

P369 'National Grid Legal Separation changes to BSC'

This proposal seeks to modify the Balancing Settlement Code (BSC) to reflect the creation of a new National Grid Electricity System Operator (NGESO) that is legally separate from National Grid Electricity Transmission Limited (NGET).

This Report Phase Consultation for P369 closes:

5pm on Friday 31 July 2018

The Panel may not be able to consider late responses.



The BSC Panel initially recommends **approval** of P369

This Modification is expected to impact:

- The Transmission Company
- ELEXON



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About This Document

This is the P369 Draft Modification Report, which ELEXON is issuing for industry consultation on the BSC Panel's behalf. It contains the Panel's provisional recommendations on P369. The Panel will consider all consultation responses at its meeting on 9 August 2018, when it will agree a final recommendation to the Authority on whether or not the change should be made.

There are twenty parts to this document:

- This is the main document. It provides details of the solution, impacts, costs, benefits/drawbacks and proposed implementation approach.
- Attachment A contains the Modification Proposal form for P369.
- Attachment B contains the draft legal text for P369.
- Attachments C-R contain the Change Subsidiary Documents (CSD) redlined text for P369.
- Attachment S contains the specific questions on which the Panel seeks your views. Please use this form to provide your responses to these questions, and to record any further views/comments you wish the Panel to consider.

P369
Report Phase Consultation

17 July 2018

Version 1.0

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Why Change?

Within the National Grid (NG) Group a new Electricity System Operator (ESO) entity (NGESO) is being established, that is legally separate from the transmission owner, NG Electricity Transmission (NGET). The separation will allow the new ESO to play a more proactive role in managing an increasingly flexible electricity system that can realise benefits for consumers. The formal separation shall be achieved by 1 April 2019.

The Balancing and Settlement Code (BSC) as well as the Code Subsidiary Documents (CSDs) include multiple references to NGET in terms of the ESO functions set out in its Transmission Licence. Each of these references need to be reviewed to ensure that the references continue to remain accurate following the legal separation of the ESO functions from NGET and their transfer to NGESO.

Solution

This Modification proposes to:

- Amend all references that refer to ESO functions to become 'Transmission Company' where possible; and
- Amend the definition of 'Transmission Company' in [BSC Section X](#) to refer to ESO obligations only.

Impacts & Costs

This Modification will impact the Transmission Company and ELEXON due to the required amendments to documentation.

The central implementation cost to deliver the solution to this Modification is £480. This is derived from one Working Day to implement the changes to the BSC Sections and CSD's and another day to update relevant Local working Instructions (LWIs).

Implementation

This Modification is proposed to be implemented on 29 March 2019, as part of a combined ad hoc March 2019 BSC Release with another Modification. Text shall be added to BSC Section C to specify that the proposed changes shall not take effect until 1 April 2019.

Recommendation

The BSC Panel unanimously believes that P368 better facilitates Applicable BSC Objective (a). The **majority** of the Panel recommended that this Modification should be **approved** and progressed directly to the Report Phase.



Background

Following the joint statement titled "[Statement on the future of Electricity System Operation](#)" issued by the Department for Business, Energy & Industrial Strategy (BEIS), Ofgem and National Grid on 12 January 2017 and consequential consultation response by Ofgem on [Electricity System Operator separation](#) on 3 August 2017; the obligations in the BSC will need to be modified to accurately reflect Electricity System Operator (ESO) requirements and to place the current Transmission Owner (TO) requirements on NGET as a TO.

NGET and NGESO will become separately licensed entities as a consequence of NGET partially transferring its existing licence to NGESO (the ESO elements only) under section 7A Electricity Act 1989. NGET will retain the Transmission Owner elements of the licence.

What is the issue?

The BSC and its CSDs include multiple references to NGET in terms of the ESO functions set out in its Transmission Licence. Each of these references need to be reviewed to ensure that the references continue to remain accurate following the legal separation of the ESO functions from NGET, and their transfer to NGESO.

Following the legal separation of the ESO functions from NGET, a definition for NGET shall not be required due to the BSC referring to National Grid solely in its ESO function.

What is the Electricity Act 1989?

