

What stage is this document in the process?

- 01** Initial Written Assessment
- 02 Definition Procedure
- 03 Assessment Procedure
- 04 Report Phase

Stage 01: Initial Written Assessment

P298 'Consequential amendments to the BSC Modification process following the implementation of Third package and other miscellaneous changes'

Align the BSC with the Transmission Licence to reflect that the Authority can raise, or direct National Grid (as the Transmission Company and Licensee) to raise, Modifications it considers necessary to comply with, or implement, European electricity regulations and legally binding decisions.



ELEXON recommends P298 is progressed to the Assessment Procedure for an assessment by a Workgroup

Low Impact:



- The Authority
- Transmission Company
- BSCCo

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About This Document

This document is an Initial Written Assessment (IWA), which ELEXON will present to the Panel on 12 December 2013. The Panel will consider the recommendations and agree how to progress P298.

Further information is available in the P298 Modification Proposal (Attachment A).



Any questions?

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1 Why Change?



Background

In November 2011, the Authority implemented changes to the Electricity Transmission Licence Standard Conditions ('the licence') to reflect new European legislation known as the 'Third Package'. It also introduced consequential changes that enable the Authority to:

- Raise Modifications to the BSC to implement 'Electricity Regulations' and any 'legally binding decisions from Europe'¹.
- Direct National Grid, as the Transmission Company and holder of the licence (the Licensee), to raise such Modifications within the same parameters.

Similar to Significant Code Review (SCR) Modifications, it also introduced requirements that an Authority raised or directed Modification:

- must be accepted by the Panel into the Modifications process;
- must not be withdrawn without the prior consent of the Authority; and
- must proceed in accordance with the Authority's timetable.

Furthermore, it introduced requirements that National Grid, and where relevant the Panel, must ensure that such Modifications complete each relevant step of the Modifications process and are implemented.

Further clarification to the licence changes

The BSC wasn't amended to reflect the licence changes at the time, as the wording introduced into the licence in 2011 could have been interpreted that the Authority could raise any Modification and not just ones relating to Electricity Regulations and any legally binding decisions from Europe.

The Authority has since clarified the licence with changes that come into effect on the 17 December 2013.

What is the issue?

The BSC has no provisions for how the Authority can raise, or direct National Grid to raise, Modification Proposals in order to ensure that the BSC complies with the relevant Electricity Regulations and legally binding decisions from Europe. Therefore, the BSC is not aligned with the licence (SLC C3) and needs to be amended to reflect the licence. It also needs to address any areas where the licence is silent on the raising and progression of such Modifications to ensure clarity and efficiency of process.

What is the 'Third Package'?

The 'Third Package' consists of four EC Regulations and two EC Directives, which came into force on 3 September 2009. The aim of these is to bring in a competitive and integrated energy market to allow consumers to choose between different Suppliers; and provide for all Suppliers to access the market in each EC member state. It also brought into existence the [Agency for Cooperation of Energy Regulators \(ACER\)](#).

The UK Parliament gave effect to this in Great Britain in November 2011 through the [Electricity and Gas \(Internal Markets\) Regulations 2011](#).

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¹ This relates to any legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators (ACER).

Proposed solution

P298 seeks to modify BSC Section F 'Modification Procedures' to align it with the licence requirements. Specifically to reflect that:

- The Authority can raise, or instruct the Licensee to raise, a Modification to implement Electricity Regulations and any legally binding decisions from Europe.
- The BSC Panel will be required to:
 - accept such Modifications into the Modification Process; and
 - progress such Modifications in accordance with any timetable(s) directed by the Authority.
- Where the Authority directs National Grid to raise such Modifications, that as the Proposer, it will only be allowed to:
 - withdraw the Modification with the prior consent of the Authority; and
 - amend the Proposed Solution with the prior consent of the Authority.

Applicable BSC Objectives

The Proposer believes that P298 would better facilitate the achievement of:

- Applicable BSC Objective (a) by ensuring that the BSC correctly reflects the conditions under which the Authority can raise or direct the Licensee to raise Modifications relating to electricity regulation.
- Applicable BSC Objective (d) by ensuring that the BSC accurately reflects the provisions set out in the Transmission Licence covering the circumstances and processes to be followed in relation to Authority raised Modification Proposals. Therefore, this would ensure that such Modifications proposals are progressed efficiently and effectively.
- Applicable BSC Objective (e) by ensuring that the BSC complies with changes resulting from the Electricity and Gas (Internal Markets) Regulations 2011 and enabling the BSC to be aligned with any future electricity regulation.

