

# MINUTES

**MEETING NAME** BSC Panel

**Meeting number** 284

**Date of meeting** 8 November 2018

**Venue** ELEXON Ltd, 350 Euston Road, NW1 3AW

**Classification** Confidential

## ATTENDEES AND APOLOGIES

<b>Attendees</b>	Michael Gibbons	MG	BSC Panel Chairman
	Colin Down	CD	Ofgem Representative (via teleconference)
	David Lane	DL	DSO Representative
	Derek Bunn	DB	Independent Panel Member
	Diane Dowdell	DD	Industry Panel Member (Part Meeting)
	Jon Wisdom	JW	Transmission Company Representative
	Lisa Waters	LW	Industry Panel Member
	Mark Bellman	MBe	Industry Panel Member
	Rhys Kealley	RK	Industry Panel Member (alternate for MD)
	Phil Hare	PH	Independent Panel Member
	Stew Horne	SH	Consumer Panel Member (and alternate for VP)
	Stuart Cotten	SC	Industry Panel Member
	Tom Edwards	TE	Industry Panel Member
	Mark Bygraves	MB	ELEXON CEO
	Victoria Moxham	VM	Panel Secretary
	Claire Kerr	CK	Panel and Committee Support Manager
	Nigel Perdue	NP	ELEXON Director of Operations
	Angela Love	AL	ELEXON Director of Strategy and Communications
	Elliott Harper	EH	ELEXON (Part Meeting)
	John Lucas	JL	ELEXON (Part Meeting)
	Steve Wilkin	SW	ELEXON (Part Meeting)
	Peter Frampton	PF	ELEXON (Part Meeting)
	Colin Berry	CB	ELEXON (Part Meeting)
	Rebecca Kassube	RK	ELEXON (Part Meeting)
	Roger Harris	RH	ELEXON (Part Meeting)
	David Stephens	DS	ELEXON (Part Meeting)
	Damian Clough	DC	ELEXON (Part Meeting)
	Darren Draper	DD	ELEXON (Part Meeting)
	Beth Brown	BB	ELEXON (Part Meeting)
	Oliver Meggitt	OM	ELEXON (Part Meeting)
	Garth Graham	GG	SSE (Part-Meeting)
	Alex Coulton	AC	LCCC (Part Meeting)
	Alessandra De Zottis	AZ	Observer (UK Power Reserve)
	Leonardo Costa	LC	Ofgem (Part-Meeting via teleconference)
	Gary Ensor	GE	URE Energy Ltd (Part-Meeting via teleconference)

# MINUTES

---

<b>Apologies</b>	Mitch Donnelly Victoria Pelka	MD VP	Industry Panel Member Consumer Panel Member
------------------	----------------------------------	----------	--

## 1. Apologies

- 1.1 The Chairman confirmed the apologies of Mitch Donnelly and Victoria Pelka.

## MODIFICATION BUSINESS (OPEN SESSION)

---

## 2. Change Report and Progress of Modification Proposals – 284/03

- 2.1 The Modification Secretary provided an update on open Modifications and Change Proposals.
- 2.2 The Modification Secretary highlighted that Ofgem approved the [P297 'Receipt and Publication of New and Revised Dynamic Data Items'](#) extension request to the earlier of the Implementation Date for (Approved) Modification P373 or 31 January 2019. However, the Modification Secretary asked the Panel to note that Ofgem does not expect to approve another P297 decision and reiterated that before any decision is made on P373, Ofgem will need a full picture of the costs and benefits of delivering P297 and Grid Code Modification [GC0068: Grid Code New and Revised Unit Data and Instructions](#) through existing Electricity System Operator (ESO) systems.
- 2.3 A Panel Member expressed concern regarding ELEXON's email of 6 November 2018 which called for evidence to support the discussions relating to the potential benefits of BSC Modification P297 and associated Grid Code Modification GC0068. The Panel Member noted that National Grid ESO was only asking for evidence of the benefits rather than also including the costs. The Panel Member did not want National Grid ESO to fail Ofgem's request. ELEXON noted that it had forwarded the email received from National Grid ESO, so the wording was National Grid's. The Transmission Company Representative agreed to feed this back as the intention was also to find out the costs from industry in relation to these changes.

### ACTION 284/01

- 2.4 A Panel Member commented that P297 was approved five years ago and queried whether this cost-benefit analysis was essentially reviewing the value of P297, which ELEXON confirmed. The Ofgem Representative emphasised that it would advise industry to provide as much information as possible and to inform Ofgem if it believed that National Grid ESO was not fully considering all aspects as part of the cost-benefit analysis.
- 2.5 The Modification Secretary noted that the [Issue 72 'Ensuring measurement transformer assets installed by a Non-BSC Party are successfully Commissioned within BSC timescales'](#) Group considered that the letter the Panel sent to the Competition in Connections Code of Practice (CiCCoP) Panel was important to its discussions. The CiCCoP Panel is due to discuss the letter at its meeting on 12 December 2018, at which an ELEXON Subject Matter Expert (SME) will be in attendance. Following this meeting, a response will be provided to the BSC Panel.
- 2.6 The Modification Secretary also noted that ELEXON attended National Grid's IS Forum on 15 October 2018 with a bespoke stand. ELEXON educated attendees on its Foundation Programme, provided a demonstration to market participants on our new CRM platform and highlighted the forthcoming TERRE Industry Day on 11 December 2018.
- 2.7 The BSC Panel:
- a) **NOTED** the contents of the October Change Report.

# MINUTES

---

## 3. P374 'Aligning the BSC with the EB GL change process and derogation approach' – 284/14

- 3.1 [P374](#) seeks to ensure that the BSC is aligned with the European Electricity Balancing Guideline (EB GL – Regulation 2017/2195) derogation and change process by ensuring that BSC Modifications are not implemented until the EB GL change process has completed; and BSC Derogations cannot be granted for provisions that meet the EB GL balancing terms and conditions. Specifically, P374 aims to reflect changes to the Code Governance arising from the application of the terms and conditions related to balancing from Articles 4, 5, 6, 10 and 18 of the EB GL.