'An Act to provide for the appointment and functions of a Director General of Electricity Supply and of consumers' committees for the electricity supply industry; to make new provision with respect to the supply of electricity through electric lines and the generation and transmission of electricity for such supply...'

"Transmission Licence" was last issued to NGET under section 6(1)(b).

Proposed solution

This Modification proposes to:

- Amend all references that refer to ESO functions to become 'Transmission Company' where possible (exceptions outlined below); and
- Amend the definition of 'Transmission Company' to refer to ESO obligations only.

The proposed definition of Transmission Company includes the acronyms and words: 'NGESO', 'National Grid Company' and 'NGC'. All references to 'NGET', the 'National Grid Electricity Transmission Limited', 'National Grid' and 'System Operator' have been updated to become 'Transmission Company' where possible (exceptions outlined below). This will ensure all terminology is accurate and aligns with NGESO's future functions, as well as avoiding possible confusion over future responsibilities. A definition for NGET is not required to be added to the Code due to all references within the BSC relating to NGESO functions only.

To avoid the need for disruptive and costly changes to BSC Central Systems:

- references to 'NGC' in the CSD's are proposed to be retained (NGC is now included within the definition of 'Transmission Company');
- existing redundant references to 'System Operator Consumption Imbalance' and 'System Operator Production Imbalance' within the Interface Definition Documents (IDD) will have '[redundant]' inserted next to them and be marked as housekeeping for the purpose of future changes already impacting BSC Central Systems;
- the acronym 'SO' shall be defined as 'Transmission Company' in the IDD and User Requirements Specification (URS) documents when in reference to BSC Central Systems data items.

Exceptions to the solution are:

- references to the 'NGET Connection Agreement' to become 'NGESO Connection Agreement' as this is a specified title;
- references to 'system operator' in the lower case are to remain as this is a generic term (an operator of a non-specific system); and
- references to 'System Operator BM Cashflow' are to remain as this is a defined term.

The proposed changes to the CSDs have been drafted as part of this proposal and can be found alongside the legal text in Attachments B-Q. As part of this Modification we have incorporated housekeeping changes into the following documents:

- BSC Section X-1 'General Glossary' – amend incorrect reference in the definition of 'De Minimis Acceptance Threshold'. Amend a typographical error in definition of 'Equivalent Meter';
- Section X-2 'Technical Glossary' – remove repeated wording, 'Working Day' from table X-2;
- Balancing and Settlement Code Procedure (BSCP) 14 'Processing of Manifest Error Claims', - Insert BSSCo into section 3.2;

- Settlement Administration Agent (SAA) URS – amend typographical errors in sections 4.6, 4.7 and 5; and
- Funds Administration Agent (FAA) URS – delete repeated wording, 'charge', from section 2.2.32.

Legal text

Please see attachment B for the proposed legal text.

4 Impacts & Costs

Estimated central implementation costs of P369

The central implementation cost to deliver the solution to this Modification is £480. This is derived from one Working Day to implement the changes to the BSC Sections and CSD's and another day to update relevant Local working Instructions.

Indicative industry costs of P369

No industry costs are anticipated for the implementation of this Modification.

P369 impacts

Impact on BSC Parties and Party Agents

| Party/Party Agent | Potential Impact |
|-------------------|------------------|
| None identified. | |

Impact on Transmission Company

The Transmission Company shall review any documentation it owns which references NGET in regards to the BSC.

Impact on BSCCo

| Area of ELEXON | Potential Impact |
|-------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Operations | This Modification will require updates to the wording of impacted local working instructions. |
| Following the legal separation, the NGET share of ELEXON will be required to be transferred to NGESO. | |

Impact on BSC Systems and processes

| BSC System/Process | Potential Impact |
|--------------------|------------------|
| None identified. | |

