

# Report Phase Consultation Responses

## P332 'Revisions to the Supplier Hub Principle'

This Report Phase Consultation was issued on 15 September 2021, with responses invited by 15 October 2021.



### Phase

Initial Written Assessment

Definition Procedure

Assessment Procedure

Report Phase

Implementation

### Consultation Respondents

| Respondent   | Role(s) Represented                |
|--|------------------------------------|
| Drax Group BSC Parties (including Opus Energy and Haven Power) | Generator, Supplier, ECVNA, MVRNA  |
| Power Data Associates Ltd                                      | MA                                 |
| IMServ Europe Ltd  | HH and NHH DC, DA and MOP          |
| OVO Energy   | Supplier, NHHDC/DA                 |
| ScottishPower  | Supplier, HH/NHH DC                |
| SSE Energy Supply Limited                                      | Supplier                           |
| Stark  | NHHDC, HHDC                        |
| SMS  | NHH MOA/DC/DA HH MOA/DC/DA CVA MOA |

P332  
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Responses

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Version 1.0

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Question 1: Do you agree with the Panel's initial majority recommendation that P332 should be approved?

## Summary

| Yes | No | Neutral/No Comment | Other |
|-----|----|--------------------|-------|
| 2   | 6  | 0                  | 0     |

## Responses

| Respondent   | Response | Rationale   |
|--|----------|---|
| Drax Group BSC Parties (including Opus Energy and Haven Power) | Yes      | <p>We agree with the Proposer that the 'appointment' of Agents by Customers, outside of the Supplier hub principle, makes Supplier management of Agent performance and delivery of obligations within the BSC more difficult than managing Agents with whom it has a contract.</p> <p>We believe that P332 better facilitates Applicable BSC Objectives c) and d):</p> <p><b>Objective (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.</b> The proposal better facilitates this objective on the grounds that customers should receive comparable levels of service regardless of whether their Agent is Customer or Supplier-appointed.</p> <p><b>Objective (d) Promoting efficiency in the implementation and administration of the balancing and settlement arrangements.</b> The proposal better facilitates this objective as the intent of the side letter is to allow Suppliers to enforce all applicable obligations of SVA Data Collectors specified in the BSC and relevant Balancing and Settlement Code Procedures (BSCPs) and Code Subsidiary Documents (CSDs). This should help Suppliers to manage performance of Agents with whom it does not have a contract leading to more consistent performance.</p> |
| Power Data Associates Ltd                                      | No       | <p>I do not believe the proposed change will make any difference to settlement accuracy.</p> <p>I attended the majority of workgroup discussions since the MOD was raised. Right from the initial meeting it was impossible to determine what</p>   |

| Respondent        | Response | Rationale   |
|-------------------|----------|---|
|                   |          | <p>problem this MOD was seeking to resolve. Over that period, I was particularly concerned about the impact on Meter Operators but over the last year that has been negated by the introduction of the REC which means that SVA Meter Operators, from Sept 2021, are no longer under the BSC governance.</p> <p>The debate over the many years was initially focused on metering issues. In 2019/2020 the debate highlighted some concerns with obligations for provision of communications equipment not being mandated in the BSC. I sought to raise a MOD on behalf of the AMO with the Panel in summer 2020 to clarify and resolve this point but based on Ofgem feedback (overlap with MHHS) I withdraw the modification which will hopefully re-emerge soon.</p> <p>It is noticeable that in the last year the P332 discussion morphed from focusing on metering to focusing on Data Collectors.</p> <p>My view of the P332 is that it reflects some ambiguities and therefore differences of opinion in the existing BSC obligations. If the root cause of these different views is identified, then a focused MOD could be raised to address the specific ambiguity.</p> <p>P332 failed to be specific of the problem and of the proposed solution, on that basis, in my view, it should only have ever been raised as an Issue, not a modification. After debate in an Issue group tangible change could have emerged.</p> <p>Through the workgroup discussion no tangible evidence of problems was identified, the only evidence provided was anecdotal evidence. The contrary anecdotal evidence has not been given the same prominence in the final report. No analysis has occurred to demonstrate that making this change will even change the outcome of the anecdotal evidence.</p> |
| IMServ Europe Ltd | No       | <p>This modification will not better achieve any objective, as the obligations on supplier agents, and their responsibilities, are already clearly articulated in existing BSC documents. Monitoring of such compliance already occurs under the PAF in the form of regular DTN analysis by ELEXON, targeted audits and annual BSC audits etc. This same PAF also provides for the management and escalation of</p>   |

