

P332 Digital Meeting Etiquette

- Welcome to the P332 Workgroup Meeting 8 – we'll start shortly
- No video please to conserve bandwidth
- Please stay on mute unless you need to talk – use IM if you can't break through
- Talk – pause – talk
- Lots of us are working remotely – be mindful of background noise and connection speeds

ELEXION

P332 Workgroup 8

Revisions to the Supplier Hub Principle

25 September 2020

Meeting Agenda & Objectives

- Review proposed side letter and legal text
- Agree items in (and out of) scope
- Review Terms of Reference
- Agree Assessment Procedure Consultation questions
- Agree Progression Plan

| Agenda Item | Lead |
|--|---|
| 1. Welcome and Meeting objectives | Lawrence Jones (Chair) |
| 2. Recap and Actions | Paul Wheeler (Lead Analyst) and Matthew McKeon (Design Authority) |
| 3. Legal text review – proposed side letter and legal text | Nicholas Brown (Lead Lawyer) |
| 4. Terms of Reference review | Paul Wheeler |
| 5. Assessment Procedure Consultation questions | Paul Wheeler |
| 6. Next steps | Paul Wheeler |
| 7. Meeting close | Lawrence Jones |



RECAP OF WORKGROUP MEETING 7

Recap of Workgroup Meeting 7

- Workgroup Meeting 7 was held on 6 February 2020
- There was a review of case studies provided by Workgroup Members, where the issues are perceived to be caused by DCs and MOAs. The examples provided were common to CPA and non-CPA sites but Workgroup Members perceived the amount of time and effort needed to resolve issues for CPA sites is often higher than for non-CPA sites
- The Workgroup identified that although the scope of the Modification had been changed to focus on MOAs there was a preference to include DCs as well, based on the case studies presented
- The Workgroup decided not to conduct any further analysis or evidence gathering at this stage
- The Proposer confirmed his preferred solution would be a side-letter as part of the Qualification process, requiring Agents to agree that all appointments are treated the same regardless of contract status, such that they meet all relevant BSC requirements

What's happened since the last Workgroup meeting?

- Steven Bradford from Smartest Energy is the new Proposer representative, replacing Colin Prestwich
- Draft legal text and side letter has been drafted and reviewed by external lawyers, based on requirements provided at the last Workgroup meeting
- At the September 2020 Panel, a three-month extension to the P332 Assessment Procedure was approved and we are proposing to present the Assessment Report at the January 2021 Panel meeting or earlier if possible



METER OPERATOR GOVERNANCE

Ofgem proposals for Metering governance under the Retail Energy Code – 1 of 2

- Ofgem's preferred option in their June 2019 consultation is to transfer gas agent appointment provisions and electricity provisions related to MEM appointment and MAP notifications to the REC, along with relevant metering MDD.
- The aim of this is to harmonise governance of gas and electricity industry processes. Under this option, the resulting REC Schedule would have a dual fuel high level requirements section, followed by fuel specific sections including interface tables and detailed processes. This Schedule would be mandatory for domestic and non-domestic suppliers, and performance would be managed under the REC PAF.
- While data flows and systems for each fuel are different, the high level processes and requirements are already substantially aligned, and the organisations involved in the processes (suppliers and metering agents) are often active in both fuels, offering efficiencies to be gained from a single harmonised governance framework, which is one of the objectives of the Retail Code Consolidation SCR.
- Ofgem proposes that MEMs should be parties to the REC. This would ensure that direct obligations and performance assurance can be placed on MEMs, particularly around data quality and provision of data for industry processes. Bringing MEMs into the REC directly would create a clear divide between the commercial performance arrangements established in bilateral contracts between MEMs and suppliers; and industry wide obligations that MEMs must be accountable for in regards to their performance or interactions with other parties.

Ofgem proposals for Metering governance under the Retail Energy Code – 2 of 2

- Ofgem proposes that ‘master data’ that originates with the MEMs but is subsequently used for various retail activities would be subject to REC Performance Assurance Framework to assure the quality and timeliness of its provision. This would include data items such as the meter serial numbers and MAP ID. With MEMs as parties to the REC, the PAB would be able to issue sanctions for poor performance, in line with the Performance Assurance Schedule. This provides an opportunity for the audit approach to be harmonised and efficiencies realised via a common gas and electricity audit for MEMs which perform both MOP and MAM roles.
- Another option under consideration is to include a MEM representative on the REC Change Panel, either on a permanent basis or as and when relevant business is tabled. The REC Manager, being responsible for developing change proposals, could facilitate engagement with MEMs during the development phase, but with the Change Panel responsible for decisions. This would reduce the engagement burden on MEMs, but would be reliant upon the REC Manager engaging meaningfully and at an early stage with affected parties.
- Elexon is liaising with Ofgem to establish how best to meet these objectives without weakening the BSC’s ability to assure metering risks to settlement. In the meantime, P332 will proceed and be assessed against the current BSC baseline with respect to MOA processes. If a solution is approved and then deemed by Ofgem to be relevant to dual fuel retail processes, it can be subsumed into the Retail Code Consolidation SCR and implemented into the REC under direction.



