# P370 'Allow the Panel to designate non-BSC Parties to raise Modifications"

This Report Phase Consultation was issued on 7 January 2019, with responses invited by 25 January 2019. Please note, following the Panel meeting on 14 February 2019, we have updated the Flexible Generation Group parties and roles represented in the table below. Details of the Panel discussions leading to this change can be found in the P370 Final Modification Report.



## Consultation Respondents

| Respondent | No. of Parties/Non-Parties Represented | Role(s) Represented |
|---|---|---|
| Siemens Managed Services | 0/6 | Supplier Agent: HHDA ,HHDC, HHMOA, NHHDA, NHHDC NHHMOA |
| Scottish Power Energy Management Limited | 3/2 | Generator, Supplier, Non Physical Trader, ECVNA, and MVRNA |
| Western Power Distribution | 1/0 | Distribution System Operator |
| The Association for Decentralised Energy | 0/1 | Trade Association |
| SMS Energy Services Limited | 0/1 | Supplier Agent |
| Flexible Generation Group | 2/7 | Trade Association (responding on behalf of generators) |
| Flexitricity Limited | 1/1 | Supplier/ Non-BM services provider |
| Association of Meter Operators | 0/1 | Trade Association (representing multiple Meter Operators) |
| Power Data Associates Ltd | 0/1 | Supplier Agent |
| SSE | 3/0 | Generator, Supplier, Interconnector User |


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## Question 1: Do you agree with the Panel's initial unanimous view that the P370 Proposed Modification better facilitates the Applicable BSC Objectives than the current baseline?

### Summary

| Yes | No | Neutral/No Comment | Other |
|---|---|---|---|
| 8 | 1 | 1 | 0 |

### Responses

| Respondent | Response | Rationale |
|---|---|---|
| Siemens Managed Services | Yes | None provided. |
| Scottish Power Energy Management Limited | Yes | As there has only been one request for designation to the Authority to date, it is not clear that there is a systemic issue with the process that could not be addressed by an improved process within the Authority. Introducing new processes into the BSC and associated Procedures will not therefore necessarily improve the implementation of the BSC arrangements (Objective (d)).<br><br>Having a more transparent process, may improve the apparent independence and neutrality of the designation process for introducing a modification and may therefore improve the perception of promoting competition (Objective (c)).<br><br>The Proposal is neutral against the other Applicable BSC objectives and any benefits from P370 Proposed Modification are marginal at best. |
| Western Power Distribution | Yes | None provided. |
| The Association for Decentralised Energy | Yes | The ADE agrees with the Panel's view; the Proposed Modification better facilitates Objectives (c) and (d) by making the designation process more efficient, defined and transparent, thereby removing a barrier to non-BSC parties becoming designated parties. This improves the accessibility of the Modification Procedure process, which increases competition by allowing organisations to address issues that they are affected by and so offer an increased variety of solutions to customers. The BSC Panel being made up of experts on the BSC will also help the process to be more efficient. |
| SMS Energy Services Limited | None provided. | None provided. |
| Flexible Generation Group | Yes | FGG support open governance and believe that more parties are now impacted by codes which they are not signatories to. Introducing the right for |