| Respondent    | Response | Rationale   |
|---------------|----------|---|
|               |          | <p>supplier agent parties who fail to comply with these obligations.</p> <p>On the contrary, this proposal will add a layer of administration in managing and maintaining the signing of letters (which only serve to repeat already documented and enforceable requirements), with the potential for costs and effort to be incurred by PAB, the Panel and Ofgem should an agent not sign the letter. The involvement of such parties is not appropriate for such a failure and escalation processes should be confined to the management of material risk.</p> <p>The Workgroup has tried, but failed, to qualify or quantify the issue/s, other than by the use of anecdotal evidence; despite the many years involved in the debate, the many independent audit checks performed during this time, or the wealth of DTN data available. As is the nature of the industry, there will be some members in every type of party role (supplier, LDSO, Agent etc) who, at varying times, fail to perform in line with requirements; however existing processes can and should be used to manage this.</p> <p>This proposal does not address a gap or weakness in the BSC, or the governance of such, as no such gap or weakness exists. As such the Modification is not required and should be rejected.</p> |
| OVO Energy    | No       | <p>We do not agree that this modification should be approved. We believe that better methods could be applied by Elexon for the purpose of fulfilling their objectives. We believe that this modification would put undue pressure on DCs who have zero customers using Customer Preferred Agents. As noted within the consultation, this is "predominantly in the Industrial &amp; Commercial (I&amp;C) sector". Necessitating that a Company Director of a DC that has no sites with Customer Preferred Agents signs a side letter is not a reasonable request, and we therefore request that this modification in its current form is rejected.</p>  |
| ScottishPower | Yes      | <p>ScottishPower agrees with Panel's initial majority that P332 should be implemented and that it better facilitates Applicable BSC Objectives c) and d).</p> <p>However, whilst SP recognise it's not a substitute for having commercial terms, and using it would be a nuclear option, it does provide a legal avenue</p>   |

| Respondent                | Response | Rationale   |
|---------------------------|----------|---|
|                           |          | <p>directly between Supplier and Agent which is presently unavailable.</p> <p>Making DCs' qualification dependent on compliance with the side letter provides incentive which are currently missing in many cases, particularly where a Supplier registers a customer with a CPA with whom the supplier has no contractual arrangement.</p> <p>Currently a Supplier would have to invoke Performance Assurance actions through Elexon and ultimately via PAB if they were unable to get the required service from the Data Collector.</p> <p>As this entails the threat of the removal of qualification, this avenue has a high threshold for action and is time-consuming on the Agent, the Supplier, Elexon and PAB.</p> <p>P332 provides a direct legal avenue between parties under the Contracts (Third Party Rights) Act 1999; the mere existence of this is likely to focus agent-supplier engagements making them considerably quicker and more efficient than current baseline.</p> <p>Counter-arguments that the removal of Meter Operators from the scope since their move to REC or that MHHS will change Data Collector services, overlook the facts that the P332 solution i) is relatively quick and low impact and ii) benefits the industry by increasing accountability for Data Collectors' BSC performance directly with Suppliers.</p> <p>It reduces barrier to entry by reducing the burden on small suppliers who currently have to choose between putting 40+ Data Collector agreements in place even before they have registered an MPAN and subjecting themselves to the uncertainty that comes with a customer-appointed Data Collector's default or deemed terms.</p> |
| SSE Energy Supply Limited | No       | <p>We do not believe that P332 should be approved as it unlikely to change the behaviour of DCs, and suppliers are very unlikely to act on any breaches to the side letter as the costs and efforts of going to court would be too high. This would especially be the case for smaller suppliers. We believe that the implementation of P332 would create a lot of unnecessary and burdensome administration, and would deliver no benefit. Also, given the planned timescale of MHHS implementation, it would only be in place for a limited amount of time. The P332 Workgroup, which has discussed this change in</p>  |