Impact on BSC Agent/service provider contractual arrangements

| BSC Agent/service provider contract | Potential Impact |
|--------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Letter of Agreement for BM Audit | Novation required. To be completed in parallel with the Modification as a separate work stream with the same implementation date. |
| Agreement for use of the National Grid Corporate Telephone Network | As above. |

| Impact on Code | |
|---------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| Code Section | Potential Impact |
| Section C 'BSCCo and its subsidiaries' Section X Annex X-1, Section X Annex X-2 | Redlining amendments as proposed by the solution to this Modification Proposal. |

| Impact on Code Subsidiary Documents | |
|-------------------------------------|---------------------------------------------------------------------------------|
| CSD | Potential Impact |
| BSCP14 | Redlining amendments as proposed by the solution to this Modification Proposal. |
| NETA IDD Part 1 | As above. |
| NETA IDD Part 2 | As above. |
| BMRA Service Description (SD) | As above. |
| CDCA SD | As above. |
| FAA SD | As above. |
| BMRA URS | As above. |
| CDCA URS | As above. |
| CRA URS | As above. |
| EAC/AA URS | As above. |
| ECVAA URS | As above. |
| FAA URS | As above. |
| SAA URS | As above. |
| NHHA URS | As above. |
| Reporting Catalogue | As above. |
| CVA Data Catalogue: Annex C | As above. |

Impact on a Significant Code Review (SCR) or other significant industry change projects

We requested that this Modification Proposal be classed as SCR Exempt by Ofgem. Ofgem was notified on 18 May 2018 that this Modification was due to be raised and that it was ELEXON and the Proposer's view that this Modification should be a SCR Exempt Modification Proposal. Ofgem confirmed SCR exemption on 29 May 2018.

Impact on Consumers

The solution to this Modification does not have any direct impacts on consumers.

Impact on Environment

ELEXON does not believe this Modification has any direct impacts on the environment.

Recommended Implementation Date

Modification P369 is proposed to be implemented on **29 March 2019**, as part of a combined ad hoc March 2019 BSC Release with another Modification. The following text shall be added into BSC Section C in order to specify that the added text shall take effect from the 1 April 2019:

‘2.2.4 Modification Proposal P369, including any modifications to Code Subsidiary Documents or any other document maintained under the Code made pursuant to Modification Proposal P369, shall take effect from 00:00 hours on 1 April 2019.’

This is due to this BSC Modification, the associated NGENSO BSC novation and the BSC share transfer being required to take effect on 1 April 2019; the date on which the ESO functions will transfer from NGET to NGENSO. All other impacted code administrators intend to implement their respective changes on this day.

6 Panel's Initial Discussions

The Panel's initial discussions focussed around three points of the Modification: if the Modification should not be treated as Self-Governance; if the Terminology used to reflect NGESO's role within the BSC was suitable; and if amendments to the Modification following Report Phase Consultation are possible within the requested timeline.

Self-Governance

The Panel discussed whether to recommend P369 as a Self-Governance Modification or not. Some Members of the Panel believed P369 could be viewed as a consequential change from the amendments to the Transmission Licence. Further, it was of a nature that seemed like a straightforward document only change that would not directly have a material impact on the operation of the Transmission System or on the competition in the generation distribution and supply of electricity.

The Proposer stated that the Authority will provide direction in regards to the transfer of the Transmission License and shareholding within ELEXON from NGET to NGESO. Additionally, this Modification is part of a co-ordinated effort across affected code governing bodies. All other Modifications that have been proposed have not been progressed as Self-Governance. Therefore, you could argue it would be inconsistent to progress P369 as a Self-Governance Modification and inappropriate due to the Authorities significant involvement in the legal separation process.

Terminology

A Panel Member did not agree with National Grid's ESO obligations being defined within the term 'Transmission Company'. They believed this could be unclear and confusing to new organisations becoming signatories to the BSC as they may incorrectly interpret Transmission Company (TC) to be the Transmission Owner without feeling the need to check BSC Section X for the definition of TC. They believed this could act as a barrier to entry. They believed that the term used to represent NGESO's obligations within the BSC could be better represented. Further, they believed that if a change is made, rather than aim for minimal change, it should be done properly and effectively.

It was queried what approach had been taken in other codes to represent NGESO. The Proposer clarified that a similar approach had been taken in other codes. For example, 'The Company' had been used in the Connection and Use of System Code ([CUSC](#)) and the [Grid Code](#). Where additional specificity was required 'NGESO' had been used. In the event that NGESO's role was to change in the future, this approach allows the definition of 'The Company' to be amended as opposed to reviewing and amending each individual reference.

