

MINUTES

MEETING NAME	BSC Panel
---------------------	-----------

Meeting number	298
-----------------------	-----

Date of meeting	Thursday 12 December 2019
------------------------	---------------------------

Venue	ELEXON Ltd. Offices – Pink Room
--------------	---------------------------------

Classification	Public
-----------------------	--------

ATTENDEES AND APOLOGIES

Attendees	Michael Gibbons	MG	BSC Panel Chair
	Phil Hare	PH	Deputy BSC Panel Chair
	Colin Down	CD	Ofgem Representative
	David Lane	DL	DSO Representative
	Stew Horne	SH	Consumer Panel Member (and Alternate for Victoria Pelka)
	Mark Bellman	MBe	Industry Panel Member
	Lisa Waters	LW	Industry Panel Member
	Tom Edwards	TE	Industry Panel Member
	Rhys Kealley	RK	Industry Panel Alternate Member for Mitch Donnelly
	Stuart Cotton	SC	Industry Panel Member
	Diane Dowdell	DD	Independent Panel Member
	Jon Wisdom	JW	NGESO Panel Member
	Mark Bygraves	MB	ELEXON CEO
	Victoria Moxham	VM	ELEXON Director of Operations, Panel Secretary
	Jason Jackson	JJ	Panel and Committee Support Manager
	Elliott Harper	EH	ELEXON (Part Meeting)
	Craig Murray	CM	ELEXON (Part Meeting)
	Fungai Madzivadondo	FM	ELEXON (Part Meeting)
	Alina Bakhareva	AB	ELEXON (Part Meeting)
	Chris Thackeray	CT	Ofgem (Observer Part Meeting)
Apologies	Victoria Pelka	VP	Consumer Panel Member
	Mitch Donnelly	MD	Industry Panel Member
	Derek Bunn	DB	Independent Panel Member

Apologies

1.1 The Chair noted apologies from Victoria Pelka, Derek Bunn and Mitch Donnelly.

Joint Panel Discussion

1.2 Prior to the commencement of the January 2020 BSC Panel meeting the BSC Panel invited the Uniform Network Code (UNC) Panel (who were meeting at ELEXON's offices the same morning) for a joint discussion regarding the importance of independence with respect to industry Panels, amongst other things.

MINUTES

MODIFICATION BUSINESS (OPEN SESSION)

IWA: Initial Written Assessment | **AC:** Assessment Procedure Consultation | **AR:** Assessment Report
RC: Report Phase Consultation | **DMR:** Draft Modification Report

2. Change Report and Progress of Modification Proposals (298/03)

- 2.1 The deputy Modification Secretary presented the Change Report. The BSC Panel discussed the progress of [P392](#) and the Workgroup's advice that more time would be needed in order to run through legal scenarios and undertake robust assessment of the legal text in order to ensure its compliance with the Electricity Balancing Guideline (EBGL). The wording of a letter from Ofgem to ELEXON was discussed in respect of the deadline set for P392. The Ofgem representative read a statement indicating that Ofgem still expected P392 to meet the implementation date originally set.
- 2.2 The Panel considered and discussed its options in respect of ensuring that the implementation date for this Modification is met, including asking Ofgem for the Modification to be progressed as an Urgent Modification. ELEXON recommended an alternative whereby the BSC Panel could determine to progress the Modification directly to the Report Phase allowing the Workgroup to meet more frequently, this being contingent on a review to confirm that the timescales would be achievable and that the relevant Workgroup Members would be available.
- 2.3 The BSC Panel:
- a) **APPROVED** a six-month extension to the P332 Assessment Procedure;
 - b) **REJECTED** a two-month extension to the P392 Assessment Procedure;
 - c) **AGREED** to write to the Authority:
 - i) Requesting clarification on whether 4th April 2020 as outlined in its conditional approval letter relating to Article 18 terms and condition dated 8 October 2019 is in itself a condition, or an anticipated date for completion of the conditions;
 - ii) Where, if the 4th April 2020 date constitutes a condition in itself:
 - Whether the date itself has now moved to the Implementation date for [P371](#) of 25 June 2020, given the Authority's subsequent Modification approval;
 - What are the implications of the date not being met;
 - Would the Authority consider an extension to the 4th April 2020 date; and
 - iii) Where the date itself constitutes a condition for approval of the Article 18 terms and conditions, the Panel requests the Authority considers P392 as an Urgent Modification.
 - d) **APPROVED** the changes to the Baseline Statement; and
 - e) **NOTED** the contents of the January Change Report.

