Draft Modification Report

P414 'Allowing a Party to Withdraw from the BSC and transfer outstanding liabilities to another Party'

The requirement for a Party to wait at least 14 months between its last day of trading and being able to withdraw from the Code is inefficient as it can prevent the withdrawing party undertaking administrative tasks, such as dissolving the legal entity.

This Modification seeks to improve the BSC exit arrangements. It will allow a BSC Party to withdraw from the Code as soon as practicable after serving a notice of withdrawal provided that all liabilities under the Code are satisfied or transferred to another company through a transfer of its BSC party ID to that legal entity.



The BSC Panel initially recommends **approval** of P414



The BSC Panel does believe P414 impacts the European Electricity Balancing Guideline (EBGL) Article 18 terms and conditions held within the BSC

This Modification is expected to impact:

- BSC Parties wishing to withdraw from the Code
- Elexon in its role as Balancing and Settlement Code Company (BSCCo)

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Phase

- Initial Written Assessment
- Definition Procedure
- Assessment Procedure
- Report Phase
- Implementation

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About This Document

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

- Have 5 mins? Read section 1
- Have 15 mins? Read sections 1, 6 and 7
- Have longer? Read all sections and the annexes and attachments

This is the P414 Draft Modification Report, which Elexon will present to the Panel at its meeting on 10 December 2020. It includes the responses received to the Report Phase Consultation on the Panel's initial recommendations. The Panel will consider all responses, and will agree a final recommendation to the Authority on whether the change should be made.

There are five parts to this document:

- This is the main document. It provides details of the solution, impacts, costs, benefits/drawbacks and proposed implementation approach.
- Attachment A contains the draft redlined changes to the BSC for P414.
- Attachment B contains the draft redlined changes to BSCP65 for P414.
- Attachment C contains the full responses received to the Panel's Report Phase Consultation.
- Attachment D contains the P414 Proposal Form.

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1 Summary

Why change?

Parties wanting to withdraw from the BSC are required to satisfy a number of criteria, including that the Final Reconciliation (RF) Settlement Run for its last day of trading has passed. Under the Settlement timetable, this occurs after approximately 14 months, meaning the company is required to remain incorporated as a legal entity and a Party to the BSC for the duration of this time.

This requirement can prevent the entity from carrying out other administrative functions. In particular dissolving the company. The effect of this is most noticeable where a group of companies may want to consolidate and dissolve redundant companies, but may be prevented from doing so by the BSC.

What is the proposed solution?

This Modification proposes to amend the withdrawal process to allow a withdrawing Party to transfer some of its financial liabilities associated with trading charges that may arise from subsequent Settlement Runs to another entity that is also a Party to the BSC and has the same registrations. This will allow the Party to withdraw from the BSC without needing to wait 14 months for the RF Settlement Run to have passed. Any financial liabilities that may arise will be transferred to another company that is a Party to the BSC by novating its Party ID, and so the integrity of the Settlement process will be protected.

Impacts & costs

This Modification seeks to make an administrative change to the withdrawal process. We do not therefore anticipate any impacts to any market participants. Parties that wish to withdraw from the BSC may be able to use the new provisions to speed up this process.

The central implementation cost will be approximately £360 to make the necessary document changes and there will be no increases cost to operate the new provisions.

Implementation

The Panel recommend an Implementation Date of:

- 25 February 2021 as part of the February 2020 BSC Release if an Authority decision is received on or before 8 February 2021; or
- 1 April 2021 as a standalone Release if an Authority decision is received after 8 February 2021, but on or before 8 March 2021.

Recommendation

The Panel believes that P414 will better facilitate Applicable BSC Objective (d), and is consistent with the EBGL Article 18 Terms and Conditions. The Panel therefore initially recommends to the Authority that P414 should be approved.

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2 Why Change?

What is the issue?

The arrangements that enable a BSC Party to withdraw from the BSC are set out in Section A 'Parties and Participation' paragraph 5 'Exit'. This sets out the conditions that a Party must satisfy in order to withdraw from the Code. This includes that the Final Reconciliation (RF) Settlement Run has been carried out in relation to Settlement liabilities under the Code. This requirement means that a Party that wishes to withdraw from the BSC must wait for at least 14-months before it can formally do so. This is inefficient since it requires a BSC Party to continue being incorporated as a legal entity (and administer any functions associated with this status) for at least 14 months after it has submitted a Withdrawal Notice. This can prevent the withdrawing Party from undertaking other administrative activities. For example, where a BSC Party is part of a group of companies it may wish to assign all of its responsibilities to another entity within the group and dissolve the redundant company.

