

Stage 01: Initial Written Assessment

What stage is this document in the process?

01 Initial Written Assessment

02 Definition Procedure

03 Assessment Procedure

04 Report Phase

P268 'Clarify the P/C status process for exempt BM Units'

P268 will amend the provisions of BSC Section K to ensure that the Production/Consumption (P/C) Status of an Exempt Export BM Unit is only changed if the Lead Party explicitly agrees/instructs.

It also seeks to remove an inconsistency between the BSC and the Central Registration Agent (CRA) Service Description.

The Proposer is requesting a retrospective implementation.



ELEXON recommends:
A 4-month Assessment Procedure by a Workgroup



High Impact:
Lead Parties for Exempt Export BM Units (embedded generators)



Medium Impact:
The Central Registration Agent and ELEXON

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About this document:

This document is an Initial Written Assessment (IWA), which ELEXON will present to the BSC Panel on 10 February 2011. The Panel will consider the recommendations and will agree how to progress P268.

Further information is available in the P268 Modification Proposal, which is **Attachment A** to this document.



Any questions?

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Background: P/C Status and BSC Section K

Each Balancing Mechanism (BM) Unit has a **Production/Consumption (P/C) Status**. This is important for Settlement, as it determines which Energy Account the BM Unit's net Metered Volume is allocated to. A 'Production' Status will result in Metered Volumes being allocated to the Production Energy Account, and a 'Consumption' Status to the Consumption Account.¹

Section K3 of the Balancing and Settlement Code ('the Code') contains rules on how a BM Unit's P/C Status is determined.

The rules within Section K3 for determining P/C Status are different for Exempt Export BM Units compared with other BM Units. The following explains how.

How does Section K determine P/C Status for other BM Units?

Single BM Units not in a Trading Unit with other BM Units

If a BM Unit is not in a Trading Unit with any other BM Unit(s) (i.e. it forms a Sole Trading Unit on its own), the Central Registration Agent (CRA) determines the P/C Status for the BM Unit according to the BM Unit's **Relevant Capacity**.

Lead Parties submit **Generation Capacity** (GC) and **Demand Capacity** (DC) values for each of their BM Units in each BSC Season. These values are based on the Lead Party's estimates of the expected maximum generation (a positive value) and maximum demand (a negative value) for the BM Unit in any Settlement Period of the Season. Lead Parties must resubmit these estimates during a Season if they identify that the maximum generation and/or maximum demand is likely to exceed their original estimate by more than the amount specified in BSC Section K3.

If a BM Unit in a Sole Trading Unit has an estimated GC which is greater than its estimated DC (i.e. the sum of its GC and DC is positive and greater than zero), then its Relevant Capacity is GC and its P/C Status is Production. If the BM Unit's estimated DC is greater than its estimated GC (i.e. the sum of its GC and DC is equal to or less than zero), then its Relevant Capacity is DC and its P/C Status is Consumption.

BM Units in a Trading Unit with other BM Units

If a BM Unit forms part of a **Trading Unit** with one or more other BM Units, then the P/C Status for the BM Units in that Trading Unit is determined at a Trading Unit level.

For example, if the sum of the Relevant Capacities for all the BM Units in the Trading Unit is equal to or less than zero, then the P/C Status for that Trading Unit and all of its BM Units is determined as Consumption.

The P/C Status of a BM Unit is redetermined on each occasion on which:

- The BM Unit joins or leaves a Trading Unit;
- Another BM Unit joins or leaves the Trading Unit to which the BM Unit belongs; or
- There is any change in the GC or DC of any of the BM Units which belong to that Trading Unit.

What is...?

An Exempt Export BM Unit?

A BM Unit which comprises Exemptable Generating Plant, for which the Lead Party is the Party responsible for the Export (generation) from that plant.

An Exemptable Generating Plant?

A Generating Plant where the person generating electricity at that Generating Plant is, or would (if it generated electricity at no other Generating Plant and/or did not hold a Generation Licence) be, exempt from the requirement to hold a Generation Licence.

A Trading Unit?

A combination of BM Units, which may have the same or different Lead Parties. A single BM Unit on its own is called a Sole Trading Unit.

A Lead Party?

The Party who registers a BM Unit and is responsible for its Export (generation) or Import (demand). For a Licensable Generating Plant, the responsible Party for any Export/Import (and therefore the Lead Party for its associated BM Units) is the Party which generates electricity at that plant. For Exemptable Generating Plant, the person generating electricity at that plant can elect either itself or another Party to be responsible for its Export and associated Exempt Export BM Unit.

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¹ This will be the relevant Energy Account belonging to the Lead Party, unless the Lead Party has a Metered Volume Reallocation Notification (MVRN) in place to reallocate the Metered Volume to another Party.

How does Section K determine P/C Status for Exempt Export BM Units?



What is...?

A Base Trading Unit?

Each GSP Group has a Base Trading Unit.

The following BM Units automatically belong to a Base Trading Unit:

- All Supplier BM Units within that GSP Group; and

- All Exempt Export BM Units within that GSP Group, unless a Lead Party has elected to register their Exempt Export BM Unit in a different Trading Unit.

An exception to the above rules is Exempt Export BM Units belonging to embedded generators. **Approved Modification P100**² was implemented in 2003. This introduced the rule that each Exempt Export BM Unit should by default belong to the **Base Trading Unit** for its GSP Group in the absence of an election to the contrary by the Lead Party. If the Lead Party elected not to be part of the Base Trading Unit, then it could elect that the BM Unit formed a Sole Trading Unit or joined another Trading Unit instead.

