



## Stage 04: Draft Modification Report

What stage is this document in the process?

01 Initial Written Assessment

02 Definition Procedure

03 Assessment Procedure

▶ 04 Report Phase

# P296: Introduction of a 'Fast Track' Modification Process following the outcomes of the Code Governance Review (Phase 2)

This Modification Proposal seeks to introduce a new Fast Track Self-Governance Modification Process for the quick progression and implementation of minor housekeeping changes to the Balancing and Settlement Code (BSC).



The BSC Panel:  
initially recommends **Approval** of P296



Low Impact:  
BSC Panel and ELEXON

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### Any questions?

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## About this document:

This document is the P296 Draft Modification Report, which ELEXON will present to the Panel at its meeting on 12 September 2013. It includes the responses received to the Report Phase Consultation on the Panel's initial recommendations. The Panel will consider all responses, and will agree a final recommendation to Ofgem on whether the change should be made

There are four 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 P296.
- Attachment B contains the redlined changes to BSCP40 – Change Management
- Attachment C contains the full responses received to the Panel's Report Phase Consultation.

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### Why Change?

Following publication of the associated Electricity Transmission Licence: Standard Condition C3 (SLC C3), following the outcomes of the Code Governance Review (Phase 2) the new Fast Track Self-Governance process needs to be incorporated into the BSC by 31 December 2013.

### Solution

To reflect the Code Governance Review (Phase 2) license changes, the BSC will be amended to introduce a new Fast Track Self-Governance Modification Process for the quick progression and implementation of minor housekeeping changes.

### Impacts & Costs

P296 only impacts the BSC and BSCP40 'Change Management'. There is a minor impact on BSC Parties and Party Agents, although there is no direct or systematic impact, as participants raising Modifications will need to be aware of the new process as the Modification Proposal provides an additional mechanism for raising minor housekeeping changes.

### Implementation

The Panel initially recommends that the Implementation Date for P296 is 31 December 2013 in line with the requirement in Standard Condition C3 of the Electricity Transmission Licence.

However, following the Report Phase consultation, ELEXON agrees that it would be more efficient to implement P296 earlier and recommends that the BSC Panel should agree a revised implementation approach of 6 November 2013 (November 2013 Release), if an Authority determination is received on or before 23 October 2013; or a fall back date of 31 December 2013, if an Authority determination is received after 23 October 2013 but on or before 13 December 2013.

### The Case for Change

The Panel had a:

- majority view that P296 would better facilitate Applicable BSC Objective (a) as the proposed changes will mean that the BSC is consistent with SLC C3 of the Transmission Licence; and
- unanimous view that P296 would better facilitate Applicable BSC Objective (d) as the Modification Proposal will enable the progression and implementation of minor housekeeping changes without the need to formally consult, while still having a clear objection process if a BSC Party disagrees with the views of the Panel.

### Recommendations

The Panel's initial unanimous recommendation is that P296 should be approved.

## 2 Why Change?

### Background

The industry codes contain the contractual arrangements for participating in the Electricity and Gas markets. In November 2007 Ofgem launched the Code Governance Review (CGR) to review the arrangements governing the industry codes (specifically those in the Balancing and Settlement Code (BSC), Connection and Use of System Code (CUSC) and Uniform Network Code (UNC)). The aim of the review was to reduce the complexity and to increase the transparency and accessibility of these arrangements.

The outcome of the first phase of the CGR was published in March 2010<sup>1</sup> and introduced the following to the BSC, CUSC and UNC:

- Code Administrator Code of Practice (CACoP) and CACoP principles;
- Proposer Ownership;
- The 'Send Back' provisions;
- Self-Governance Modification process; and
- Significant Code Review (SCR) process.

National Grid raised [P262](#) and [P263](#) which introduced the required changes to the BSC on 31 December 2010.

### Code Governance Review (Phase 2)

In April 2012 an [open letter](#) was issued by Ofgem indicating the intention of a second phase of the CGR. Whilst the first CGR focussed primarily on the BSC, CUSC and UNC, the CGR Phase 2 aimed to apply the first CGR outcomes to the following codes:

- Distribution Connection Use of System Agreement (DCUSA);
- Network Code/Uniform Network Code for Independent Gas Transporters (iGT UNC);
- Master Registration Agreement (MRA);
- Supply Point Administration Agreement (SPAA);
- System Operator Transmission Owner Code (STC);
- Grid Code; and
- Distribution Code.

