

Modification proposal:	<b>Balancing and Settlement Code (BSC) P424: Re-insert correct definition of Settlement Error (P424)</b>		
Decision:	The Authority <sup>1</sup> directs that this modification be made <sup>2</sup>		
Target audience:	National Grid Electricity System Operator (NGESO), Parties to the BSC, the BSC Panel and other interested parties		
Date of publication:	8 October 2021	Implementation date:	11 October 2021

## Background

The Authority approved BSC modification proposal P420 (Retail Code Consolidation Significant Code Review (SCR)) on 23 July 2021.<sup>3</sup> On subsequent review of the P420 legal text, it was found that text changes made to Section W ('Trading Disputes') of the BSC included removal of certain text in Clause 1.3.1. The BSC Panel consider that the removed text should be reinstated, to ensure that the Trading Disputes process under the BSC operates as intended.

The amendment to Clause W 1.3.1 made by P420 was intended to make clear that data produced under the Retail Energy Code (REC), which affects Settlement, is also eligible for consideration under a BSC Trading Dispute. This was correctly included in Section W. However, existing provisions of Section W that enabled errors in BSC data and/or process, used for the purposes of Settlement, to be considered as Trading Disputes were also removed.

The BSC Panel sought urgent status for this modification, in light of analysis by Elexon regarding the potential commercial materiality impact of not re-instating the removed text. Elexon indicated that, at the time of requesting urgency, there were 27 open Trading Disputes between BSC Parties and Elexon. Elexon has also noted that, in the 12 months since

<sup>1</sup> References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

<sup>2</sup> This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

<sup>3</sup> Our [P420 decision](#) is on the Ofgem website.

1 October 2020, 61 Trading Disputes have been closed with a Materiality of Correctable Error of over £17.3 million. The Panel considered that removal of the text creates uncertainty around the treatment of the open Trading Disputes and the ability of parties to raise new Trading Disputes until the matter has been resolved. The Authority granted urgent status for P424 on 17 September 2021.<sup>4</sup>

### **The modification proposal**

P424 was raised by the BSC Panel, and seeks to re-insert wording in Section W that was removed when P420 was made to ensure that future Trading Disputes can be raised where an error has been identified as being linked to the data and/or process used for the purposes of Settlement. The text to be re-inserted is set out below (amending Section W1.3.1 of the BSC as follows):

- the data and/or processes used for the purposes of Settlement (including data required under the Retail Energy Code which has, or potentially has, an impact on Settlement);

(The text to be inserted is shown in underline.)

The proposer considers the modification better facilitates Relevant Objective (d)<sup>5</sup> and is neutral on all other objectives.

### **BSC Panel<sup>6</sup> recommendation**

At the BSC Panel meeting on 30 September 2021, the BSC Panel unanimously considered that P424 would better facilitate BSC objectives (d) and the Panel therefore recommended its approval.

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<sup>4</sup> The urgency decision was published on 20 September 2021 and can be found [on our website](#).

<sup>5</sup> Relevant objective (d) of the BSC is "Promoting efficiency in the implementation of the balancing and settlement arrangements."

<sup>6</sup> The BSC Panel is established and constituted pursuant to and in accordance with Section B of the BSC and [Standard Special Licence Condition C3 of the Electricity Transmission Licence](#).

## Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 1 October 2021. We note that no responses to the consultation were received. We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable objectives of the BSC;<sup>7</sup> and
- directing that the modification be made is consistent with our principal objective and statutory duties.<sup>8</sup>

## Reasons for our decision

We consider this modification proposal will better facilitate BSC objective (d) and has a neutral impact on the other applicable objectives.

### ***(d) promoting efficiency in the implementation and administration of the balancing and settlement arrangements***

The Panel considered that P424 would better facilitate objective (d), because without this modification the current definition of Settlement Error limits the ability for Trading Parties and Elexon to correct errors in Settlement, leading to incorrect allocation of Trading Charges.

We note that the definition of Settlement Error was amended following consultation on P420, in response to a suggestion that the proposed definition was not clear. We agree that the resulting amendment inadvertently excluded text that should not have been removed leading to an inefficient dispute processes under the BSC.

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<sup>7</sup> As set out in [Standard Condition C3\(3\) of the Electricity Transmission Licence](#).

<sup>8</sup> The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989.

We agree that the intention of P420 was not to restrict the scope of Trading Disputes, and that to do so would introduce inefficiency into the settlement processes. We therefore agree that P424 better facilitates objective (d).

## **Implementation**

We note that this modification is proposed to be implemented one working day after our decision. We consider that the longer this error remains in the definition of Settlement Error then the greater the risk that a potential Trading Dispute is affected by this issue. We also note that P424 is proposed to take effect retrospectively, from 1 September 2021, when the definition of Settlement Error was incorrectly amended by P420. As highlighted in Ofgem's Guidance on Code Modification Urgency Criteria<sup>9</sup>, we believe that there may occasionally be exceptions that could give rise to the need for a modification which would have retrospective effect. We agree that P424 should take retrospective effect from 1 September 2021, as this prevents any unintended consequences including material loss for open Trading Disputes or Disputes relating to the period from 1 September until the implementation of P424.

## **Decision notice**

In accordance with Standard Condition C3 of the Transmission Licence, the Authority hereby directs that modification proposal BSC P424: Re-insert correct definition of Settlement Error be made.

**Rachel Clark**

**Deputy Director – Retail**

Signed on behalf of the Authority and authorised for that purpose

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<sup>9</sup> Available on [our website](#)