



Consultation Response

By email to: james.veaney@ofgem.gov.uk

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James Veaney

Ofgem

London

ELEXON's response to Ofgem consultation on potential expansion of ElectraLink's activities

We welcome the opportunity to respond to this consultation.

ELEXON notes the similarities between this consultation and current discussions regarding ELEXON's future participation in delivering new services in the electricity market. Both central bodies have demonstrated the ability and expertise to offer greater choice to industry and for the ultimate benefit of customers.

To quote from the ElectraLink letter: "*ElectraLink's ability to participate competitively in the electricity market..... will add strength of competition in that market.*" We support this as it aligns with our own aspirations to be a competitor in that same market.

ElectraLink states that: "*our diversification into code governance and administration created a new competitor in the market. This has driven down the cost of code governance and ElectraLink has competitively won the contracts for the two most recent codes, SPAA and DCUSA.*" A true test of competition for code administration services would permit the participation of an able and experienced code administrator like ELEXON. ElectraLink and ELEXON are not able to compete with each other and others so Ofgem cannot be sure it is getting the best competition it could have. Enabling all potential competitors to compete, particularly ones with the experience and expertise that ELEXON and ElectraLink have can only be to the consumers' benefit.

On this basis ELEXON support the principle for expansion of ElectraLink's role within the electricity market.

However, on the detail of the proposal, we do have questions and comments as ELEXON is a major contributor to the costs of running the Data Transfer Service (DTS) and we have a duty to manage BSC Parties' costs. So as a major DTS User, ELEXON is obliged to confirm and test the detail of the proposed expansion of ElectraLink's role.

Some of these questions and observations will need to be considered by Electralink but others may be relevant to your decision;

1. What DTN data items does ElectraLink believe it is entitled to exploit commercially under the proposed expanded role? What permission will be sought from DTS Users prior to pursuing each specific commercial opportunity that exploits their DTN data items?
2. What will be the future governance arrangements for commercial activities and how will these interact with the current DTS governance process?



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3. If ElectraLink expands into the electricity market '*in the UK and elsewhere*', what are their risks for the regulated service and how these will be managed?
4. If a future commercial service requires an upgrades/enhancement to the DTN, how will the costs for these additional requirements be allocated across the regulated and commercial services?
5. Any utilisation of shared infrastructure must see a benefit to DTS users via reduced charges.

We expand further on these questions and observations in the attached response, which we hope you will find helpful to your decision.

If you would like to discuss any areas of our response, please contact me on 020 7380 4301, or by email at ijeoma.obi@elexon.co.uk.

Yours sincerely

Ijeoma Obi
Service Manager



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A consultation on ElectraLink's potential expansion

Ofgem Question 1: Can we be assured that DTS Users will/can never face higher charges as a result of ElectraLink's commercial activities and that DTS activities will not and cannot cross-subsidize commercial activities in any way?

ELEXON believes that the DTSA offers a reasonable level of protection to DTS Users by preventing any 'cross charging' from any current or future commercial activities to the regulated service.

This is because the role of the DTS User Group has evolved over the last 12 months to include more budgetary oversight around areas of forthcoming expenditure¹.

In addition the DTSA provides for the ability to raise a 'change dispute' in a disagreement with ElectraLink (acting as the Service Controller). This ability, coupled with the requirement on Ofgem to consider the dispute and make a determination, offers DTS Users an appropriate level of assurance for existing DTS services².

Areas requiring further assurance

It is unclear what DTN data items ElectraLink believes it will be entitled to exploit commercially under the proposed expanded role, and what permission needs to be sought from DTS Users prior to pursuing each specific commercial opportunity that exploits their DTN data items.

In addition, any DSP solution may be considered part of the GB 'critical national infrastructure' and therefore there may be a risk that this requires, in future, stringent security arrangements above and beyond what is currently required to deliver the DTS. How would this be funded?

If increased data volumes are passing through the DTN, this may bring the requirement for additional bandwidth and/or network re-enforcement – how is it ensured that DTS Users will not face higher charges as a result? For example, the current DSP engagement (circa £50k to DTS Users) had to be approved by the DTS User Group even though this is a commercially focused activity. These exceptional cost items form part of the 2013 DTS User price increase.

¹ Following a Change Proposal raised by a DTS User (which is expected to be approved formally in January 2013) DTS Users will be provided the ability to comment on the ElectraLink annual budget.

² We note that such a change dispute was raised by a DTS User relating to the January 2012 price increase and this process was resolved to the reasonable satisfaction of the raising party.



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Where shared infrastructure or data is utilised, ELEXON believes that benefits from commercial activities should be used to defray the costs to DTS Users. It is stated in ElectraLink's response, correctly in our view, that commercial activities will utilise the common infrastructure. However, this infrastructure is currently wholly paid for by the DTS Users. Commercial activities should make a contribution to the costs of shared infrastructure, based on 'arm's length' arrangements/market rates, so reducing the regulated DTS costs to thus bring benefits to the wider DTS customer base. This may require new procedures to be introduced in the DTSA to ensure that any common or shared costs are allocated fairly and reasonably between regulated and unregulated activities.