REVIEW ACTIONS

Review Actions

1. Elexon to share AMO guidance on 'Process for Lack of Customer/Meter Operator' Contract
2. Elexon to confirm Business Requirements for side letter
3. Elexon to draft side letter
4. Proposer to review draft side letter
5. Elexon to investigate whether any action (e.g. application of a PAT) is required in relation to underperformance or breach of obligations
6. Elexon to consider whether any further analysis should be done into the impact of CPAs on Settlement
7. WG to be reconvened to review progress and agree consultation questions



SIDE LETTER AND LEGAL TEXT

Side Letter and Legal Text – Background

- At the last WG, the intention was to amend the Code and existing Party Agent side letter to include an obligation on agents not to unduly discriminate between Registrants of the Metering Systems
- We had concerns about this approach from a legal perspective:
 - The side letter is enforceable by Elexon not Suppliers, so not consistent with supplier hub principles
 - The obligation was not tightly defined, so would be difficult for Elexon to monitor and enforce
- The Proposer and Elexon therefore developed another approach as follows:
 - MOPs and DCs are required to enter into a side letter
 - The side letter requires MOPs and DCs to comply with specified BSC/BSCP obligations
 - The side letter gives the relevant Supplier rights under the Contracts (Rights of Third Parties) Act 1999 to enforce that side letter against CPAs (i.e. the side letter effectively becomes a proxy contract between the supplier and the CPA)
 - The BSC, in addition to mandating this approach, recognises that although BSCCo has a side letter with MOP/DCs, the Supplier remains fully responsible for performance of that MOP/DC and BSCCo shall be under no expectation / obligation to enforce the side letter
- This approach maintains the supplier hub principle but gives Suppliers contractual rights vis-à-vis MOPs and DCs where they do not otherwise have a direct contract
- The approach and legal text have been reviewed by external lawyers who have confirmed this approach is legally robust
- Draft legal text and side letter were circulated to Workgroup members on 28 Aug for consideration in advance of today's meeting

Side Letter and Legal Text – key features and scope

- The following slides are key features of the legal text for discussion by the Workgroup

Who should the solution apply to?

- At the end of the last Workgroup, the Workgroup agreed that the solution should apply to DCs and MOAs.
- Previously, the Proposer was minded to apply only to MOAs
- The solution has therefore been drafted to apply to all Meter Operators and Data Collectors (HH & NHH) but is only enforceable against CPAs – see J1.2.9
- Are the Workgroup content with this approach?
- Should any other Agents been included?

Side Letter and Legal Text – Re-Qualification

How long should existing Agents have to sign the side-letter?

- The legal text requires all MOPs and DCs to re-qualify Requirement to re-qualify by submitting an executed copy of the side letter

3.3.6B Each Qualified Meter Operator Agent and Data Collector shall be required to re-Qualify within [x] months of the Relevant Implementation Date of Approved Modification P332 by submitting an executed letter agreement as required under paragraph 3.3. 6A

- The Proposer suggest that MOPs and DCs re-qualify within 3 months of the implementation date of P332
- We seek the Workgroup's views on the proposed re-qualification timescales
- If a side letter is not submitted, this allows the PAB to commence the Removal of Qualification process
 - Not Breach & Default as Agents are not a Party to the Code

Side Letter and Legal Text – BSC and BSCP obligations (1 of 2)

What obligations should Agents be ‘on the hook for’?

- The side letter requires CPAs to comply with certain BSC and BSCP obligations
 - Obligations not yet specified – to be discussed

Extract from side letter:

We acknowledge that we have obtained a copy of the latest versions of [*insert relevant sections that contain obligations that MOPs and HHDCs will need to comply with*] Section C, Section H from the BSC Website, and undertake to obtain a copy of each modification thereof.

