

Phase

Proposal

Consultation

Report Phase

Implementation

P446 'Energy Price Guarantee Scheme for domestic customers'

This Modification seeks to enable Elexon (BSCCo) to implement and administer the payment scheme for Suppliers as part of the Government's Energy Price Guarantee Scheme for domestic electricity customers. This Modification intends to implement an arrangement to provide subsidy payments to Suppliers that would be proportionate to consumption for domestic customers. The intention of the subsidy would be to reduce consumer tariffs in light of the recent rises in energy costs.



The BSC Panel recommends **approval** of P446.



Ofgem granted P446 as an Urgent Modification Proposal



The BSC Panel **does not** believe P446 impacts the European Electricity Balancing Guideline (EBGL) Article 18 terms and conditions held within the BSC.

This Modification is expected to impact:

- Suppliers; and
- Elexon as the Balancing and Settlement Code Company (BSCCo).

Contents

| | | |
|-----------|---|-----------|
| 1 | Summary | 3 |
| 2 | Why Change? | 5 |
| 3 | Solution | 7 |
| 4 | Applicable BSC Objectives | 9 |
| 5 | Impacts & Costs | 10 |
| 6 | Implementation | 14 |
| 7 | Panel's Initial Discussions | 16 |
| 8 | Urgent Modification Consultation Responses | 17 |
| 9 | Panel's Final Discussions | 19 |
| 10 | Recommendations | 20 |



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About This Document



Not sure where to start? We suggest reading the following sections:

- Have 5 mins? Read section 1
- Have 15 mins? Read sections 1, 8 and 9
- Have 30 mins? Read all except section 6
- Have longer? Read all sections and the annexes and attachments
- *You can find the definitions of the terms and acronyms used in this document in the [BSC Glossary](#).¹*

This is the P446 Final Urgent Modification Report, which Elexon has submitted to the Authority on behalf of the BSC Panel. It includes the Panel's full views and the responses to the Panel's Urgent Modification Consultation. The Authority will consider this report and will decide whether to approve or reject P446.

There are four 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 approved redlined changes to the BSC for P446.
- Attachment B contains the P446 Modification Proposal Form.
- Attachment C contains the full responses received to the Panel's Urgent Modification Consultation.

P446
Final Modification Report

22 September 2022

Version 1.0

Page 2 of 20

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¹ <https://www.elexon.co.uk/glossary/?show=all>

Why Change?

As a result of the concerns surrounding the increases in European energy prices, the Government has proposed the Energy Price Guarantee (EPG) Scheme for domestic customers. The intention of the scheme is to secure reductions in the electricity bills of domestic consumers in Great Britain. It is proposed that Elexon act as the EPG Scheme Administrator. However, the activities that Elexon are permitted to undertake are outlined in the BSC currently do not include provisions for administering such a scheme.

Solution

The proposed solution involves expanding Elexon's vires to include the administration of the EPG Scheme. The proposed legal text describes Elexon's role and functions as Scheme Administrator by reference to the more detailed Scheme Document, established by the Secretary of State. The administration of the Scheme will require the development of calculation and payment systems that will utilise BSC data.

The case for Urgency

[Ofgem granted P446 'urgent status'](#)² on 14 September 2022 as they are satisfied it is related to a current issue that if not urgently addressed may cause a significant commercial impact upon Parties and consumers, in accordance with its [urgency criteria](#)³. The Proposer, National Grid Electricity System Operator (NGESO), requested P446 be treated urgently. The Panel agreed and recommended to Ofgem that P446 be treated urgently at an urgent Panel meeting on 13 September 2022.