The BSC arrangements for BSC Party withdrawal are unduly onerous in circumstances where a BSC Party wishes to exit from the BSC and is in a position to assign all the relevant BSC Settlement liabilities to another legal entity which has the same BSC registrations.

What are the Settlement liabilities?

BSC Parties are responsible for paying BSC Charges and any Trading Charges accrued. As more accurate data becomes available, Trading Charges may be altered through Reconciliation Runs up until the Final Reconciliation (RF) Run, when a day is considered Settled.

Background

The Withdrawal Process is designed to allow Parties to withdraw from the BSC (and the market) while protecting the integrity of the Settlement arrangements. In order to withdraw from the BSC, Parties must satisfy a number of clauses. The process takes approximately 14 months from when the Party last traded – this timeframe is determined by the timing of the final (RF) Settlement Reconciliation Run. Usually, a Party will deregister any Balancing Mechanism Units and other things (detailed below) associated with their Party ID shortly after they finish trading and wait for the RF run to pass.

Two Working Days before the proposed Withdrawal Date, Elexon will carry out the final withdrawal checks. In order for a Party to successfully withdraw, these checks must show that:

- All Energy Contract Volume Notification Agent and Metered Volume Reallocation Notification Agent Authorisations, Trading Party Roles, Balancing Mechanism Units and Metering Systems have been deregistered;
- The Payment Date for the last day of trading has passed;
- All BSC Charges have cleared; and
- All Trading Charges have cleared.

If these checks are not satisfied, then the Party will be unable to withdraw, and the Party must resubmit the Withdrawal Notice with at least 30 days notice.

While most activities associated with withdrawal from the BSC can be done relatively quickly, the requirement to wait until the RF Run has passed means any withdrawing Party should remain incorporated as a legal entity so that it can satisfactorily complete the process.

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Desired outcomes

The Modification would enable a BSC Party to withdraw from the Code from the date of the Withdrawal Notice subject to the assignment of all liabilities set out in Section A5.1.3 to another legal entity which is a Party to the BSC. This will be achieved through a transfer of the BSC Party ID from the party that wishes to withdraw to another BSC Party with the appropriate BSC Registrations. In these circumstances a single company may have responsibility for more than one Party ID. The Party ID that is assigned as part of the exit process would be withdrawn once all the liabilities associated with that Party ID have been fulfilled. This would be the BSC Party ID Withdrawal Date.

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3 Solution

Proposed solution

This Modification seeks to enable a BSC Party to withdraw from the Code as soon as practical after serving the Withdrawal Notice provided that all liabilities under the Code (as set out under A5.1.3) are either satisfied or transferred to another Legal Entity (who is already a Party to the BSC and registered in the same roles) through a transfer of the BSC Party ID to that entity.

Parties wishing to use these provisions, will complete an application and confirm that they are not a Defaulting Party (which Elexon will validate). Elexon will present the Party's application to the BSC Panel. The Panel will consider the application and determine whether to approve the transfer of BSC Party ID and any associated rights and liabilities. The Panel can approve with the below determinations:

- If the Party has an Ofgem License then the approval will be subject to the revocation of that License or the transfer of that License depending on what's required (i.e. whether the gaining Party already has the relevant licence).
- If the Party ID has credit cover lodged via an Approved Insurance Product or Letter of Credit, then this must be amended or issued in the new BSC Party's name by the date of the novation of liabilities.

Before the Party can apply to use the process to exit the market, it must satisfy the conditions laid out in A5.1.3 (d), (e) and (g). The Panel's approval will be subject to any licence being revoked or transferred as appropriate, thereby satisfying A5.1.3(f).

Any financial liabilities associated with A5.1.3 (a), (b) or (c) will transfer to the gaining entity under this process. The Party will then be required to commence the withdrawal process for the Party ID.

To deliver the solution, the BSC would be amended to include the following:

- A BSC Withdrawal Notice that transfers the relevant BSC Party ID to another legal entity from the date of the Withdrawal Notice (the BSC Party withdrawal date);
- The Withdrawal Notice transfers all liabilities set out in Section A5.1.3 to the legal entity set out in the withdrawal notice;
- A single legal entity would have responsibility for more than one Party ID where that additional Party ID is specified in a withdrawal notice; and
- The BSC Party ID set out in the Withdrawal Notice would be withdrawn once all the liabilities associated with that Party ID have been fulfilled (the BSC party ID withdrawal date).

