



## 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).

This Report Phase Consultation for P296 closes at:

**5pm on Monday 5 August 2013**

The Panel may not be able to consider late responses.



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 is the Draft Modification Report, which ELEXON will present to the Panel on 12 September 2013. The Panel will consider the consultation responses and recommendations and agree a final view on whether or not P296 should be approved.

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### Why Change?

Following publication of the associated Electricity Transmission Licence: Standard Condition C3 (SLC C3), 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 Code and BSCP40. P296 will not have any effect on ELEXON's activities, BSC Systems and processor contractual arrangement with service providers but there is a minor impact on BSC Parties and Party Agents. Although there is no direct or systematic impact, 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 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.

### The Case for Change

The Panel's unanimous view is that P296 would better facilitate the Applicable BSC Objectives overall compared with the existing baseline.

The Panel believes that this Modification better facilitates Applicable BSC Objective (a) as the proposed changes will mean that the BSC is consistent with SLC C3 of the Licence; and 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 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 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 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 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)

## 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 2013<sup>3</sup>.

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

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<sup>3</sup> 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.

## 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](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

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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.

#### Question 1

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?

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## 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 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.  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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## 5 Implementation

### Implementation Approach

Implementation of P296 would require only minimal changes to the Code and BSCP40. The Panel recommends 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.

#### Question 2

Do you agree with the Panel's recommended Implementation Date?

## 6 The Case for Change

### Justification against the Applicable BSC Objectives

The Panel believes that P296 better facilitates the achievement of BSC Objective (a) "The efficient discharge by the Transmission Company of the obligations imposed upon it by the Transmission Licence " and Objective (d) "Promoting efficiency in the implementation of the balancing and settlement arrangements."

The Panel believes it is self-evident that the Proposed Modification will enable the quick progression and implementation of minor housekeeping changes to the BSC without the need to go through the full Modification process.



#### The Applicable BSC Objectives

(a) The efficient discharge by the Transmission Company of the obligations imposed upon it by the Transmission Licence

(b) The efficient, economic and co-ordinated operation of the National Electricity Transmission System

(c) 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

(d) Promoting efficiency in the implementation of the balancing and settlement arrangements

(e) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency

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### 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.

## 8 Recommendations

Having considered the P296 IWA, the BSC Panel initially recommends:

- That Proposed Modification P296 **should** be made;
- An Implementation Date for the Proposed Modification P296 of 31 December 2013 in line with the requirement in Standard Condition C3 of the Electricity Transmission Licence; and
- The Proposed text for modifying the Code and BSCP40 for P296.

### Report Phase Consultation Question

Do you agree with the Panel's initial recommendation that P296 should be approved?

## 9 Further Information

More information is available in:

Attachment **A**: Proposed Legal Text

Attachment **B**: Proposed changes to BSCP40

Attachment **C**: Report Phase Consultation Questions

All P296 documentation can be found on the [P296](#) page of the ELEXON website.