

Assessment Procedure Consultation Responses

P374 'Aligning the BSC with EBGL'



Phase

Initial Written Assessment

Definition Procedure

Assessment Procedure

Report Phase

Implementation

This Assessment Procedure Consultation was issued on 27 June 2019, with responses invited by 18 July 2019.

Consultation Respondents

Respondent	No. of Parties/Non-Parties Represented	Role(s) Represented
National Grid ESO	1/0	GB System Operator
SSE plc	1/0	Generator, Supplier
The Association for Decentralised Energy	0/1 (Trade association that represents over 150 market participants)	Trade Association
Flexitricity Limited	1/0	Supplier, non-BM Service Provider
RWE Supply and Trading GmbH	1/0	Generator, Supplier, interconnector user, non-physical trader, ECVNA, MVRNA

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Version 1.0

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Question 1: Do you agree with the Workgroup's initial unanimous view that P374 Proposed Modification does better facilitate the Applicable BSC Objectives than the current baseline?

Summary

Yes	No	Neutral/No Comment	Other
5	0	0	0

Responses

Respondent	Response	Rationale
National Grid ESO	Yes	In so much as it addresses the need for future modifications to go to the Authority for a decision if they relate to the Article 18 T &Cs that will be in the BSC.
RWE Supply and Trading GmbH	Yes	The BSC should be amended to reflect the implementation of the EBGL.
The Association for Decentralised Energy	Yes	The Proposed Modification ensures that the BSC is compliant with EBGL requirements, therefore better facilitates Objective (f) than the current baseline.
SSE plc	Yes	<p>Article 18 of the EBGL requires the ESO to submit for approval by the NRA Terms & Conditions for Balancing. In its Article 18 submissions to the Authority to date, NGENSO has made it clear that large parts of the BSC will form part of the Terms & Conditions for Balancing.</p> <p>SSE believe therefore that it is crucial that the BSC is modified to minimise the risk of inadvertent failure to comply with overriding European Regulations:-</p> <ul style="list-style-type: none"> i) when seeking to change provisions of the Code that form part of the Terms and Conditions for Balancing (in accordance with Articles 4,5,6 and 10); ii) when considering derogation requests against requirements of the Code, to ensure that derogations are not granted against requirements that form part of Terms and Conditions for Balancing (in accordance with Article 62 (2)). <p>SSE therefore supports the unanimous conclusion of the workgroup that the P374 Proposal will better facilitate Applicable BSC Objective e).</p>

Respondent	Response	Rationale
		SSE also believe that the change proposed will better facilitate objectives a) and d), as it will be beneficial in clarifying requirements for both NGESO and BSCCo, helping them both the better fulfil their obligations.
Flexitricity Limited	Yes	-

Question 2: Do you agree with the Workgroup’s initial unanimous view that the P374 Alternative Modification does better facilitate the Applicable BSC Objectives than the current baseline?

Summary

Yes	No	Neutral/No Comment	Other
5	0	0	0

Responses

Respondent	Response	Rationale
National Grid ESO	Yes	The Alternative also addresses the need for future modifications to go to the Authority for a decision if they relate to the Article 18 T and Cs that will be in the BSC. But it also ensures the BSC sandbox process remains both compliant and supportive of innovation in the market.
RWE Supply and Trading GmbH	Yes	The BSC should be amended to reflect the implementation of the EBGL.
The Association for Decentralised Energy	Yes	The Alternative Modification ensures that the BSC is compliant with EBGL requirements, therefore better facilitates Objective (f) than the current baseline.
SSE plc	Yes	Whilst the Alternative Modification only provides a solution to 1 part of the issue identified under SSE’s interpretation of the Regulations, and therefore does not go far enough in helping to mitigate risk of inadvertent non-compliance in our view; it is nevertheless an incremental improvement against the current baseline against ABOs e), a) and d), as it helps to mitigate the risk of failure to comply with public consultation requirements identified within the EBGL.
Flexitricity Limited	Yes	-

Question 3: Do you agree with the Workgroup’s initial majority view that the P374 Alternative Modification does better facilitate the Applicable BSC Objectives than the current baseliner and the Proposed Modification?

Summary

Yes	No	Neutral/No Comment	Other
4	1	0	0

Responses

Respondent	Response	Rationale
National Grid ESO	Yes	The Alternative modification ensures compliance (objective e) whilst still enabling the BCS sandbox process to run as intended and support innovation projects and competition in the market (objective c). The Authority still have the final decision on all derogation requests and importantly EU law is still adhered to without explicitly referencing EBGL A18 (which the proposed mod does) which could be unnecessarily restrictive for industry parties.
RWE Supply and Trading GmbH	Yes	The alternative explicitly recognises that the derogation process under the EBGL is managed by the TSO and Ofgem and is not directly related to the BSC.
The Association for Decentralised Energy	Yes	<p>The ADE agrees that the Alternative Modification better facilitates Applicable BSC Objectives (c) and (d) than the Proposed Modification, while facilitating Objective (f) better than the current baseline and in a manner more beneficial to competition and innovation than the Proposed Modification.</p> <p>The Alternative Modification better facilitates Objective (c) than the Proposed Modification by enabling assessment of BSC derogation requests on a case-by-case basis, thereby promoting competition and innovation in the electricity market. The Proposed Modification risks unnecessarily limiting BSC derogations that could otherwise be approved.</p> <p>Such a limitation is unnecessary because, as outlined in the Consultation, there is a clear “distinction between derogations that can be granted under Article 62 to a TSO and derogations that may be granted to BSC Party under Section H 10.1.” The ADE agrees with Elexon’s view that BSC derogations under the BSC Sandbox programme do not constitute requests for derogations under EBGL Article 62 and</p>