For clarity, this process should not be used for a BSC Party to acquire any registered roles or Qualified status that it has not completed the necessary processes to obtain. In order for a BSC Party to transfer its Party ID (and any rights and liabilities associated with that ID) to another legal entity, the gaining entity must already have the relevant BSC Roles and Qualifications.

What are the Withdrawal criteria?

The conditions in A5.1.3 are:

(a) Any sums accrued any payable under the BSC have cleared.

(b) The Final Reconciliation (RF) Settlement Run has passed.

(c) Payment in relation to BSC Charges payable by the Party has cleared.

(d) The Party is not registered under the BSC in respect of any Metering Systems or Balancing Mechanism Units (except Supplier Base Balancing Mechanism Units).

(e) The Party is not in default.

(f) The Party is not subject to a Licence condition that requires it to be Party to the BSC.

(g) If the Party is an Interconnector Administrator or Interconnector Error Administrator, a replacement has been appointed and agreed to act in this role.

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Benefits

This Modification will introduce more efficient arrangements into the BSC where a Party wishes to withdraw and is in a position to transfer BSC liabilities to another legal entity with the appropriate Registrations under the BSC. The proposed arrangements would ensure that the existing Settlement provisions are safeguarded by transferring any financial liabilities. In addition, the arrangements would release the requirements on Parties that wish to withdraw to maintain credit, and would facilitate the early liquidation of associated corporate entities.

Legal Text

P414 will require changes to BSC Section A ' Parties and Participation' and Section H 'General' to include provisions to allow a withdrawing Party to transfer its Party ID and some outstanding liabilities to another BSC Party. Redlined changes to the BSC can be found in Attachment A.

BSCP65 'Registration-of-Parties-and-exit-procedures' will also be updated to outline the process by which a withdrawing Party may transfer its Party ID. Redlined changes to BSCP65 can be found in attachment B.

Applicable BSC Objectives

The Proposer and the Panel believe that this Modification will better facilitate **Applicable BSC Objective (d)**. They believe that the change would introduce more efficient arrangements to enable a Party to withdraw from the Code without needing to wait for the RF run for their final day of trading to have passed. The solution proposed by this Modification will enable a streamlined withdrawal process for Parties that are able to transfer outstanding financial liabilities to another legal entity which is Party to the BSC, while protecting the integrity of the Settlement arrangements.

EBGL Objectives

The Modification requires changes to section A of the BSC, and so impacts on the EBGL Article 18 Terms and Conditions. However, it is an administrative change, and does not change any of the liabilities for BSC Parties so there is no material impact on the Settlement arrangements. The Panel does not believe that this Modification will amend the BSC against the EBGL Objectives, and so is consistent with the EBGL Objectives.

What are the Applicable BSC Objectives?

(a) The efficient discharge by the Transmission Company of the obligations imposed upon it by the Transmission Licence

(b) The efficient, economic and co-ordinated operation of the National Electricity Transmission System

(c) Promoting effective competition in the generation and supply of electricity and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity

(d) Promoting efficiency in the implementation of the balancing and settlement arrangements

(e) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency [for the Co-operation of Energy Regulators]

(f) Implementing and administrating the arrangements for the operation of contracts for difference and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation

(g) Compliance with the Transmission Losses Principle

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4 Impacts & Costs

Estimated implementation costs of P414

The cost to implement this Modification will be less than £1k to make the necessary changes to BSC documents. There will be no system changes required to deliver this Modification.

We do not envisage any industry costs resulting from this Modification. This was confirmed through the Report Phase Consultation.

Implementation cost			
Organisation	Item	cost	Comment
Elexon	Documents	Less than £1k	
Industry	Systems & processes	None	
	Total	Less than £1k	

Estimated ongoing costs

The new provisions will be provided under Elexon's existing service as such there will be no ongoing costs for P414.

No consultation respondents identified any ongoing costs they would incur as a result of P414.

Ongoing cost		
Organisation	cost	Comment
Elexon	None	
Industry	None	
Total	£0	

P414 impacts

Impact on BSC Parties and Party Agents	
Party/Party Agent	Impact
BSC Trading Parties wanting to withdraw from the Code	This Modification would enable BSC Parties to take advantage of more efficient arrangements that enable the early withdrawal of Parties that no longer wish to be party to the BSC. There will be no impact on Parties that do not directly choose to use the provisions that will be introduced by this Modification.

Impact on the NETSO
This Modification will not impact the National Electricity Transmission System Operator (NETSO).