Prior to P100, Lead Parties for Exempt Export BM Units which were not in a Trading Unit with other BM Units (i.e. which were Sole Trading Units) could independently elect (choose) their P/C Status. The pre-P100 wording in BSC Section K stated that in the absence of such an election by the Lead Party, the BM Unit's P/C Status would be determined according to its Relevant Capacity. P100 extended this ability to Exempt Export BM Units in other types of Trading Units (e.g. those in Base Trading Units), allowing their Lead Parties to independently elect their P/C Status. The default rule introduced by the P100 drafting was that in the absence of such an election, the P/C Status for the Exempt Export BM Unit would be determined according to the sum of the Relevant Capacities for all BM Units in its Trading Unit (i.e. set at a Trading Unit level).

The BSC drafting implemented by P100 appears in Sections 3.5 and 4.7 of the current version of Section K. You can find a copy of these provisions in Appendix 1.³

P100 also implemented changes to Balancing and Settlement Code Procedures (BSCPs) 15 and 31,⁴ the Interface Definition and Design (IDD) document and reporting catalogues, the CRA Service Description and other CRA systems documentation. The wording which P100 introduced in the CRA Service Description no longer appears in the current version of this document; the wording was amended by **Change Proposal 1228**⁵ in 2008. You can find copies of the original P100 wording and the current Service Description provisions in Appendix 1, as well as extracts from the BSCPs.

What issue/defect does the Proposer identify?

The Proposer believes that the current wording of Section K3 is deficient.

This is because:

- K3.5.5 refers to an Exempt Export BM Unit's P/C Status being automatically set to the overall Trading Unit P/C Status in the absence of an election by the Lead Party. The Proposer believes it is inappropriate for an Exempt Export BM Unit's P/C Status to be changed without the Lead Party's explicit agreement/instruction, because of the potential impact on its trading position. If the Lead Party's contract notifications and Metered Volumes are not aligned to the same Energy Account, the Party will be exposed to imbalance.
- The Proposer believes that K3.5.5 does not allow adequate time for any election by the Lead Party to become effective before the Exempt Export BM Unit's P/C Status is automatically set, because of the 28 days' notice requirement.

² [P100](#) 'Extension of Demand-side Trading Units in order to increase the Competitiveness of the Market for Embedded Benefits'.

³ You can find a copy of the original P100 redlined changes to the Code [here](#).

⁴ BSCP15 'BM Unit Registration' and BSCP31 'Registration of Trading Units'.

⁵ [CP1228 'CRA Service Description Re-write'](#).

- The Proposer considers that Section K3 is ambiguous as to the treatment of an Exempt Export BM Unit in the situation where the BM Unit had previously been another type of BM Unit (i.e. not Exempt Export) and already held an existing P/C Status. The Proposer believes that a Lead Party would naturally assume that no further 'election' is required to retain that P/C Status.
- The Proposer highlights an inconsistency between the wording of Section K3 and the CRA Service Description, in that Section 5.1.9 of the current Service Description only refers to the P/C Status being changed for an Exempt Export BM Unit following an instruction from the Lead Party. The Proposer believes that there may have been flaws in the P100 drafting which led to this inconsistency. The Proposer considers that the uncertainty caused by any inconsistency and/or ambiguity disproportionately impacts new entrants who are less familiar with BSC procedures, and are therefore exposed to risks and potentially significant costs. The Proposer believes that the inconsistency between the Code and the Service Description exacerbates the situation described above. The Proposer considers that a Lead Party reading both the Code and Service Description would draw the conclusion that no further 'election' is required.

The Proposer highlights recent **Trading Dispute DA375**. The Trading Disputes Committee (TDC) and the Panel found that no Settlement Error had occurred under DA375, as they determined that the wording of the Code had been followed. The Proposer believes that DA375 illustrates deficiencies in the Code wording, inconsistencies between the Code and Code Subsidiary Documents, and how these can lead to adverse financial consequences for Parties.



What are the Applicable BSC Objectives?

- The efficient discharge by the Transmission Company of the obligations imposed upon it by the Transmission Licence
- The efficient, economic and co-ordinated operation of the National Electricity Transmission System
- 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
- Promoting efficiency in the implementation of the balancing and settlement arrangements

2 Solution

What solution does P268 propose?

P268 seeks to:

- Correct the deficiencies which the Proposer identifies in the wording of Section K of the Code;
- Ensure that the process to be followed under the BSC is clear; and
- Eliminate the conflict which the Proposer identifies between the wording of the Code and the CRA Service Description.

In particular, P268 seeks to ensure that the P/C Status for an Exempt Export BM Unit is only changed if the Lead Party explicitly agrees/instructs.

The Proposer has provided suggested legal text to amend Section K (see Annex 1 of the Modification Proposal form in Attachment A), but notes that a Workgroup may consider that other changes are necessary and may identify alternative means of addressing the defect. The Proposer suggests that the Workgroup should also review the provisions of the CRA Service Description and other Code Subsidiary Documents, which may require revision to remove any inconsistencies and to reflect the P268 solution.

The Proposer considers that P268 will better facilitate the achievement of **Applicable BSC Objectives (c) and (d)**, by providing certainty regarding the interpretation of the Code, the process to be followed and the obligations of BSC Parties and ELEXON. The Proposer believes this will reduce inefficiency and costs to Parties.

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Why is the Proposer seeking retrospection?

The Proposer requests that P268 is applied retrospectively back to at least 1 April 2010, when the events covered by DA375 first occurred.