Impacts & Costs

| Costs Estimates (per annum) | | | |
|-----------------------------|-----------------|-----------------|--|
| Organisation | Implementation | On-going | Impacts |
| Elexon | <£53k | <£500k | Updates to three BSC Sections, development of EPG systems, and the ongoing administration of the EPG Scheme. |
| Industry | £0 | £0 | No expected costs for the implementation of P446 or direct on-going costs. |
| Total | <£53k | <500k | |

² <https://www.elexon.co.uk/mod-proposal/P446/>

³ <https://www.ofgem.gov.uk/publications/ofgem-guidance-code-modification-urgency-criteria-0>

Implementation

The Panel recommended that P446 be implemented on Friday 23 September subject to an Ofgem decision being received by 11:00 on Friday 23 September 2022 as part of a special BSC Release. If an Ofgem decision is not received by this time, we recommend that P446 be implemented +1WD following Ofgem decision. This will ensure the Modification is implemented as soon as possible, as it is required in order for Elexon to administer the EPG Scheme which has a start date of 1 October 2022.

Recommendation

The Panel recommended that P446 will better facilitates Applicable BSC Objectives (c) and (d), impacting competition and efficiency in the implementation of the balancing and settlement arrangements.

The Panel therefore unanimously recommends to Ofgem that P446 should be **approved**.

2 Why Change?

What is the issue?

European energy prices have increased dramatically, following the ending of lockdown and the gas crisis initiated by Russia's invasion of Ukraine. On 26 August 2022 [Ofgem announced](#)⁴ that the energy price cap will increase to £3,549 per year for a typical household gas and electricity bill in Britain from October. Further rises are expected in the future and, as we approach winter, there are concerns over the wellbeing of those who may not be able to afford energy costs.

The increase in wholesale energy costs could also have wider economic impacts. There has already been an impact on inflation, and the cost of living crisis is expected to cause a recession, as predicted by the [Bank of England](#)⁵. It is also possible that the increased energy costs could cause further Supplier failures. Previously, rising wholesale gas costs caused [several Suppliers](#)⁶ to fail, as the price cap meant they were unable to pass the increasing costs on to customers. With increasing numbers of customers unable to make payments or who may begin to refuse to pay their bills, there are concerns that additional Supplier failures may be triggered.

As a result of these concerns the Government has proposed the Energy Price Guarantee (EPG) Scheme for domestic customers, to secure reductions in the electricity bills of domestic consumers in Great Britain. The intention is for Elexon to act as the EPG Scheme Administrator.

The activities that Elexon are permitted to undertake are outlined in [BSC Section C 'BSCCo and its Subsidiaries'](#)⁷. Currently, the activities stipulated in BSC Section C do not include provisions for administering such a scheme.

Urgent Code Modification

An [Urgent Code Modification](#) is a Modification Proposal which is linked to an imminent or current issue that, if not urgently addressed, may cause:

- A significant commercial impact on Parties, Consumers or stakeholders;
- A Party to be in breach of any relevant legal requirements; and
- A significant impact on the safety and security of the electricity/and or gas systems.

An urgent BSC Modification must follow a prescribed timetable approved by Ofgem, as described in [Section F2.9](#). This approved timetable can be found in Section 6.

The Proposer and the BSC Panel believe that P446 relates to a current issue that, if unaddressed, will have a significant commercial impact upon Parties and consumers. Specifically, P446 seeks to support Suppliers and consumers through the wholesale energy price increase and associated cost of living crisis. Ofgem granted P446 'urgent status' on 14 September 2022.

⁴ <https://www.ofgem.gov.uk/publications/ofgem-updates-price-cap-level-and-tightens-rules-suppliers>

⁵ <https://www.bankofengland.co.uk/monetary-policy-report/2022/august-2022>

⁶ <https://www.forbes.com/uk/advisor/energy/failed-uk-energy-suppliers-update/>

⁷ <https://www.elexon.co.uk/the-bsc/bsc-section-c-bscco-subsidiaries/>

Desired outcomes

The desired outcome from this Modification is to enable BSCCo to fulfil the role of Scheme Administrator for the Energy Price Guarantee Scheme.

The object of the Scheme is to ensure that consumers' energy bills are lower than they would otherwise be under the current price cap arrangements. The intention is for Suppliers to reduce the tariffs that would otherwise be charged to consumers by the value of the support payments made under the Scheme.

