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Grendon Thompson  
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E14 4PU

12 November 2018

**RE: Request for further information to support the BSC Panel progression decision for P374 'Aligning the BSC with the EB GL change process and derogation approach'**

Dear Mr Thompson,

I am writing to you on behalf of the BSC Panel to ask for your guidance on seven items which the BSC Panel considers important in being able to make an informed decision on the further progression of BSC Modification P374.

SSE raised P374 on Monday 5 November 2018 as it believes the BSC does not appropriately reflect the changes introduced by the European Electricity Balancing Guideline (EB GL) in respect of derogations (Article 62(2)) and amendments (Articles 4, 5, 6 and 10) to the terms and conditions related to balancing (Article 18).

SSE believes that without this change the BSC will not be aligned with the EB GL, which could cause confusion or create ambiguity for BSC Parties and the BSC Panel when applying or interpreting the BSC arrangements. Further information on the background and solution regarding the P374 proposal can be found on the [P374 webpage](#) and in the published documentation.

In its role as the Balancing and Settlement Code Company (BSCCo), as per BSC Section F 'Modification Procedures' 2.1.8, ELEXON is required to present the Panel with its Initial Written Assessment of the implications of each Modification Proposal. As part of this assessment, which for the avoidance of doubt is not based on the merits of the Modification, consideration was given to how the proposal should be progressed. We could not align our legal view to that of SSE's in relation to the interpretation of the EB GL provisions, and therefore there was a difference of opinion between SSE and ELEXON regarding the implications of the Modification Proposal.

The Panel considered both SSE and ELEXON's perspectives and determined that it could not make an informed decision on P374 progression, particularly because there was insufficient information and a lack of certainty in relation to the legal effect of EB GL in this context. The Panel unanimously agreed that the most appropriate action was to defer its decision – pursuant to BSC Section F2.2.5 – and request further information from Ofgem as the National Regulatory Authority (NRA), the body responsible for the legal interpretation of the EB GL in Great Britain. The Panel determined it should request advice on the following points to inform its considerations, and for the reasons set out below:

1. Whether the [balancing terms and conditions proposed by National Grid Electricity System Operator \(ESO\) on 18 June 2018](#), and not yet approved, are already subject to the EB GL change process.

This would inform the Panel whether 'in-flight' Modifications are currently caught by the EB GL change process and hence influence the appropriate P374 timelines.

2. Whether EB GL prevents BSC Derogations being granted through ELEXON's BSC Sandbox where the derogated BSC provisions relate to the Article 18 terms and conditions.

This would provide the Panel with clarity on the different interpretations of derogations.

3. Since Ofgem has advised the Panel that it is minded to direct changes to the ESO's proposed terms and conditions, we request information on the nature of those amendments.

This will inform the P374 progression timescales and implementation approach. For example, where amendment is required to the proposed terms and conditions for balancing, National Grid ESO has two months to amend its proposal and Ofgem a subsequent two months to approve.

4. Whether Ofgem is likely to set an implementation date for the terms and conditions, and if so what the lead time might be.

This information will inform the appropriate progression timetable for P374.

5. Whether Ofgem is time bound to make a decision on the proposed terms and conditions.

This will inform the progression timetable of P374.

6. Guidance on the possible interpretations of the EB GL change process and derogation process.

Understanding the interpretations of the EB GL change process and derogations process will help inform the appropriate changes required to the BSC if necessary.

7. When a decision on the Article 18 terms and conditions proposed by ESO on 18 June 2018 is likely to be made.

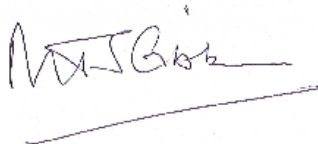
This will inform the progression timetable for P374.

The BSC Panel thanks Ofgem for its verbal update during the Panel meeting whereby (as above) Ofgem confirmed it is minded to direct changes to the balancing terms and conditions proposed by National Grid and would likely make a decision on this by the end of December 2018. The Panel would welcome confirmation of this in relation to questions three and seven.

The BSC Panel emphasised the importance of a timely response from you in relation to this request, ideally before the next regular BSC Panel meeting on 13 December 2018, to enable the Panel to make an informed decision on how best to proceed with P374. We noted that these issues were first raised with you in early July.

If you have any questions in relation to this letter, please contact Lawrence Jones on +44(0)207 380 4118 or [lawrence.jones@elexon.co.uk](mailto:lawrence.jones@elexon.co.uk).

Yours sincerely,



Michael Gibbons  
BSC Panel Chair