The Proposer suggests that a Workgroup may wish to consider the merits of alternative retrospective dates, such as the implementation of P100 in 2003.

The Proposer argues that retrospection is justified in this instance. This is because:

- The Proposer considers that the financial consequences of the events covered by DA375 were significant (both in absolute terms and in relation to the Party's trading base);
- The Proposer notes that the Trading Disputes process is itself retrospective, and argues that ambiguities in BSC documentation only become apparent after the event; and
- The Proposer is confident that no other Party would be impacted through retrospective rectification, and believes there is therefore no risk of a disorderly market as a consequence.

The Proposer believes that a retrospective implementation would not breach the various principles highlighted by the Authority in the past when considering retrospective changes such as **Approved Modification P210**.⁶ The Proposer:

- Considers that the situation occasioning the loss to the Lead Party was directly attributable to central arrangements; and
- Argues that the interaction of circumstances could not have reasonably been foreseen, and believes that the provisions of K3.5.5 may have arisen because of faulty legal drafting for P100.

The Proposer notes that a Workgroup may wish to consider a prospective (forward-looking) implementation approach as a possible Alternative Modification.



What criteria has Ofgem previously used for retrospection?

"The particular circumstances which could give rise to the need for a retrospective rule change could, for instance, include:

- A situation where the fault or error occasioning the loss was directly attributable to central arrangements;
- Combinations of circumstances that could not have been reasonably foreseen; or
- Where the possibility of a retrospective action had been clearly flagged to participants in advance, allowing the detail and process of the change to be finalised with retrospective effect."

3 Things to consider

In this section we highlight areas which we believe the Panel should consider when making its decision on how to progress this Modification Proposal. If P268 goes into the Assessment Procedure, then we recommend that the areas below form the basis of the Workgroup's Terms of Reference.

What changes are needed to support the P268 solution?

To deliver the P268 solution, and to remove any existing inconsistencies, changes may be required not just to the BSC but to various Code Subsidiary Documents and possibly to central ELEXON/BSC Agent systems and processes. The specific changes required will need to be identified, along with any associated lead times and costs. This will include reviewing the Proposer's suggested BSC drafting.

There are potentially several ways (not necessarily mutually exclusive) in which the intention of P268 can be delivered. For example:

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⁶ [P210](#) 'Revisions to the Text in Section P related to Single Notifications of Energy Contract Volumes and Metered Volume Reallocations'.

- (Re-)registration of Exempt Export BM Units does not occur with high frequency or in high volumes. Should the process be amended to include a manual check which explicitly asks the Lead Party to confirm/agree its intended P/C Status (e.g. when the Lead Party provides its certification of Exempt Export Status)?
- It can be good working practice to put in place a default rule wherever there is a manual process step that can be omitted (either in error or because it is optional). The current default rule in BSC Section K3 for an Exempt Export BM Unit is to determine its P/C Status according to the overall Trading Unit status, if the Lead Party does not elect a particular P/C Status. Should the default rule be amended so that an Exempt Export BM Unit's P/C Status is not determined according to its Trading Unit's status unless the Lead Party has explicitly elected that it wishes this to happen (i.e. requiring a positive election rather than the absence of an election to the contrary)? How would this affect any Exempt Export BM Units whose Lead Parties wish their P/C Status to be determined according to their Trading Unit status?
- Should it be the Lead Party's election of how it wishes its P/C Status to be calculated which should not change without its agreement/instruction, or the P/C Status itself which is determined by that election? For example, a Lead Party may wish its P/C Status to be determined at the Trading Unit level and may make a positive election to that effect (see explanation in Appendix 1). Its P/C Status will then be dynamically determined, and may change, according to the Trading Unit's P/C Status. In this situation, would the Lead Party be required to agree each dynamic redetermination of its P/C Status before this could take effect in Settlement?
- When and how a Lead Party is notified of changes in its P/C Status can affect the Party's ability to act on this information. Are the current communication methods appropriate?

Is there a case for retrospection?

The impacts and merits of retrospection need to be assessed, compared with those of a prospective (forward-looking) implementation. This should include examination of the criteria which the Authority has previously used in considering other retrospective changes (e.g. [P141](#), [P210](#), [P235](#) and [P248](#)).

The Modification Proposal identifies the situation of a particular Trading Party. There may also be other Parties with Exempt Export BM Units who have historically had their P/C Status determined according to their Trading Unit's overall status (either because they have not made an election to the contrary, or because they have positively elected this as their preferred trading option). The impact of a retrospective implementation on these other Parties will need to be considered.

The appropriateness of different possible retrospective Implementation Dates (e.g. 1 April 2010, the P100 Implementation Date in 2003 or another date) should also be assessed.

What are the impacts on, and benefits to, embedded generators?

Currently, a Lead Party's trading options for an Exempt Export BM Unit are affected by:

- Whether the Lead Party elects not to form part of a Base BM Unit and, if so, whether it elects to be a Sole Trading Unit or part of another Trading Unit; and
- Whether the Lead Party makes a P/C Status election for its BM Unit and, if so, what election it makes.

You can find more detail of the different elections available to a Lead Party (and the default rules which apply in the absence of any election) in Appendix 1.

The choice of, or absence of, election can affect not just how the BM Unit's P/C Status is determined (and therefore what Energy Account its Metered Volumes are allocated to) but also how Credit Cover is calculated and the application of MVRNs.