(Leonardo Costa (LC) from Ofgem joined the Panel meeting via teleconference)

- 3.2 ELEXON informed the Panel that P374 was submitted by SSE on the evening of Friday 26 October 2018, four Working Days before Panel paper day. ELEXON outlined the considerable efforts from colleagues to support SSE's proposal and create the relevant documentation in order that the Proposal be presented to the Panel, highlighting that standard timescales were expedited. ELEXON did however apologise to the Panel for the late submission of the paper.
- 3.3 ELEXON highlighted that it prepared the IWA in accordance with BSC Section F2.1.8 to assist the Panel in its determination of how to proceed with P374, which includes an assessment of the implications of the Modification. ELEXON noted to the Panel that this assessment under BSC Section F highlighted differing legal perspectives between SSE and ELEXON as BSCCo. ELEXON advised the Panel that at the end of the presentation, there are two sets of recommendations on how the Panel may wish to proceed with the Modification, reflective of the differing legal views.
- 3.4 Whilst it is not usual for there to be two sets of recommendations, ELEXON noted it is duty bound to inform the Panel of the uncertainty, and to provide transparency in relation to P374 with respect of the differing legal interpretations. Therefore, the Panel can make its determination in the presence of all available information.
- 3.5 LC informed the Panel that it is working towards making a decision on Article 18 of EB GL and had been liaising with National Grid ESO to understand its proposals. Ofgem's current view is that it is minded to direct amendments to the balancing terms and conditions proposed by National Grid ESO on 18 June 2018 to match the requirements made by EB GL. Ofgem intends to make this decision as soon as possible, and will aim to do so by the end of 2018 to create greater transparency for industry.
- 3.6 ELEXON outlined seven items of information from Ofgem which it believed would better inform the Panel's decision on whether to proceed to the Assessment Procedure or the Report Phase (as detailed on page 12 of the P374 IWA). ELEXON highlighted that it understood the first three items were of paramount importance.
- 3.7 In relation to Ofgem confirming that it had not approved the balancing terms and conditions, the Chairman commented that Ofgem had in essence provided a steer in this Panel meeting on its position in relation to the first item of information and queried whether there are any consequences of this for the Panel going forwards. ELEXON advised that as Ofgem had indicated that there are likely to be changes to the balancing terms and conditions, the Panel should consider whether it believed it to be appropriate at this stage to make a decision on P374, or wait until Ofgem has made its decision so that the Panel is better able to understand what these changes may be in order to make a fully informed decision.
- 3.8 The Proposer commented that in considering P374 progression, the Panel should be mindful of [P369 'National Grid Legal Separation changes to BSC'](#). The Proposer noted that the Panel did not have a decision from Ofgem when it took the approach to approve the Modification and suggested that on this basis, the Panel should progress P374. The Transmission Company Representative noted that for P369, it was clear that 'the Company' was splitting into a new legal entity and these changes were required. However for P374, there is uncertainty as to what changes will be required to the proposed wording that National Grid ESO

# MINUTES

---

submitted to Ofgem in June 2018. The Transmission Company Representative therefore suggested that the Panel could not compare the progression of the two Modifications.

- 3.9 The Proposer disagreed, commenting that they believed this was a matter of process. The Proposer noted that Ofgem's decision to make changes to National Grid ESO's proposals will either increase or decrease the number of BSC Sections impacted. However, they highlighted that the main factor is that this results in changes needed to the derogation and amendment processes. In relation to P369, a Panel Member commented that at the point the IWA was presented to the Panel, there had been no legal determinations made. However, from a pragmatic perspective, the Panel agreed to proceed with the Modification which was supported by industry. The Proposer suggested that EB GL sets out that you cannot derogate against provisions that relate to the balancing terms and conditions. Therefore industry should ensure that the BSC is compliant with EB GL.
- 3.10 The Proposer noted that following National Grid ESO's proposals to Ofgem on 18 June 2018, Ofgem subsequently requested clarification from National Grid ESO on 6 September 2018 and National Grid ESO responded to Ofgem on 5 October 2018. The Proposer therefore queried whether these requests and clarifications could be made publically available. Both the Transmission Company Representative and Ofgem Representatives agreed to consider whether these interim steps could be published.

## **ACTION 284/02**

- 3.11 LC commented that as part of Ofgem's standard regulatory approach, Ofgem would publish its request for National Grid ESO to make amendments to the terms and conditions as and when the final decision is made.
- 3.12 A Panel Member queried whether ELEXON believes that the wording in the BSC sandbox derogation provisions reflect the requirements to consider EU law at the point of considering a derogation request. ELEXON Legal confirmed that this is the case.
- 3.13 A Panel Member queried whether Ofgem's potential amendments to National Grid ESO's terms and conditions are in relation to the composition of the list of BSC Sections or of specific elements of the BSC. LC confirmed that he was unable to provide this information at this time as Ofgem had not yet finished its conclusions. The Proposer commented that if Ofgem was to reduce the list, then it would mean that those parts of the BSC that related to balancing would need to be removed from the BSC. Members of the Panel disagreed as the BSC is wider than the points related to balancing under the EB GL.
- 3.14 A Panel Member queried the impact on in-flight Modifications and the impact on the BSC sandbox, which they commented is a useful tool. ELEXON advised that under SSE's interpretation of EB GL, anything progressed through the BSC Modification process since 18 June 2018 that affects the BSC Sections contained within the mapping are subject to the EB GL change process. For the avoidance of doubt, this is separate to the BSC Change process. Currently, the obligations under the EB GL change process are on the Transmission System Operator (TSO). In relation to the BSC Change process, this is outside the remit as the TSO had not looked at assigning BSCCo the EB GL change process as part of its BSC Change process. The TSO would likely only seek to assign the EB GL change process following guidance from Ofgem whether existing provisions meet the EB GL requirements. Therefore, from a governance perspective, there is no direct impact. However, there may be impacts subject to legal interpretations which may involve the EB GL change process being taken in parallel or carried out after the BSC Change process.
- 3.15 A Panel Member queried how many Modifications have been captured by the mapping. ELEXON advised that it had not been able to carry out this assessment fully given the tight turnaround timescales of P374. ELEXON Legal advised that ELEXON is less certain on the interpretation that Modifications since 18 June 2018 should have gone through the EB GL Change process and will not get certainty on this until Ofgem approves National Grid ESO's terms and conditions. ELEXON Legal noted that at this point in time, there are no terms

