

Assessment Procedure Consultation Responses

P318 'Change of Party ID/Company Number Through Enabling Assignment'



Phase

Initial Written Assessment

Definition Procedure

Assessment Procedure

Report Phase

Implementation

This Assessment Procedure Consultation was issued on 9 July 2015, with responses invited by 31 July 2015.

Consultation Respondents

Respondent	No. of Parties/Non-Parties Represented	Role(s) Represented
Green Energy (UK) Plc	1/1	Supplier, MVRNA
TMA Data Management Ltd	0/1	Supplier Agent
E.ON	5/0	Generator, Supplier, Non Physical Trader, Interconnector User
ScottishPower	1/1	Supplier, Supplier Agent
RWE Npower plc	9/0	Generator, Supplier, Non Physical Trader
EDF Energy	9/0	Generator, Supplier, Non Physical Trader,
DONG Energy	1/0	Supplier

P318
Assessment Consultation
Responses

30 July 2015

Version 1.0

Page 1 of 17

© ELEXON Limited 2015

Question 1: Do you agree with the Workgroup's initial unanimous view that P318 does better facilitate the Applicable BSC Objectives compared to the current baseline?

Summary

Yes	No	Neutral/No Comment	Other
4	2	1	0

Responses

Respondent	Response	Rationale
Green Energy (UK) Plc	Yes	<p>In our opinion P318 will better facilitate the Applicable BSC Objectives C & D.</p> <p>As per the workgroup's discussion we feel that P318 will better facilitate Objective C as it will remove a barrier to entry that currently exists in the market. It is far more likely that those who need to make administrative changes to their legal entities will be smaller players within the market. Currently forcing these industry participants to go through the Market Entry process that they have already been through is not an efficient use of time or resource. We also believe that it is not an effective use of Elexon time or resource. P318 will make the process more efficient and reduce administration for both parties.</p> <p>We also believe that Objective D is better facilitated by P318, for a market participant the Market Entry process is costly, both in monetary terms and in terms of resource. While we appreciate that in the event of a brand new party entering the market these costs are necessary, for a simple administrative change to the companies' legal structure they are surplus to requirements. This leads to an unproductive use of both the parties, and Elexon's, time and money.</p>
TMA Data Management Ltd	No	<p>We agree that P318 better facilitate Applicable BSC Objective d, however P318 does not better facilitate objective c. The entry on the market of new entrants is not affected by P318. P318 has been raised to allow for Id transfer in the case of re-branding or company take over. We fail to recognise in what circumstances a new Entrant could enter the Market using P318. If it was the case, we would oppose P318 as the Market Entry Process is necessary to ensure readiness of the new Party and therefore the stability in the Market when new Entrants start operations.</p>

Respondent	Response	Rationale
E.ON	Yes/No	None provided.
ScottishPower	Yes	Yes, P318 does better facilitate the Applicable BSC Objectives (c) and may also achieve (d): subject to the procedures outlined in the proposed legal text to first determine whether or not Novation will be granted to an applicant.
RWE Npower plc	Yes	Npower agrees that P318 does facilitate both BSC Objective C and D. However, we believe that a more defined process and a clear definition of "simple administrative" is required in order to determine when this process can or cannot be used by BSC Parties that seek to transfer its Party ID and/or change its Company Number. Clearly defined criteria need to be established to provide assurance to BSC Parties that there is strict governance and controls around this process when a Panel is seeking to approve or deny a party this method of reassigning its rights and obligations under the BSC. Transparency around both the process and well defined criteria will better facilitate BSC Objective C and D.
EDF Energy	No	<p>We support the intent of the proposal to streamline the processes under the BSC for transferring assets associated with BSC activity from one company to another, and specifically from a company which wishes to transfer its BSC activities in their entirety to another company which is not already a BSC Party.</p> <p>However, the BSC is a multilateral arrangement and acts as the central hub, reference point and enabler for many other industry contracts outwith the BSC.</p> <ul style="list-style-type: none"> We think there should be rigorous and well-defined conditions on the ability to novate activities to another company, requiring acknowledgement and no objection by all Party Agents, notification counterparts, network companies and industry code administrators. The Novation Agreement should be absolutely explicit that the new company will take on all the operational and financial obligations and liabilities of the old company under the BSC, including those relating to times prior to the transfer. These would normally remain with an exiting party until settlement of the Final Reconciliation some 15 months after transfer. This would be in addition to the proposed