The impact of P268 on a Exempt Export BM Unit's trading options will therefore need to be considered carefully. We will actively seek embedded generators' engagement in the progression of P268.

4 Proposed progression

What are the recommended next steps?

ELEXON recommends that a Workgroup carries out further assessment of P268.

The proposed solution is well-defined; therefore we are not recommending a Definition Procedure. However, we believe the proposal would benefit from further assessment by a Workgroup. In the Modification Proposal, the Proposer invites a Workgroup to consider certain areas (such as the case for retrospection) further. The Workgroup will need to confirm the extent of any impacts on BSC Systems, processes and documentation. It will also need to establish the views of, impacts on, and benefits for embedded generators.

The Proposer is not requesting that P268 is progressed as a Self-Governance Modification, and we agree that it does not meet the criteria for self-governance because of its materiality for Parties and potential retrospection. We agree with the Proposer that P268 has no interaction with the current gas Significant Code Review (SCR).

Workgroup Terms of Reference

We recommend that a Workgroup considers the following areas:

P268 Terms of Reference
What changes to BSC documentation, systems and processes are needed to support P268?
Are there other alternative means of addressing the defect?
Is there a case for retrospection under the Proposed Modification, and what is the appropriate retrospective Implementation Date (e.g. 1 April 2010, P100 Implementation Date, or another date)? The workgroup may wish to consider a potential Alternative Modification which would apply prospectively.
What are the impacts on, and benefits to, embedded generators?

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We recommend that membership of the Workgroup is drawn from individuals with expertise in BM Unit and Trading Unit registrations, and knowledge/experience of how different registration choices and P/C Status can affect embedded generators' trading options. We will invite participation from existing/previous groups with expertise in this area, such as the **Settlement Standing Modification Group** ([SSMG](#)) and the **Standing Issue 38 group**.⁷

Timetable

We recommend that P268 undergoes a 4-month Assessment Procedure.

On the following page we show the full list of activities we believe the Workgroup will need to complete in assessing P268, and how the timescales compare under a 3-month and a 4-month Assessment Procedure timetable.

We believe a 4-month timetable is appropriate in this instance because:

- There are two 4-day bank holiday weekends, a week apart, in late April and early May. Under a 3-month Assessment Procedure, the group would lose 4 Working Days of time in the period running up to the May Panel paper day.
- A 3-month timetable would also require the group to hold a meeting in the 3-Working Day period between the two bank holiday weekends, when there is a possibility that some members may be unavailable due to leave.
- Because of the bank holidays, it is not possible under a 3-month timetable for the industry consultation period to be longer than 10WDs unless the BSC Agent/ ELEXON impact assessment and the consultation run in parallel. We recommend completing the impact assessment before the consultation, so that the consultation can include details of any central impacts and costs. We note our obligation under the Code Administration Code of Practice (CoP) to allow Parties reasonable time to respond to consultations. We also note that P268 will impact embedded generators, many of whom may be small Parties. Because of this, and the potential retrospective implementation of P268, we believe a 15WD consultation period (and therefore a 4-month assessment) is necessary for this Modification Proposal.
- A 4-month timetable will also give the group flexibility to hold an additional meeting. This may be necessary for the group to fully consider the complexity of how P/C Status interacts with embedded generators' trading options.

The Code allows the Panel to set an Assessment Procedure timetable which is longer than 3 months where the Panel believes this is justified by "the particular circumstances of the Modification Proposal (taking due account of its complexity, importance and urgency)" (F2.2.9), and provided the Authority does not issue a contrary direction.

⁷ [Issue 38](#) 'Potential Improvements to Credit Checking Rules to Support High Levels of Embedded Generation in North Scotland'.

3-month Assessment Procedure timetable	
Assessment Activity	Date
Workgroup meeting 1	Thurs 17 February (5WDs after Panel meeting)
Draft requirements for impact assessment (incl. group review)	Fri 18 February – Thurs 3 March (10WDs)
ELEXON/BSC Agent impact assessment	Fri 4 – Thurs 17 March (10WDs)
Workgroup meeting 2	Weds 23 March
Draft consultation document (incl. group review)	Thurs 24 March – Weds 6 April (10WDs)
Industry consultation/ Party impact assessment	Thurs 7 April – Thurs 21 April (10WDs)
Workgroup meeting 3	Weds 27 April (Fri 22 April & Mon 25 April are bank holidays)
Draft Assessment Report (incl. group review)	Thurs 28 April – Thurs 5 May (4WDs as Fri 29 April & Mon 2 May are bank holidays)
Submit Assessment Report to Panel	Fri 6 May 2011
Present Assessment Report to Panel	Thurs 12 May 2011

4-month Assessment Procedure timetable	
Assessment Activity	Date
Workgroup meeting 1	Tues 22 February (8WDs after Panel meeting)
Workgroup meeting 2 (if needed)	Weds 23 February
Draft requirements for impact assessment (incl. group review)	Thurs 24 February – Tues 8 March (9WDs)
ELEXON/BSC Agent impact assessment	Weds 9 – Tues 22 March (10WDs)
Workgroup meeting 3	Thurs 24 March
Draft consultation document (incl. group review)	Fri 25 March – Thurs 7 April (10WDs)
Industry consultation/ Party impact assessment	Weds 8 April – Weds 4 May (15WDs because of the four bank holidays)
Workgroup meeting 4	Tues 10 May
Draft Assessment Report (incl. group review)	Weds 11 May – Thurs 2 June (16WDs because of bank holiday on Mon 30 May)
Submit Assessment Report to Panel	Fri 3 June 2011
Present Assessment Report to Panel	Thurs 9 June 2011

Estimated progression costs

The following table contains our estimates of the costs involved in progressing P268 through the Modification Procedures.