Proposed Solution

Implementing the solution to this Modification will require changes to [BSC Section C 'BSCCo and its Subsidiaries'](#) to extend the vires for Elexon. The amendment would have to allow Elexon to undertake a new non-BSC related function, administering the payment scheme. There will also be an amendment required to [Section X Annex X-1 'General Glossary'](#)⁸ to include the new defined terms. Following the initial raising of the Modification, the legal text now includes an amendment to [Section H 'General'](#)⁹ so that, as with other industry schemes and agreements, the EPG Scheme is treated as a 'Nominated Agreement'. This means that if Elexon or Suppliers are required to provide BSC data to the Department for Business, Energy & Industrial Strategy (BEIS), for example, under the Scheme, the BSC allows for this. Proposed legal text can be found in Attachment A.

The proposed BSC Modification will describe and limit Elexon's role and functions as Scheme Administrator by reference to the more detailed Scheme Document, to ensure consistency and prevent divergence between obligations set out in the Scheme Document and the BSC. Having the details of the Scheme within the Scheme Document, rather than the BSC, ensures that the Government have appropriate control over the Scheme and hold the risks as the scheme owner. Additionally, not all BSC Parties will be party to the scheme.

The Scheme Document established by the Secretary of State, which will include the Scheme Agreement, will set out the details of the Energy Price Guarantee Scheme and the obligations of the Scheme parties. Suppliers will need to accede to the Agreement to become a party to the Scheme and to be eligible to receive payments. The Scheme Document will detail the payment calculations, payment timetable and reconciliation processes.

As Elexon will be performing a separate and distinct role as Scheme Administrator, the proposed Modification provides that the Panel and Panel Committees will not have any responsibilities in respect of Elexon's functions as Scheme Administrator.

The Scheme Document and the proposed BSC Modification ensure that Scheme payments are accounted for separately from other BSC Costs and Trading Charges and that BSC Parties are not responsible for funding payments under the Scheme. The Modification does provide for Elexon's administrative and operational costs in undertaking the role of Scheme Administrator to be included as BSC Costs.

The administration of the payment scheme will require the development of new calculation and payment systems that will utilise BSC data, but will not amend existing BSC Central Systems. The proposed system solution involves information extracted from the Supplier Volume Allocation Agent (SVAA).

The non-half hourly (NHH) domestic consumption volumes are calculated using the Estimate of Annual Consumption (EAC) and Annualised Advance (AA) for customers registered to Profile Classes 1 and 2¹⁰, excluding unmetered supplies. The Period Profile Coefficient from D0018 'Daily Profile Data Report' (MM00396) is used to convert the EAC/AA data to Settlement Day volumes.

⁸ <https://www.elexon.co.uk/the-bsc/bsc-section-x-annex-x-1-general-glossary/>

⁹ <https://www.elexon.co.uk/the-bsc/bsc-section-h-general/>

¹⁰ Profile Class 1 relates to Domestic Unrestricted Customers, and Profile Class 2 relates to Domestic Economy Customers.

The half hourly (HH) domestic consumption volume is recorded by Supplier Market Participant Identifier (MPID) and will be calculated using customers registered with a consumption component class ID of 42 or 45.

The NHH and HH consumption data is aggregated to provide a sum of the daily domestic consumption volumes by Supplier. This is multiplied by a pence/kWh rate specified by the Secretary of State.

Benefits

The benefits of the Modification would primarily be the securing of reductions in the electricity bills of domestic consumers in Great Britain. This would have a positive impact on the wellbeing of consumers as well as on the economy. The Modification would also support Suppliers, reducing the likelihood of Supplier failure during the current wholesale energy price increases, and reducing the burden of Supplier failures on those who remain in the market and would have to pick up any mutualisation costs.

Legal Text Changes

To give effect to P446, amendments are required to:

- [BSC Section C 'BSCCo and its Subsidiaries'](#)
- [BSC Section X Annex X-1 'General Glossary'](#)
- [BSC Section H 'General'](#)

These changes can be seen in the proposed redlining in Attachment A.