The Proposer highlighted that from the conception of the legal separation, the aim had always been to progress associated modifications through the minimum change required. This approach was consulted on by National Grid through an industry [open letter](#) being published in September 2017 and no concerns had been raised. The Proposer believed that amending all TC references in the BSC would be going beyond the principle of minimum possible change. The alternative approach would have been to amend all 703



What are the 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

references of 'Transmission Company' within all BSC Sections, except E and J, to become an alternative term.

ELEXON noted that the proposed legal text does deliver the intent of P369 and stands up legally.

Timeline

As the legal separation shall take effect on the 1 April 2019, National Grid had requested that all code changes are with Ofgem for decision by October 2018. The current timeline for P369, as the Legal text currently stands, will achieve an Authority decision by mid-September.

If following the Report Phase Consultation, the Panel wanted to amend the legal text; it was questioned whether the October approval date could still be met.

ELEXON clarified that amending all 703 references to Transmission Company would introduce a risk that the requested October date could not be achieved. It would depend on whether all references could be amended and reviewed with the new terminology without conflicting with any other terms in use.

If the legal text was amended in this way, ELEXON would recommend that a second Report Phase Consultation is issued. Assuming that the legal text was amended during August 2018 and re-consulted on in September 2018, the Draft Modification Report would be presented to the Panel at its October 2018 meeting. This would mean the P369 Final Modification Report would be issued to the Authority for decision by 18 October 2018.

Proposer's views

The Proposer supports that the current drafting of the legal text delivers the legal separation in the context of the BSC. The term 'Transmission Company' has been used in order to achieve the legal separation with the minimum amount of change required in line with the requested approach. 'Transmission Company' was deemed suitable as National Grid only has ESO obligations in regards to the BSC and 'Transmission Company' is already the primary term used to identify National Grid.

National Grid has received negative feedback from the industry against the term 'NGESO' being used in codes when additional specificity is not required. This is due to the inflexibility of this term if NGESO's role were to change in the future. 'The Company' has been used in National Grid owned codes only and has the risk of causing confusion in the BSC.

If the industry indicates that 'Transmission Company' is not the most suited term to represent NGESO's functions within the BSC, then National Grid fully supports a change of the defined term from 'Transmission Company' to 'National Electricity Transmission System Operator' which would be consistent with the proposed approach taken in the Distribution Connection and Use of System Agreement ([DCUSA](#)).

Summary

The Panel agreed to progress P369 to Report Phase Consultation by majority (5 to 4). Those in favour believed that the Modification achieved legal separation via the requested approach and those against believed that the terminology should be made clearer. The

majority believed that P369 should not be treated as a Self-Governance Modification for the reasons outlined by the Proposer above. The minority believed it should be treated as Self-Governance as it was a consequential change and had no material impact on the Self-Governance Criteria.

The Panel unanimously voted that P369 does better facilitate Applicable BSC Objective (a) despite some members preferring the term 'Transmission Company' was replaced with something more meaningful. This was because, although some members of the Panel felt that the legal text could be improved, the Modification still achieved legal separation. The Panel also unanimously voted that the drafted legal text and changes to the CSD's did deliver the intent of P369. Finally, the Panel unanimously agreed an initial implementation date of 29 March 2019 as part of an ad hoc March 2019 BSC Release.

Additional Consultation Question

Following the Panel discussions an additional Consultation question has been included within the Report Phase Consultation:

Report Phase Consultation Question

Do you support the amendment of the proposed legal text so that 'Transmission Company' and 'System Operator' is changed to 'National Electricity Transmission System Operator (NETSO)?

Please provide your rationale, including your views on the term 'NETSO'.

The Panel invites you to give your views using the response form in Attachment S

The term 'NETSO' has been selected as a potential term to represent NGEESO instead of 'Transmission Company' in order to be consistent with the approach taken in the proposed National Grid legal separation modification for DCUSA. At the time of writing this report, the proposed DCUSA Modification (CP324) is due to be presented to the [DCUSA Panel on 18 July 2018](#). This term would be easily amendable if NGEESO's role were to change in the future and also clearly separates NGEESO's role from that of a Distribution System Operator.

