

Modification proposal:	<b>Balancing and Settlement Code (BSC) P449: 'Energy Bill Relief Scheme for non-domestic customers' (P449)</b>		
Decision:	The Authority <sup>1</sup> directs that this modification be made <sup>2</sup>		
Target audience:	National Grid Electricity System Operator (NGESO), Parties to the BSC, the BSC Panel and other interested parties		
Date of publication:	10 November 2022	Implementation date:	1 Working Day after the date of this decision

## Background

The unprecedented rise in gas prices over the last twelve months has significantly increased energy prices for consumers in Great Britain and across Europe. As well as the impact on businesses who may not be able to afford these price levels, increasing wholesale energy costs could have wider economic impacts, including increased risk of supplier failure and increased mutualisation costs for remaining suppliers in the market, all of which would adversely impact businesses.

On 8 September 2022, the Government announced a new 'Energy Bill Relief' scheme to start from 1 October 2022 for a limited period. The Energy Bill Relief (EBR) Scheme will provide a discount on wholesale gas and electricity prices for all non-domestic customers. The Government will pay the difference directly to suppliers.

The Balancing and Settlement Code (BSC) sets out the powers, functions and constitution of the BSC Company (BSCCo). Elexon is the BSCCo and is a non-profitmaking limited liability company established to facilitate the effective delivery, implementation and operation of the electricity balancing and settlement arrangements. The BSC is derived from the Electricity

<sup>1</sup> References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

<sup>2</sup> This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

Transmission licence held by NG (National Grid) ESO (Electricity System Operator). That licence defines the activities and remit of the BSC and Elexon as the BSCCo.

## **The modification proposal**

BSC Modification Proposal P449 was raised by NGESO on 2 November 2022. The proposal seeks to enable Elexon to implement and act as scheme administrator for the Government's new EBR Scheme for non-domestic electricity consumers. The activities that Elexon is permitted to undertake are outlined in BSC Section C 'BSCCo and its Subsidiaries'. Currently, the activities listed in BSC Section C do not include provisions for administering such a scheme. The proposal will extend Elexon's vires under the BSC to undertake a new non-Settlement related function administering the EBR Scheme.

NGESO requested that P449 be treated as an Urgent BSC Modification Proposal due to the need to progress P449 as an imminent or current issue.<sup>3</sup> The proposer sought a recommendation from the BSC Panel to this effect, also on 2 November 2022. Following an Urgent BSC Panel Meeting on the same day, the BSC Panel unanimously agreed to this recommendation and sought our approval to treat P449 as an Urgent BSC Modification Proposal.

On 2 November 2022, we agreed to the Panel's request to give urgent consideration to P446 in accordance with the urgent timetable proposed by the Panel.<sup>4</sup>

## **BSC Panel<sup>5</sup> recommendation**

At the BSC Panel meeting on 9 November 2022, the BSC Panel (the Panel) unanimously considered that P449 would better facilitate the BSC objectives, and the Panel therefore recommended its approval. The Panel considered that BSC objectives (c) and (d) are positively impacted by P449, while P449 has a neutral impact on the other applicable objectives.

## **Our decision**

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<sup>3</sup> In line with Ofgem's published [Guidance on Code Modification Urgency Criteria](#), we may grant urgency to a code modification where we are satisfied that an imminent issue or a current issue that is not urgently addressed may cause a significant commercial impact on parties, consumers or other stakeholder(s). The imminent issue may be date-related.

<sup>4</sup> Our [P446 urgency decision letter](#) appears on the Ofgem website.

<sup>5</sup> The BSC Panel is established and constituted pursuant to and in accordance with Section B of the BSC and [Standard Special Licence Condition C3 of the Electricity Transmission Licence](#).