Related changes

This Modification will be progressed in parallel with [Connection and Use of System Code \(CUSC\)](#) Modification Proposal [CMP225](#). It proposes to make equivalent changes to the CUSC to align with the Transmission Licence - SLC C10 'Connection and Use of System Code'.



Proposed solution

The proposed solution seeks to modify Section F to align it with the Transmission Licence Standard Conditions (SLC C3).



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]

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3 Areas to Consider

In this section, we highlight areas that we believe the Panel should consider when making its decision on how to progress this Modification Proposal, and which a Workgroup should consider as part of its assessment of P298. We recommend that the areas below form the basis of a Workgroup's Terms of Reference, supplemented with any further areas specified by the Panel.

The Proposer has also asked that a Workgroup consider two areas with respects to a Modification that implements Electricity Regulations and any legally binding decisions from Europe:

- the involvement of the Panel in setting terms of reference and progressing these Modifications to the next phase; and
- the adoption of withdrawn Modifications.

Adoption of SCR Modification legal text

It is ELEXON's view that the Workgroup should consider the legal text of Section F 5.3 of the BSC, which covers the SCR provisions, for P298 wherever relevant. This is because the SCR provisions are similar to the licence changes for Authority raised and directed Modifications. These similarities include:

- the Authority may instruct the Licensee to raise a Modification;
- the Licensee and Panel must accept the Modification and the Authority's timetable; and
- Licensee and Panel may not withdraw or modify a Modification without prior Authority approval.

These clauses of the BSC form a good starting point for the Workgroups discussions.

Involvement of the Panel

The licence is silent on certain aspects of the Panel's involvement with respects to a Modification that implements Electricity Regulations and any legally binding decisions from Europe. This is not the case with SCR Modifications, where there are provisions for how and when the Panel agree the steps in the Modification process. Therefore, there may be a need to include similar provisions for Authority raised Modifications. The Workgroup should therefore explore the Panel's involvement, specifically:

- to what extent it agrees and sets the terms of reference for any necessary Workgroup meetings; and
- its ability to decide on when the Modification is progressed to the next phase of the Modification Process (e.g. from Assessment Procedure to Report Phase).

Adoption of withdrawn Modifications by BSC Parties

The licence is silent on the event that the Authority withdraws its Modification. The BSC provides for this for SCR Modifications. Therefore, there may be a need to include provisions for, or restrictions on, the adoption of Modifications relating to Electricity Regulations and any legally binding decisions from Europe.

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Amalgamation with other Modifications

The licence is silent on the subject of amalgamating Modifications with respects to a Modification that implements Electricity Regulations and any legally binding decisions from Europe. Therefore, there may be a need to include provisions for, or restrictions on, the amalgamations of these Modifications with other types of Modifications. This should include scenarios where two or more Modifications that implements Electricity Regulations and any legally binding decisions from Europe are amalgamated.

Influence of Authority conclusions and directions on relevant Workgroup's views

The licence is silent on whether the relevant Workgroup should be influenced by the Authority's conclusions or direction. This is not the case with SCR Modifications, where there are provisions for the Workgroup's views not to be fettered by the Authority's conclusions and directions. Therefore, there may be a need to include similar wording in Section F.

Other areas where the licence is silent

Whilst the Proposer and ELEXON have tried to identify where the licence is silent and needs consideration for inclusion in the BSC, the Workgroup should be provided with an opportunity to suggest others.

What changes are needed to BSC documents, systems and processes to support P298 and what are the related costs and lead times?

The Proposer and ELEXON do not believe that there are any changes required to any BSC Configurable Items (BSC documents, systems and processes) other than Section F of the BSC. However, the Workgroup may need to consider whether changes to other Sections of the BSC² or Code Subsidiary Documents³ are required.

Areas To Consider
Should P298 adopt the legal text for SCR Modifications, where applicable and relevant; and does not contravene the licence? If not, what are the Workgroup's views on the legal text required?
How should the BSC define amalgamations of Modifications with respects to a Modification that implements Electricity Regulations and any legally binding decisions from Europe? (Consider scenarios where two or more of these types of Modifications could be amalgamated; and where one of these with one or more other Modifications).
How should the BSC define the Panel's voting rights and its Modification Reports, with respects to the Authority's direction on a Modification that implements Electricity Regulations and any legally binding decisions from Europe?