## MINUTES

---

and conditions approved so believe they are not in force as of today; whether the 18 June 2018 is taken as the baseline will depend on Ofgem's decision.

- 3.16 In relation to the BSC sandbox, ELEXON Legal highlighted that there is a provision in the sandbox that states that no derogation can essentially remove a European legal requirement. Therefore any derogation application it received, ELEXON would have to undertake a thorough assessment to ensure that it did not remove a European legal requirement. ELEXON Legal highlighted that if SSE's legal interpretation is correct, EB GL would hard codify large sections of the BSC (most of it) from which no derogations could be given, which would mean that derogation would only apply to small sections of the BSC. ELEXON Legal confirmed that overall it is again uncertain in relation to EB GL on the sandbox and would have to assess derogation applications on a case-by-case basis. The Proposer noted that for new entrants, they are required to read the first six pages of Section H of the BSC re derogations where the main point is detailed. He suggested that it would be more sensible for this requirement to be moved upfront in the BSC for derogations so that Parties are aware they can apply for derogations except from certain sections of the BSC which is a requirement under EB GL.
- 3.17 A Panel Member strongly disagreed with SSE's legal interpretation and queried whether Ofgem had a legal interpretation that it was able to share. LC commented that Ofgem had not carried out an assessment on whether BSC provisions would directly be impacted by the terms and conditions as it had been focusing on getting the EB GL mapping in place. The Panel Member queried whether Ofgem thought it would be useful for the BSC Panel to obtain an external legal view. LC suggested that this may be useful. MB commented that it is ultimately the responsibility of Ofgem to interpret the law not the BSC Panel and therefore he did not believe ELEXON commissioning an external legal view would be helpful at this stage, to which the Panel Members were supportive.
- 3.18 A Panel Member expressed the view that there was a strong case for deferral of P374 until the Panel received clear legal interpretation from Ofgem. The Panel expressed concern at potentially hard coding anything into the BSC. The Proposer highlighted that he presented this issue to Ofgem in July 2018 and has been in discussions with Ofgem, National Grid ESO and ELEXON since in order to try and obtain clarification.
- 3.19 A Panel Member queried whether National Grid ESO or Ofgem was carrying out a comparative analysis of similar regions/Member States in the EU to look at how they are treating derogations. The Proposer indicated that this information is not available at this time.
- 3.20 A Panel Member commented that the Panel faces a difficult decision as it is not yet well informed to be able to make a decision. This Modification appears to go beyond consideration by a Workgroup as it is an issue that needs to be worked out between regulators. Therefore, convening a Workgroup would not be efficient or in the best interests of market participants.
- 3.21 Another Panel Member queried whether the Panel would be able to defer again if Ofgem does not make a decision on the terms and conditions by the 13 December 2018 Panel meeting. ELEXON Legal commented that this is unclear as BSC Section F2.2.5 implies that the Panel could only defer for one month. However, it does require certain steps to be set out for the Panel to receive the information it requires by the next meeting. If the Panel does not receive this information, rather than deferring again or entering the Assessment Procedure, there is the option to enter the Definition Procedure. However, this provision is rarely used. A Panel Member commented that the Definition Procedure would still require a Workgroup which may still not add any value to the process in this case, which requires a regulatory steer.
- 3.22 The Proposer believed that the Panel deferring again at the 13 December 2018 Panel meeting would have serious consequences for the governance of GB Code arrangements if Panels are able to constantly defer Modifications. A Panel Member argued that the Panel has to take a position of pragmatism to maintain the integrity of the BSC; the Panel is not deferring because it does not want to make a decision rather that it does not have enough information to be able to make a decision.

# MINUTES

---

3.23 The Panel unanimously agreed not to progress P374 to the Report Phase. However, it unanimously agreed to defer P374 as detailed below.

3.24 The BSC Panel:

- a) **DEFERRED** consideration of P374, pending the request of information detailed in option 3 of the IWA; and
- b) **NOTED** that ELEXON will update the Panel on the status of the required information on 13 December 2018.

(LC left the Panel meeting via teleconference).

## 4. P373 'Reversing the changes relating to Approved Modification P297' – 284/04

4.1 [P373](#) proposes to reverse the changes to the BSC for Approved Modification P297.

4.2 The Panel Chairman thanked Ofgem for the timeliness of its letters to the Panel in relation to both P373 and P297, and the strong guidance on Ofgem's views on the progression of the Modifications.

4.3 The Transmission Company Representative advised that National Grid ESO had begun its engagement with Parties. It had also begun engaging with specific stakeholders that National Grid ESO knew would be impacted by this Modification. Additionally, National Grid ESO had started the cost-benefit analysis as requested by Ofgem in order for it to make a decision on P373. National Grid ESO intends to submit this analysis to Ofgem in December 2018. The Transmission Company Representative also highlighted that, depending on the outcome of the cost-benefit analysis, a new BSC Modification may be required to implement the changes to the BMRS. Further, a new Grid Code Modification may also be required depending on the scope of the changes.