We hereby undertake that for the duration of our Qualification as a Meter Operator Agents and/or Data Collector, and in respect only of Metering Systems in respect of which we are a Customer Preferred Agent, we shall:

- (a) comply with, and perform the obligations of Meter Operator Agents and/or Data Collector in accordance with the BSC, including without limitation [*insert relevant Code provisions*] and BSC Procedure [*insert relevant BSCP sections*], as amended, and as referred to in those aforementioned Sections and any other applicable BSC Procedure; and
- (b) abide by the terms of Section C5, Sections H4 and H9 of the BSC as if we were a party to the BSC for the purposes of those Sections

Side Letter and Legal Text – BSC and BSCP obligations (2 of 2)

- The Proposer suggests that the BSC and BSCP obligations in the side letter should include the following:
 1. BSCP514 'SVA Meter Operations for Metering Systems Registered in SMRS'
 - BSCP514 defines the processes that both the Half Hourly and Non Half Hourly Meter Operator Agent shall use to carry out the work for meter operations. This includes, appointment changes, market data activities, connections, disconnections, reconfiguration or changes and where required proving (of HH Metering Systems) for all Supplier Volume Allocation MS registered in the Supplier Meter Registration System.
 2. BSC provisions on agent appointment and de-appointment
 - We welcome the Workgroup's views on the inclusion of the above obligations in the side letter
 - We welcome the Workgroup's views on other relevant BSC Sections and BSC Procedures for inclusion in the side letter



TERMS OF REFERENCE REVIEW

Terms of Reference

P332 Specific ToR

- a) What issues are caused by customers choosing Agents?
- b) What is the materiality of the issues?
- c) What means are presently available to address the issues?
- d) What is the best way in principle to address the issues?

Standard ToR

- e) What is the most appropriate Implementation Date?
- f) What changes are needed to BSC documents, systems and processes to support P332 and what are the related costs and lead times?
- g) Are there any Alternative Modifications?
- h) Does P332 better facilitate the Applicable BSC Objectives compared with the current baseline?
- i) Does P332 impact the EBGL provisions held within the BSC, and if so, what is the impact on the EBGL Objectives?

Terms of Reference Summary

| Item | Status |
|---|--|
| P332 Specific Terms of Reference | Complete – subject to WG review today |
| Costs and impacts | Initial assessment, but require industry assessment via AC |
| Self-Governance? | Not considered yet |
| Any Alternative Modifications? | None raised yet |
| Views against Applicable BSC Objectives | Not given yet |
| EBGL Article 18 impacts | Yes |

Costs and impacts

Costs:

- This is a document only change. No system changes are required for this Modification
- The cost of amending BSC Baseline items is £240 for the first BSC Baseline item and £120 for each additional BSC Baseline item
- Any ongoing operational costs will be identified in the Internal Impact Assessment

Likely impacts:

- BSC Section J 'Party Agents and Qualification Under the Code'
- Qualification side letter: Qualification Deed pursuant to BSC Section J3.3.6
- Suppliers, DCs, MOAs

We will consult with industry to understand the potential costs and impacts on Suppliers and Agents

Implementation date

- The Proposer suggests that the implementation date is **5 WDs** after Ofgem's decision
- The Proposer suggests that Agents would then have 3 months to sign the side letter
- The Final Modification Report is due to be sent to Ofgem by 17 March 2021
- Ofgem's KPI for decision is 25 days, so a decision could be received in April / May 2021 → side letter required to be signed around July / August 2021

Self-Governance criteria

A proposal that, if implemented

(a) is unlikely to have a material effect on:

(i) existing or future electricity consumers; and

(ii) competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity; and

(iii) the operation of the national electricity transmission system; and

(iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and

(v) the Code's governance procedures or modification procedures, and

(b) is unlikely to discriminate between different classes of Parties.

The Proposer believes that P332 is **not suitable for Self-Governance** as it will have a material impact on competition (paragraph a) ii)) because it will enable Suppliers to better manage Agents with who they don't have a commercial contract.

Self-Governance criteria - EBGL Article 18 terms and conditions of balancing

In addition to the Self-Governance criteria, any Modification that seeks to amend BSC provisions constituting European Balancing Guideline (EBGL) Article 18 terms and conditions related to balancing cannot be progressed as Self-Governance. This is because the EBGL requires any Amendments to those terms and conditions to undergo a separate EBGL Amendment process, requiring the Modification to be approved by Ofgem.