4 Applicable BSC Objectives

| Impact of the Modification on the Relevant Objectives: | |
|---|-------------------|
| Relevant Objective | Identified impact |
| a) The efficient discharge by the Transmission Company of the obligations imposed upon it by the Transmission Licence | Neutral |
| (b) The efficient, economic and co-ordinated operation of the National Electricity Transmission System | Neutral |
| (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 | Positive |
| (d) Promoting efficiency in the implementation of the balancing and settlement arrangements | Positive |
| (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] | Neutral |
| (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 | Neutral |
| (g) Compliance with the Transmission Losses Principle | Neutral |

In the view of the Proposer and majority view of the BSC Panel, this Modification will better facilitate Applicable 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. [Many Suppliers](#) went in to Default previously, with a factor being that the increasing cost of energy could not be passed on to customers due to the price cap, resulting in large mutualisation of failed Supplier debts between those Suppliers who were left in the market. This Modification may help to reduce the number of Supplier failures as a result of a [price cap](#)¹¹ set lower than the costs that the Supplier incurs, at a time of high wholesale electricity prices. The EPG Scheme seeks to compensate Suppliers for the reduced tariffs offered to consumers. The implementation of the Modification would also reduce the likelihood of future Supplier failure caused by the non-payment of electricity bills by domestic customers, as the bills to consumers will be more affordable.

Additionally, in the view of the Proposer and the BSC Panel, this Modification 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 this 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 payment scheme results in fewer defaults then there will be an administrative benefit and lower levels of mutualised costs for other Parties.

¹¹ <https://www.gov.uk/government/news/government-announces-energy-price-guarantee-for-families-and-businesses-while-urgently-taking-action-to-reform-broken-energy-market>

Estimated implementation costs of P446

| Implementation cost estimates | | | |
|-------------------------------|---------------------|-----------------|--|
| Organisation | Item | Implementation | Comment |
| Elexon | Documents | <£3k | Minor changes are required to three BSC Sections to implement this Modification. |
| | Systems | <£50k | No existing BSC Central System changes required to implement this Modification, but development of new EPG calculation and payment systems will be required. |
| | Other | £0 | |
| Industry | Systems & processes | £none/low | There are no expected costs for market participants to implement this Modification. |
| Total | | <£53k | |

Estimated on-going costs of P446

| On-going annual cost estimates | | |
|--------------------------------|-----------|---|
| Organisation | On-going | Comment |
| Elexon | <£500k | The ongoing administration of the EPG Scheme. |
| Industry | £none/low | There are no expected ongoing costs for market participants as a direct result of this Modification that enables Elexon to administer the EPG Scheme. |
| Total | | <£500k |

P446 impacts

| Impact on BSC Parties and Party Agents | | |
|--|---|------------------|
| Party/Party Agent | Impact | Estimated impact |
| Suppliers | This Modification will positively impact Suppliers by enabling them to be compensated for the reduced tariffs offered to consumers. This Modification will reduce the likelihood of Supplier failure during the current wholesale energy price increases, and reduce the burden of Supplier failures on those who remain in the market and would have to pick up any mutualisation costs. | H |

| Impact on the NETSO | |
|---------------------|----------------|
| Impact | Estimated cost |
| No impact | N/A |

| Impact on BSCCo | | |
|--------------------------|--|----------------|
| Area of Elxon | Impact | Estimated cost |
| Assurance | Additional assurance techniques will be applied to the II run, including creation of a dashboard for monitoring, as this will be used as part of the EPG Scheme calculations and previously was not subject to assurance. Ongoing reporting, updating, and issue resolution. | M |
| Finance | Development and operation of payment system. | M |
| Settlement and Invoicing | Development and operation of calculation system. | M |

| Impact on BSC Settlement Risks |
|--|
| Elxon has not identified any material impacts of this Modification on BSC Settlement Risks, as it will not impact Settlement directly. |

| Impact on BSC Systems and process | |
|-----------------------------------|-----------|
| BSC System/Process | Impact |
| N/A | No impact |