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| Respondent | Response | Rationale |
|---|---|---|
| | | parties to raise changes to codes which impact them is a sensible development in the market. |
| Flexitricity Limited | Yes | The modification better facilitates BSC objective (c) because the designation process proposed is more efficient. Removing barriers to non-parties being able to raise modifications promotes effective competition especially considering that in recent years it has become more common for Parties to raise modifications where the market participants most directly effected are non-parties. The modification would allow for a more level playing field. The modification also better facilitates BSC objective (d) as the process is more efficient than the current process. The BSC Panel is also a more appropriate body to determine whether to designate. |
| Association of Meter Operators | Yes | The BSC needs to evolve, progressively and steadily. Making it easier for non-BSC Parties to raise MODs & Issues will enable the many stakeholders operating under the BSC framework, such as Meter Operators, to raise Issues and potentially MODs to enable debate and review of the BSC. Although non-BSC Parties can raise these issues it will be dependent on consultation and the BSC Panel to determine whether the changes are actually approved. |
| Power Data Associates Ltd | Yes | The BSC needs to evolve, progressively and steadily. Making it easier for non-BSC Parties to raise MODs & Issues will enable the many stakeholders operating under the BSC framework, such as Party Agents, to raise Issues and potentially MODs to enable debate and review of the BSC. Although non-BSC Parties can raise these issues it will be dependent on consultation and the BSC Panel to determine whether the changes are actually approved. |
| SSE | No | SSE maintains that it is not appropriate to shift responsibility for designation from the Authority to the BSC Panel, particularly for an infrequently used process that has been given little opportunity to evolve and mature to address concerns with it raised by industry.<br><br>SSE maintains that the Authority is in a better position than the BSC Panel to consider applications for designation, given its wider duties beyond the Applicable BSC Objectives. This remains an appropriate check and balance in our view, given |


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| Respondent | Response | Rationale |
|---|---|---|
| | | that designation confers the same legal rights as BSC Parties to effect a change to the contract, but without the same cost implications.<br><br>SSE maintains that it is inappropriate to transfer the costs of processing designation applications from license fee payers to BSC Parties. As a minimum, non-Parties should be required to contribute to the costs of the process, as BSC Parties would be expected to contribute to the overall costs of BSC change.<br><br>SSE believes that the proposal is marginally detrimental to objective c), as it imposes costs upon BSC Parties that are obliged to accede to the BSC without a contribution from non-Parties who have made a conscious choice not to accede to the BSC.<br><br>SSE believes that the proposal is also detrimental to objective d), as it adds additional administration costs to BSCCo which are unnecessary given that a pathway already exists for the Authority to process designation requests. |


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## Question 2: Do you agree with the Panel's initial unanimous view that the P370 Alternative Modification better facilitates the Applicable BSC Objectives than the current baseline?

### Summary

| Yes | No | Neutral/No Comment | Other |
|---|---|---|---|
| 9 | 1 | 0 | 0 |

### Responses

| Respondent | Response | Rationale |
|---|---|---|
| Siemens Managed Services | Yes | None provided. |
| Scottish Power Energy Management Limited | Yes | As there has only been one request for designation to the Authority to date, it is not clear that there is a systemic issue with the process that could not be addressed by an improved process within the Authority. Introducing new processes into the BSC and associated Procedures will not therefore necessarily improve the implementation of the BSC arrangements (Objective (d)).<br><br>Having a more transparent process, may improve the apparent independence and neutrality of the designation process for introducing a modification and may therefore improve the perception of promoting competition (Objective (c)).<br><br>The Proposal is neutral against the other Applicable BSC objectives and any benefits from P370 Alternative Modification are marginal at best. |
| Western Power Distribution | Yes | None provided. |
| The Association for Decentralised Energy | Yes | The ADE agrees with the Panel's view; the Alternative Modification better facilitates Objectives (c) and (d), for the same reasons as stated in the response to Question 1. Additionally, the ability for participants to appeal designation rejections to Ofgem is valuable, giving the process independence and better fulfilling good governance requirements than a process without this option. |
| SMS Energy Services Limited | Yes | We agree that the Alternative Modification better facilities the Applicable BSC Objectives (c) and (d) |
| Flexible Generation Group | Yes | Yes, we agree both the alternate and the original better facilitate the relevant objectives, but believe that there is no need to have an appeal to Ofgem as we would expect the Panel to operate in a reasonable manner. |


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| Respondent | Response | Rationale |
|---|---|---|
| Flexitricity Limited | Yes | Same as question 1. |
| Association of Meter Operators | Yes | Having the ability to escalate to Ofgem if the BSC Panel reject the MOD is helpful in the unlikely scenario of needing to. |
| Power Data Associates Ltd | Yes | Having the ability to escalate to Ofgem if the BSC Panel reject the MOD is helpful in the unlikely scenario of needing to. |
| SSE | No | Please see answer to Q1 above. |


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## Question 3: Do you agree with the Panel's initial majority view that the P370 Alternative Modification better facilitates the Applicable BSC Objectives than the P70 Proposed Modification and should therefore be approved?