Estimated progression costs based on proposed 4-month Assessment timetable	
Meeting costs (including Modification Group member expenses)	£2,000 (based on 4 meetings)
Non-ELEXON legal and expert costs	£0
ELEXON resource	50 man days, equating to £12,000

The ELEXON resource cost is an estimate of how much time and effort it will take us to progress P268 through the Assessment and Report phases. This includes time supporting industry groups, drafting documentation and producing legal text.

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Below is our estimate of the cost incurred by the industry in assessing P268:

Estimate of total industry assessment costs					
Workgroup support	Est #mtgs	Est # att	Est effort	Est rate	total
	4	5	1.5	605	£18,150
Consultation response support	Est #con	Est # resp	Est effort	Est rate	total
	10	6	2.5	605	£30,250
Total					£48,400

Meeting costs reflect an estimate of how many Workgroup meetings will be held and the industry effort of supporting these meetings. The calculation is based upon an average number of members (5) each putting in 1.5 man days (MDs) of effort per meeting. This effort is multiplied by a standard rate of £605 per man day. The result is:

$$4 \text{ Workgroup meetings} \times 5 \text{ attendees} \times 1.5 \text{ MDs effort} \times £605 = \textbf{£18,150}$$

Consultation costs represent an approximation of industry time and effort in responding to consultations. The calculation is based upon an estimate of how many responses we will receive and assumes each response will take 2.5 man days of effort, again multiplied by a standard rate of £605 per man day. The result is:

$$10 \text{ responses} \times 2.5 \text{ MDs effort} \times £605 \times 2 \text{ consultations} = \textbf{£30,250}$$

5 Likely impacts

Impact on BSC Systems and process

BSC System/Process	Potential impact
CRA systems and processes	Changes may be required to amend how the CRA sets the P/C Flag (and thereby determines P/C Status) for Exempt Export BM Units.

Impact on BSC Parties and Party Agents

Lead Parties of Exempt Export BM Units (embedded generators) will be impacted, and may need to explicitly elect their desired P/C Status if they have not previously done so.

Impact on ELEXON

Area of ELEXON's business	Potential impact
BM Unit/Trading Unit registration	Changes to ELEXON's working practices may be needed (e.g. if P268 requires ELEXON to obtain explicit P/C Status elections from each Lead Party with Exempt Export BM Units).

Impact on Code

Code section	Potential impact
BSC Section K	Changes will be required to implement the P268 solution.

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Impact on Code Subsidiary Documents

CSD	Potential impact
BSCPs 15 and 31	Changes may be required to implement the P268 solution, as these BSCPs contain the detailed processes to deliver the Section K provisions.
CRA Service Description	Changes may be required to remove the identified inconsistency with Section K3, and to implement the P268 solution.
Data/reporting catalogues	May be impacted if P268 amends the way in which Lead Parties are notified of changes in P/C Status.

Recommendation

ELEXON recommends a 4-month Assessment Procedure for P268.

Impact on other Configurable Items

Configurable Item	Potential impact
CRA systems documentation (e.g. User Requirements Specification)	Changes may be required to reflect the P268 solution.
IDD	May be impacted if P268 amends how Lead Parties are notified of P/C Status changes.

6 Recommendations

On the basis of this IWA, ELEXON invites the Panel to:

- DETERMINE that Modification Proposal P268 progresses to the Assessment Procedure;
- AGREE the Assessment Procedure timetable such that an Assessment Report should be completed and submitted to the Panel at its meeting on 9 June 2011;
- DETERMINE that the P268 Modification Group should be formed from members with relevant expertise in BM Unit and Trading Unit registration choices for embedded generators; and
- AGREE the Modification Group's Terms of Reference.

7 Further information

Further details of the Code and Code Subsidiary Document provisions are included in **Appendix 1**.

You can find the Proposer's full views in the P268 Modification Proposal form, which is **Attachment A** to this document.

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BSC Section K3 (current version)⁸

"3.5 Trading Units and Production and Consumption BM Units"

- 3.5.1 *A BM Unit shall be classified as a "Production" or a "Consumption" BM Unit (the applicable such classification at any time being referred to as the "**P/C Status**" of a BM Unit).*
- 3.5.2 *Subject to paragraph 3.5.4, 3.5.5 and 3.5.6, a BM Unit shall be a Production BM Unit where it belongs to a Trading Unit for which the sum of the Relevant Capacities, for all BM Units which belong to that Trading Unit, is positive and greater than zero; and otherwise shall be a Consumption BM Unit.*
- 3.5.3 *The P/C Status of a BM Unit shall be redetermined on each occasion on which:*
- (a) the BM Unit joins or leaves a Trading Unit;*
 - (b) another BM Unit joins or leaves the Trading Unit to which the BM Unit belongs; or*
 - (c) there is any change in the Demand Capacity or Generation Capacity of any of the BM Units which belong to that Trading Unit.*
- 3.5.4 *In accordance with paragraph 5, the P/C Status of an Interconnector BM Unit will not change at any time.*
- 3.5.5 *In the case of an Exempt Export BM Unit, irrespective of the Trading Unit to which the BM Unit belongs, the Lead Party may from time to time elect, by notice to BSCCo and the CRA, whether the P/C Status of the BM Unit is to be Production or Consumption, provided that:*
- (a) no such election shall be effective until 28 days (or if later the effective date requested by the Lead Party) after such notice was given to BSCCo and the CRA;*
 - (b) in the absence of such an election, the P/C Status of the BM Unit shall be determined in accordance with paragraph 3.5.2.*

4.7 Base Trading Units

- 4.7.1 *There shall automatically be established a Trading Unit (a "**Base Trading Unit**") in respect of each GSP Group.*
- 4.7.2 *Subject to paragraph 4.7.3:*
- (a) each Supplier BM Unit shall automatically belong to the Base Trading Unit for the relevant GSP Group; and*
 - (b) each Exempt Export BM Unit in a GSP Group shall automatically belong to the Base Trading Unit for that GSP Group.*

⁸ You can download the full 'live' provisions of Section K on our website [here](#). You can find a copy of the original P100 redlined changes to the Code [here](#).