| Impact on BSC Agent/service provider contractual arrangements | |
|---|--|
| BSC Agent/service provider contract | Impact |
| CGI | Development and operation of the EPG calculation and payment system. |
| Engage | Development and operation of the EPG calculation and payment system. |

| Impact on Code | |
|--|--|
| Code Section | Impact |
| BSC Section C 'BSCCo and its Subsidiaries' | Changes required to enable BSCCo to act as EPG Scheme Administrator. |
| BSC Section H 'General' | |

| Impact on Code | |
|--|--------|
| Code Section | Impact |
| BSC Section X Annex X-1 'General Glossary' | |

| Impact on EBGL Article 18 terms and conditions and objectives |
|--|
| This Modification is not expected to impact or expand the BSC provisions that constitute EBGL Article 18 Terms and Conditions, as described in BSC Section F, Annex F-2¹² . |

| Impact on Code Subsidiary Documents | |
|-------------------------------------|-----------|
| CSD | Impact |
| N/A | No impact |

| Impact on Core Industry Documents and other documents | |
|---|------------------------|
| Document | Impact |
| Ancillary Services Agreements | No impacts identified. |
| Connection and Use of System Code | |
| Data Transfer Services Agreement | |
| Distribution Code | |
| Distribution Connection and Use of System Agreement | |
| Grid Code | |
| Retail Energy Code | |
| Supplemental Agreements | |
| System Operator-Transmission Owner Code | |
| Transmission Licence | |
| Use of Interconnector Agreement | |

P446
Final Modification Report

22 September 2022

Version 1.0

Page 12 of 20

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¹² <https://www.elexon.co.uk/documents/bsc-codes/bsc-sections/bsc-section-f-modification-procedures/>

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

This proposal is not within the scope of an active SCR. On 13 September 2022 we requested to Ofgem that this Proposal be treated as an SCR-Exempt Modification Proposal. Ofgem confirmed its agreement that P446 should be treated as an SCR Exempt Modification on 15 September 2022.

Impact of the Modification on the environment and consumer benefit areas:

| Consumer benefit area | Identified impact |
|---|-------------------|
| 1) Improved safety and reliability | Neutral |
| 2) Lower bills than would otherwise be the case | Positive |
| 3) Reduced environmental damage | Neutral |
| 4) Improved quality of service | Neutral |
| 5) Benefits for society as a whole | Positive |

P446 would enable the implementation of a scheme that will lower consumers' bills by providing a subsidy to Suppliers. This would slow the increase in consumer energy bills in light of the increase in energy cost.

The EPG Scheme that P446 will enable will also have benefits for society as a whole. There will be a significant impact on the wellbeing of consumers, as it will result in lower electricity bills than would otherwise be expected. There are also wider benefits to the economy anticipated, as the cost of living crisis has impacts on inflation and the potential for a recession. Goldman Sachs have predicted that a cap on household energy bills could reduce the peak in inflation to 10.8%, as opposed to the previously predicted 14.8%. The payment scheme that will be facilitated by this Modification would also reduce the likelihood of Supplier failure as a result of the increased wholesale energy prices, which could mean fewer jobs lost as a result of the energy crisis and would avoid non-defaulting Suppliers picking up the default payments of any defaulting Supplier.



What are the consumer benefit areas?

- 1)** Will this change mean that the energy system can operate more safely and reliably now and in the future in a way that benefits end consumers?
- 2)** Will this change lower consumers' bills by controlling, reducing, and optimising spend, for example on balancing and operating the system?
- 3)** Will this proposal support:
 - i) new providers and technologies?
 - ii) a move to hydrogen or lower greenhouse gases?
 - iii) the journey toward statutory net-zero targets?
 - iv) decarbonisation?
- 4)** Will this change improve the quality of service for some or all end consumers? Improved service quality ultimately benefits the end consumer due to interactions in the value chains across the industry being more seamless, efficient and effective.
- 5)** Are there any other identified changes to society, such as jobs or the economy?