3. P399 IWA 'BSAD Identity Visibility' (298/04)

- 3.1 ELEXON and the Proposer outlined the [P399](#) Initial Written Assessment. The Panel Chair requested that the Proposer provide an example of a scenario where knowing the identity of the Party on the other side of a trade on the electricity market provided an advantage. The Proposer noted its view that equivalent transparency across Balancing Mechanism (BM) and non-BM trades was important in order to provide a level playing field for traders and generators. The Proposer clarified that the intent of the Modification was to provide transparency over the specific assets and technologies being deployed rather than the parties involved in particular trades. Knowing which assets are being deployed can provide insight into constraints experienced across the Transmission System. The Panel Chair noted that this level of detail was helpful in

MINUTES

better understanding the benefit of the Modification, and encouraged this to be clear to the workgroup and outlined in subsequent Modification Reports.

- 3.2 The NGESO Panel Member noted that its original understanding of the Modification indicated to the NGESO that the primary challenges in delivering this would have been overcoming legal issues preventing the disclosure of the identity of counterparties to trades. They noted the Proposer's clarification that the transparency sought would be over the specific assets and technologies being deployed. The NGESO Panel Member noted that this would require the NGESO to revisit its assessment of how this Modification could be delivered as it would be a question of how the data could be provided and the technology required to support the provision of said data.
- 3.3 A Panel Member (PM) queried the rationale for non-BM Unit trades being anonymous. A PM noted that it is a historic legal point in contracts whereby the counterparties involved in a trade shall not be disclosed.
- 3.4 A PM suggested that the lack of transparency over the NGESO's activities could be a competition issue on the basis that organisations with large analytics teams can process data available in order to identify which assets are being deployed. This enables such larger market participants to build an understanding of the pressures and constraints on the transmission system, which smaller players may not have, thus creating a competition disparity. The PM noted that it would be to the benefit of the market and transparency if significantly more operational data was made available by the NGESO in an easily interpreted format and in real time.
- 3.5 The BSC Panel:
 - a) **AGREED** that P399 progresses to the Assessment Procedure;
 - b) **AGREED** the proposed Assessment Procedure timetable;
 - c) **AGREED** the proposed membership for the P399 Workgroup; and
 - d) **AGREED** the Workgroup's Terms of Reference.

4. **P397 DMR 'Assessing the costs and benefits of adjusting Parties' Imbalances following a demand disconnection' (298/05)**

- 4.1 Representatives from Ofgem joined via teleconference for the presentation of the draft Modification Report. A PM noted that the consultation respondents, while positive, didn't appear to cover a wide range of market participants. The PM suggested that the potential impacts of this Modification on smaller market participants in the event of a lower volume but wider spread Demand Disconnection event may not have been fully considered and understood by all market participants.
- 4.2 The PM noted that while it appeared from the consultation responses that industry was supportive, they did not think it appropriate for [P397](#) to progress as Self-Governance given that the original Modification, [P305](#), was put in place by a policy decision driven by Ofgem.
- 4.3 Ofgem highlighted that P397 may not be suitable for Self-Governance as it's unclear whether there would be a significant material impact on the Settlement adjustment processes following a Demand Control Event (DCE). As such, there is a possibility that P397 could have a material effect on the management of market or network emergencies. Ofgem highlighted that it was unclear whether the solution has a disproportionate impact on some classes of participants (an impact on the Self-Governance criteria). However, the Ofgem representative reiterated that Ofgem recognised the issue and supported the industry's exploration of potential options to resolve it.
- 4.4 A member questioned Ofgem's rationale, outlining that the solution applies only to the adjustment of final imbalance positions post DCE event and therefore does not have a material impact on security of supply. Ofgem explained that security of supply is not its main concern, rather the material impact on the management of market or network emergencies.