A consultation was issued by Ofgem in September 2012 covering the CGR (Phase 2) proposals, with a Workshop also held in November 2012 to discuss the proposals in the consultation.

The final [outcomes](#) and proposed way forward were published on 27 March 2013, along with a Statutory Licence changes consultation. The final changes following the Statutory Licence change consultation were published on 7 June 2013<sup>2</sup>, with the changes taking effect on 5 August 2013.

<sup>1</sup> [http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Documents1/CGR\\_Finalproposals\\_310310.pdf](http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Documents1/CGR_Finalproposals_310310.pdf)

<sup>2</sup> [http://www.ofgem.gov.uk/LICENSING/INDCODES/CGR/Documents1/Modification%20of%20gas%20and%20electricity%20licences%20to%20implement%20Code%20Governance%20Review%20\(Phase%202\)%20final%20proposals.pdf](http://www.ofgem.gov.uk/LICENSING/INDCODES/CGR/Documents1/Modification%20of%20gas%20and%20electricity%20licences%20to%20implement%20Code%20Governance%20Review%20(Phase%202)%20final%20proposals.pdf)

## What is the Issue?

Although focussing on other industry codes, CGR Phase 2 does impact the BSC. CGR Phase 2 seeks to introduce a new Fast Track Self-Governance Modification process. The purpose of the Fast Track Modification process is to enable the quick progression and implementation of minor housekeeping changes (e.g. typographical, paragraph numbering and cross referencing errors) without the need to go through the full Modification process.

A Modification is therefore required to reflect the CGR (Phase 2) license changes in the BSC.

### Proposed solution

The BSC will be amended to introduce the Fast Track Modification process. The Proposed changes to the BSC and BSCP40 can be found in Attachment B and Attachment C respectively.

The Fast Track Modification process will be used for correcting manifest errors and housekeeping type changes such as (but not limited to):

- Updating names or addresses listed in the Code;
- Correcting minor typographical errors;
- Correcting formatting and consistency errors, such as paragraph numbering; or
- Updating out of date references to other documents or paragraphs.

In order for a Modification to be considered for treatment as a Fast Track Modification it would need to:

- have unanimous agreement from the BSC Panel that the Modification Proposal meets the Fast Track Criteria (as set out in the Licence), which would be added into Section X Annex X-1; and
- have unanimous agreement from the BSC Panel that the Modification Proposal can proceed as a fast track change and should be implemented.

The BSC Panel would be able to consider if a Modification is suitable for the Fast Track route even if the Proposer has not suggested that the Fast-Track process should be considered.

### Fast Track Process

#### Raising a Fast Track Modification

For a Modification to be considered as a Fast Track Modification, the Modification Proposal form will be amended to allow Proposers the opportunity to indicate if they believe their Proposal should be considered as a Fast Track Modification.

#### BSC Panel Meeting

As with current Modifications that go straight to the Report Phase, the Proposal will be presented at the next available Panel meeting alongside an IWA which also a draft Modification Report.

If the BSC Panel unanimously agrees that a proposed change should be progressed via the Fast Track process and implemented, the Panel's determination and views will be captured and the draft Modification Report updated to a final Modification Report.

#### Implementation

Following the BSC Panel's decision to approve a Fast Track Modification, the Final Modification Report will be published on the BSCCo Website within 1 Working Day (WD) of the Panel's decision. BSC Parties will then have 15WDs to challenge the decision following which the change will be implemented.

## What if the Panel does not agree?

If the Panel believes a Modification does not meet the Fast Track criteria, the Panel can then decide to treat the Modification as either a:

1. Standard 'Self Governance' Modification; or
2. Standard Modification Proposal.

To enable the Panel to make these decisions in an efficient manner, when the Proposer submits their Modification, as a critical friend, we will help them shape and set out the benefit of the change against the Applicable BSC Objectives. While not specifically required under the Standard licence Conditions, providing this information upfront will save a considerable amount of effort in progressing the changes. This should not be a burdensome process since typically the benefit of such Fast Track changes will primarily be linked to Applicable BSC Objective (d) 'promoting efficiency in the implementation of the Balancing and Settlement arrangements'.