Recommended Implementation Date

At its urgent meeting on Tuesday 13 September 2022, the Panel initially recommended that P446 be implemented **1WD following Authority decision**, as part of a special BSC Release. This would mean that an Ofgem decision would be required by the end of Thursday 22 September, to meet the BEIS desired Implementation Date.

During the industry consultation period, Elexon assessed its ability to implement P446 quicker than 1WD, to give Ofgem a greater decision window. As a result, Elexon can implement P446 if a decision is made on P446 by 11:00 on Friday 23 September. If a decision is received after 11:00 on Friday 23 September, subject to approval, the Implementation Date will be 1WD following Authority decision.

This will ensure the Modification is implemented as soon as possible, which is required to ensure BSCCo can sign the contract to become the EPG Scheme administrator prior to the start of the Scheme on 1 October 2022. BEIS intend to have the contracts signed by 24 September 2022.

Urgent Progression Procedure and Timetable

Ofgem approved the below Progression Procedure and timetable for P446.

| Urgent Progression Timetable | |
|---|--|
| Event | Date |
| Modification presented to Panel | 13 September 2022 |
| Submitted to Authority for decision on urgency | 13 September 2022 |
| Urgent Modification Consultation (5WD) | 14 September 2022 – 21 September 2022 |
| Draft Urgent Modification Report presented to Panel | 22 September 2022 |
| Final Urgent Modification Report submitted to Authority | 22 September 2022 |
| Modification implemented | 23 September 2022 or 1WD after Authority approval |

Ofgem granted P446 'urgent status' on 14 September 2022 as they are satisfied it is related to a current issue that if not urgently addressed may cause a significant commercial impact on Parties, Consumers or stakeholders.

The Proposer, National Grid Electricity System Operator (NGESO), requested P446 be treated urgently. The Panel agreed and recommended P446 be treated urgently at an urgent Panel meeting on 13 September 2022.

This Modification is seeking to facilitate the EPG Scheme that will support consumers and Suppliers during the wholesale energy price increase and associated cost of living crisis. The predicted future energy costs mean that many consumers may be unable to afford their energy bills, which could result in widespread hardships and have a significant negative impact on the health and wellbeing of the public, as well as on the economy as a whole. Additionally, failure of consumers to pay bills, or Suppliers being forced to charge below market rate for energy, could result in Supplier failure and significantly disrupt the

market. The Scheme would also guarantee that Suppliers have money to enable them to make payments to Generators, ensuring the continued efficient operation of the energy market.

The impending price cap increase on 1 October 2022 is likely to exacerbate these impacts, with estimates that the proposed price cap level of £3,549 in October 2022 will see [9.1m consumers in fuel poverty](#)¹³.

¹³ <https://www.endfuelpoverty.org.uk/about-fuel-poverty/#:~:text=9.1%20million%20%E2%80%93%20The%20estimated%20number,poverty%20from%201%20October%202022>

P446 was presented to the Panel at an urgent meeting on 13 September 2022. At this meeting, the Panel unanimously recommended that P446 should be progressed as an urgent Modification and approved. The Panel agreed by majority that P446 would have a positive impact against Applicable BSC Objective (c), and unanimously agreed that it would be positive against Applicable BSC Objective (d), both for the reasons set out by the Proposer in this document. The Panel noted that P446 would not meet the Self-Governance criteria as it is proposing a material amendment to the Codes governance procedures by amending Elexon's vires, as well as materially impacting upon electricity consumers.

Given the urgent timeline for this Modification the BSC Panel did not have time to fully review the legal text prior to the urgent Panel meeting. As a result, the Panel agreed to review and comment upon the legal text during the consultation period, after which amendments to the draft legal text would be possible.

A Panel Member questioned why Elexon had been selected to act as EPG Scheme Administrator, when the Market Stabilisation Charge was administered by the Retail Energy Code Company (RECCo). A spokesperson from BEIS explained that the EPG Scheme will utilise BSC data which Elexon already has access to. Elexon also has existing systems and contacts for banking that will be valuable in setting up the Scheme at speed.