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 9 November 2022. We have considered and taken into account the responses to the industry consultation attached to the FMR.<sup>6</sup> We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable objectives of the BSC;<sup>7</sup> and
- directing that the modification be made is consistent with our principal objective and statutory duties.<sup>8</sup>

## **Reasons for our decision**

### **Elexon's role as the EBR Scheme Administrator**

P449 seeks to enable Elexon to act as the EBR Scheme Administrator. This is an extension of Elexon's vires. Elexon or its affiliates have taken on non-BSC roles in past years, following specific BSC modifications and with our consent. For example, P330 allowed Elexon to bid to become the Gas Performance Assurance Framework Administrator.

For previous modifications where we approved an extension to Elexon's vires, we listed four criteria against which we would assess whether an activity would be appropriate for Elexon to pursue, namely:

- i. BSC Parties should benefit from any diversification,
- ii. the arrangements should not place disproportionate risk on BSC Parties,
- iii. standards of service under the BSC should be maintained, and
- iv. Elexon's BSC role should not give it any undue competitive advantage in a contestable activity.

We also have regard to our principal objective of protecting the interests of existing and future consumers and to our other statutory duties.

In our view, the EBR Scheme, and Elexon's role and functions in it, sits outside of normal BSC activities as a standalone, time limited activity that Elexon is being asked to pursue by Government. The criteria which we would normally consider in relation to extending Elexon's vires do not therefore apply.

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<sup>6</sup> BSC modification proposals, modification reports and representations can be viewed on the [Elexon website](#).

<sup>7</sup> As set out in [Standard Condition C3\(3\) of the Electricity Transmission Licence](#).

<sup>8</sup> The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989.

As explained further below, we consider this modification proposal will better facilitate BSC objectives (c) and (d) and has a neutral impact on the other applicable objectives.

***(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***

We agree with the view of the Proposer and majority view of the BSC Panel that P449 will better facilitate BSC objective (c) as it will support the continued operation of suppliers through the current wholesale energy price crisis. This will facilitate more robust competition when market conditions return closer to normal. Increasing wholesale costs and the possible inability of non-domestic consumers to pay bills can impact supplier financeability and risk supplier default. The EBR scheme seeks to compensate suppliers for the reduced tariffs offered to consumers. As this modification will facilitate the timely implementation of the EBR Scheme, we agree with the Proposer's and majority Panel view.

***(d) promoting efficiency in the implementation and administration of the balancing and settlement arrangements***

In the view of the Proposer and the BSC Panel, P449 will better facilitate Applicable BSC Objective (d) as the Proposer anticipates that there would be a reduced number of expected supplier failures as a result of the EBR Scheme. Supplier defaults are resource intensive for the BSC Panel and for BSCCo, and therefore reduce the efficiency of the balancing and settlement arrangements. If the EBR Scheme results in fewer defaults, then there will be an administrative benefit and lower levels of mutualised costs for other parties. We agree with this view. In addition, in our view, P449 will ensure reduced impact of market disruption through the use of the settlement process as payments to suppliers will be settled through the use of an existing process rather than the creation of a new mechanism.

**Assessment against Authority's principal objective and statutory duties**

We have considered whether directing the implementation of P449 would be consistent with our principal objective of protecting the interests of existing and future consumers, as well as our statutory duties under the Electricity Act 1989. We consider that P449 would help to facilitate this statutory duty, which is also reflected in the relevant objectives of the BSC, in particular, the relevant objective (c) as set out above.

In considering our statutory duty to have regard to the need to secure that licence holders are able to finance their activities, we consider that P449 plays an important role in enabling the EBR scheme to run smoothly and to enable suppliers to receive the funding from government.

We have also had regard to the interests of the existing non-domestic consumers receiving the benefit of the scheme. We consider that P449, by facilitating the timely implementation of the EBR scheme, will make an important contribution to mitigating risks of non-domestic consumers, including those struggling to pay their bills, not receiving the discount they need when they need it.

### **Decision notice**

In accordance with Standard Condition C3 of the Transmission Licence, the Authority hereby directs that modification proposal BSC P449: 'Energy Bill Relief Scheme for non-domestic customers' be made.

**Louise van Rensburg**

**Head of Non-domestic Retail Policy**

Signed on behalf of the Authority and authorised for that purpose