4.4 The Transmission Company Representative acknowledged that the ESO received strong feedback at the last Panel meeting regarding the lack of EBS related communications. In response, at its Operational Forum on 15 October 2018, National Grid ESO published an update on its EBS project and outlined its intention to publish this information on a more regular basis.

4.5 MB welcomed the increase level of information from National Grid ESO and suggested that for openness and transparency, it would be useful to do the same thing for other high profile system changes such as TERRE. The Transmission Company Representative advised that the intention is to publish similar information for TERRE, including timescales, in the near future.

4.6 The Ofgem Representative both requested and emphasised that Parties should respond to the cost-benefit analysis if they have information that they believe would be worthwhile to contribute. Additionally, the Ofgem Representative reiterated that, if Parties had any feedback on National Grid ESO, Ofgem would welcome receiving it.

4.7 One Panel Member abstained from voting on the P373 recommendations as the Panel Member did not believe it rational to make a recommendation to Ofgem when Ofgem is not going to make a decision on P373 until it has received National Grid ESO's cost-benefit analysis on P297. One Panel Member noted they voted positively against Applicable BSC Objective (d), not because the solution implements greater efficiency, but because the solution removes inefficiencies of continuing with the current uncertainty regarding P297.

4.8 The BSC Panel :

- a) **AGREED** a recommendation to the Authority that P373 should be approved;
- b) **AGREED** that P373:
  - **DOES** better facilitate Applicable BSC Objective (a); and



# MINUTES

---

- **DOES** better facilitate Applicable BSC Objective (d);
- c) **APPROVED** an Implementation Date of:
  - 5WD following Authority decision;
- d) **APPROVED** the draft legal text; and
- e) **APPROVED** the P373 Modification Report.

## 5. Issue 69 Interim Report 'Performance Assurance Framework Review' – 284/05

- 5.1 [Issue 69 'Performance Assurance Framework Review'](#) Interim Report outlines the recent changes to the Performance Assurance Framework (PAF) Procedures facilitated through the Issue 69 workgroup. These include changes to the Risk Register to capture Settlement Risks for efficiency, Modification [P368 "Amendments to Section Z to better facilitate the production of the Risk Evaluation Methodology, Risk Evaluation Register and Risk Operating Plan"](#) which allows for in-period revisions to the Risk Evaluation Methodology, and a new scoring approach that focuses on materiality figures rather than impact and probability ratings.
- 5.2 ELEXON highlighted the conclusions from Issue 69 Workstream 2 as detailed on page 2 of the report. ELEXON advised that the Risk Evaluation Methodology, supported by the PAB, had been out for consultation in October 2018. ELEXON received two consultation responses, both of which were supportive. ELEXON advised that although there were only two responses, it held a webinar beforehand of which 26 people attended. ELEXON answered participants' questions on this webinar and so took the assumption that participants agreed with the proposed approach.
- 5.3 ELEXON noted that the risk register will be consulted on after the 29 November 2018 PAB meeting. ELEXON will again look to support stakeholders with their understanding so that they can respond to the consultation. If the risk register is subsequently approved by the PAB, it will become effective from 1 April 2019.
- 5.4 A Panel Member commented that they found the pound (£) evaluation that was brought in very useful. Additionally, they believed that the risk ranking was extremely important as to what risks are relative and what are absolute. The Panel Member commented that the reference to System Buy Price (SBP) changing is not going to amend the relative priority ranking or add significant impact to the absolute value; if the risk doubles, it is still going to be on the risk register. The Panel Member therefore wanted to ensure that the risks were not going to be over-complicated. ELEXON agreed that the risk scoring should not be over-complicated and that it would not be an exact figure, but would help size the risk.
- 5.5 A Panel Member commented that reducing the risks from 200 risks to 40 risks was an achievement noting that in the gas market they use 15 risks which the Panel Member considered to be too generic. ELEXON advised that the title of the 40 risks are now more generic but each one now has risk factors (root causes) associated to it. Where helpful, risk scores have also been applied and scored separately by e.g. Profile Class or Non Half Hourly (NHH)/Half Hourly (HH) market segment so they can see the total impact of the risk.
- 5.6 A Panel Member was pleased to see the PAF Review progressing. They commented that risk-based Performance Assurance was brought in back in 2006 as prior to this it was compliance-based. The Panel Member believed it would be interesting for both the Panel and the PAB to understand how ELEXON believes this activity has changed over the past ten years now that it is Performance Assurance rather than compliance based e.g. how many people have been involved, what techniques have been applied, how much movement has there been in the key measures pre and post risk based. The Panel Member believed this would help inform his view as to whether the techniques being applied are proportionate.

**ACTION 284/03**

# MINUTES

---

- 5.7 ELEXON asked the Panel whether they would like ELEXON to keep the Panel informed on progress of the PAF Review and if so, what format they would prefer. A Panel Member commented that they welcome hearing about the PAB's work. They believed that the risk register is fundamental so it would be good for this work to continue to be communicated to the Panel including the process for updating it. ELEXON advised that under BSC Section Z, the risk register is updated annually. Depending on the priority of a particular risk, ELEXON intends to schedule in a review e.g. monthly, quarterly etc.
- 5.8 The BSC Panel:
- a) **NOTED** the Issue 69 Interim Report.

## NON-MODIFICATION BUSINESS (OPEN SESSION)

---

### 6. Minutes of Meeting 283, 283A, 283B and Actions arising

- 6.1 The minutes of the previous meeting were agreed and an update on the actions provided.