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Impact on BSCCo	
Area of Elexon	Impact
Market Exit	The Market Exit service will alter its working practices to deliver the new provisions when requested by a withdrawing Party.

Impact on BSC Settlement Risks
No identified impact on Settlement Risks

Impact on BSC Systems and process	
BSC System/Process	Impact
None	N/A

Impact on Code	
Code Section	Impact
Section A 'Parties and Participation'	Sections A and H will be updated to include the provisions outlined in this Document.
Section H ' General'	

Impact on EBGL Article 18 terms and conditions
This Modification will amend Section A, which constitutes part of the EBGL Article 18 Terms and Conditions held within the BSC. However, the Proposer, Elexon and Panel do not believe that the changes required for this Modification will impact on the EBGL objectives.

Impact on Code Subsidiary Documents	
CSD	Impact
BSCP65 'Registration of Parties and Exit procedures'	BSCP65 will be updated to include any new forms required for a Party to apply to use these provisions.

Impact on Core Industry Documents and other documents	
Document	Potential Impact
None	This Modification will not have any consequential impacts on any other Core Industry Documents. It seeks to amend the BSC Withdrawal arrangements only. Where a Party is also a Party to another Code, it will be required to comply with those withdrawal arrangements in addition to the BSC arrangements.

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Impact on a Significant Code Review (SCR) or other significant industry change projects
This Modification will not impact on any ongoing SCRs. An SCR Exemption request was sent to the Authority on 1 October 2020. The Authority confirmed this on 6 October 2020.

Impact on Consumers
This Modification will not impact on energy consumers.

Impact on the Environment
This Modification is neutral against the net zero target. It seeks to improve the process by which market participants can withdraw from the Code after they have ceased trading. It will not impact the operations of the market.

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5 Implementation

Recommended Implementation Date

The Panel initially recommends an Implementation Date for this Modification of:

- 25 February 2021 as part of the February 2021 BSC Release where an Authority decision is received on or before 8 February 2021; or
- 1 April 2021 as a stand-alone Release where an Authority Decision is received after 8 February 2021 and on or before 8 March 2021.

The Proposer notes that the changes this Modification would make will be beneficial to all BSC Parties who may wish to withdraw in the future. However for the Proposer to realise the most benefit from this Modification, it should be implemented as soon as practicable.

Self-Governance

The Modification will require changes to Section A which form part of the EBGL terms and conditions. A Modification that impacts the EBGL terms and conditions cannot be considered as a Self-Governance Modification Proposal in line with the Self-Governance criteria and therefore, P414 must therefore be submitted to Ofgem for approval.

The Panel does not believe there will be any impact on other parts of the Self-Governance criteria, including competition, as this Modification seeks to ensure all existing liabilities under the withdrawal period are transferred.

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6 Panel's Initial Discussions

The Panel considered the P414 Initial Written Assessment at its meeting on 8 October 2020 (307/04).

Some Panel Members expressed concern over a Party ID potentially being transferred to a less financially secure entity. Elexon confirmed that the credit cover arrangements for the Party taking on a further ID would mirror those of any other Party and that any Letters of Credit would need to be transferred in line with the Party ID transfer.

Elexon also noted that the transfer was not limited to entities in the same corporate group, but that as the transfer would be approved solely at the Panel's discretion, the Panel could consider any assessment it deemed necessary before approving.

A Panel Member questioned whether there was a risk that the gaining entity could be mislead and end up liable for more than it expected. Elexon noted that both the transferring Party and the gaining Party would need to consent to the transfer and should conduct their own assessment prior to this.

A Panel member believed that any risks with the provisions would be small, but asked the Proposer to elaborate on the benefits. The Proposer responded that it had raised the Modification to allow it to liquidate a legal entity that it had acquired and no longer had use for. They noted that all assets had been transferred to another Party and so any accrued liabilities would be historic. They commented that the administrative burden of maintaining a redundant company was the driver for the Modification and that by transferring liabilities (and Party ID) to one of its other BSC Parties, it would be able to liquidate the company without affecting the payment of outstanding liabilities.

The Panel unanimously agreed:

- to progress P414 directly to the Report Phase;
- that P414:
    - does better facilitate Applicable BSC Objective (d);
- that P414 does impact the EBGL Article 18 Terms and Conditions and is consistent with the EBGL objectives;
- an initial recommendation that P414 should be approved;
- an initial Implementation Date of:
    - 25 February 2021 as part of the February 2021 BSC Release if an Authority decision is received on or before 8 February 2021; or
    - 1 April 2021 if an Authority decision is received after 8 February 2021 but on or before 8 Match 2021; and
- the draft legal text

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7 Report Phase Consultation Responses

The Report Phase Consolation was issued 15 October 2020 with responses due 16 November 2020. We received three responses representing Suppliers and Generators. This section summarises the responses to the Panel's Report Phase Consultation on its initial recommendations. You can find the full responses in Attachment C.