MINUTES

- 4.5 Ofgem noted that the process introduced through P305 was based on a policy drawn up by Ofgem originally and that a decision had been taken not to include a de minimis threshold and that Ofgem would need to have input into the revision of this process.
- 4.6 Ofgem, ELEXON and the BSC Panel discussed the potential costs associated with operating this process, the estimates originally quoted by ELEXON and the revised estimates for anticipated costs based on further work and analysis. A PM noted that this issue couldn't be considered purely as a problem of economics and that the cost versus the impact would need to be considered in context of the wider impacts on Settlement and individual market participants.
- 4.7 A PM noted the significance of nine BSC Parties responding to a Modification over the Christmas and New Year period, irrespective the consultation was extended accordingly. The PM also noted concerns shared with them by market participants that should another DCE take place Suppliers would be left moving a lot of money around for no reason. The PM noted that many market participants were concerned over the impact operating this process in the event of a low volume DCE could have on their business and liquidity. The PM noted that this Modification was important as a check should be in place in order to determine whether the industry would be wasting consumers' money by operating these processes for a given DCE.
- 4.8 The Panel discussed the possibility of including a sunset clause within P397. It was agreed that this would not be necessary given that the de minimis threshold would be configurable by the Panel, and therefore could be set to zero in the event that the solution was no longer called for. ELEXON also highlighted that an Issue Group will be raised once the end-to-end process has been completed, to assess where further process efficiencies can be gained, including the review of this P397. ELEXON outlined the risk of a sunset clause, whereby the P397 solution would time out, before a further Modification could implement an alternative approach.
- 4.9 A PM suggested that it could take too long to consider every possible eventuality putting the industry and consumers at risk of being forced to run processes which are cost-inefficient in the future. The PM suggested that it would be more efficient to build an appeals process into the Modification in order that the market could raise any material impacts to the Panel's attention and so that these impacts could be considered by the Panel when determining whether or not to apply the de minimis threshold. It was agreed however that this could not be progressed as part of this Modification as it had not been consulted on by industry and that this possibility should instead be discussed as part of the Issue Group.
- 4.10 The NGESO Representative noted their concern that the Modification could end up being sent back by Ofgem for having been rushed without all reasonable eventualities having been properly considered by a Workgroup. A PM noted that a more detailed solution which would mitigate any potential impact to Settlement and provide the right signals to the market would be arrived upon through the forthcoming Issue Group ELEXON will raise.
- 4.11 The BSC Panel:
- a) **AGREED** that P397 **DOES** better facilitate:
 - i) Applicable BSC Objectives (c); and
 - ii) Applicable BSC Objective (d).
 - b) **REJECTED** the progression of P397 as a Self-Governance Modification;
 - c) **RECOMMENDED** to the Authority that P397 should be **APPROVED**;
 - d) **RECOMMENDED** an Implementation Date for P397 of 5WD following Authority approval;
 - e) **APPROVED** the draft legal text;
 - f) **APPROVED** the draft redlined changes to the Code Subsidiary Documents;

MINUTES

- g) **APPROVED** the new 'Demand Disconnection Event Threshold Rules' document, Attachment C, as a new Category 3 Configurable Item owned by the Panel on the Baseline Statement; and
- h) **APPROVED** the P397 Modification Report.

5. P396 DMR 'Revised treatment of BSC Charges for Lead Parties of Interconnector BM Units' (298/06)

- 5.1 ELEXON presented the Draft Modification Report. The Panel reaffirmed its prior position that in its view, by majority, the detrimental impacts against Objective (c) outweighed the positive impacts against Objective (e), leading to the overall recommendation to the authority that [P396](#) be rejected.
- 5.2 The BSC Panel:
 - a) **AGREED** that P396:
 - i) **DOES NOT** better facilitate Applicable BSC Objective (c); and
 - ii) **DOES** better facilitate Applicable BSC Objective (e);
 - b) **AGREED** a recommendation that P396 should be rejected;
 - c) **APPROVED** an Implementation Date of:
 - i) 5 November 2020 as part of the November 2020 BSC Release subject to an Authority decision being received by 1 April 2020; or
 - ii) 25 February 2021 as part of the February 2021 Release if an Authority decision is not received by 1 April 2020 but is received by 1 July 2020;
 - d) **APPROVED** the draft legal text for P396; and
 - e) **APPROVED** the P396 Modification Report.

6. NGENSO Update on Implementation Date for P371 'Inclusion of non-BM Fast Reserve actions into the Imbalance Price calculation' (Verbal)

- 6.1 The NGENSO representative noted that while costs would be higher than originally estimated an extension on the original implementation date for [P371](#) would no longer be required.

NON-MODIFICATION BUSINESS (OPEN SESSION)

7. Minutes of Previous Meetings & Actions arising

- 7.1 ELEXON highlighted amendments made to the minutes of the December 2019 BSC Panel meeting, the minutes were subsequently approved. ELEXON presented the [BSC Panel Action log](#) for the January 2020 meeting.
- 7.2 Regarding action 297 (01), the Ofgem Representative provided an update and queried whether BSC Parties and or Panel Members relied on the dates listed for decisions to be taken by Ofgem. The BSC Panel provided feedback that these dates were important to BSC Parties and other market participants as they provide an expectation of when resource will need to be committed to support the implementation of industry changes. A PM noted that even if these dates are occasionally revised it was unhelpful to have 'TBC' listed against the vast majority of Ofgem decisions. Further, if the column of dates was deleted (as implied by the Ofgem representative) then there was no value in the document. The Ofgem Representative noted that they would pass this feedback on.