### Summary

| Yes | No | Neutral/No Comment | Other |
|---|---|---|---|
| 9 | 0 | 1 | 0 |

### Responses

| Respondent | Response | Rationale |
|---|---|---|
| Siemens Managed Services | Yes | The ability of non-Parties and Parties to appeal to Ofgem against the Panel decision as to whether the Modification can be raised, should address any concerns or claims of bias towards any group or individuals. |
| Scottish Power Energy Management Limited | Yes | The inclusion of a symmetrical appeal process by both BSC Parties and non-BSC Parties to Ofgem in the Alternative Modification will marginally improve the perception of competition (Objective (c)) than the Proposed Modification. |
| Western Power Distribution | Yes | We would agree that including a two way appeals process better facilitates the applicable BSC Objectives and therefore should be approved. |
| The Association for Decentralised Energy | Yes | The ADE agrees with the Panel's view that the P370 Alternative Modification better facilitates the Applicable BSC Objectives than the P370 Proposed Modification and should therefore be approved. In particular, the Alternative Modification better facilitates Objective (d) – allowing an appeals route to Ofgem helps improve good governance and quality outcomes, both due to adding an extra layer of scrutiny to the process and due to Ofgem's wider statutory duties. |
| SMS Energy Services Limited | Yes | We agree that the Alternative Modification better facilities the Applicable BSC Objectives (c) and (d). |
| Flexible Generation Group | Yes | See answer above. Both would make the administration of the code more efficient by allowing parties to raise changes even if not signatories, which would also enhance competition in the market as all parties can raise changes to rules that impact them but that they do not all currently have a say over. We believe non-signatories are most likely to be bring forward more innovative business models and may need the rules |


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| Respondent | Response | Rationale |
|---|---|---|
| | | to change to facilitate market entry, extensions of innovative business models, trialling new technologies, etc. |
| Flexitricity Limited | Yes | Yes, the alternative better facilitates the Applicable BSC Objectives than the Proposed modification because the appeals procedure defined gives the process more independence. |
| Association of Meter Operators | Yes | It is marginal, but the Alternative has the benefit of being able to escalate to Ofgem if necessary. |
| Power Data Associates Ltd | Yes | It is marginal, but the Alternative has the benefit of being able to escalate to Ofgem if necessary. |
| SSE | None provided | SSE do not agree that either the Proposed or the Alternative Proposal better facilitates the Applicable BSC Objectives.<br>SSE agree that the Alternative solution is marginally better than the Proposed, as it establishes a right of appeal for designation applicants that may be helpful in certain circumstances (should the proposal be approved); whilst, importantly, mirroring this right for BSC Parties, which maintains an appropriate balance and fairness. |
| | | |


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## Question 4: Do you agree with the Panel that the redlined changes to the BSC deliver the intention of the P370 Proposed and Alternative solutions?

### Summary

| Yes | No | Neutral/No Comment | Other |
|---|---|---|---|
| 10 | 0 | 0 | 0 |

### Responses

| Respondent | Response | Rationale |
|---|---|---|
| Siemens Managed Services | Yes | None provided. |
| Scottish Power Energy Management Limited | Yes | The redlined changes to the BSC provided appear to deliver the intention of the P370 Proposed and Alternative solutions. |
| Western Power Distribution | yes | Yes we agree that the draft redlined changes give a clear understanding of the process steps. |
| The Association for Decentralised Energy | Yes | None provided. |
| SMS Energy Services Limited | Yes | We agree that the redlined changes to BSC deliver the intention of the P370 Proposed and Alternative solutions. |
| Flexible Generation Group | Yes | None provided. |
| Flexitricity Limited | Yes | The redlined changes deliver the intention of the proposed and alternative solutions. |
| Association of Meter Operators | Yes | None provided. |
| Power Data Associates Ltd | Yes | None provided. |
| SSE | Yes | None provided. |
| | | |


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## Question 5: Do you agree with the Panel that the redlined changes to BSCP40 deliver the intention of the P370 Proposed and Alternative solutions?