Section J 3.3 is identified as impacted by P332. The relevant EBGL sections are:

- Section J:
 - Sub-Sections: **3.3**, 3.6, 3.7, 3.8
- P332 therefore impacts EBGL Article 18 terms and conditions on balancing



APPLICABLE BSC OBJECTIVES

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 and administration 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 [for the Co-operation of Energy Regulators]
- f) Implementing and administering the arrangements for the operation of contracts for difference and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation
- g) Compliance with the Transmission Losses Principle

Proposer Views: Applicable BSC Objectives

The Proposer initially believed that P332 would better facilitate Applicable BSC Objectives c) and d)

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

The Proposer contends that this Objective would be better facilitated because the Modification would ensure customers would receive comparable levels of service regardless of whether their Agent is customer appointed or Supplier appointed. In addition, the Proposer contends that P332 would mean that Suppliers are not disadvantaged commercially by the appointment of Agents by customers .

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

The Proposer contends that this Objective would be better facilitated because Agents who have signed the proposed side letter would lead to a more consistent level of performance by Agents.



EBGL ARTICLE 18 TERMS AND CONDITIONS

EBGL Article 18 Terms and Conditions

Does P332 impact the EBGL provisions held within the BSC, and if so, what is the impact on the EBGL Objectives?

- Some BSC provisions constitute EBGL Article 18 terms and conditions as approved by Ofgem
- BSC provisions became EBGL provisions too on 25 June 2020, alongside P392
- P392 included a new Annex F-2 in Section F - a table showing which BSC provisions also constitute Article 18 terms and conditions
- P392 amended the BSC Change process to also fulfil the EBGL change process and incorporate delegations from NGESO to Elexon and the BSC Panel
- Modifications that wholly or partially amend BSC provisions that also constitute EBGL Article 18 terms and conditions must follow the amended BSC Change process
- Modifications may add new BSC provisions that also constitute EBGL Article 18 terms and conditions held within the BSC – “extending” the mapping

The amended BSC Change Process

- Impact on the EBGL Objectives shall be considered by Elexon/Proposer/WG
- One calendar month Report Phase Consultation
- Reconvene WG to provide justification for including/not including consultation comments
- Panel agrees EBGL impacts and above justification
- Panel sends FMR to Ofgem to fulfil BSC and EBGL processes

EBGL Article 18 Terms and Conditions

Section J 3.3 is identified as impacted by P332. The relevant EBGL sections are:

- Section J:
 - Sub-Sections: **3.3**, 3.6, 3.7, 3.8
- P332 therefore impacts EBGL Article 18 terms and conditions on balancing

Elexon believes that P332 is consistent with EBGL objectives

Elexon believes that P332 fosters effective competition, non-discrimination and transparency in balancing markets

We welcome the Workgroup's views on this and also against other relevant EBGL Objectives



CONSULTATION QUESTIONS

Standard Consultation Questions

- Do you agree with the Workgroup's initial view that P332 [does/does not] better facilitate the Applicable BSC Objectives than the current baseline?
- Do you agree with the Workgroup that the draft legal text delivers the intention of P332?
- Do you agree with the Workgroup's recommended Implementation Date?
- Do you agree with the Workgroup that there are no other potential Alternative Modifications within the scope of P332 which would better facilitate the Applicable BSC Objectives?
- Do you agree with the Workgroup's assessment of the impact on the BSC Settlement Risks?
- Will P332 impact your organisation?
- Will your organisation incur any costs in implementing P332?
- How long (from the point of approval) would you need to implement P332, taking into consideration time given to sign the side-letter?
- Do you have any further comments on P332?

Additional Consultation Questions

- What, if any, additional Assessment Consultation questions are needed?
- Do you agree with the Workgroup that the solution should only apply to MOAs and DCs?
- Do you agree with the obligations that the Workgroup are placing on MOAs and DCs in the side-letter?
- We invite the Workgroup to suggest any further Consultation Questions



PROGRESSION PLAN & NEXT STEPS

Progression Plan and Next Steps

- Workgroup summary will be issued by 7 October 2020
- Workgroup to review Assessment Consultation w/c 26 Oct
- Assessment Procedure Consultation 15 WD – from 2 November 2020 to 20 November 2020
- Workgroup meeting to review consultation responses w/c 23 November 2020
- Workgroup to review Assessment Report w/c 30 November 2020
- Assessment Report presented to BSC Panel on 14 January 2021
- Report Phase Consultation from 20 January 2021 to 22 February 2021 (needs to be one month due to EBGL)
- Possible WG within a week or so from end of RPC
- Draft Modification Report present to BSC Panel on 11 March 2021
- Final Modification Report submitted to Ofgem for decision by 17 March 2021

ELEXON

THANK YOU

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25 September 2020