4.7.3 *The Lead Party of an Exempt Export BM Unit may, by notice in writing to the CRA and BSCCo in accordance with (and with effect as specified in) BSCP31, elect that the BM Unit shall not belong to the applicable Base Trading Unit, in which case the Trading Unit to which such BM Unit belongs shall be determined in accordance with paragraphs 4.2 to 4.6 (or where applicable paragraph 4.1.3).*

4.7.4 *The Lead Party of an Exempt Export BM Unit may, by notice in writing to the CRA and BSCCo in accordance with (and with effect as specified in) BSCP31, withdraw an election under paragraph 4.7.3."*

Code Subsidiary Documents⁹

BSCP15 'BM Unit Registration'

BSCP15 Section 3.12 states that a Lead Party wishing to make a P/C Status election for an Exempt Export BM Unit should complete form 4.8.

This form allows the Lead Party to elect one of the following three options for its **P/C Flag**:

- Production;
- Consumption; or
- Dynamic.

Form BSCP15/4.8 states that:

"A dynamic P / C Status is one where the P / C Flag is null, and thus the P / C status is derived from the status of the Trading Unit to which the BM Unit belongs (as derived from the sum of the relevant Demand Capacities or Generation Capacities of all BM Units belonging to the Trading Unit)."

BSCP15 Section 3.12 adds:

"This process supports the request from Exempt Export BM Units to elect their Production / Consumption Flag as set out in Section K3.5.5. It should be noted that in the absence of such election, the Production / Consumption Status will be derived in accordance with Section K 3.5.2, i.e. by reference to the Production / Consumption Status of the Trading Unit to which the BM Unit belongs".

In other words, in the absence of an election by the Lead Party to the contrary, the P/C Flag for an Exempt Export BM Unit is set to 'dynamic' (i.e. 'null'). This means its P/C Status can change according to the overall P/C Status of its Trading Unit.

Note that Exempt Export BM Units are the only type of BM Unit which can elect their P/C Flag and thereby their P/C Status. Interconnector BM Units are always registered in pairs (one Production BM Unit and one Consumption BM Unit) whose P/C Flags are fixed and whose P/C Status therefore cannot change. For all other types of BM Unit, and any Exempt Export BM Units whose Lead Parties have not made a specific election to the contrary, P/C Status is determined (and can therefore change) according to the sum of the Relevant Capacities of all BM Units in the Trading Unit.



What is...?

The difference between a P/C Flag and a P/C Status?

The P/C Flag is the mechanism by which CRA systems record any P/C Status election by the Lead Party for an Exempt Export BM Unit. Only Exempt Export BM Units can elect their P/C Status. See the description of the BSCP15 provisions below for further details.

⁹ You can find copies of the current versions of all Code Subsidiary Documents on our website [here](#).



BSCP31 contains the following text regarding Exempt Export BM Units:

"1.6 Trading Unit Approval

All Supplier Base and Additional (non Exempt Export) BM Units will belong to the Base Trading Unit for the relevant GSP Group. Exempt Export BM Units can elect to belong to the Base Trading Unit for the relevant GSP Group, but can also elect to belong to Sole or Class 4 Trading Units.

When in a Trading Unit with other Lead Parties, please note that changes to GC and DC values for other BM Units within the Trading Unit can affect the overall P/C status of the Trading Unit and thus the BM units within it, with the exception of Exempt Export BM units that have the P/C flag explicitly set.

1.7 Registration of an Exempt Export BM Unit in a Trading Unit

A Lead Party for an Exempt Export BM Unit is required to meet different registration requirements to those of other BM Units when registering an Exempt Export BM Unit within a Trading Unit.

An Exempt Export BM Unit will be automatically allocated to the Base Trading Unit of the relevant GSP Group, and such allocation will not require Panel approval. The Lead Party for an Exempt Export BM Unit can apply to rejoin the Base Trading Unit (only) on leaving a Sole or other approved Trading Unit, and this will not require Panel approval.

A Lead Party for an Exempt Export BM Unit may apply to leave the Base Trading Unit and be registered with a new approved Trading Unit or Sole Trading Unit. This registration of an approved or Sole Trading Unit will not require Panel approval."

The processes and forms in Sections 3 and 4 of BSCP31 contain further details.