² Such as Section X: Annex X-1 to add a Code defined term.

³ Such as BSCP40 'Change Management' to explicitly set out processes for the Authority raised or directed Modifications that are different to the current process.

Areas To Consider

(This includes the setting of the terms of reference and when to progress a Modification from one phase to another e.g. from Assessment Procedure to Report Phase).

How should the BSC define the influence of the Authority's conclusions and directions on the relevant Workgroup's views?

What provisions or restrictions, if any, should there be on the adoption of a Modification that implements Electricity Regulations and any legally binding decisions from Europe by BSC Parties?

What other areas of the Transmission Licence are silent and need to be considered for inclusion in the BSC?

What changes are needed to BSC documents, systems and processes to support P298 and what are the related costs and lead times? (Section X: Annex X-1, BSCP40)

Standard Areas of Consideration:

- Are there any Alternative Modifications?
- Does P298 better facilitate the Applicable BSC Objectives than the current baseline?

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Self-Governance Criteria

A Modification Proposal that, if implemented:

a) is unlikely to have a material effect on:

- i) existing or future electricity consumers; and
- ii) competition in the generation, distribution or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity; and
- iii) the operation of the national electricity transmission system; and
- iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and
- v) the Code's governance procedures or modification procedures, and

b) is unlikely to discriminate between different classes of Parties.

Next steps

We recommend the Modification is progressed to an Assessment Procedure for consideration by a Workgroup. ELEXON propose to seek membership from any relevant BSC governance and modification experts and interested parties.

National Grid and ELEXON propose holding joint CUSC/BSC Modification Workgroups to discuss these changes. The benefit of this is to save time and effort on the part of Workgroup attendees.

Timetable

We recommend a four month Assessment Procedure, meaning the Workgroup will submit the Assessment Report by the Panel meeting on 10 April 2014. This is to allow for the CUSC and BSC Modification to be progressed in parallel with joint Workgroup meetings and it accounts for the Christmas and New Year period when it may be difficult to hold a Workgroup due to assumed lack of availability of Workgroup Members.

As part of the Assessment Procedure, the Workgroup will meet to develop, and consider the merits of, the Proposed Modification (and any Alternative). We will issue the solution for industry consultation (17 Working Days duration, as this will be carried out over the Easter and May Day Bank Holidays) for industry to comment on the Proposed (and any Alternative) solution.

Proposed Progression Timetable for P298	
Event	Date
Present Initial Written Assessment to Panel	12 Dec 13
Workgroup Meeting 1	6 Jan 14
Workgroup Meeting 2	W/B 20 Jan 14
Assessment Procedure Consultation	6 – 27 Feb 14
Workgroup Meeting 3	W/B 3 Mar 14
Present Assessment Report to Panel	10 Apr 14
Report Phase Consultation	11 Apr – 9 May 14
Present Draft Modification Report to Panel	12 Jun 14
Issue Final Modification Report to Authority	13 Jun 14

As the Modification materially relates to the BSC's governance and modification procedures, this precludes self-governance.

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5 Likely Impacts



Impact on BSC Parties and Party Agents

No impact

Impact on Transmission Company

Procedures for raising Authority directed Modifications and associated processes

Impact on BSCCo

Area of ELEXON	Potential Impact
Modification procedures	Processes for progressing Authority raised or directed Modifications.

Impact on BSC Systems and process

No impact

Impact on Code

Code Section	Potential Impact
Section F	Governance for when the Authority may raise or direct the Licensee to raise Modifications; the powers and responsibilities of the Panel with respect to these Modifications; and the associated processes

Likely Impacts

This Modification will not impact BSC Parties or Party Agents.

It has a low impact on the Transmission Company as the Licensee and ELEXON as the BSCCo. These impacts relate to the raising and progression of Authority raised or directed Modifications.

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6 Recommendations



ELEXON invites the Panel to:

- **AGREE** that P298 progresses to the Assessment Procedure;
- **AGREE** the proposed Assessment Procedure timetable;
- **AGREE** that the P298 Workgroup should be formed of members as recommended in this document; and
- **AGREE** the Workgroup's Terms of Reference.

Recommendations

ELEXON is seeking to progress P298 to the Assessment phase so a Workgroup can assess it.

7 Further Information

More information is available in:

Attachment **A**: P298 Modification Proposal Form

You can also find further information on the [P298](#) page of the BSC website.

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