Please be aware that this amendment will require substantially more changes to the Code and Subsidiary documents than under the current proposed changes. This approach will only be taken if the Panel direct the change to the legal text in response to the Report Consultation responses highlighting that additional clarity is needed from the term 'Transmission Company'.

Report Phase Consultation Questions

Do you agree with the Panel's initial recommendation that P369 should be approved?

Do you agree with the Panel's initial unanimous recommendation that P369 better facilitates Applicable BSC Objective (a) and so should be approved?

Do you agree with the Panel that the redlined changes to the BSC deliver the intention of P369?

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

Do you agree with the Panel's initial view that P367 should not be treated as a Self-Governance Modification?

Do you have any further comments on P369?

The Panel invites you to give your views using the response form in Attachment S

7 Recommendations

The BSC Panel initially recommends to the Authority:

- That P369 should be **approved**
- An Implementation Date for P369 of:
 - **29 March 2019** as part of an ad hoc March 2019 BSC Release;
- The draft BSC legal text for P369;
- The draft changes to the CSDs; and
- That P369 should not be treated as a Self-Governance Modification

Appendix 2: Glossary & References

Acronyms

Acronyms used in this document are listed in the table below.

| Acronym | |
|---------|---------------------------------------------------------|
| Acronym | Definition |
| BEIS | Department for Business, Energy and Industrial Strategy |
| BMRA | Balancing Mechanism Reporting Agent |
| BSC | Balancing and Settlement Code |
| BSCCo | Balancing and Settlement Code Company |
| CDCA | Central Data Collection Agent |
| CUSC | Connection and Use of System Code |
| CRA | Central Registration Reporting Agent |
| CSD | Change Subsidiary Document |
| DCUSA | Distribution Connection and Use of System Agreement |
| EAC | Estimated Annual Consumption |
| ESO | Electricity System Operator |
| FAA | Funds Administration Agent |
| IDD | Interface Definition Document |
| IWA | Initial Written Assessment |
| NETA | New Electricity Trading Arrangements |
| NETSO | National Electricity Transmission System Operator |
| NG | National Grid |
| NGESO | National Grid Electricity System Operator |
| NGET | National Grid Electricity Transmission |
| SCR | Significant Code Review |
| SD | Service Description |
| TO | Transmission Owner |
| URS | User Requirement Specification |

External links

A summary of all hyperlinks used in this document are listed in the table below.

All external documents and URL links listed are correct as of the date of this document.

| External Links | | |
|----------------|--------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Page(s) | Description | URL |
| 2 | BSC Sections page of ELEXON website. | https://www.elexon.co.uk/bsc-and-codes/balancing-settlement-code/bsc-sections/ |
| 4 | Statement on the future of Electricity System Operation | https://www.gov.uk/government/publications/statement-on-the-future-of-electricity-system-operation |
| 4 | Consultation response by Ofgem on Electricity System Operator separation | https://www.ofgem.gov.uk/electricity/transmission-networks/electricity-so-reform |
| 11 | The Connection and Use of System Code webpage | https://www.nationalgrid.com/uk/electricity/codes/connection-and-use-system-code-cusc |
| 11 | The Grid Code webpage | https://www.nationalgrid.com/uk/electricity/codes/grid-code |
| 11 | Link to National Grid industry open letter | https://www.nationalgrid.com/sites/default/files/documents/Code%20approach%20Open%20Letter_Final_2.pdf |
| 12 | The Distribution Connection and Use of System Agreement | https://www.dcusa.co.uk/SitePages/Home.aspx |
| 13 | DCUSA Panel 18 July 2018 webpage | https://www.dcusa.co.uk/Lists/DCUSA%20Calendar/DispForm.aspx?ID=2842&Source=https%3A%2F%2Fwww%2Edcusa%2Eco%2Euk%2FLists%2FCommittees%20%20Groups%20List%2FDisplayCGForm%2Easpx%3FID%3D10&ContentTypeId=0x01020027E750AFC0265645A3CB533F29B9DE0700F3667BAAA396764DBF60F04C812E5889 |