CRA Service Description – comparison of P100 and current provisions

CRA Service Description v7.0 (P100 wording, 2003)	CRA Service Description v15.0 (current version)
<p><i>The CRA shall, for Exempt Export BM Units only: -</i></p> <p><i>7B.1 Register and maintain the Production / Consumption Flag (and status) of each Exempt Export BM Unit;</i></p> <p><i>7B.2 Amend such Production / Consumption Flag (and status), as instructed by the Lead Party of the BM Unit;</i></p> <p><i>7B.3 Recalculate the Production / Consumption Status as appropriate for a BM Unit where the P/C flag has been set as "dynamic".</i></p>	<p><i>5.1.9 For Exempt Export BM Units the CRA shall:</i></p> <p><i>a) set or unset the Exempt Export Flag as appropriate for each BM Unit, as authorised by BSCCo; and</i></p> <p><i>b) amend the P/C Flag (and Status), as instructed by the Lead Party of the BM Unit, and notify BSCCo and BSC Agents of the change.</i></p>

What is...?

A Class 4 Trading Unit?

A group of Exempt Export BM Units in the same GSP Group which have elected to form a Trading Unit. The BM Units may have different Lead Parties.

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P268

Initial Written Assessment

4 February 2011

Version 1.0

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4.5. MP Form

Modification Proposal – BSCP40/03	MP No: P268 (mandatory by BSCCo)
Title of Modification Proposal (mandatory by originator): Clarify the P/C status process for exempt BM Units	
Submission Date (mandatory by originator): 31 January 2011	
Description of Proposed Modification (mandatory by originator) <p>This proposal seeks to clarify the BSC text in relation to the process of changing the P/C flag status for exempt export BM Units to correct deficiencies in the existing drafting of K3.5.5. It would do so by ensuring that the process to be followed under the BSC is clear and eliminating a conflict with the CRA Service Description.</p> <p>In particular the proposed modification would ensure that the text in Section K of the Code makes clear that a P/C flag could only be changed for an exempt export BMU with the Lead Party's explicit agreement. The Lead Party's approval is essential in such circumstances owing to the potential impact on its trading/imbalance position.</p> <p>The proposed modification should also address a conflict with the procedure set out in the Central Registration Agent (CRA) Service Description (CSD) at para 5.1.9.</p> <p>Suggested changes are attached as Annex 1. It would place an explicit requirement on BSCCo to consult with the relevant Lead Party prior to determining the P/C flag pursuant to BSC K3.5.2 in circumstances where exempt export status had been granted. The modification group may consider that further changes are necessary to achieve the intent of the modification proposal. The provisions of CSD5.1.9 may also need to be revised in the light of the proposed changes to K3.5.5.</p> <p>The proposed change would be retrospective, to have effect from [the date of implementation of P100 or alternatively] 1 April 2010. The modification group may also wish to consider an alternative formulation of the change proposal on a prospective basis.</p>	
Description of Issue or Defect that Modification Proposal Seeks to Address (mandatory by originator) <p>The text of Section K3.5.5(b) enables BSCCo to determine P/C flag status in circumstances where a lead party does not make a flag election under K3.5.5(a). In such circumstances BSCCo and the CRA determine the flag by applying the provisions of K3.5.2, but they have operationalised this in a situation where a generator gains exempt export status by implementing an automated procedure that does not take into account the flag setting of an existing generator.</p> <p>As this power is exercised immediately on confirmation of exempt export status by the generator, this creates a conflict with para 5.1.9 of the CSD which expressly says that the CRA will take instruction from the lead party of a BMU in setting the P/C flag where a plant takes on exempt export status. This situation has [probably] arisen inadvertently because of flaws in the legal drafting of P100.</p> <p>Because of this defective drafting, it is possible that an existing exempt export generator's flag can be switched without the Lead Party's agreement. The automated procedure was followed in the case of Statkraft when it obtained exempt export status for its Rheidol power station in April 2010, which held P status. This was the subject of a recent Trading Dispute (DA375). In that instance Statkraft did not make an election under K3.5.5(a) but it made clear it wished to retain its existing P status. It did not make an election because it believed the flag had already been set (and an election made), and the CSD says expressly the flag can only be changed by the CRA once an instruction of the Lead Party has been received. However the automated procedure then changed its flag setting to C status overriding the requirements of CSD5.1.9. As the trading party's contract</p>	

Modification Proposal – BSCP40/03	MP No: P268 (mandatory by BSCCo)
<p>authorisations were against its production account and it continued to make its nominations against the Production account, this had the effect of placing Rheidol into imbalance until the flag setting was changed back under the relevant provisions of BSCP15. The change back occurred some four weeks later.</p> <p>Any trading party reading the provisions of K3.5.5 and CSD 5.1.9 together would reasonably infer that BSCCo and the CRA would only switch the flag after following the procedure under CSD 5.1.9. This did not happen. At the time the BM units involved were the only assets being directly traded by the Lead Party. As the sums involved made a material difference to the small party's imbalance position, we believe the change should be retrospective to at least 1 April shortly before the default flag setting occurred.</p> <p>The modification therefore seeks to clarify the provisions of K3.5.5 so that a P/C flag can only be changed with the agreement or on the instruction of an exempt export generator. It may also be necessary to eliminate the conflict between K3.5.5 and CSD 5.1.9. In this context it should be noted that the Panel recently acknowledged there were inconsistencies in the Code documentation that needed to be addressed.</p> <p>A secondary issue is the drafting of K3.5.5 as it stands. This provides for BSCCo to switch the P/C flag in the absence of election by the Trading Party under K3.5.5(a). The systems solution applied by BSCCo and the CRA applies this power immediately on a BMU achieving exempt export status. This fails to provide the Lead Party with adequate time to make an election.</p>	
<p>Impact on Code <i>(optional by originator)</i> Section K of the BSC will need to be amended. The modification group may consider that there is an alternative means of address the defect.</p> <p>The provisions of CSD5.1.9 may need to be revised in the light of the proposed changes to K3.5.5.</p>	
<p>Impact on Core Industry Documents or System Operator-Transmission Owner Code <i>(optional by originator)</i> None identified</p>	
<p>Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties <i>(optional by originator)</i> None identified</p>	
<p>Impact on other Configurable Items <i>(optional by originator)</i> The modification group should review the CSDs which describe the P/C Flag Status process to remove all potential inconsistencies. CPs may be required subsequently.</p>	