### 7. Chairman's Report

- 7.1 The Chairman advised that the BSC Panel Christmas lunch will be held at the Queen and Artichoke following the 13 December 2018 Panel meeting. Board Members and former Panel Members will also be invited. Panel Members were reminded to send through their menu choices to Panel Secretary as soon as possible.
- 7.2 The Chairman noted that in relation to the Energy Industries Club (EIC) lunch, Martin Cave (Ofgem Chairman) had agreed to speak in May 2019. Panel Members were invited to accept any lunch invitations that they are able to make. MB highlighted that Lord Hutton, Chair of Energy UK will be the guest speaker at the EIC lunch on 14 November 2018 so if any Panel Member would like to attend, they should contact [panel.secretary@elexon.co.uk](mailto:panel.secretary@elexon.co.uk).
- 7.3 The Chairman also advised that he had been in discussions with Joe Perkins (Chief Executive Economist at Ofgem) to provide a presentation for the Panel which he believed would be useful. The Chairman noted that a date is currently being arranged so we will have further details shortly.
- 7.4 The Chairman advised that he and MB had recently met the new directors at the Department for Business, Energy and Industrial Strategy (BEIS), Joanna Whittington and Julian Critchlow, the new Executive Director at Ofgem for Consumers and Markets, Mary Starks and the new (interim) Chairman at the Low Carbon Contracts Company (LCCC).
- 7.5 The Panel Secretary advised that the Panel Sponsors for 2018-2020 will be as follows:
- Imbalance Settlement Group (ISG) – Lisa Waters;
  - Supplier Volume Allocation Group (SVG) – Tom Edwards;
  - Performance Assurance Board (PAB) – Mitch Donnelly until the end of 2018, Mark Bellman from January 2019; and
  - Trading Disputes Committee (TDC) – Stuart Cotten.

### 8. ELEXON Report – 284/01

- 8.1 MB provided an update on recent activities and developments relevant to the BSC and ELEXON since the last Panel meeting.
- 8.2 MB introduced and welcomed Angela Love to the Panel who is ELEXON's new Director of Strategy and Communications.



# MINUTES

---

- 8.3 MB noted section 5.6 of the paper in relation to the Retail Energy Code (REC) consultation. MB highlighted that all other bodies (REC Manager, REC Panel, REC Performance Board) are accountable to and appointed by RECCo Board; this is different to the current arrangements for Master Registration Agreement (MRA) and the Supply Point Administration Agreement (SPAA). The REC Board will be independent and appoint its own non industry directors (NEDs). MB noted that the REC Board will in future have the option to in-source the REC Manager activity which would result in a model similar to ELEXON.
- 8.4 In relation to the REC Manager, this role has been made deliberately wider than current Code Administrators in that it is able to raise Modifications, carry out analysis and progress change with less reliance on industry workgroups.
- 8.5 In relation to the Data and Communications Company (DCC), MB commented that he was surprised that the DCC is able to charge a 12% margin on its costs. A Panel Member echoed these concerns noting that Ofgem had issued a consultation on the DCC switching costs so would encourage anyone who finds these costs incredibly high to respond. The Panel Member commented that these costs are not good value to consumers. Another Panel Member highlighted that the price cap margin is 1.89% which is significantly lower than 12%.
- 8.6 A Panel Member suggested that it would be sensible to plan in a further update on the Foundation Programme for the Panel. ELEXON agreed to book this update in for early 2019.

**ACTION 284/04**

## 9. Distribution Report - Verbal

- 9.1 DL noted that the Open Networks Parliamentary breakfast event will be held on 28 November 2018 at the House of Commons. John Penrose is the MP sponsoring the room while Rachel Morison from Bloomberg will be chairing the discussion. Other confirmed speakers include Laura Sandys (Chair of BEIS's new Energy Data Taskforce), Stew Horne from Citizens Advice and Nigel Turvey who chairs the Open Networks project.
- 9.2 DL commented that this is on the same date as the additional Panel meeting so requested that the meeting start time be adjusted to allow Panel Members to attend the breakfast event and the Panel meeting itself. ELEXON agreed to amend the start time of the 28 November 2018 Panel meeting to 11am.

## 10. National Grid Report – Verbal

- 10.1 JW advised that the Operational and IS forum was held on 15 October 2018. The IS forum was well attended with really useful contribution from ELEXON on upcoming changes.
- 10.2 JW noted that National Grid ESO and ELEXON are hoping for good participation in [Issue 74 'Increased utilisation of non-BM STOR'](#) which will consider the current utilisation of non-BM STOR and what steps can or should be taken ahead of [P354 'Use of ABSVD for non-BM Balancing Services at the metered \(MPAN\) level'](#) go live in April 2020.
- 10.3 A Panel Member requested that the Issue 74 Group does not just repeat the discussion previously had by the P354 Workgroup. JW noted that National Grid ESO had received a number of comments and concerns about doing something for non-BM STOR prior to 2020 and as such had raised the Issue Group as a way of ensuring that a public report is written, which will be transparent for industry. The same Panel Member suggested that it would be useful for National Grid ESO to attend the meetings prepared with what National Grid ESO is able to do to in relation to non-BM STOR to prevent there being any requests from industry that National Grid ESO is already aware it is unable to fulfil. JW agreed that this was National Grid ESO's intention.
- 10.4 A Panel Member commented that National Grid ESO held a webinar that said for EB GL, Parties are unable to use pre-utilisation prices for dispatch of reserve. The Panel Member was concerned that this would require changes to the Balancing Mechanism (BM) and cashout and therefore suggested that National Grid ESO

# MINUTES

---

return to the Panel with further clarity on this. The Transmission Company Representative agreed to report back at the 13 December 2018 Panel meeting.

## **ACTION 284/05**

- 10.5 JW advised that National Grid ESO and ELEXON are running a TERRE Industry Workshop on 11 December 2018 at the ELEXON offices for all market participants covering more details of the TERRE solution.
- 10.6 JW highlighted that National Grid's ESO C16 consultation webinar is being held on 9 November 2018 with a full workshop on the 6 December 2018 for all interested stakeholders.