| Respondent | Response | Rationale  |
|------------|----------|--|
|            |          | detail, came to a different conclusion to the Panel and recommended that P322 should be rejected.  |
| Stark      | No       | <p>We still do not agree that P332 should be approved, as there has been insufficient evidence that the use of the proposed side letter would ensure that Suppliers have a route to better manage Agents with whom they do not have a direct contract, whilst maintaining the Supplier hub principle.</p> <p>We are of the opinion that this proposal does not better facilitate the baseline Applicable BSC Objectives, c) &amp; d) as the proposed letter does not add any clarity to the requirements or change the process for dealing with non-compliance, that can be seen to improve competitiveness of sale or efficiencies in BSC.</p> <p>It has been suggested that Customer preferred agents behave differently &amp; throughout this modification the issue has been stated that, as a matter of principle, that this is unfair.</p> <p>The evidence, however, that directly connects customer preferred Data collectors (as Meter Operators since omitted) to issues that Suppliers have been unable to manage with the appointed DC agents has been little more than anecdotal throughout this modification &amp; typically MPAN dependent.</p> <p>Agent requirements and the Supplier Hub processes are already clearly defined within the Code, along with a formal BSC process for dealing with any non-compliances.</p> <p>It is explicit, that the use of this letter is an action of last resort, that is only applicable in the absence of a direct contract, however, it can be perceived as a threat mechanism in place of having a direct contract.</p> <p>Difficult to ascertain how the proposed solution would be more of a threat than Removal of Qualification, &amp; therefore does not introduce any more efficiency to BSC Settlement. Going to court would take longer than the issue being dealt with at the Performance Assurance Board, which would presumably not be avoided, and thus a greater impact on risk to Settlement.</p> <p>It has been observed that Removal of Qualification has never been used since the BSC was introduced</p> |

| Respondent | Response | Rationale   |
|------------|----------|---|
|            |          | <p>and would only be used if there were significant performance issues across the whole portfolio. Customers would also have lodged complaints long before this situation reached, prompting action by DC.</p> <p>Many of the significant issues that DC agents face, that are not related to metering faults, are commercial in nature that the potential lack of a direct contract with a Supplier or being a customer preferred agent becomes an obstacle to problem solving, due to a lack of co-operation, that Suppliers have an obligation to provide their appointed agents under BSC.</p> <p>Most DC Agents have been in business for many years now, &amp; until recently have not increased in number, therefore Supplier &amp; DC agent commercial interactions should have been possible. It has been suggested in the consultation that the requirement to contract with all agents could be a commercial or competitive obstacle; there is however limited number of agents, &amp; especially independents to whom contracts are good for competitive business.</p> <p>The new, small Suppliers entering the market, many of whom make use of third-party energy management Software, seem very willing to engage into a contract with DC agents, who can provide them with support, even if customer preferred. This takes place without the influence of the side-letter. The opinion of most of these smaller Suppliers has not been available and whilst consultation responses have represented the usual cross-section and numbers, a lot of assumptions have been made on what has, fundamentally, been a commercial &amp; not a BSC issue.</p> |
| SMS        | No       | <p>As a Supplier Agent that sits in between the roles of Supplier Contracted and Customer Contracted, we adhere to the BSC and work with our Suppliers and Customers to ensure the best outcome for all. Where we are not contracted to a supplier, we still open communications to ensure that neither of our Settlements are being affected. We believe that adhering to the BSC is enough and that a side letter is not warranted.</p>   |