Summary of P414 Report Phase Consultation Responses

Question	Yes	No	Neutral/ No Comment	Other
Do you agree with the Panel that the redlined changes to the BSC deliver the intention of P414?	3	0	0	0
Do you agree that the redlined changes to BSCP65 deliver the intention of P414?	3	0	0	0
Do you agree with the Panel's initial unanimous view that P411 does better facilitate Applicable BSC Objective (d) than the current baseline?	3	0	0	0
Do you agree with the Panel's initial unanimous recommendation that P414 should be approved?	3	0	0	0
Do you agree with the Panel's initial consideration that P414 does impact the European Electricity Balancing Guideline (EBGL) Article 18 terms and conditions held within the BSC?	2	0	1	0
Do you have any comments on the impact of P414 on the EBGL objectives?	0	3	0	0
Will P414 impact your organisation?	0	3	0	0
Will your organisation incur any costs in implementing P414?	0	3	0	0
Do you agree with the Panel's proposed Implementation Date?	3	0	0	0
Do you agree with the Panel's initial view that P414 should not be treated as a Self-Governance Modification?	2	0	1	0

Applicable BSC Objectives

All respondents to the consultation agreed with the Panels initial view that P414 would better facilitate Applicable BSC Objective (d) and should be approved. One respondent noted that P414 would help facilitate a more efficient withdrawal from the BSC.

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EBGL impacts

Two respondents agreed with the Panel that P414 would impact on the Article 18 Terms and Conditions held within the BSC. The other respondent did not express a view. No respondents had any comments on the impact of P414 on the EBGL objectives.

Impacts and costs

No consultation respondents identified any costs or impacts they would incur as a result of P414. One respondent noted that P414 may have future benefits if approved.

Governance

All consultation respondents agreed with the Panel's proposed Implementation Date. Two respondents agreed that P414 should not be treated as a Self-Governance Modification. The other respondent did not express a view.

All consultation respondents agreed that the draft redlined changes to the BSC and BSCP65 would deliver the intent of P414.

Other comments

One respondent provided additional comments on P414. They affirmed their support for the Modification, but questioned whether a right of appeal should have been included in the solution. They did not believe that alignment with existing Code processes (Novation) was sufficient justification for this not being included.

Elexon notes that P414 delivers an administrative process that allows for a faster withdrawal process and does not affect a Party's ability to withdraw from the BSC. As such we do not believe it is necessary to have a right of appeal. Additionally as the Modification does not impact on Parties rights under the BSC, it is unclear who it would be appropriate for Parties to appeal to.

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8 Recommendations

We invite the Panel to:

- **AGREE** that P414:
    - **DOES** better facilitate Applicable BSC Objective (d);
- **DETERMINE** (in the absence of any Authority direction) that P414 is not a Self-Governance Modification Proposal;
- **AGREE** a recommendation that P414 should be **approved**;
- **APPROVE** an Implementation Date of:
    - **25 February 2021** if an Authority decision is received on or before 8 February 2021; or
    - **1 April 2021** if an Authority decision is received after 8 February 2021 but on or before 8 March 2021;
- **APPROVE** the draft legal text;
- **APPROVE** the draft changes to BSCP65; and
- **APPROVE** the P414 Modification Report.

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Appendix 1: Glossary & References

Acronyms

Acronyms used in this document are listed in the table below.

Acronym	
Acronym	Definition
EBGL	Electricity Balancing Guideline *(EU Network Code)*
IWA	Initial Written Assessment
RF	Final Reconciliation Settlement Run
NETSO	National Electricity Transmission System Operator *(National Grid ESO)*
CSD	Code Subsidiary Document
SCR	Significant Code Review

External links

A summary of all hyperlinks used in this document are listed in the table below.

All external documents and URL links listed are correct as of the date of this document.

External Links		
Page(s)	Description	URL
4, 9	BSC Sections	https://www.elexon.co.uk/bsc-and-codes/balancing-settlement-code/
9	BSCPs	https://www.elexon.co.uk/bsc-and-codes/bsc-related-documents/bscps/
11	Panel meeting 304	https://www.elexon.co.uk/meeting/bsc-panel-304/

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