## **11. Ofgem Report – Verbal**

- 11.1 CD advised that in relation to Ofgem's Code Administrator Performance Survey, Ofgem will not present at individual Panel meetings but Future Thinking will present at the Code Administrator Code of Practice (CACoP) meeting on 27 November 2018. CD suggested that it would welcome sharing on best practice and pitfalls to avoid.
- 11.2 CD advised that back in 2017, Ofgem and BEIS published a joint Smart Systems and Flexibility Plan, focused on delivering smart and more flexible systems. Out of this, it outlined 29 actions it planned to take. CD noted that Ofgem has now published a progress update which details that 15 actions have now been implemented and Ofgem and BEIS are committed to delivering the remaining 14 actions by 2022.
- 11.3 CD advised that Ofgem had called for input on [2019-20 ESO regulatory and incentives framework](#) by 30 November 2018. Ofgem is not looking to make wholesale changes, but more refinements. Ofgem has also confirmed the date for the [ESO's mid-year review and the membership of the Performance Panel](#).
- 11.4 CD highlighted that Ofgem had published its [decision](#) on the price cap/default tariff cap, which will take effect from 1 January 2019.
- 11.5 CD also highlighted that Ofgem had published its [decision to modify Supplier of Last Resort \(SoLR\) supply licence conditions](#). Ofgem enhanced the existing protections under its SoLR safety net.
- 11.6 CD asked the Panel to note that Ofgem has published its second annual report on the [State of the Energy Market \(2018\)](#). In this, Ofgem assesses how well the energy markets are working for consumers. Ofgem identified that there have been many positive developments in retail markets since it began implementing the remedies set out in 2016 by the Competition and Markets Authority (CMA). Consumers now have more Suppliers and innovative deals to choose from than ever before, and it is becoming easier for consumers to switch tariffs and Suppliers. However, the retail market is still not delivering the desired outcomes for all consumers.
- 11.7 A Panel Member highlighted that Ofgem had published the compliance for the 2017-2018 Renewables Obligations. 34 Suppliers did not meet their total obligations by presenting Renewables Obligation Certificates (ROCs) or paying the buy-out, which means these Suppliers consequently owe late payments. The deadline for Suppliers to make late payments was 31 October 2018. This will include interest paid by the Suppliers at an annualised rate of 5.75%. The Panel Member queried whether Ofgem had an update on how many Suppliers had not paid by the deadline of 31 October 2018, what the shortfall in payment is and what the repercussions may be for other Suppliers and customers. The Panel Member also queried whether any sanctions will be taken by Ofgem against the late payers as the Panel Member was concerned that there may be ramifications on Parties in the BSC. CD agreed to provide an update on this at the 13 December 2018 Panel meeting.

## **ACTION 284/06**

## **12. Report from the ISG – 284/01b**

# MINUTES

---

12.1 The Panel noted the report from the ISG.

## **13. Report from the SVG – 284/01c**

13.1 The Panel noted the report from the SVG.

## **14. Report from the PAB – 284/01d**

14.1 The Panel noted the report from the PAB.

## **15. Report from the TDC – 284/01e**

15.1 The Panel noted the report from the TDC.

## **16. Trading Operations: BSC Operations Headline Report – 284/02**

16.1 The Panel noted the BSC Operations Headline Report.

## **17. System Price Analysis Report (SPAR) – ISG210/09**

17.1 The Panel noted the System Price Analysis Report.

17.2 A Panel Member commented that they appreciated the report on negative pricing on 18 September 2018 on pages 18 and 19 of the SPAR. The Panel Member queried whether this could be followed up with a section on what the value of avoided activations would have been i.e. looking at the available Bid Offer Acceptances (BOAs) were that could have fed through to the price as this is another potential cashout impact. ELEXON agreed to provide this feedback to the Market Analysis team to see if this is something they could do.

**ACTION 284/07**

## **NON MODIFICATION BUSINESS (OPEN SESSION)**

---

## **18. Scoping paper for a review of Section D charges – 284/06**

18.1 Following discussion of Specified BSC Charges at the 13 September 2018 Panel meeting, ELEXON was tasked with bringing a paper back to the Panel meeting on 11 October 2018, identifying Terms of Reference for a full review of Section D charges, initially via an Issue Group. Following the Panel meeting, the Panel requested an overview of current charges and historic principles to enable it to assess the size and scope of any review before it could agree the Terms of Reference. ELEXON presented a paper to address this action.

18.2 The Chairman queried whether ELEXON had an idea of what the magnitude of the cost and time of the review would be. ELEXON advised that in preparation for the Issue Group, it is likely to require two FTEs for approximately 10 days in order to put together all the detail. The overall cost would not be a small figure; however this will be dependent on what options are progressed. ELEXON noted that there had not previously been a contentious review of this scale carried out so there is no precedent. ELEXON's Director of Operations suggested that this could be on scale with the PAF Review which is now a couple of years in and ELEXON resource of approximately £500,000 to £1million overall which is before an industry costs or Modifications that will be required. A Panel Member commented that they did not believe the materiality was enough to warrant going on for approximately three years but did believe this issue was currently a barrier to entry.

18.3 A Panel Member was impressed by how little costs had increased since 2001. They suggested that an Issue Group should look at the actual cost drivers of all the charges, and if there are not any cost drivers, consider why we are using these charges. The Panel Member noted that the Parties at NETA go-live in 2001 are very different to the Parties participating in the market now and therefore there should be an obligation to

## MINUTES

---

address these differences. They expressed the view that they were concerned with how little Traders pay when they are large users of the system.

