

By email to: grendon.thompson@ofgem.gov.uk

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Dear Grendon,

BSCCo's Role under the European Electricity Balancing Network Code (EBNC)

Last August (2013), I wrote to you about the draft of the European Electricity Balancing Network Code (EBNC) that had then just finished its public consultation.

Now that ENTSO-E has just released a new public draft of the EBNC, I have re-reviewed and am sending you some thoughts. In terms of technical changes that might impact the GB Balancing and Settlement Code (BSC), my impression is that there has not be significant change so my previous observations on those aspects are still likely to be relevant to this new draft though I have not checked in detail.

So in this letter, I wanted to concentrate on the ability of ELEXON as BSC administrator (BSCCo) to continue once the EBNC comes into force. This means this letter concentrates on the drafting of Article 9 of the latest public EBNC draft.

1. How BSCCo is currently established

I think it is worth noting the following points as this drives my comments on the detailed drafting of Article 9.

- The existence of a Balancing and Settlement Code administrator role and ELEXON undertaking the BSCCo role are set out in National Grid Electricity Transmission plc (NGET)'s Transmission Licence and the BSC respectively. Though this may be changed¹ in future to reference a BSCCo in the Transmission Licence, the important point is that the BSCCo and ELEXON's roles are not established by legislation.
- ELEXON is not a Transmission System Operator (TSO) nor is there any realistic possibility of it becoming one.
- ELEXON administers more than Imbalance Settlement under the BSC, for example it also settles Bid-Offer Acceptances with NGET and with the relevant BSC Parties, so has a role in Balancing Energy Settlement.

¹ Subject to a current Ofgem consultation.

- ELEXON is wholly-owned, but not controlled, by NGET and is not consolidated in NGET's financial statements. ELEXON's independence of NGET is established by the BSC. The management of ELEXON is not controlled by NGET as all of ELEXON's Directors are appointed independently.
- Section C of the BSC prescribes the constitution of ELEXON, its role, powers, management, liability position and subsidiaries.
- The BSC also requires that ELEXON, in its BSCCo role, contracts with agents (BSC Agents) to undertake key tasks relating to Imbalance Settlement, Balancing Energy Settlement, data publication, etc.

2. Article 9 of the EBNC

The current draft of the EBNC largely assigns all tasks currently covered by the BSC to a TSO. Because ELEXON is not a TSO, this means that maintaining the role of ELEXON as BSCCo, if that is what GB desires, would require deliberate and formal action within GB, and Article 9 sets out three routes to enable this as follows.

- Delegation by the TSO
- Assignment by the Member State or National Regulatory Authority (NRA)
- Existing national law

In theory, any one of these options might be suitable for maintaining the role of ELEXON if that is what is desired. In practice, however, the current detailed drafting of these three options either:

- significantly changes ELEXON's role in relation to its stakeholders (the delegation option, which it appears may require a new contractual relationship between the delegating TSO and ELEXON)
- is insufficient to enable all current BSC tasks to continue to be undertaken by ELEXON and its BSC Agents (the assignment option in particular but potentially the other two options too); or
- is not suitable for the specific case of ELEXON given how ELEXON's role is established through BSC and Transmission Licence (not national law).

I have expanded on these thoughts on Article 9 in the attachment to this letter and this includes a suggested redraft of Article 9 which would address at least the latter two points. I have also included related comments on many other Articles of the EBNC. I should note that this is not intended to be an exhaustive or final set of comments even on this draft of the EBNC, rather a current snapshot of thoughts.

3. Implementing the EBNC

If the suggested drafting changes are made to Article 9, to maintain the status quo role of ELEXON as BSCCo, if that is what is desired, then certain formal actions still appear to be necessary by Ofgem or DECC e.g. to assign the current ELEXON roles back to ELEXON, and enabling ELEXON to continue to procure the BSC Agents.

If the drafting of Article 9 remains the same as it is now without any changes, then the status quo allocation of tasks could be maintained by formal delegation by the relevant TSO, but as noted above, a new governance structure may be required. Even if some BSC roles were assigned by Ofgem or

DECC, it would still require a formal TSO request, and could not cover all the current BSC tasks undertaken by ELEXON and its BSC Agents, some of which would still need to be delegated. I am assuming that the option of new national law would not be attractive!

4. In summary

If the desire is to maintain the current BSCCo role of ELEXON including its ability (requirement under the BSC) to appoint BSC Agents, then certain actions will need to be taken prior to, and at, the coming into force of the EBNC.

If this is the desire, then I suggest that it is important the EBNC drafting enables this to be met at minimum cost and effort for the industry and electricity consumer and, in my personal view, it would be worth testing this draft and each re-draft against this criterion.

The current drafting of the EBNC appears to me to fail this test, as to maintain the current role of BSCCo requires at least some delegation of BSC functions back to BSCCo, and a new contractual relationship with the delegating TSO. By suitable amendments to the drafting of the EBNC now, this cost and effort can be avoided.

As always, I am available to discuss any of the points raised in this letter and attachment should you wish to do so.

Yours sincerely,



Steve Wilkin
European Coordination Manager
ELEXON Ltd

Attachment:

Comments on Article 9 of the draft network code on electricity balancing (and other Articles of that code) – October 2014

Copied to:

Jonathan Robinson, DECC
Alex Haffner, National Grid