### Summary

| Yes | No | Neutral/No Comment | Other |
|---|---|---|---|
| 10 | 0 | 0 | 0 |

### Responses

| Respondent | Response | Rationale |
|---|---|---|
| Siemens Managed Services | None provided. | None provided. |
| Scottish Power Energy Management Limited Yes | Yes | The redlined changes to BSCP40 appear to deliver the intention of the P370 Proposed and Alternative solutions. |
| Western Power Distribution | yes | Yes we agree that the draft redlined changes give a clear understanding of the process steps. |
| The Association for Decentralised Energy | Yes | None provided. |
| SMS Energy Services Limited | Yes | We agree that the redlined changes to BSCP40 deliver the intention of the P370 Proposed and Alternative solutions. |
| Flexible Generation Group | Yes | None provided. |
| Flexitricity Limited | Yes | The redlined changes deliver the intention of the proposed and alternative solutions. |
| Association of Meter Operators | Yes | None provided. |
| Power Data Associates Ltd | Yes | None provided. |
| SSE | Yes | None provided. |
| | | |


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## Question 6: Do you agree with the Panel that the draft Issue Group Terms of Reference deliver the intention of the P370 Proposed and Alternative solutions?

### Summary

| Yes | No | Neutral/No Comment | Other |
|---|---|---|---|
| 10 | 0 | 0 | 0 |

### Responses

| Respondent | Response | Rationale |
|---|---|---|
| Siemens Managed Services | yes | None provided. |
| Scottish Power Energy Management Limited Yes | Yes | None provided. |
| Western Power Distribution | Yes | None provided. |
| The Association for Decentralised Energy | Yes | None provided. |
| SMS Energy Services Limited | Yes | We agree that the draft Issue Group TOR delivers as intended. |
| Flexible Generation Group | Yes | None provided. |
| Flexitricity Limited | Yes | The draft Issue Group Terms of Reference deliver the intention of the solutions. |
| Association of Meter Operators | Yes | None provided. |
| Power Data Associates Ltd | Yes | None provided. |
| SSE | Yes | None provided. |


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## Question 7: Do you agree with the Panel's recommended Implementation Date?

### Summary

| Yes | No | Neutral/No Comment | Other |
|---|---|---|---|
| 10 | 0 | 0 | 0 |

### Responses

| Respondent | Response | Rationale |
|---|---|---|
| Siemens Managed Services | Yes | We understand this to be a documentation change to be implemented and that there are no practical changes required by BSC Parties or Supplier Agents, therefore we see that P370 could be implemented almost immediately after Ofgem approval.<br><br>We do not consider that it must be part of a normal BSC Systems Release. |
| Scottish Power Energy Management Limited Yes | Yes | If approved, P370 should be implemented in line with the first available BSC release i.e. 29 March 2019. |
| Western Power Distribution | Yes | None provided. |
| The Association for Decentralised Energy | Yes | None provided. |
| SMS Energy Services Limited | Yes | We agree. |
| Flexible Generation Group | Yes | None provided. |
| Flexitricity Limited | Yes | The recommended date is sensible given the time required for the Authority Decision. |
| Association of Meter Operators | Yes | Sooner the better |
| Power Data Associates Ltd | Yes | Sooner the better |
| SSE | Yes | None provided. |


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## Question 8: Do you agree with the Panel's initial view that P370 should not treated as a Self-Governance Modification?