## Question 2: Do you agree with the Panel that the redlined changes to the BSC deliver the intention of P332?

### Summary

| Yes | No | Neutral/No Comment | Other |
|-----|----|--------------------|-------|
| 4   | 3  | 0                  | 1     |

### Responses

| Respondent   | Response | Rationale  |
|--|----------|--|
| Drax Group BSC Parties (including Opus Energy and Haven Power) | Yes      | No rationale provided  |
| Power Data Associates Ltd                                      | No       | As stated in the response to Q1 the "intention" of the MOD has always been unclear.  |
| IMServ Europe Ltd  | No       | See answer to Q1   |
| OVO Energy   | No       | We believe that the intention of P332 is not delivered by the red lined changes. This modification has veered from its original intention and a number of significant changes have happened since its inception. For example, MOPs moving under the REC as MEMs and inclusion of Direct Customer Contract flags in registration data under MHHS. |
| ScottishPower  | Yes      | No rationale provided  |
| SSE Energy Supply Limited                                      | Yes      | Whilst we do not agree that the modification should be implemented, if it is then the changes deliver the intention of P332.   |
| Stark  | Yes      | Whilst we still do not support the modification, If approved by the authority the redlined changes do sufficiently highlight the obligations for Data Collector agents to sign the letter as part of the Qualification process.  |
| SMS  | N/A      | No rationale provided  |



## Question 3: Do you agree with the Panel's recommended Implementation Date?

### Summary

| Yes | No | Neutral/No Comment | Other |
|-----|----|--------------------|-------|
| 3   | 4  | 0                  | 1     |

### Responses

| Respondent   | Response | Rationale   |
|--|----------|---|
| Drax Group BSC Parties (including Opus Energy and Haven Power) | Yes      | An Implementation Date of 5 WDs after Ofgem approval would give DCs a 6-month period to sign the side letter before it takes effect.              |
| Power Data Associates Ltd                                      | No       | As stated earlier the purpose of the Modification and its expected outcome are unclear.   |
| IMServ Europe Ltd  | No       | No rationale provided   |
| OVO Energy   | No       | We do not agree that this mod should be approved and therefore cannot agree with any implementation date.   |
| ScottishPower  | Yes      | No rationale provided   |
| SSE Energy Supply Limited                                      | No       | We do not agree that P332 should be implemented.  |
| Stark  | Yes      | Whilst we still do not support the modification, if the approved by authority & implemented we agree with the recommended date of implementation. |
| SMS  | N/A      | No rationale provided   |

Question 4: Do you agree with the Panel's initial view that P332 should not be treated as a Self-Governance Modification?

## Summary

| Yes | No | Neutral/No Comment | Other |
|-----|----|--------------------|-------|
| 8   | 0  | 0                  | 0     |

## Responses

| Respondent   | Response | Rationale  |
|--|----------|--|
| Drax Group BSC Parties (including Opus Energy and Haven Power) | Yes      | This a material change, and as such we agree that it is not appropriate to be progressed as a Self-Governance Modification.  |
| Power Data Associates Ltd                                      | Yes      | It impacts multiple customer facing parties.   |
| IMServ Europe Ltd  | Yes      | No rationale provided  |
| OVO Energy   | Yes      | No rationale provided  |
| ScottishPower  | Yes      | ScottishPower agrees with the Panels view that P332 should not be treated as self-governance due to the impacts identified on EBGL and agree Ofgem to make a decision on whether it should be implemented. |
| SSE Energy Supply Limited                                      | Yes      | We agree with the Panel as P332 does not meet the self-governance criteria.  |
| Stark  | Yes      | No rationale provided  |
| SMS  | Yes      | No rationale provided  |

Question 5: Do you agree with the Panel's initial recommendation that P332 does impact the European Electricity Balancing Guideline (EBGL) Article 18 terms and conditions held within the BSC?