## Objection Process

Following notice to all parties of the Panel's decision to approve a Fast Track Modification Proposal, BSC Parties will have 15 WDs to object.

BSC Parties, the Licensee and the Authority will be able to raise an objection on the BSC Panel's decision to treat a change as a Fast Track Modification Proposal and its decision that it should be implemented.

The objection window of 15 WDs will commence from the notification of the Panel's decision on the Fast Track decision.

If no objections are received in 15 WDs, the Fast-Track Modification will then be implemented on the date proposed and agreed by the Panel. For the avoidance of doubt this implementation date cannot be during the objection period.

In order to raise an objection an email should be sent to the Modification Secretary (via [modifications@elexon.co.uk](mailto:modifications@elexon.co.uk)) with an explanation as to why the objecting party believes it does not meet the Fast Track Self-Governance Criteria.

If an objection is received it will be tabled at the next available Panel meeting for discussion. At the same time as the objection is received the implementation of the Fast Track Modification would be suspended pending the outcomes of the Panel's consideration of the objection.

When the BSC Panel considers the objection, there are two outcomes:

1. Progress the Modification as a Self-Governance Modification, but not Fast Track, and issue a Report Phase Consultation with an associated initial decision on whether to approve the changes or not. A final decision will then be made at the next available Panel meeting. A revised implementation approach would need to be provided by BSCCo, if this route was taken.
2. Progress as a normal Modification Proposal; either sending it into an Assessment Procedure or making an initial recommendation before issuing a Report Phase consultation. Following the report Phase consultation the Panel would make a final recommendation to the Authority.

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## Why are there only two outcomes to an objection?

In the unlikely event that an objection is raised against a Modification being treated as a Fast Track Modification, the most efficient way of taking the change forward is for the Panel to treat the Modification as Self-Governance or as a standard Modification Proposal. This not only mitigates against the possibility of the Panel rejecting an objection only for another objection to be raised preventing the change from progressing further; but it also means that the changes will then undergo a formal consultation providing an opportunity for the wider industry to comment on the changes, and for appropriate revisions to be agreed by the Panel based on those comments.

It should be noted that it is likely that the majority of any potential Fast Track Modifications will be raised by the Panel following a recommendation to do so from BSCCo. As part of the process of preparing such a recommendation, the proposed changes would be checked and reviewed to make sure there is no potential material impact.

If the licensee, BSC Party or other organisation that can raise Modifications were to submit a Modification that they believed should progress under the Fast Track provisions, we would review the proposed changes and provide guidance to the proposer as a critical friend on whether the change can be progressed as Fast Track or not. This helps to mitigate the risk of an objection.



## 4 Impacts & Costs

### Implementation Costs

Implementation costs	
ELEXON effort	1 man day, equating to approximately £240
Service Provider costs	None
<b>Total costs</b>	<b>Approximately £240</b>

### Impacts

#### Impact on BSC Parties and Party Agents

Minor impact – there is no direct or system impact although participants raising Modifications will need to be aware of the new process as the Modification Proposal provides an additional mechanism for raising minor housekeeping changes.

#### Impact on Transmission Company

None.

#### Impact on ELEXON

Minor impact to update the relevant BSC Code Sections.

#### Impact on Code

Code section	Potential impact
BSC Section F -	New section 7 to cover the Fast-Track process.  Inclusion of new definitions of the Fast-Track process. The proposed changes to the Code can be found in Attachment A.
BSC Section X, Annex X-1 -	

#### Impact on Code Subsidiary Documents

CSD	Potential impact
BSCP40	Updates to the Modification Proposal form to allow the Proposer to comment as to whether they believe their Modification Proposal has justification for Fast-Track Self-Governance recommendation. The proposed redlined changes to BSCP40 can be found in Attachment B.

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### Implementation Approach

Implementation of P296 would require only minimal changes to the Code and BSCP40. The Panel initially recommended that if P296 is approved by the Authority, that it is implemented on **31 December 2013** in line with the requirement in Standard Condition C3 of the Electricity Transmission Licence.