The Panel also questioned when the Scheme Document referenced in the proposed legal text would be made available. A spokesperson from BEIS stated that they intended to release a draft of the document to Suppliers on the 14 September 2022 for comment. The Panel requested that Elexon make the Scheme Document available alongside P446 consultation documentation once it becomes publicly available.

A Panel Member questioned whether Suppliers could require Elexon to set off amounts they owed under the BSC against sums Elexon was due to pay them under the EPG, or claim that they weren't in Section H default because Elexon owed them sums under the Scheme. Elexon have since confirmed that the Scheme Document deals with this point in order to prevent any contractual right of set off arising and to override any common law rights. As a result, BSC charges (including Trading Charges) need to be treated completely separately from payments under the Scheme.

A Panel Member questioned the nature of the payments made by the EPG Scheme. If the money was intended as a loan it could have negative impacts upon the market in terms of mutualised costs if Suppliers failed and therefore no longer existed when it was time to pay the money back. BEIS reiterated their public position that the money is not intended as a loan and there will be no obligation on Suppliers to repay the money received via the EPG. The intention is to use Suppliers as a vehicle to provide savings to consumers.

Some Panel Members questioned the rationale against the Applicable BSC Objectives, as they felt it was an obligation from the Government and so perhaps it would be more appropriate against Applicable BSC Objective (a) which relates to obligations imposed upon the Transmission Company by the Transmission Licence. Elexon commented that the Modification is intended to support Suppliers through a potential systematic risk that could result in the majority of Suppliers going out of business. A Panel Member commented that while that may be the case, they still felt that P446 was market intervention and not intended to support competition and was therefore not in the spirit intended for BSC Objective (c).

8 Urgent Modification Consultation Responses

This section summarises the responses to the Panel's Urgent Modification Consultation on its initial recommendations. You can find the full responses in Attachment C.

The Urgent Consultation was issued on 14 September 2022, with responses invited by 21 September 2022. Due to the limited time for consultation, as dictated by the urgent timeline, Elexon also reached out directly to Suppliers directly affected by the Modification to ensure awareness of the consultation.

Four responses were received, three from Suppliers and one from a consumer group.

All four respondents agreed with the Panel's initial recommendation to approve the Modification. The respondents also all agreed with the Panel's initial views on implementation date, Self-Governance, and EBGL impacts.

All four respondents felt that P446 would impact their organisation, but felt that the costs to implement the Modification and the on-going costs would be none or low. One respondent stated that P446 would have no costs for their organisation but that the EPG Scheme will, particularly in terms of reconciliation.

Summary of P446 Urgent Modification Consultation Responses

| Question | Yes | No | Neutral/ No Comment | Other |
|---|-----|----|---------------------------|-------|
| Do you agree with the Panel's initial unanimous recommendation that P446 should be approved? | 4 | 0 | 0 | 0 |
| Do you have any comments on the redlined changes to the BSC for P446? | 1 | 3 | 0 | 0 |
| Do you agree with the Panel's recommended Implementation Date? | 4 | 0 | 0 | 0 |
| Do you agree with the Panel's initial view that P446 should not be treated as a Self-Governance Modification? | 4 | 0 | 0 | 0 |
| Do you agree with the Panel's initial view that P446 does not impact the EBGL Article 18 terms and conditions related to balancing held within the BSC? | 4 | 0 | 0 | 0 |
| Will P446 impact your organisation? | 4 | 0 | 0 | 0 |
| Do you have any further comments on P446? | 2 | 2 | 0 | 0 |

Questions about the EPG Scheme

A number of questions about the EPG Scheme itself were received as part of the P446 Urgent Modification Consultation. These details are unfortunately out of scope for this Modification, as they relate directly to the BEIS owned EPG Scheme. The details of the Scheme will be detailed within the Scheme Document, which, at the time of consultation, was not finalised. BEIS has been consulting with Suppliers separately on the content of the Scheme Document.

Elxon felt it was appropriate for details of the Scheme to be set out in the Scheme Document and not within the BSC legal text. This is to prevent divergence between the obligations set out in the Scheme Document and the BSC, particularly as the details of the Scheme were still evolving as the P446 legal text was being drafted. This included details of the calculation and invoicing arrangements.