ElectraLink should clarify who benefits from the profits of their new activities (we are distinguishing profits in this paragraph from a contribution to shared infrastructure in the preceding paragraph).

A reduction of DTS costs from commercial activities would be welcome in the current climate where costs per MPAN have risen since 2009 (Appendix 3 of ElectraLink's response). At this point it is worth noting that the costs per MPAN will change dependent both on the change in the absolute total costs and the change in the number of MPANs, so a cost per MPAN measure cannot tell us about cost control on its own.

Ofgem Question 2: Can it be confirmed that the measures ElectraLink has in place to maintain resources and funding for DTS activities are adequate?

ELEXON notes the current safeguards which obligate DNOs to provide funding to the DTS if required but funding cannot always solve a skills or personnel issue where those personnel are now focussing on new activities rather than the DTS. Therefore it seems appropriate that a new obligation should be introduced into the DTSA "to ensure at all times ElectraLink has sufficient resources (including personnel) to fully discharge its DTS responsibilities".

Ofgem Question 3: How do you propose to continue to achieve compliance with DNOs' obligation to provide or procure Data Services in the most efficient and economic manner practicable?

As a major DTS User we need to understand how it will be ensured that the requirements of the commercial services will not be built into and paid for as part of the future procurement of the regulated services.

For example, how would any future procurement activity be managed? Would there be pressure on ElectraLink to undertake a different procurement for the regulated service that also facilitated future commercial opportunities, from the one it would have undertaken for the pure regulated service? This may add requirements to a DTS procurement that would not otherwise be there, thus potentially



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exposing DTS Users to both increased costs and increased risk.

Ofgem Question 4: Will it be necessary to mandate separate accounting and reporting between commercial and regulated activities within ElectraLink?

ELEXON believes the current safeguards which are in place and the approach taken by ElectraLink is generally fit for purpose.

However Electralink should introduce procedures to ensure that any common or shared costs are allocated fairly and reasonably between regulated and unregulated activities and should mandate an external audit of the DTS charges (as per the DTSA) which would be undertaken at an agreed frequency (e.g. on an annual basis).

ELEXON feels that such procedures back up by an audit, funded from commercial activities as opposed to the regulated service would be an effective method of providing assurance and comfort to DTS Users that no commercial costs were being charged through to the regulated service and that the pricing mechanism agreed for commercial activities is a true reflection of the costs incurred.

Ofgem Question 5: How will existing governance arrangements concerning the DTS need to be adapted to take account of ElectraLink's proposed expansion?

The current DTSA provides a degree of governance for DTS Users (including the monitoring actions of the DTS User Group). However, how any interaction between regulated and commercial services would be communicated and managed remains unclear.

For example, the DTS User Group constitution was amended in light of the Green Deal where a new representative user was added. Would the same approach be taken in light of any commercial activities or DSP solution? Alternatively would a separate User Group be set up which would focus on commercial activities? And how would this interact with the existing DTS User Group?

Further clarity is needed with regards to the change process, if changes impact both the regulated DTS and commercial areas – how would a change be progressed? Would both groups vote to agree change? Who would have the final decision and how would costs be managed?

Observations on the ElectraLink response

ElectraLink references being 'engaged with a number of switching firms to provide insight into both gas and electricity change-of-supplier process' – we are unsure exactly how ElectraLink would deliver this service without DTS User consent to use their data. If ElectraLink are planning to intercept data from the DTN then we would expect ElectraLink to seek DTS User authorisation to use any DTS User's data, or to



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perform any comparison, such as performance of the Change of Supplier process, based on their performance against processing flows ³.

The resolution of the question of whether ElectraLink needs to seek explicit permission to use a DTS User's data is fundamental to the expansion of ElectraLink's role.

General Observation

We note that the wording of the draft consent that Ofgem is minded to grant (section 2.2: '*...electricity, gas and water industries in the UK and elsewhere*') is very broad. As such it is difficult to understand whether additional governance may be required, or whether there are additional risks to which DTS Users may be exposed in future. Because of this, we ask that ElectraLink is obliged to share at the earliest opportunity its business plans with DTS Users.

For more information on our response, please contact:

Ijeoma Obi , Service Manager

T: 020 7380 4301 or email ijeoma.obi@elexon.co.uk

³ Previous legal advice taken by ElectraLink and provided to the DTS User Group noted that should the DTS User Group approve the provision of 9 reports under a new 'Data Services' activity under the regulated framework then this would be sufficient for ElectraLink to utilise the data, however this approach was rejected in favour of a 'bi-lateral' or 'multi-lateral' arrangement. Therefore the question of permission to access data remains unanswered.