### Summary

| Yes | No | Neutral/No Comment | Other |
|---|---|---|---|
| 10 | 0 | 0 | 0 |

### Responses

| Respondent | Response | Rationale |
|---|---|---|
| Siemens Managed Services | Yes | None provided. |
| Scottish Power Energy Management Limited | Yes | As the subject matter of P370 deals with the change process it is not appropriate for P370 to be progressed under Self-Governance. |
| Western Power Distribution | Yes | We agree that P370 does not meet the Self-Governance Criteria and therefore should not be progressed as a Self-Governance Modification. |
| The Association for Decentralised Energy | Yes | None provided. |
| SMS Energy Services Limited | Yes | We agree that P370 does not meet the Self-Governance criteria. |
| Flexible Generation Group | Yes | None provided. |
| Flexitricity Limited | Yes | Yes because it will have a material effect on competition. |
| Association of Meter Operators | Yes | None provided. |
| Power Data Associates Ltd | Yes | None provided. |
| SSE | Yes | None provided. |


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## Question 9: Do you have any further comments on P370?

### Summary

| Yes | No |
|---|---|
| 4 | 7 |

### Responses

| Respondent | Response | Comment |
|---|---|---|
| Siemens Managed Services | Yes | In the P370 Assessment Production Consultation document, page 17, there is a paragraph titled - Who is most likely to request designation.<br><br>it states: "The Workgroup noted that there were two key groups of users most likely to want to seek changes to the BSC, who are not BSC Parties – Virtual Lead Parties and Supplier Agents. ….. Supplier Agents are less likely to want to raise Modifications and more likely to want to raise Change Proposals, as most of their requirements sit in the Code Subsidiary Documents."<br><br>We, as a Supplier Agent, would agree with this analysis, and though it is a positive step to allow Agents the ability to raise Issues, this Proposal does not address what it identifies as an issue for Supplier Agents, that is the raising of Change Proposals to amend BSCP Procedures documentation. We would therefore be supportive of any extension to allow third parties the ability to raise Change Proposals. |
| Scottish Power Energy Management Limited Yes | No | |
| Western Power Distribution | Yes | As previously stated in our response to the Assessment Procedure Consultation, our concern is still the volume of modification and change proposals that could potentially be raised by Third Party Proposers. However, we note that provision has been made to monitor this by the Panel and the Panel will be able to take steps if the volume increases significantly. We would also not wish to be burdened with ill-conceived proposals which could involve wasted time, effort and costs. |
| | | |


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| Respondent | Response | Comment |
|---|---|---|
| The Association for Decentralised Energy | Yes | The ADE supports the decision to make two changes to the Workgroup Terms of Reference (mentioned on p.34 of the Report Phase Consultation): i) reducing the attendance threshold to 50%, in line with the CUSC, in order to maintain voting rights; and ii) allowing members to send an alternative, who will count towards the 50% threshold. These changes will help to encourage engagement of smaller participants in the change process, which is important under P370 and more generally, facilitating BSC Objective (c) by encouraging competition from innovative market entrants. |
| SMS Energy Services Limited | No | |
| Flexible Generation Group | No | |
| Flexitricity Limited | No | |
| Association of Meter Operators | No | |
| Power Data Associates Ltd | No | |
| SSE | Yes | SSE contend that BSC arrangements and BSCCo itself are becoming increasingly portrayed as (by ELEXON) and seen as (by industry) a wider public good than a Market Operator for Balancing and Imbalance Settlement that operates to ensure and equitable and efficient settlement outcome for BSC Parties. This is perhaps inevitable as new business models emerge that requires the centre to adapt.<br>As ELEXON seeks to serve an increasingly wide and diverse set of stakeholders (e.g. P362 applicants, P370 applicants), SSE believe that the current funding arrangements (and possibly ownership arrangements) for BSCCo need to be reviewed, to ensure a fair contribution to the costs from all who benefit from the arrangements. |


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