- 18.4 A Panel Member believed that it is good governance to review a charging regime from time to time to ensure that it is still fit for purpose. He suggested that the Issue Group must look at what behaviours are driving the costs.
- 18.5 A Panel Member queried whether ELEXON had looked at what causes particular charges in the first place. ELEXON advised that it had tried to resolve drivers where possible so that Parties are charged based on their usage e.g. Traders using the Energy Contract Volume Aggregation Agent (ECVAA) system are charged based on their usage. ELEXON noted that since NETA go-live it had tried to tailor the charges e.g. in 2006/2007, ELEXON carried out a thorough review on Specified Charges and through this review it identified the way Supplier Volume Allocation Agent (SVAA) system was charging was not as efficient as it could be, and as a result consulted with industry on proposed changes. ELEXON had not been able to find the rationale behind certain charges as existed pre-NETA. Increasing the scope of the review could therefore mean that all charges are looked at including those set pre-NETA. This will provide Industry confidence around these charges. Without this review, charges would be open to further Industry challenge as exemplified by the change to the Additional BM Unit charge.
- 18.6 MB expressed concern for too wide a scope but believed the focus should be on standing charges rather than on volume related charges. This implies that ELEXON is sticking with the principle of volume (85%) but then gives the opportunity to look at where the outstanding 15% comes from. ELEXON highlighted that rationale for the review was that over the past 18 months, there had been a significant increase in the number of BSC Modifications raised that impacted BSC Section D.
- 18.7 A Panel Member noted that a step approach would be the most useful. They suggested that the Issue Group should look at whether the current charging structure is fit for purpose and if not, what Parties actually want. Another Panel Member agreed with the approach but commented that having charges with no cost drivers does not make sense and so this should be looked at by the Issue Group.
- 18.8 Another Panel Member expressed the view that the Terms of Reference should be amended to remove looking into how other Code Administrators charge and they did not believe that the review had any correlation with Ofgem's Targeted Charging Review. The Panel Member also requested that 'simplicity' and 'cost reflectivity' be included in the Terms of Reference for the Issue Group. The Panel agreed that this was sensible.
- 18.9 The Chairman noted the Panel's agreement to not carry out a full review of Section D charges. However, the purpose of the Issue Group is to address the question as to how much of the charging structure should be reviewed based on how things have changed over the past 17 years. The Panel was mainly concerned with charges that are without drivers and those that relate back prior to NETA go-live. The Panel requested that ELEXON re-draft the scope with a stepped approach and the Terms of Reference for an Issue Group and submit this draft paper ex-Committee for the Panel's approval.

### ACTION 284/08

- 18.10 The BSC Panel:
- a) **AGREED** that the review should consider whether the current charging structure within BSC Section D is fit for purpose; and to focus on those charges which are not, or have no cost driver;
  - b) **AGREED** to include simplicity and cost reflectivity to the Terms of Reference for an Issue Group; and
  - c) **AGREED** for ELEXON to submit the draft Terms of Reference to the Panel ex-Committee and subject to Panel approval or no objections, raise an Issue Group to review the recovery of ELEXON's costs.

# MINUTES

---

## 19. Aligning BSC Reporting with EMR Regulations – 284/07

(Alex Coulton from LCCC attended the Panel meeting)

- 19.1 ELEXON provided the Panel with details of responses to our recent consultation on '[Aligning BSC Reporting with EMR Regulations](#)', and asked the Panel to approve our approach to implementing interim and enduring solutions to the issues identified in the consultation document.
- 19.2 Two responses to the consultation suggested that the proposed solution should be extended to cover Exempt generation, as well as Licensed Generation. ELEXON explained that this was not a change that could be taken forward under BSC governance, as it would require changes to the Regulations governing EMR. A Panel Member queried what would need changing. ELEXON advised that the EMR Regulations require Suppliers to be charged for any electricity they supply to GB premises. The definition of 'supply' is in the [Electricity Act 1989](#) and it explicitly excludes electricity supplied to a generation holder for the purposes of the generation licence. Therefore if someone holds a generation licence and is being provided electricity for that purpose, it is not considered 'supply' under the Electricity Act and therefore not chargeable. However, electricity supplied to an Exempt generator is 'supply', and must be charged for under the Regulations as currently written.
- 19.3 The Transmission Company Representative advised that this issue was also being discussed under the [CMP280: 'Creation of a New Generator TNUoS Demand Tariff which Removes Liability for TNUoS Demand Residual Charges from Generation and Storage Users'](#) and [CMP281: 'Removal of BSUoS Charges From Energy Taken From the National Grid System by Storage Facilities'](#) Workgroups where there is a large distinction between licence exempt and exemptable. The Workgroup is looking at whether it is fair to treat two parties differently because one does not hold a supply licence.
- 19.4 The Chairman queried how many Meters are involved. ELEXON advised that it is difficult but it asked Parties for likely volumes as part of the consultation responses. Some respondents indicated that they did not have enough time to find out this information but of those who did respond, approximately 20 Metering Systems are impacted. However, ELEXON does not have access to all information and envisages that figures may be larger than anticipated.
- 19.5 A Panel Member commented that this was a pragmatic way of dealing with a complex issue and so they were comfortable with ELEXON's proposed approach.
- 19.6 A Panel Member queried why this decision is part of the Panel's governance. ELEXON advised that the question is around data that should be transferred from BSC to EMR. The proposed interim and enduring solutions are in effect changes to the EMR Settlement Data that ELEXON (and its BSC Agents) provides to EMRS for purposes of EMR charging. The BSC Panel is genuinely required for purposes of EMR Settlement.
- 19.7 The Chairman queried the extent of the Panel assurance that would be implied. ELEXON advised that this would be a different type of assurance to the Performance Assurance Framework, which is based on BSC Settlement error. ELEXON is in effect asking the BSC Panel to agree some principles regarding the data transferred from BSC to EMR. The Panel has oversight of BSC data transferred from BSCCo to EMR and as the assurance is that if there were any unintended consequences, this would come back to the Panel so that something could be done about it.
- 19.8 A Panel Member commented that they did not want 'creep' onto the sandbox process. ELEXON advised that for licence generation, there had been no proposal to use the sandbox process. Sandbox applications would relate to exempt supply in relation to new customer offerings which it believed would be a new form of innovation.
- 19.9 AC recognised the importance of this as flexibility is needed. LCCC has discussed this internally and welcomed ELEXON's proposed way forward.