Respondent	Response	Rationale
		<p>checks by the BSC Panel and Performance Assurance Board of the ability of the new company to fulfil BSC obligations, as an alternative to new entrant qualification requirements.</p> <p>Most BSC Parties have contractual arrangements with other parties and organisations to fulfil requirements set out under the BSC and in order to conduct particular BSC activities. In particular:</p> <ul style="list-style-type: none"> • Meters and metering agents are required as a condition of registering and taking responsibility for flows of electricity, • Notification agents are required in order to notify bilateral contract volumes and metered volume reallocations, • Bilateral wholesale contracts and metered volume reallocations will be covered by external agreements between the relevant BSC Parties, • A BSC Party is likely to be a party to other regulated industry codes and agreements which interact directly with BSC, for example in relation to connection to networks, services provided by and to network companies, and meter registration. <p>For example, a third party with a bilateral wholesale contract with the transferring party could find that its contract is instead being notified against the new party, creating an unexpected risk that a notification error would have effect (under the BSC) on it and the new party, with which it has no contract, and not with the transferring party with which it has a contract. With appropriate due diligence by the transferring and new parties, this should not occur, but it is not within the control or visibility of the third party. There could be complexity (outside the BSC, but created by the BSC) in trying to resolve such a situation once it has arisen. In addition,</p> <ul style="list-style-type: none"> • A new company is likely to have different banking details, and the funds transfer (for which there is separate agreement), credit (other than cash) and other practical payment matters will have to change anyway, • SVA Meter registration and various data-related flows are subject to the Master Registration Agreement, • BSC Parties are required to have network connection agreements in place under which they

Respondent	Response	Rationale
		<p>will be obligated to be party to other industry codes and agreements and pay network and balancing charges based on data allocated to BSC Parties under the BSC (TNUoS, BSUoS, DUoS).</p> <ul style="list-style-type: none"> Parties providing ancillary and non-BM balancing services to NGET will be subject to bilateral agreements relating to those services, which may use data allocated to BSC Parties under the BSC. Parties obligations in support of government schemes such as RO, FITS, Warm Homes and EMR require data sourced from the BSC. <p>It can be argued that legal due diligence by the companies transferring assets between themselves should provide protection for other parties who might be affected. All the relationships above should be reviewed and revised as necessary under such a process. The current strict requirement under the BSC for a new company to be a new party aid this process, by requiring new companies to create new relationships under the BSC. Without these current strict processes, there is a risk that a party novating its BSC responsibilities to another party will omit to inform counterparts to contracts falling outside the BSC but delivered through the BSC, increasing the risk to those other counterparts. We don't think that a shortcut method under the BSC should increase the risk to other contractual counterparts whose contracts are enabled through the BSC.</p>
DONG Energy	Yes	<p>We agree that P318 better facilitates BSC objectives (c) and (d). For a small supplier, undertaking the full market entry/exit process is an additional cost which has to be absorbed and a strain on resources. In the case that there is a requirement to transfer a party ID and/or change the company number but operations remain constant, P318 provides a more effective way to achieve this and keeps costs and resource to a minimum.</p>

Question 2: Do you believe that the draft legal text in Attachment A delivers the intention of P318?

Summary

Yes	No	Neutral/No Comment	Other
3	1	2	1

Responses

Respondent	Response	Rationale
Green Energy (UK) Plc Green Energy (UK) Plc	Yes	The intention of P318 was to enable a party to make administrative changes to their company structure without going through the whole market entry process. We feel that the legal text delivers this while enabling the Panel to refuse parties who they feel are trying to circumnavigate Market Entry inappropriately.
TMA Data Management Ltd	Yes	None provided.
E.ON	Yes/No	None provided.
ScottishPower	Yes	None provided.
RWE Npower plc	No	We believe that the draft legal text does not deliver the intention of P318, as it does not restrict the circumstances where this process can be applied. The legal text will need to cross-reference BSC Section S1.3.5(a), which concerns the maximum limit of 3 Market Participant IDs (MPIDs) that could operate under a supply licence in order to prevent Suppliers creating and operating additional MPIDs through this process, which could cause 'stress' on Settlement systems.
EDF Energy	No/Unsure	Existing BSC section A5.3.2(c) which is proposed to apply to the discontinuing party from the Novation Date and relieve it of ongoing obligations and liabilities says that "(without prejudice to paragraph 5.1.3(d)) any registrations and authorisations made by the Discontinuing Party under the Code shall cease to be effective". Paragraph 5.1.3(d) says a party cannot withdraw while "such Party continues to be registered under the Code (and/or the MRA) in respect of any Metering Systems or BM Units (except for Base BM Units)". If we understand the apparent intent of the proposal, some further text is required to permit registrations and authorisations made by the discontinuing party to be transferred to the new party through novation (notwithstanding