Following the Report Phase Consultation a revised implementation approach has been suggested to make the changes to the BSC sooner; as it was highlighted that the 31 December was the target date, but could be introduced before. Therefore in light of this the following revised implementation approach is proposed:

- 6 November 2013 as part of the November 2013 Release, if an Authority determination is received on or before 23 October 2013; or
- 31 December 2013 if an Authority decision is received after 23 October 2013 but on or before 13 December 2013.

Details of the Report Phase Consultation response that prompted the revised implementation approach can be found in Section 7.

### Panel's consideration of the Modification Proposal

A Panel Member noted the support for the change, but highlighted that care should be taken when amending equations under the banner of 'housekeeping' as these may have a material impact on Parties. Another Panel Member agreed, but noted that the Panel should also be mindful when accepting such proposals.

A Panel Member noted that housekeeping errors should be kept to a minimum and asked ELEXON to provide some analysis as to how many housekeeping errors exist in the Code and to explain how such issues were going to be addressed under P296. ELEXON agreed to carry out some analysis which will be presented to the Panel following the Report Phase Consultation.

A Panel Member questioned why this Modification Proposal had not been raised by National Grid. ELEXON confirmed that they had been working closely with National Grid, and had agreed to raise the Modification on their behalf in an attempt to be helpful. Whilst acknowledging this, the Panel believed that the Panel should not be raising such changes and that any future change should come from National Grid.

### Panel's initial views against the Applicable BSC Objectives

There was unanimous support amongst the Panel that P296 would better facilitate Applicable BSC Objective (d) as it would enable the efficient progression and implementation of minor housekeeping changes.

The majority of the Panel agreed that P296 would better facilitate Applicable BSC Objective (a) as the proposed changes will mean that the BSC is consistent with SLC C3 of the Licence. A Panel Member commented that whilst they agreed that the Modification may facilitate Applicable BSC Objective (a), we should be mindful that just because something is in the license it does not necessarily mean that it better facilitates the Applicable Objectives. Any Modification should be judged on its merit rather than the license obligations.

## 7 Report Phase Consultation Responses

Nine responses were received to the P296 Report Phase Industry Consultation, as summarised in the table below. The full responses to the P296 Report Phase Consultation are available in Attachment C and on the [P296](#) page of the ELEXON website.

Summary of P296 report Phase Consultation Responses			
Question	Yes	No	Neutral/ Other
Do you agree with the Panel's initial recommendation that P296 should be approved?	9	0	0
Do you agree with the Panel's recommended Implementation Date?	8	1	0
Do you agree that the draft BSC legal text in Attachment A and redlined changes to BSCP40 in Attachment B deliver the intention of P296?	7	1	1
Do you have any further comments on P296?	1	8	0

### Views on the Modification

There was unanimous support amongst respondents with the Panel's initial recommendation that P296 should be approved.

### Views on the Legal Text and BSCP40

The majority of respondents agreed that the redlined changes are sensible, concise and will deliver the intention of P296.

One respondent disagreed as they noted that the 'Justification for Fast Track Self-Governance Recommendation' section in BSCP40 references that "Fast Track Self-Governance Modification Proposals must meet the Fast Track Self Governance Criteria as set out in BSC Section X- Annex X-1". The respondent commented that the reference does not exist in BSC Section X- Annex X-1 and so should refer to BSC Section F instead.

ELEXON clarified that the Fast-Track Self-Governance Criteria is being added to Section X – Annex X-1 as part of this Modification, and that this approach is consistent with the existing situation whereby the Self-Governance Criteria is covered by the Self-Governance Criteria definition in Section X Annex X-1. Therefore the cross reference in BSCP40 is appropriate.

One respondent, in relation to Section F2.7.5(c), questioned what discretion the Panel would have to revise a proposal before making its decision, and what influence a proposer would have over such a revision. ELEXON clarified that as with normal Modifications or standard Self-Governance Modifications, when the Panel comes to make its final decision on the changes, minor non-material changes, usually flagged in the draft Modification report, can be included at the Panel's agreement when they consider the legal text for the final time. Any minor changes that they did not agree to would not be included. If any changes were identified to be material, they would either not be included or would result in the changes requiring another consultation. The same approach would be taken with a Fast Track Modification, in that when the Panel consider the Fast Track Modification

report, if they pick up on minor non-material changes in the legal text they can agree to include it.