MINUTES

8. Chairman's Report

- 8.1 The Panel Chair gave his congratulations to colleagues within the energy industry who had been awarded honours in the New Year Honours list for 2020. He also highlighted [the open letter](#) which was recently issued to the BSC Panel and BSC Parties on behalf of the ELEXON board which sought to detail the activities and priorities of the ELEXON board in recent months and those forecast for the near future.

9. ELEXON Report (298/01)

- 9.1 MB noted an item within the ELEXON Report on the shortfall to be mutualised for Capacity Market (CM) payments as highlighted by ELEXON's subsidiary EMRS, (the CM - and CFD - settlement services provider) and by Electricity Settlements Company (ESC). MB noted that while 98% of the payments due from Suppliers had been received this left £10M for mutualisation, of which £6M was due from Suppliers which had since ceased trading. The remaining £4M was due from Suppliers which continue to operate and trade in the marketplace. MB noted that ELEXON shared the industry's concerns over Parties being allowed to continue trading without paying their fair share and that ESC was responsible enforcement action.
- 9.2 MB also highlighted that the Retail Energy Code (REC) bidding process was now open but that ELEXON was having to give serious consideration as to the attractiveness of that proposition given the potentially problematic structure arrived upon for the service by the RECCo Board which had been highlighted previously to the Panel.
- 9.3 The BSC Panel:
- a) **NOTED** the report.

10. Distribution Report

- 10.1 The DNO representative noted that there was nothing to report.

11. National Grid Report

- 11.1 The NGESO Panel Member noted a number of Connection and Use of System (CUSC) Modifications raised to deliver the outcomes of Ofgem's Targeted Charging Review Significant Code Review.
- 11.2 A PM asked whether there were any items within the Energy Emergencies Executive Committee (E3C) Report on the 9 August 2019 power cuts which would be of interest to or require action on the part of the Panel. The PM noted that there appeared to be a significant number of actionable items within the report all with relatively short deadlines. The PM requested that such items should be more widely notified. The NGESO Panel Member noted that they did not believe any items would need to be picked up through the BSC.
- 11.3 The PM noted that the report which came out of the Department for Business Energy and Industrial Strategy (BEIS) was short with clear dates and timelines for actions, while the report produced by Ofgem was long and included very few dates. The PM suggested that this was less helpful and that clear timescales for the actions to be taken should be notified.

12. Ofgem Report

- 12.1 The Ofgem representative noted the following items:

Enforcement and Compliance

- 12.2 Utilita

- 12.2.1 Ofgem has launched an investigation into whether Utilita broke rules around charging customers above the level of the prepayment price cap

- 12.3 Isupply

MINUTES

12.3.1 Isupply overcharged around 4,400 customers on price capped tariffs

12.3.2 It will pay £1.5 million to the voluntary redress fund for its failings and is refunding overcharged customers

12.4 DCC users

12.4.1 Suppliers are required to become DCC users, either by 25 Nov 2017, or when entering the market

12.4.2 A number of Suppliers didn't meet this requirement, so Ofgem is consulting on issuing nine Suppliers with final orders

12.4.3 If issued, it would require each Supplier to be a DCC user by 31 March 2020 and would ban each Supplier from taking on new customers

12.4.4 If the Suppliers fail to become DCC users, Ofgem will consider further enforcement action, which could result in Licence revocations

12.5 Gnergy

12.5.1 Gnergy failed to make Renewable Obligation (RO) payment by the deadline set in Ofgem's final order, so Ofgem has now issued a notice of failure to comply with the final order

12.5.2 The notice explained that if this failure is not rectified to the satisfaction of the Authority within three months of Gnergy receiving the notice, Ofgem may revoke their Licence

12.6 August 2019 Power Cuts

12.6.1 Following investigation into the power cuts, Ofgem published its findings, including compliance action against various parties and announcements around a planned review of the ESO's structure and governance

12.7 **Consultations**

12.7.1 Ofgem is seeking views on its Consultation on its forward work programme by noon on Friday, 21 February 2020

12.8 **Electricity System Operator (ESO) performance and incentive framework**

12.9 On the ESO's performance:

12.9.1 The ESO had a mid-year performance assessment, carried out by the performance panel

12.9.2 The performance scores are indicative, so don't impact on reward or penalty at this stage

12.10 On the regulatory and incentives framework:

12.10.1 We have invited views on potential improvements to its regulatory and incentives framework

12.10.2 Specifically, we are consulting on two supporting guidance documents

12.10.3 Proposed changes would apply to the 2020/21 performance year

12.10.4 Ofgem is seeking views by 4 February 2020

12.11 **Codes Review**

12.11.1 Ofgem is in the process of analysing the responses received with a view to publishing a summary of these over the coming months. Ofgem aims to launch a further consultation later this year, and will engage with stakeholders when appropriate

13. Tabled Reports

13.1 The BSC Panel noted the reports from the ISG, SVG, PAB, TDC, the Trading Operations Headline Report and the System Price Analysis report.

