

Stage 01: Recommendation to raise a Modification Proposal and Initial Written Assessment

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).

ELEXON recommends that the Panel:



- Raise the attached Modification Proposal;
- Progress directly to the Report Phase with a provisional recommendation that it should be approved.



Low Impact:
BSC Panel and ELEXON

What stage is this document in the process?

01 Initial Written Assessment

02 Definition Procedure

03 Assessment Procedure

04 Report Phase

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About this Document

This document is an Initial Written Assessment (IWA), which ELEXON will present to the Panel on 11 July 2013. If the Panel agrees to raise the Modification Proposal, this document also forms the Initial Written Assessment (IWA) and sets out how we believe the change should be progressed.

The Panel will consider the recommendations and agree whether to raise the Modification Proposal and if so, how to progress it.

You can find further information in the attached Modification Proposal (Attachment A), draft BSC legal text (Attachment B) and draft BSCP40 redlining (Attachment C).



Any questions?

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1 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 Uniform Network Code (UNC), Balancing and Settlement Code (BSC) and Connection and Use of System Code (CUSC). 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 2010¹ 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 phase CGR focussed primarily on the BSC, CUSC and UNC, CGR Phase 2 aimed to apply the 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 2013², with the changes taking effect on 5 August 2013.

¹ http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Documents1/CGR_Finalproposals_310310.pdf

² [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)

Impacts on BSC

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) to the BSC without the need to go through the full Modification process

What is the Issue?

Following publication of the associated Electricity Transmission Licence: Standard Condition C3 (SLC C3), as required by the changes to the Standard Licence Conditions (SLC) C3, the new Fast Track Self-Governance process needs to be incorporated into the BSC by 31 December 2013³.

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

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³ Paragraph 13a – "Without prejudice to any rights of approval, veto or direction the Authority may have, the licensee shall use its best endeavours to ensure that procedures are in place that facilitate its compliance with the requirements of this condition including, but not limited to, modifying the STC where necessary no later than 31 December 2013."

Proposed solution

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

The Fast Track Self-Governance 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 Self-Governance Modification it would need to:

- meet the Fast Track Self-Governance Criteria currently set out in Standard Condition C3 of the Electricity Transmission Licence, which would be added into Section X Annex X-1; and
- have unanimous agreement from the BSC Panel that the proposed modification can proceed as a fast track change and should be implemented. The BSC Panel would be able to consider the Fast Track route irrespective of whether or not a Modification Proposal indicates that the Fast-Track process should be considered.

Fast Track Process

Raising a Fast Track Self Governance Modification

For a Modification to be considered as a Fast Track Self Governance Modification, the proposer will need to complete a Modification Proposal form as normal, but indicate that it is to be treated as a Fast Track Modification Proposal.

BSC Panel Meeting

As with current Modification Proposals and Self-Governance Modification Proposals, the proposal will be presented at the next available Panel meeting via a combined IWA and draft Fast Track Self Governance 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 then be captured in a final Fast Track Self-Governance Modification Report.

Implementation

Following the BSC Panel's decision to treat a Modification Proposal as a Fast Track Self Governance change, the 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.

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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. 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 Self-Governance Modification Proposal and its decision that it should be made.

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

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recommendation to the Authority.

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. 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 consultation respondents 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.

Justification against the Applicable BSC Objectives

Introducing a new Fast Track Self-Governance Modification process will extend the current Self-Governance Modification arrangements in allowing Modification Proposals to avoid going through the full Modification process when only minor housekeeping changes to the BSC are required.

We believe that this Modification Proposal better facilitates Applicable BSC Objectives:

(a) 'the efficient discharge by the Transmission Company of the obligations imposed upon it by the Transmission Licence' as the proposed changes will mean that the BSC is consistent with SLC C3 of the Licence; and

(d) 'promoting efficiency in the implementation of the Balancing and Settlement arrangements' 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.

Legal Text and Code Subsidiary Document

The proposed legal text can be found in Attachment A and the proposed changes to BSCP40 can be found in Attachment B.

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Implementation Costs

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

Impacts

Impact on BSC Parties and Party Agents

Minor impact – there is no direct or systematic 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.
BSC Section X, Annex X-1 -	Inclusion of new definitions of the Fast-Track process. The proposed changes to the Code can be found in Attachment B.

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 C.

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4 Proposed Progression

We recommend that, if the Panel raise this Modification, it proceeds directly to the Report Phase.

Why directly to Report Phase?

The Panel has the ability to progress a Modification straight to the Report Phase where it considers it self-evident that the Modification Proposal better facilitates the Applicable BSC Objectives (BSC paragraph F2.2.4).

We believe that it is self-evident that the Modification Proposal will enable the quick progression and implementation of minor housekeeping changes to the BSC without the need to go through the full Modification process.

Implementation Approach

Implementation of the recommended Modification would require only minimal changes to the Code and BSCP40. We therefore recommend that if the Panel agrees to raise the Modification Proposal and if it is then 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.

5 Recommendations



We invite the Panel to:

- **RAISE** the Modification Proposal in Attachment A;
- **SUBMIT** the Modification Proposal directly to the Report Phase;
- **AGREE** a provisional recommendation that the Modification should be made;
- **AGREE** a provisional Implementation Date of 31 December 2013 in line with the requirement in Standard Condition C3 of the Electricity Transmission Licence;
- **AGREE** the draft legal text in Attachment B;
- **AGREE** the draft redlined changes to BSCP40 in Attachment C; and
- **AGREE** that the Draft Modification Report should be issued for consultation and submitted to the Panel at its meeting on 12 September 2013.

Report Phase

We recommend that the Panel raise the Modification Proposal and sends it straight to the Report Phase with a view that it should be approved.

6 Further Information

You can find more information in:

Attachment **A**: Modification Proposal

Attachment **B**: Draft Legal Text

Attachment **C**: Draft BSCP40 redlining

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