still be provisions in BSC Agent contracts that allow them to be held to account for any failure to provide the contracted service, but these will be more in line with those in a typical commercial contract (whereas the right for third parties to bring claims is unusual, and likely to deter some potential service providers). Elexon expect this to lead to reduced costs for BSC Parties (and ultimately consumers, to the extent that these costs are passed through) whenever Elexon procures new BSC Agent contracts.

This includes the procurement of new or amended BSC Agent contracts for delivery of Supplier Volume Allocation services for migrated MHHS Metering Systems; and the re-procurement of many of the key BSC Agent services when the current contracts end in 2026.

Solution

Proposed Solution

It is proposed to remove the requirements for Parties to be able to bring claims against BSC Agents in order to facilitate agreeing good terms with these service providers.

It is also proposed that Workgroups will be able to consider any other mechanisms that may be needed to provide Parties with Assurance.

This could be achieved via a change to the legal text concerning BSC Agent provisions in Section E, however an industry Workgroup will be brought together to consider the most appropriate solution, consider any unintended consequences and reaffirm views against the BSC Objectives.

Other Related Modifications

This is one of two Modifications to Section E that Elexon will be presenting to the BSC Panel on 11 April. The other Modification ('Amendment to BSC Section E to allow more flexibility in procurement of BSC Agents') seeks to give Elexon more flexibility in how it appoints BSC Agent(s) to operate the new BSC Central Systems required for MHHS. Elexon believe the two Modifications are largely independent of each other, although each will help facilitate the timely and cost-effective establishment of the new contractual requirements required before MHHS transition can begin.

Benefits

This Modification is expected to reduce the contracted costs of any future BSC Agents appointed to deliver BSC Service Description (by reducing the perceived risk for service providers of entering into such contracts. This will directly reduce costs for BSC Parties (and potentially reduce costs for consumers, to the extent that Parties pass on these cost savings).

The Proposed solution is also expected to benefit implementation of the MHHS Programme by reducing the cost of procuring any new BSC Agent contracts.

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	Neutral
(b) The efficient, economic and co-ordinated operation of the National Electricity Transmission System	Neutral
(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	Neutral
(d) Promoting efficiency in the implementation of the balancing and settlement arrangements	Positive
(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]	Neutral
(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	Neutral
(g) Compliance with the Transmission Losses Principle	Neutral

This Modification is expected to reduce the likelihood that entering into a BSC Agent contract is perceived by potential service providers as bringing financial risks that are hard to quantify and potentially unreasonable.

This will reduce the cost of procuring any new BSC Agent contracts (starting with the services required for MHHS transition), having a positive impact on Applicable BSC Objective (d).

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"/> Retail Energy Code	<input type="checkbox"/> Transmission License	<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"/> Other (please specify)	

No impact on Core Industry Documents.

Impacts on BSC Systems

Impacted Systems				
<input type="checkbox"/> CRA	<input type="checkbox"/> CDCA	<input type="checkbox"/> PARMS	<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"/> ECVAA	<input type="checkbox"/> ECVAA Web Service	<input type="checkbox"/> Elexon Portal	<input type="checkbox"/> Other (Please specify)	

No impact on BSC Systems.

Impacts on BSC Parties

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

There is little direct impact on BSC Parties, but they will all be indirectly impacted through:

- Losing the contractual right to take action directly against future BSC Agents. The Workgroup should consider what other measures (if any) might be appropriate to mitigate the impact of this on Parties.
- For those Parties who contribute to Elexon's Main Funding Share (such as Suppliers and Generators), cost savings arising from avoided costs in future BSC Agent contracts.

Impacts on consumers and the environment

Impact of the Modification on consumer benefit areas:	
Consumer benefit area	Identified impact
Improved safety and reliability	Neutral
<p>Lower bills than would otherwise be the case</p> <p>We expect this Modification to reduce the costs paid by BSC Parties in future, by widening the pool of service providers competing for BSC Agent contracts and reducing the risks that potential service providers need to price into their bids for providing these services. These avoided costs will also potentially reduce consumer bills (to the extent that BSC Parties are able to pass on the costs of operating the BSC to consumers).</p>	Positive
Reduced environmental damage	Neutral
Improved quality of service	Neutral
Benefits for society as a whole	Neutral

Legal Text Changes

Changes will be required to BSC Section E. Elexon has not developed draft legal text at this stage but will do so following initial discussion of the proposed solution with an industry Workgroup.

Governance

Self-Governance

<input checked="" type="checkbox"/> Not Self-Governance – A Modification that, if implemented:	
<input checked="" 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	

This Modification does materially impact the Code’s governance procedures relating to procurement of BSC Agents detailed in Section E, and therefore is not suitable for a Self-Governance progression route (Ofgem to make decision on whether to approve or reject).

Progression route

<input checked="" 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	

Ideally this Modification Proposal should be progressed relatively quickly, in order that it can be implemented before new BSC Agent contracts required for MHHS transition are required to become operational. However, this need for a rapid progression timetable should be balanced with the need for appropriate Workgroup discussion.

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

This Modification does not directly impact an SCR (although it is expected to lower the cost of implementing new BSC arrangements required for MHHS, which is itself being implemented through an SCR).

Does this modification impact the code drafting and system development for Market wide Half Hourly Settlement (MHHS), if so, how?

This Modification does not impact the code drafting or system development for MHHS, although it will impact the contractual provisions with new BSC Agents required to put MHHS systems into live operation. These contractual arrangements are the responsibility of Elexon (as a market participant), not the MHHS Programme.

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

No, we do not expect this Proposal to impact EBGL. This will be validated once the legal text has been agreed.

Implementation approach

This is a documentation-only change with no significant implementation costs. It should be implemented promptly following an Ofgem decision to avoid any delay to agreement of BSC Agent contracts required for MHHS transition.