## Summary

| Yes | No | Neutral/No Comment | Other |
|-----|----|--------------------|-------|
| 6   | 0  | 1                  | 1     |

## Responses

| Respondent   | Response | Rationale                               |
|--|----------|---|
| Drax Group BSC Parties (including Opus Energy and Haven Power) | Yes      | No rationale provided                   |
| Power Data Associates Ltd                                      | None     | No comment                              |
| IMServ Europe Ltd  | Yes      | No rationale provided                   |
| OVO Energy   | N/A      | No rationale provided                   |
| ScottishPower  | Yes      | No rationale provided                   |
| SSE Energy Supply Limited                                      | Yes      | We agree with the Panel's view on this. |
| Stark  | Yes      | No rationale provided                   |
| SMS  | Yes      | No rationale provided                   |

Question 6: Do you have any comments on the impact of P332 on the EBGL objectives?

### Summary

| Yes | No | Neutral/No Comment | Other |
|-----|----|--------------------|-------|
| 0   | 7  | 1                  | 0     |

### Responses

| Respondent   | Response | Rationale             |
|--|----------|-----------------------|
| Drax Group BSC Parties (including Opus Energy and Haven Power) | No       | No rationale provided |
| Power Data Associates Ltd                                      | None     | No comment            |
| IMServ Europe Ltd  | No       | No rationale provided |
| OVO Energy   | No       | No rationale provided |
| ScottishPower  | No       | No further comments   |
| SSE Energy Supply Limited                                      | No       | No rationale provided |
| Stark  | No       | No rationale provided |
| SMS  | No       | No rationale provided |

## Question 7: Do you have any further comments on P332?

### Summary

| Yes | No |
|-----|----|
| 5   | 3  |

### Responses

| Respondent   | Response | Rationale  |
|--|----------|--|
| Drax Group BSC Parties (including Opus Energy and Haven Power) | No       | No rationale provided  |
| Power Data Associates Ltd                                      | Yes      | <p>This is an example of a Modification that was originally not well drafted or explicit in defining the problem or the potential solution. The description was also incorrect in inferring that Agents were not already accountable the BSC PAB – which they are. The BSC change team and the BSC Panel should consider the considerable effort that has been expended in considering this Modification over five years and learn any lessons to ensure there is sufficient rigor in progressing any further Modifications.</p> <p>I do not believe the proposed change will make any difference to settlement accuracy. As demonstrated by the Modifications extensive discussion and eventual conclusion to reject the modification.</p> <p>There is a reasonable question raised by this Modification back in January 2016 – whether Agents should become signatories to the BSC? In the Marketwide HH Settlement (MHHS) arrangements currently under development it may be appropriate to construct the arrangements such that Data Services do become signatories to the BSC, as now Metering companies are signatories to the REC. Under MHHS the Data Services will have different obligations than under the current BSC, so it may be an opportune change.</p> |
| IMServ Europe Ltd  | Yes      | As an industry we should use this Modification for a lessons learned opportunity as we must question the time, cost and effort expended for an outcome of such questionable benefit.   |
| OVO Energy   | No       | No rationale provided  |

| Respondent                | Response | Rationale  |
|---------------------------|----------|--|
| ScottishPower             | Yes      | ScottishPower would note that its comments are submitted on behalf of both its Supplier and Data Collector businesses and so we consider them to be bi-partisan.   |
| SSE Energy Supply Limited | Yes      | Following on from answer to question 1, we believe that if any supplier did try and invoke the side letter it could lead to some bad feeling and reputational loss within the industry. We are also of the view that whilst it is unlikely to be invoked, DCs could apply a risk premium to their prices which could, ultimately, lead to higher prices for consumers. There is also a view that the threshold of poor performance would have to be so high to go to court that it could lead, in any case, to removal of qualification, which is a far cleaner and more cost effective deterrent. |
| Stark                     | No       | No rationale provided  |
| SMS                       | Yes      | We agree with the Workgroup's recommendation that P332 should be rejected. We also agree that P332 would allow Suppliers to target what they see as problem relationships and areas. We do not believe that a side letter is warranted, adhering to the BSC should be considered enough.   |