Respondent	Response	Rationale
		<p>that this is an issue which we think needs more thorough consideration and agreement from other registered counterparts in order for us to support the proposal).</p> <p>BSC Section A5.3.3 enforces certain rights and liabilities of a discontinuing party for prior dates up to the "last settlement day", and it is proposed to exclude a Transferring Party from it. This assumes the Novation Agreement transfers those rights and liabilities to the new company instead. As described previously, delivery of that expectation depends on other organisations registered under the BSC but contracted outside it to the transferring party (and not necessarily to the new party) to perform certain activities. These parties should be able to object to the transfer of rights and liabilities delivered through the BSC where this is materially inconsistent with related external contracts (ie. where such contracts are not similarly novated, assigned, or otherwise transferred or terminated).</p>
DONG Energy	Yes/No	<p>We agree that the draft legal text delivers the intention of P318. However we view that there might need to be changes to paragraph 2.1.1, through a reference to section 2.7, to reflect that a new party can be admitted by novation.</p> <p>"2.1.1 Subject to paragraphs 2.1.2 and 2.2.5, any person shall be entitled to be admitted as a party to the Framework Agreement subject to and in accordance with the provisions of this paragraph 2."</p>

Question 3: Do you agree with the Workgroup's recommended Implementation Date?

Summary

Yes	No	Neutral/No Comment	Other
5	1	1	0

Responses

Respondent	Response	Rationale
Green Energy (UK) Plc	Yes	We feel that there should be minimal impact on the industry, and therefore P318 should be implemented as soon as practicable.
TMA Data Management Ltd	Yes	None provided.
E.ON	Yes/No	None provided.
ScottishPower	Yes	None provided.
RWE Npower plc	Yes	Npower agrees with the Workgroup's recommended implementation date provided a more defined process and clear criteria can be established within this timescale to support parties in understanding when this modification to the code can be applied.
EDF Energy	No	<p>Given our concerns about further issues to be resolved before the proposal solution is acceptable, we think the proposed implementation on 05 November 2015 is inappropriate.</p> <p>If agreement of BSC-related counterparts to the transferring party were to be required as described previously (which would presumably be conditional on them having time to finalise arrangements for any such transfer), then implementation could follow approval as soon as BSCCo are able to support the process.</p>
DONG Energy	Yes	We agree that the implementation date is achievable based on the limited impact on BSC Parties or Party Agents.

Question 4: Are there any potential Alternative Modifications within the scope of P318 which you believe would better facilitate the Applicable BSC Objectives?

Summary

Yes	No	Neutral/No Comment	Other
2	3	2	0

Responses

Respondent	Response	Rationale
Green Energy (UK) Plc	Yes	We are not aware of any Alternative Modifications or potential Alternative Modification seeking the same outcome.
TMA Data Management Ltd	No Comment	None provided.
E.ON	Yes/No	None provided.
ScottishPower	No	None provided.
RWE Npower plc	No	Npower does not have any alternative modifications to propose, however we would like to see the current modification to be defined further to ensure parties understand when the modification can be applied. If this is not possible then an alternative modification may need to be raised to encompass the concerns we have listed in our consultation response, which will help to provide greater clarity around the process and the specific scenarios that it can be used in.
EDF Energy	Yes	The solution outlined in response to question 1 would remove the risk to other market participants who rely on BSC registration processes to support non-BSC contracts and processes. Notice, acknowledgement and no objection by meter agents, notification agents, notification counterparts, relevant network operators and other code administrators would give confidence that all affected parties (BSC Parties and BSC-related parties) are aware and have had opportunity or have agreed appropriate contractual terms for the transfer of BSC registration to a new company.
DONG Energy	No	We don't believe that there are any alternatives to the proposal.

Question 5: Will the implementation of P318 impact your organisation?