Respondent	Response	Rationale
		<p>do not cover the same subject matter. The Alternative Modification therefore ensures compliance with the EBGL while providing more scope for competition and innovation than the Proposed Modification.</p> <p>The ADE notes Ofgem’s request in their letter of 11 December 2018 that “industry consider how those provisions of the BSC may need to evolve to retain their necessary flexibility and, among others, to remove barriers for new market participants” and believes that the Alternative Modification fulfils this request more effectively than the Proposed Modification.</p> <p>The Alternative Modification also better facilitates Objective (d), as it promotes more efficient implementation of the balancing and settlement arrangements than the Proposed Solution by not creating unnecessary restrictions on NETSO and Elexon’s ability to assess BSC Party derogation requests on a case-by-case basis.</p>
SSE plc	No	The Alternative only addresses part of the issue identified under SSE’s interpretation of the Regulations, and therefore does not go far enough in mitigating risks of non-compliance with the EBGL.
Flexitricity Limited	Yes	<p>The Alternative Modification better facilitates Applicable BSC Objective (c) than the Proposed Modification, as it protects the continuation of assessment of BSC derogation requests on a case-by-case basis, thereby maintaining the flexibility required to promote competition and innovation in the electricity market.</p> <p>The Proposed Modification risks unnecessarily limiting BSC derogations under the BSC Sandbox programme that could otherwise be approved, introducing an additional barrier for new market participants.</p> <p>The Alternative Modification also better facilitates Objective (d), as it promotes more efficient implementation of the balancing and settlement arrangements than the Proposed Solution by not creating unnecessary restrictions on NETSO and Elexon’s ability to assess BSC Party derogation requests on a case-by-case basis.</p>

Question 4: Do you agree with the Workgroup that the Proposed draft legal text in Attachment A delivers the intention of P374?

Summary

Yes	No	Neutral/No Comment	Other
5	-	-	-

Responses

Respondent	Response	Rationale
National Grid ESO	Yes	-
RWE Supply and Trading GmbH	Yes	-
The Association for Decentralised Energy	Yes	The ADE agrees with the Workgroup's interpretation.
SSE plc	Yes	-
Flexitricity Limited	Yes	-

Question 5: Do you agree with the Workgroup that the Alternative draft legal text in Attachment B delivers the intention of P374?

Summary

Yes	No	Neutral/No Comment	Other
5	-	-	-

Responses

Respondent	Response	Rationale
National Grid ESO	Yes	-
RWE Supply and Trading GmbH	Yes	-
The Association for Decentralised Energy	Yes	The ADE agrees with the Workgroup's interpretation.
SSE plc	Yes	-
Flexitricity Limited	Yes	-

Question 6: Do you agree with the Workgroup's recommended Implementation approach?

Summary

Yes	No	Neutral/No Comment	Other
5	-	-	-

Responses

Respondent	Response	Rationale
National Grid ESO	Yes	These are small but important changes to the BSC and getting them implemented in a timely manner will help towards the BSC being ready for EBGL A18 approval. The upcoming NGESO mod will support the necessary process changes linked to Article 6 and 10 for future amendments to A18 T and Cs in the BSC.
RWE Supply and Trading GmbH	Yes	-
The Association for Decentralised Energy	Yes	The ADE agrees with the Workgroup's recommended implementation approach.
SSE plc	Yes	It is sensible to implement the changes at the earliest opportunity to help clarify arrangements for Parties and avoid any unnecessary confusion/conflict between EBGL and BSC requirements.
Flexitricity Limited	Yes	-

Question 7: Do you agree with the Workgroup’s unanimous view that P374 does not meet the Self-Governance Criteria and so should not be progressed as a Self-Governance Modification?

Summary

Yes	No	Neutral/No Comment	Other
5	-	-	-

Responses

Respondent	Response	Rationale
National Grid ESO	Yes	The solution needs an Ofgem decision as it has a direct effect on Parties’ legal obligations.
RWE Supply and Trading GmbH	Yes	-
The Association for Decentralised Energy	Yes	The ADE agrees with the Workgroup’s view. P374 has a material impact on the Code’s governance and Modification procedures, so cannot be considered self-governance.
SSE plc	Yes	The modification if approved will have a material impact on the BSC’s governance and Modification procedures. SSE believe that this does not meet Self-Governance criterion iv) and that the proposal should therefore be assessed and determined upon by the Authority.
Flexitricity Limited	Yes	P344 has a material effect on governance and thus should not be treated as a Self-Governance Modification.

Question 8: Do you have any further comments on P374?

Summary

Yes	No
1	4

Responses

Respondent	Response	Comments
National Grid ESO	No	-
RWE Supply and Trading GmbH	No	-
The Association for Decentralised Energy	Yes	The ADE would encourage NETSO and ELEXON to align their consultation processes as far as possible, in order not to create duplicate processes.
SSE plc	No	-
Flexitricity Limited	No	-