Modification Proposal – BSCP40/03	MP No: P268 (mandatory by BSCCo)
<p>Justification for Proposed Modification with Reference to Applicable BSC Objectives <i>(mandatory by originator)</i></p> <p>A Trading Party with an exempt export BMU entering the trading arrangements would not necessarily have authorisations to register contracts against both Production and Consumption accounts. In situations where BSCCo determines the flag it should only be with the explicit agreement of the Trading Party. This defect should be addressed owing to the trading/imbalance impacts that changes to the flag setting can have on the trading party.</p> <p>The current drafting of the Code is ambiguous and there is a conflict with the provisions of the CSD. Variances in the interpretation of the Code and CSDs create inefficiency and uncertainty in the settlement and administration of the BSC arrangements potentially creating significant costs for trading parties. The proposed modification will therefore deliver real benefits under Applicable Objective (d) by providing certainty in the interpretation of the Code.</p> <p>These risks disproportionately impact new entrants who may not be fully familiar with the procedures operated by the BSC Agents and administered by BSCCo. The proposed change provides certainty to both BSC Parties and BSCCo as to their obligations and the process to be followed, and so avoid this inefficiency and these costs. This could also enhance competition and therefore better facilitate Applicable Objective (c).</p> <p>With regard to retrospection, the financial consequences of the ambiguity for the impacted party in the case of Statkraft and DA375 were significant in absolute terms (£70,000) but especially relevant to its small trading base. The trading disputes process is itself per force retrospective, and the ambiguities between code documentation only became apparent after the event. We are confident that no other party would be impacted through retrospective rectification and there is no risk of a disorderly market as a consequence.</p> <p>We also believe that enabling retrospective implementation would not breach various principles highlighted in the past by the Authority in its consideration of retrospection (most notably in the case of P210, which also arose from a trading dispute), as:</p> <ul style="list-style-type: none"> ▪ the situation occasioning the loss to the Lead Party was directly attributable to central arrangements; ▪ the interaction of the circumstances could not have been reasonably foreseen. Indeed the mismatch between the CSD5.1.9 and BSC K3.5.5 seems to have arisen as a result of faulty legal drafting for P100. 	
<p>Is there a likely material environmental impact? <i>(optional by originator)</i></p> <p>No</p>	
<p>Urgency Recommended: No <i>(delete as appropriate) (optional by originator)</i></p>	

Modification Proposal – BSCP40/03	MP No: P268 (mandatory by BSCCo)
Justification for Urgency Recommendation (mandatory by originator if recommending progression as an Urgent Modification Proposal)	
Self-Governance Recommended: / No	
Justification for Self-Governance Recommendation (mandatory by originator if recommending progression as Self-Governance Modification Proposal)	
Should this Modification Proposal be considered exempt from any ongoing Significant Code Reviews? (optional by originator in order to assist the Panel decide whether a Modification Proposal should undergo a SCR Suitability Assessment) It has no impact on the current gas SCR.	

Modification Proposal – BSCP40/03	MP No: P268 (mandatory by BSCCo)
Details of Proposer:	
<i>Name...Magne Borgund.....</i>	
<i>Organisation...Statkraft.....</i>	
<i>Telephone Number +49 211 60244 325</i>	
<i>Email Address magne.borgund@statkraft.com.....</i>	
Details of Proposer's Representative:	
<i>Name...Nigel Cornwall</i>	
<i>Organisation...Cornwall Energy.....</i>	
<i>Telephone Number...01692 407865.....</i>	
<i>Email address nigel@cornwallenergy.com</i>	
Details of Representative's Alternate:	
<i>Name... Bob Brown</i>	
<i>Organisation.....</i>	
<i>Telephone Number 01692 407865.....</i>	
<i>Email address bob@cornwallenergy.com.....</i>	
Attachments: Yes / (delete as appropriate) (mandatory by originator)	
If Yes, Title and No. of Pages of Each Attachment: Annex 1: Suggested legal text – 1 page only	

Annex 1

Proposed legal text for Pxxx: Clarify the P/C status process for exempt BM Units

The following legal text (additions in bold) is suggested to Section 3.5.3:

Subject to 3.5.5, the P/C Status of a BM Unit shall be redetermined on each occasion on which:

And to Section K3.5.:

“In the case of an Exempt Export BM Unit, irrespective of the Trading Unit to which the BM Unit belongs, the Lead Party may from time to time elect, by notice to BSCCo and the CRA, whether the P/C Status of the BM Unit is to be Production or Consumption, provided that:

- (a) no such election shall be effective until 28 days (or if later the effective date requested by the Lead Party) after such notice was given to BSCCo and the CRA;
- (b) in the absence of such an election, **and following consultation by BSCCo with the Lead Party,** the the P/C Status of the BM Unit shall be determined in accordance with paragraph 3.5.2.
- (c) **For the avoidance of doubt, should, following such consultation with BSCCo, the Lead Party elect not to re-determine the P/C Status of the BM Unit, the status shall not change and 3.5.2 will not apply.”**