# MINUTES

---

## 19.10 The BSC Panel:

- a) **NOTED** that the consultation responses strongly supported the principle that BSC processes should be amended to provide the EMR SSP with gross demand values that exclude any electricity provided to Licensed Generators for the purpose of licensed generation (see paragraph 3.1);
- b) **NOTED** that the consultation responses supported use of the BSC Modification process to assess and implement an appropriate enduring solution (see paragraph 3.5);
- c) **AGREED** that, as an interim solution (prior to Modification of the BSC), a process should be established for identifying Boundary Point Metering Systems that are recording only Imports provided to Licensed Generators for the purpose of licensed generation (and which therefore fall outside the Electricity Act definition of 'supply', and are not subject to EMR charges);
- d) **AGREED** that, in order to facilitate timely implementation of this interim process, it should be delivered by LCCC and EMRS (using existing EMR settlement systems and industry data flows), and rely on self-declaration by Licensed Suppliers of eligible Metering Systems (see paragraph 4.1);
- e) **NOTED** that the interim solution will not be able to address Licensed Generation that sits 'behind the Settlement meter', and therefore shares a Boundary Point Metering System with other demand (see paragraph 4.3);
- f) **NOTED** that we intend to investigate further with LCCC how processes can be put in place to detect erroneous data submitted into the interim solution (see paragraph 5.4);
- g) **AGREED** that, in order to support ongoing trials of community energy (such as the Smart Energy Islands project on the Isles of Scilly), there should be a process for the BSC Panel to agree that certain SVA Metering Systems should be treated (for purposes of the BSC, and specifically the provision of charging data to EMR) as recording volumes of exempt supply (see paragraph 6.1);
- h) **NOTED** that the BSC Sandbox process (introduced by Modification P362) represents a potential route for agreeing to treat SVA Metering Systems in this way (see paragraph 6.4);
- i) **AGREED** to delegate to SVG the power to agree that SVA Metering Systems (outside the BSC Sandbox process) should be treated in this way (see paragraph 6.4); and
- j) **AGREED** that ELEXON reports back to the BSC Panel (in nine months, or sooner if appropriate) on the level of take-up and the learning achieved (see paragraph 6.4).

(AC left the Panel meeting)

## 20. Ofgem's Code Administrator Performance Survey - 284/08

- 20.1 ELEXON presented to the Panel the BSC results and those compared to other Code Administrators' results in relation to Ofgem's second [Code Administrator's Performance Survey](#).
- 20.2 MB commented that he believed Ofgem had missed an opportunity in being able to call out good behaviours and look at what is driving these good behaviours and best practice across the Code Administrators. The Ofgem Representative commented that although Ofgem arranges the survey, Ofgem expects industry to look at the results and decide what to do with them. If Parties are interested in the service they receive from codes that they interact with, then they should drive Code Administrators to make improvements. There is also the Code Administrator Code of Practice (CACoP) forum where business could be driven through by Parties.
- 20.3 A Panel Member congratulated ELEXON on a good set of results. The Panel Member agreed with MB that this is putting the results into silos; not looking at what problems there are across the board. The Panel Member



# MINUTES

---

believed that it should be Ofgem's responsibility to call out the right behaviours to help Code Administrators improve.

- 20.4 A Panel Member commented that a number of the codes impact Parties although they are not a signatory to them. Therefore it should be the responsibility of Ofgem to encourage code bodies to make certain changes for smaller parties or non-parties (for example) as smaller parties do not carry any weight on their own.
- 20.5 A Panel Member echoed the congratulations and queried what ELEXON believed the cause and effect of the changes that had been put in place from 2017 had been. MB commented that the actions that had been put in place stemmed from ELEXON's own customer survey; the results of Ofgem's Code Administrator Performance survey did not make ELEXON aware of anything it did not already know. MB advised that from ELEXON's own customer survey, it had previously received criticism on the website over a number of years and as such had refreshed the website including improvements to the search function and navigation. Additionally ELEXON had improved the audio-visual capabilities in its meeting rooms to enable more remote accessibility. But he stressed there were still improvements that ELEXON could make generally and no one at ELEXON was complacent despite coming top of the Ofgem survey for the second year running.
- 20.6 A Panel Member commented that they'd had a lot more interaction with individuals across different teams at ELEXON more recently. The Panel Member was impressed that everyone at ELEXON appeared to have a similar enthusiasm and a sense of feeling switched on.
- 20.7 ELEXON's Director of Strategy and Communications queried whether there was anything more ELEXON could be doing in the short term. She suggested that there could be an opportunity for Parties to dial in for half hour prior to a Panel meeting to help them better understand the Panel agenda and answer any questions they may have. Panel Secretary could then ensure that the public Headline Report is circulated to these interested Parties following the Panel meeting so they are aware of the outcome. The Panel agreed that this was sensible and that Panel Secretary should trial this.

## ACTION 284/09

- 20.8 The BSC Panel:
- a) **NOTED** the results of Ofgem's Code Administrator Customer Satisfaction Survey and that we will be analysing those results further in order to identify and take forward actions to further improve our service.

## 21. Any other Business

- 21.1 There was no other business in the Open session.

## 22. Next meeting

- 22.1 The next meeting of the BSC Panel will be held at the offices of ELEXON Ltd, 350 Euston Road, London NW1 3AW on Thursday 10 January 2019.