A question was received about how the costs for administering the EPG Scheme would be incorporated into the current budget. The P446 legal text provides for Elxon's administrative and operational costs in undertaking the role of Scheme Administrator to be included as BSC Costs. Elxon does not intend to request any additional funds from BSC Parties.

Proposed Legal Text

One respondent had proposed amendments to the legal text. The full comments are shown in Appendix C, but a summary of the comments and Elxon's responses are shown in the table below.

| Legal text comments | | |
|---------------------|---|--|
| Location | Comment | Elxon response |
| - | Can the EPG Scheme Document be included as part of the legal text annex for visibility and transparency? | The EPG Scheme Document is not part of balancing and settlement arrangements, and it would therefore not be appropriate to include as part of the BSC. Once finalised and signed the Scheme Document will not be confidential but would have to be published by BEIS. |
| Section C 14.1 (c) | Clarification required on what needs to be saved. | In this context "save" means "except for". The first part of the sentence reflects that the Scheme Document may provide specific rights for Scheme Supplier Parties, who are also BSC Parties. |
| Section C 14.1 (g) | The Scheme paragraph should be deleted once the Scheme is no longer required, based on the bank account being empty and fully reconciled. | Elxon considered the appropriate point for the sunset clause to come into effect as when BSCCo ceases to be Scheme Administrator as a result of the EPG Scheme ending. The Scheme Document will govern the details regarding final payments and reconciliation. The legal text has been updated to clarify this. |

In response to comments raised regarding the sunset clause in BSC Section C, 14.1(j), Elxon have made minor amendments to the draft legal text at paragraphs 14.1(g), (j) and (k). These changes clarify that the obligations as Scheme Administrator and vires under the BSC would continue to the end of any relevant reconciliation period following the end of the EPG Scheme, and that if Elxon were removed as Scheme Administrator they would be able to provide data if required to any new Scheme Administrator appointed.

This update to the legal text is not considered a material change as the amendment is a clarification that is fully consistent with the intention of the Modification.

P446 was presented to the Panel at an Urgent panel meeting on 22 September 2022. At this meeting, the Panel unanimously recommended that P446 should be approved. The Panel also agreed that P446 does not impact the EBGL Article 18 terms and conditions held within the BSC.

The Panel agreed by majority that P446 would have a positive impact against Applicable BSC Objective (c), and unanimously agreed that it would be positive against Applicable BSC Objective (d), both for the reasons set out by the Proposer in this document and as discussed in the Urgent Panel meeting on 13 September 2022. One Panel Member did not agree that P446 would be positive against Applicable BSC Objective (c), stating that it was hard to argue that a price CAP was supporting competition, and that rebates are an inefficient process for providing support.

A Panel Member questioned why the Scheme Administrator was referred to as a person within the legal text, rather than as a company. Elexon confirmed that this is correct in a legal context.

A Panel Member raised concerns over the practicalities of Elexon staff being taken away from day jobs to facilitate the EPG Scheme, and the potential impacts of this. Elexon stated that this had been considered and that currently they had been able to utilise flexibility within the organisation and compression of other work to accommodate for the EPG work. Going forwards, the time required for administration of the scheme would be accounted for in the budget. Elexon confirmed there would be no material impact on Parties as a result.

A Panel member wished for it to be noted that without having seen the Scheme Document they could not know what they were agreeing to. Another Panel Member suggested that Elexon report to the Panel to discuss any consequences for the BSC once the BEIS Scheme Document was finalised and made public.

10 Recommendations

The BSC Panel recommends to the Authority:

- That P446 should be **approved**;
- That P446 **does not** impact the EBGL Article 18 terms and conditions held within the BSC;
- An Implementation Date for P446 of:
 - 23 September 2022 if an Authority decision is received by 11:00 on Friday 23 September; or
 - +1 Working Day if an Authority decision is not received by 11:00 on Friday 23 September;
- The BSC legal text for P446.