Summary

Yes	No	Neutral/No Comment	Other
2	4	1	0

Responses

Respondent	Response	Rationale
Green Energy (UK) Plc	No	Green Energy has already been through the market entry process to make administrative changes.
TMA Data Management Ltd	No	None provided.
E.ON	Yes/No	None provided.
ScottishPower	No	None provided.
RWE Npower plc	No	We do not foresee any immediate impacts to our organisation should P318 be implemented, however as a BSC Party we are concerned that there may be potential risks managing a new entity once a transfer occurs under this modification. Therefore, we believe that additional protections including a clear criteria and necessary restriction will help mitigate any potential risks.
EDF Energy	Yes	We may wish to make use of the proposal in the future. To the extent we might be counterpart to agreements with a transferring company which are delivered through or in association with various registrations under the BSC, we could be affected by any such transfers. The effort required to revise such agreements would not be significantly different under the proposal compared to the baseline.
DONG Energy	Yes	CONFIDENTIAL RESPONSE PROVIDED

Question 6: Will your organisation incur any costs in implementing P318?

Summary

Yes	No	Neutral/No Comment	Other
0	5	2	0

Responses

Respondent	Response	Rationale
Green Energy (UK) Plc	No	There should be no costs to any industry party as a result of implementation. However the next time a party wants to make administrative changes to their company structure it should save both the party and Elexon considerable amount of time and resource.
TMA Data Management Ltd	No	None provided.
E.ON	Yes/No	None provided.
ScottishPower	No	None provided.
RWE Npower plc	No	We do not believe our organisation will incur any costs or system issues following the implementation of P318.
EDF Energy	Yes/No	There would be administrative and legal costs, and potential process costs, in managing the transfer of another company to which we are a counterpart, either for the purposes of providing metering services, for notification services, or with which we have a wholesale contract notified through the BSC. The effort required to revise such agreements would not be significantly different under the proposal compared to the baseline. However there is more risk of error or omission under the proposal as currently presented, compared with existing arrangements where there is a clear requirement for relationships under the BSC to be explicitly renewed. Risks would be reduced if we were aware in advance and had opportunity to agree to registration changes under the BSC affecting such contracts.
DONG Energy	No	DONG Energy will incur significant costs if this modification is not approved. This additional cost will be from providing additional resource to complete the numerous stages of the entry/exit process to achieve the same result.

Question 7: Do you believe that the Novation Agreement application form should be managed as an ELEXON document or sit within BSCP65?

Summary

ELEXON Owned	BSCP65	Neutral/No Comment
2	4	1

Responses

Respondent	Response	Rationale
Green Energy (UK) Plc	ELEXON Owned	It is our view that the Novation Agreement application should be managed by Elexon - this is the best way for Elexon to be able to offer their independent conclusions to the Panel.
TMA Data Management Ltd	BSCP65	To ensure the appropriate change process is followed and Industry consultation takes place, we would like to see the Novation Agreement document sit within BSCP65.
E.ON	Yes/No	None provided.
ScottishPower	ELEXON Owned	We agree that the Novation Agreement application form should be managed as an ELEXON document.
RWE Npower plc	BSCP65	We believe that the Novation Agreement application form should sit within BSCP65, as similar documents of this nature are typically held within BSC procedural documents.
EDF Energy	BSCP65	We think transparency and governance would be better met if the agreement was a change controlled document under the BSC. Noting our concerns and suggestions to improve the proposal, we think transparency would be improved by including detail of the acknowledgement and agreement process and checks, as described in response to previous questions, in a BSC Procedure.
DONG Energy	BSCP65	We view that the application form should sit within BSCP65, consistent with the other forms that already sit within BSCP65.

Question 8: Do you agree with the areas for Panel consideration, for use when the Panel are making a decision on a Novation Agreement?

Summary

Yes	No	Neutral/No Comment	Other
5	1	1	0

Responses

Respondent	Response	Rationale
Green Energy (UK) Plc	Yes	We believe that the main areas of potential concern to the panel are addressed by the consultation document. Once a party has been verified by Companies House the concern is that the new legal entity making the application must have the requisite credit status to be able to manage their position under the BSc.
TMA Data Management Ltd	Yes	We agree that the questions asked in the application cover most areas of concerns. We agree with the workgroup discussions that the Panel must be able to ask for further information relating to credit worthiness and debt liabilities in order to protect existing BSC Parties. We also agree that the PAB should review the Novation Agreement before providing an opinion to the Panel.
E.ON	Yes/No	None provided.
ScottishPower	Yes	None provided.
RWE Npower plc	No	We believe that a clear criteria needs to be included in the code to support the delivery of this modification. Please also see response to question 9.
EDF Energy	Yes, and more	Checking of companies house registration and optional enquiries on the new Party's creditworthiness, liabilities and debts as suggested, as well as the opinion of the Performance Assurance Board, seem reasonable. However, as discussed previously, we think acknowledgement and agreement of the transferring party's agents and counterparts under the BSC should be sought too, to avoid issues for contracts facilitated by but not governed by the BSC.