MINUTES

14. Any Other Business

- 14.1 A PM flagged an item they intended to present at the February 2020 BSC Panel meeting in respect of setting up arrangements for the industry to procure a market maker.
- 14.2 The PM also highlighted that they were aware of an instance where Capacity Market credit notices had been issued to addresses which were out of date (although the funds had been received correctly. MB sought confirmation of whether ESC/EMRS had been notified of the changes and requested further details to enable him to investigate.
- 14.3 A PM noted that in view of the efforts made by the BSC Panel to mitigate the effects of the predicted post Capacity Market (CM) standstill mutualisation, the Panel may wish to consider whether it should engage with Ofgem on the Supplier Licensing Review proposals to protect Suppliers from the burden of mutualised costs following supplier failures.
- 14.4 Post Meeting Note: the consultation is closed now and Ofgem is expected to issue a decision in the next few weeks. Section 2 and Appendix 3 of [Ofgem's consultation document](#) are relevant to this issue in particular.

15. Next Meeting

- 15.1 The next meeting of the BSC Panel will be held at the offices of ELEXON Ltd, 350 Euston Road, London NW1 3AW on Thursday 13 February 2020.

ACTIONS

Meeting name: BSC Panel

Meeting number: 298

Date: 14 November 2019

Classification: Public

No	Meeting no	Paper	Action	Owner	Due date	Action update	Status	Public/ Conf
1.	295 (02)	AOB	The BSC Panel discussed the existence and cost v benefits of running the EAA. The BSC Panel discussed the risks associated with terminating the EAA including the possibility that historic contracts between market participants might make reference to the EAA. ELEXON took an action to investigate this matter and to take appropriate action.	ELEXON	Mar 2020	<p>An update on this action was provided as an attachment to the November 2019 action log. ELEXON has continued to pursue a resolution to this action.</p> <p>ELEXON has issued a second letter to the EAA President. We sent one on 9th October asking for summary information on cases presented to them with no reply.</p> <p>On that basis the second letter advised that with reference to the previous letter and the EAA's failure to reply we anticipate that the BSC Panel will instruct ELEXON to cease further funding of the service. The letter asked whether the EAA would like for ELEXON to present further information on the use and frequency of use of the service, and directed that if that was the case the EAA should respond to our previous letter by 24 January 2020.</p> <p>ELEXON has since received a response from the EAA apologising for the delay in responding and advising that a full response would be issued shortly.</p>	Open	Public
2.	296 (01)	03	A PM noted that they were a strong supporter of ELEXON's not for profit model and that it might be cheaper to push a centralised data solution through ELEXON than another industry body. However, the PM noted that the co-ordination of this data work would sit better with the regulator rather than being directed by an	Ofgem	Mar 2020	The relevant team at Ofgem has made contact with ELEXON's Design Authority team. Both parties are working together in order to ascertain the most appropriate means of addressing this action. An update will be provided at a future BSC Panel meeting.	Open	Public

MINUTES

No	Meeting no	Paper	Action	Owner	Due date	Action update	Status	Public/ Conf
			industry Panel. The Panel Chair suggested that Ofgem take away an action to investigate ways in which duplication of effort and expenditure in respect of IS development might be mitigated.					
3.	297 (01)	03	The Panel Chair commented that the majority of industry Modifications listed on Ofgem's website as awaiting Ofgem decision appeared without a date by which the decision is expected to be passed. The Ofgem representative noted that they would pass this feedback on to the relevant team.	Ofgem	Mar 2020	An update was provided by Ofgem and further feedback was provided by the BSC Panel.	Open	Public
4.	298 (01)	-	The BSC Panel discussed the interim appointment of a candidate put forward by ELEXON under the terms of BSC Section C 3.2.1 to the role of Panel Secretary as defined by the BSC. The Panel suggested that a review should first be undertaken of the responsibilities and requirements of the role. On this basis the BSC Panel requested deferral of the appointment of an interim Panel Secretary.	ELEXON		ELEXON will undertake the proposed review and present its recommendations at the March 2020 Panel Meeting.	Open	Public