The respondent also commented that it would be preferable to provide some flexibility in the event of rejection (non-unanimous decision to approve) by the Panel or objection to a (unanimous) decision to approve.

ELEXON confirmed that whilst they appreciate having some sort of objection process added into the BSC, adding such an objection process and associated criteria will overcomplicate the purpose of the Fast Track Self-Governance process. The process as proposed by P296 is trying to make the Fast Track process as simple and straightforward as possible, with the Panel taking a pragmatic and flexible approach when considering these types of Modification Proposals, providing the changes meet the Fast Track Criteria. ELEXON pointed out that if the Panel's decision was not unanimous or if an objection was raised, then this would suggest that the proposed changes do not meet the criteria, and so would not be suitable for the Fast Track Self-Governance Modification process.

The neutral respondent also suggested some minor amendments to F7.1.1 and F7.3.2 of the BSC legal text to aid clarity. In F7.1.1 the respondent wanted it to be made clearer that the Panel is the one making a determination; and in F7.3.2 the respondent wanted confirmation that the right to object is not constrained by the proposed wording of 7.3.2. As such, minor revisions have been made to the legal text in making the wording slightly wider in order to address the respondent's comments.

## Views on Applicable BSC Objectives

All respondents agreed with the Panel's unanimous view that P296 would better facilitate Applicable BSC Objectives (d) and majority view that P296 better facilitated Applicable BSC Objective (a).

The majority of respondents agreed that P296 will allow for the quick progression and implementation of minor housekeeping changes and that an objection process exists to address the interpretation and progression of a Fast Track change.

Respondents did echo Panel concerns that the Fast-Track process should not be used for those changes that may have a material impact e.g. equations, formulas. As described above, ELEXON will continue its role as a 'critical friend' which should address these concerns. It should be emphasised that the Panel will be mindful when accepting such Modification Proposals as Fast Track Modification Proposals.

## Views on Implementation approach

Eight out of nine respondents agreed with the proposed implementation approach of 31 December 2013 in line with the requirement in Standard Condition C3 of the Electricity Transmission Licence.

However, one respondent commented that paragraph 13E of the Electricity Transmission Licence states that "any necessary modifications of industry documents should be made **no later** than 31 December 2013." The respondent was of the opinion that "no later" implies that the modification could be implemented before 31 December 2013 and therefore could see no reason why P296 could not be implemented as soon as it is approved by the Authority. The respondent noted that any Modifications Proposals submitted after the approval of P296 but before 31 December 2013 could then benefit

from the Fast Track Self-Governance Modification process. The same respondent suggested that for consistency purposes, it may be worth considering a similar approach taken for STC and CUSC for an implementation date proposed for 10 days after the Authority decision is received but with a back-stop of 31 December 2013.

ELEXON agrees that it would be more efficient to implement P296 earlier and recommends that the BSC Panel should agree a revised implementation approach of:

- 6 November 2013 as part of the November 2013 BSC Systems Release, if an Authority determination is received on or before 23 October 2013; or
- 31 December 2013 if an Authority decision is received after 23 October 2013 but on or before 13 December 2013.

## 8 Recommendations



### Recommendation

The Panel unanimously recommends that P296 should be approved.

ELEXON invites the Panel to:

- **NOTE** the P296 Draft Modification Report and Report Phase Consultation responses;
  - **CONFIRM** the recommendation to the Authority that P296 **should** be made as it would better facilitate Applicable BSC Objectives (a) and (d);
  - **APPROVE** an Implementation Date for P296 (if approved) of:
    - 6 November 2013 if an Authority decision is received on or before 23 October 2013; or
    - 31 December 2013 if an Authority decision is received after 23 October 2013 but on or before 13 December 2013;
  - **APPROVE** the BSC legal text and BSCP40 for Proposed Modification P296; and
  - **APPROVE** the P296 Modification Report
- or
- **INSTRUCT** the Modification Secretary to make such changes to the report as the Panel may specify.

## 9 Further Information

More information is available in:

Attachment **A**: Proposed Legal Text

Attachment **B**: Proposed changes to BSCP40

Attachment **C**: Report Phase Consultation Responses

Further information on P296, including consultation responses and previous documentation can be found on the [P296](#) page of the ELEXON website.