Respondent	Response	Rationale
DONG Energy	Yes	We agree that the areas the Panel will consider are appropriate when making a decision on a Novation Agreement.

Question 9: Are there any other areas you believe the Panel need to consider?

Summary

Yes	No	Neutral/No Comment	Other
1	4	2	0

Responses

Respondent	Response	Rationale
Green Energy (UK) Plc	No	We feel that the panel should consider other credit ratings than Standard & Poors, Moody's and Fitch, as this is a barrier to entry and growth. However we agree that the party's credit rating, liabilities and debt must be checked.
TMA Data Management Ltd	No Comment	None provided.
E.ON	Yes/No	None provided.
ScottishPower	Yes	None provided.
RWE Npower plc	No	<p>Npower believes that without a specific definition of what will be considered as a "simple administrative" change and a clear set criteria, it is difficult to determine whether the areas the Panel are considering in reaching a decision are sufficient. Therefore, a set definition of "simple administrative" and further transparency around the inclusion and exclusion criteria under this modification is necessary to ensure that the required protections and restrictions are in place.</p> <p>In addition, we would like to query why this modification is limited to changes of a "simple administrative" nature only. We believe the modification can be extended to apply to wider changes provided the employees are the same and there are no material system changes. This is an alternative and less extensive method that can be used under the BSC to reassign rights and obligations of a particular party without going through the full Market Exit and Market Entry procedures.</p>
EDF Energy	No	None other than comments made in response to other questions.
DONG Energy	No	Nothing further that we wish to be considered.

Question 10: Do you agree with the Workgroup's view that P318 should be treated as a Self-Governance Modification Proposal?

Summary

Yes	No	Neutral/No Comment	Other
5	1	1	0

Responses

Respondent	Response	Rationale
Green Energy (UK) Plc	Yes	We feel that P318 should definitely be treated as a self-governance mod. There is no material impact on any industry party until the point in time where the mod may prove beneficial. We would reiterate the point that the mod simply improves the market entry system, it does not enable a party to perform operations they would previously not have been able to perform.
TMA Data Management Ltd	Yes	None provided.
E.ON	Yes/No	None provided.
ScottishPower	Yes	None provided.
RWE Npower plc	Yes	We agree with the workgroup's view that P318 should be treated as a Self-Governance Modification process, as it currently stands. However, we believe that there should be a right of appeal to the Authority under this process should a party or third party disagree with a decision made. If this right of appeal was to be included under this modification then this will not be treated as Self-Governance.
EDF Energy	No	The issues under consideration could have material impact on other parties, both BSC Parties and non-BSC Parties, if transfers occur without acknowledgement and acceptance of those parties. For example, a BSC party could transfer to a new party under the BSC without novating contracts it has outside the BSC, leaving an agent or wholesale counterpart exposed to risk under the BSC (eg. imbalance, meter performance) associated with a party with which it does not have a contract.
DONG Energy	Yes	We believe that due to the limited impact P318 should be self-governed.

Question 11: Do you have any further comments on P318?

Summary

Yes	No
2	5

Responses

Respondent	Response	Comments
Green Energy (UK) Plc	No	n/a
TMA Data Management Ltd	Yes	<p>As mentioned in our response to question 1. We have trouble understanding why P318 would be used for anything other than a straightforward transfer of Id with minimal system/staff changes. There is a process in place for Market Entry and P318 should never be used as a short cut to Market Entry.</p> <p>We would also like to see Performance Assurance applied to that process. After Market Entry, the PAF caters for follow up "on site" visits, similar actions should be applied to a Novation Agreement Party Id transfer.</p>
E.ON	Yes	It would be helpful if Elexon and the working group could consider and explain how the process of transferring a PartyID would work in the case of generator, so that Elexon ensure that all data flows are aligned and that the BMU's correspond with the transferred PartyID but without changing the Lead Party.
ScottishPower	No	n/a
RWE Npower plc	No	Npower notes that Ofgem publish Licences Granted notices on their website and also maintain a list of Licence holders. These include details of the Licence holders company name, company number and registered address. Any changes to the Licence holders details will need to be captured and published by Ofgem.
EDF Energy	No	n/a
DONG Energy	No	n/a