

Jon Dixon
Ofgem
9 Millbank
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by email

29 May 2012

Dear Jon,

Panel recommendation on urgency for Modification Proposal P284 "Expansion of Elexon's role via the 'contract model'"

National Grid raised P284 on 17 May 2012. P284 aims to enable, but not require, BSCCo to outsource BSC services to a new BSC Agent. P284 envisages that this BSC Agent would be a new corporate entity ('New ELEXON') operating under service contract to BSCCo.

If established 'New ELEXON' would be able to provide services beyond the BSC, including potentially that of the Data and Communications Company (DCC). The Department of Energy and Climate Change (DECC) will commence the Licence Award Process for the DCC shortly.

In accordance with BSC Section F2.9, BSCCo has recommended that P284 is progressed as an Urgent Modification Proposal due to its interaction with the timetable for the DCC licence bid process. You can find rationale for BSCCo's recommendation in the attached [P284 Initial Written Assessment](#) (IWA).

The BSC Panel met to consider P284 on 28 May 2012. Panel Members acknowledged that, while National Grid has not requested urgency, it has expressed a clear desire for the Panel to take account of the DCC bid timeline when setting the P284 progression timetable. Panel Members were split on whether P284 should be progressed as an Urgent Modification Proposal, with equal numbers of Members for and against. I detail the arguments expressed by Panel Members on page 2 of this letter. The Panel Chairman chose not to exercise his casting vote on this matter. In the event that the Authority does grant urgency, the Panel recommends that P284 follows the urgent progression process and timetable set out on page 3 of this letter.

For reference, I attach a copy of [BSCCo's slide to the Panel](#) outlining the interaction between the DCC bid timetable and P284 progression. DECC has confirmed as recently as last week that the bid timetable in this slide, which is based on DECC's published timelines, is an accurate representation and is unlikely to change in the next few weeks.

In accordance with BSC F2.9, I am writing on the Panel's behalf to seek the Authority's instruction as to whether P284 should be treated as an Urgent Modification Proposal and, if so, approval of the urgent progression process and timetable. Please do not hesitate to contact me if you have any questions.

Yours sincerely



Adam Richardson
BSC Panel Secretary

Attachments – P284 Initial Written Assessment and DCC bid timetable

Panel Members' views on urgency

In giving its views, the Panel has noted Ofgem's published [guidance](#) on the criteria it applies when considering urgency. It has also noted BSCCo's view in the IWA that P284 meets Ofgem's urgency criterion (a) because, unless the progression of P284 is expedited, New ELEXON's ability to participate in the DCC bid process may be either precluded or significantly compromised:

(a) 'An imminent issue (which may be date related) or a current issue that if not urgently addressed may cause a significant commercial impact on parties, consumers or other stakeholder(s)'.

Views in favour of urgency	Views against urgency
<ul style="list-style-type: none"> Some Panel Members believed that it would be inappropriate if the Panel did not seek to use the recognised BSC urgency mechanism to expedite progression of P284. These Members gave weight to the Proposer's request in the Modification Proposal form for the DCC bid timetable to be taken into account by the Panel in setting the P284 progression timescales. They also noted Ofgem's comment (in its 30 April conclusions letter on ELEXON's future governance and vires) that it expects the DCC bid timeline to be reflected in the progression timetable for any necessary Modification Proposal. Some Panel Members considered that the potential benefits of implementing P284 could be significantly reduced unless its timing enables 'New ELEXON' to participate in the DCC tender process. A number of Panel Members believed that progressing P284 as an Urgent Modification Proposal is the most appropriate and robust way to ensure that its implications and merits are properly assessed under an accelerated timetable. While the length of the normal Modification Procedures can be compressed without urgent treatment, this is a less recognised means of expediting the progression of a Modification Proposal compared with the well-established and Code-defined urgency process. Some Panel Members noted that Ofgem's guidance describes its urgency 'criteria' as non-exhaustive and states that each urgency request will be dealt with on a case-by-case basis. These Members also noted that criterion (a) refers to a possible, rather than a proven, commercial impact on a stakeholder. 	<ul style="list-style-type: none"> Some Panel Members believed that the case for urgency set out by BSCCo in the P284 IWA does not meet Ofgem's published guidance on its urgency criteria. These Members considered that it is difficult to justify urgency on the basis of a date-related event that might impact a corporate entity which does not yet exist ('New ELEXON') participating in activities outside the BSC (the DCC bid process). A Panel Member noted the Authority's previous decision not to grant urgency to CUSC Amendment Proposal 157 on the grounds of an unproven commercial impact, and believed that this is a relevant precedent for P284.¹ Some Panel Members observed that P284 is an 'enabling' change and that, if P284 is implemented, it is not certain that BSCCo will outsource its activities. These Members therefore considered that it would be inappropriate to take account of the DCC bid timetable in determining the P284 progression process. Some Panel Members were concerned that setting an accelerated timetable for P284 could limit the opportunity to explore alternative solutions – either under the scope of P284 or through other separate Modification Proposals.

¹ <http://www.nationalgrid.com/NR/rdonlyres/15C55FEF-AAF2-4643-B5C7-70965B482ED9/18650/CAP157UD.pdf>

Panel's recommended urgent process and timetable

In the event that the Authority instructs that P284 should be treated as an Urgent Modification Proposal, the Panel recommends the following urgent process and timetable:

Progression via Urgent Modification Proposal process	
Workgroup meeting 1	Tues 29 May 2012
Consultation starts	Mon 11 June 2012
Consultation closes	Fri 29 June 2012
Workgroup meeting 2	Tues 3 July 2012
Workgroup's report submitted to Panel	Tues 10 July 2012
Panel meets to discuss Workgroup's report and make its final recommendation	Thurs 12 July 2012
Final Panel report submitted to Ofgem for decision	Fri 13 July 2012