

Modification proposal:	<b>Balancing and Settlement Code (BSC) P414: Allowing a Party to Withdraw from the BSC and transfer outstanding liabilities to another Party (P414)</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:	3 February 2021	Implementation date:	25 February 2021

## Background

Parties wanting to withdraw from the BSC are required to satisfy a number of criteria, including that the Final Reconciliation (**FR**) Settlement Run for its last day of trading has passed. Under the Settlement timetable, this occurs after approximately 14 months.

This proposal seeks to address the issue that the current requirements can prevent the Party that wishes to withdraw from the BSC from formally doing so for at least 14 months after it has submitted its Withdrawal Notice, which can prevent the withdrawing Party from undertaking other administrative functions, in particular in dissolving the company. The effect of this is most relevant where a BSC Party is part of a group of companies that seeks to consolidate and dissolve redundant companies, which may be made more difficult by the current wording of the BSC.

The Modification requires changes to Section A of the BSC, and so impacts on the terms of conditions that NETSO is required to establish pursuant to Article 18 of the European Electricity Balancing Guideline (**EBGL**)<sup>3</sup>.

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<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. Terms not defined in this letter have the same meaning as any term defined in the BSC.

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

<sup>3</sup> Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing, as incorporated into domestic law by section 3 of the European Union (Withdrawal) Act 2018.

## **The modification proposal**

The modification was raised by RWE Supply & Trading GmbH (the **Proposer**). It seeks to enable a BSC Party to withdraw from the BSC as soon as practical after serving a Withdrawal Notice provided that all liabilities under the BSC (as set out under A5.1.3) are either satisfied or transferred to another legal entity (who is already a Party to the BSC and registered in the same roles) through a transfer of the BSC Party ID to that entity.

BSC Section A (entitled "Parties and Participation") and Section H (entitled "General") will be updated to include provisions to allow a withdrawing Party to transfer its Party ID and some outstanding liabilities to another BSC Party. BSC P65 ("Registration-of-Parties-and-exit-procedures") will also be updated to outline the process by which a withdrawing Party may transfer its Party ID.

The Proposer considers that P414 will better facilitate BSC Applicable Objective (d)<sup>4</sup> (promoting efficiency in the implementation and administration of the balancing and settlement arrangements) on the basis that the modification would enhance the administration of the BSC and introduce more efficient arrangements that enable the early withdrawal of Parties that no longer wish to be party to the BSC whilst safeguarding the Settlement Arrangements by ensuring that any financial liabilities are covered by a remaining BSC Party.

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

At the BSC Panel meeting on 10 December 2020, the Panel unanimously considered that P414 would better facilitate the applicable objectives and is consistent with the Article 18 of the EBGL. The Panel unanimously agreed with the Proposer that P414 better facilitates BSC Objective (d) and, therefore, unanimously recommended to the Authority that P414 should be approved.

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The EBGL came into force on 18 December 2017. Accessible at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017R2195>

<sup>4</sup> <https://www.elxon.co.uk/documents/training-guidance/bsc-simple-guides/section-f-simple-guide/>

<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](#) available.

This Modification will amend Section A, which constitutes part of the terms and conditions held within the BSC, pursuant to Article 18 of the EBGL. However, the Panel did not consider that the changes required for this Modification would affect compliance with the EBGL's objectives.

## **Our decision**

We have considered the issues raised by the modification proposal and the Final Modification Report (**FMR**) dated 16 December 2020. We have considered and taken into account the responses to the industry consultation(s) which are 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**

We consider this modification proposal will better facilitate BSC Objective (d) and has a neutral impact on the other BSC objectives.

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

The Panel unanimously agreed that P414 would better facilitate the applicable BSC Objective (d). All respondents to the Report Phase consultation also agreed that the P414 better facilitates BSC Objective (d).

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<sup>6</sup> BSC modification proposals, modification reports and representations can be viewed on the [Flexon 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.

We agree with the assessment of the Panel. P414 may enable a Party that wishes to withdraw from the Code the ability to do so sooner as long all liabilities under the Code are either satisfied or transferred to another legal entity which is Party to the BSC. This would make the withdrawal process more efficient and enable the Party to carry out other administrative activities sooner, while ensuring that any financial liabilities are covered by a remaining BSC Party, protecting the integrity of the Settlement Arrangements. We, therefore, consider that this modification will better facilitate BSC Objective (d) than the current baseline.

### ***EBGL Article 18 Terms and Conditions***

The Panel unanimously agreed that P414 is consistent with Article 18 of the EBGL. We agree with the assessment of the Panel. P414 is an administrative change and does not change any of the liabilities for BSC Parties, so there is no material impact on the Settlement Arrangements. P414 will not amend the BSC against the EBGL objectives, and so is consistent with those objectives.

### **Decision notice**

In accordance with Standard Condition C3 of the Transmission Licence, the Authority hereby directs that modification proposal BSC P414: 'Allowing a Party to Withdraw from the BSC and transfer outstanding liabilities to another Party' be made.

**Barry Coughlan**

**Head of Licensing Frameworks**

Signed on behalf of the Authority and authorised for that purpose