Draft Modification Report

P331 'Extended Dispute Deadline at the Post-Final Settlement Run under exceptional circumstances'

This Modification proposes to extend the Dispute Deadline for Settlement Errors at the Post-Final Settlement Run from one month to up to two months under exceptional circumstances and at the discretion of the TDC or the Panel.

The BSC Panel initially recommends **approval** of P331

Implementation of this Modification is not expected to directly impact any participants

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Phase

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

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About This Document

This is the P331 Draft Modification Report, which ELEXON will present to the Panel at its meeting on 10 March 2016. 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 on whether the change should be treated as a Self-Governance Modification and if it should be approved.

There are four parts to this document:

- This is the main document. It provides details of the solution, impacts, costs, benefits/drawbacks and proposed implementation approach. It also summarises the Workgroup's key views on the areas set by the Panel in its Terms of Reference, and contains details of the Workgroup's membership and full Terms of Reference.
- Attachment A contains the draft redlined changes to the BSC for P331.
- Attachment B contains the redlined changes to Code Subsidiary Documents (CSDs) to deliver this Modification.
- Attachment C contains the full responses received to the Panel's Report Phase Consultation.

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1 Summary

Why Change?

There is a lack of flexibility for the Trading Disputes Committee (TDC) and the Panel to extend the Dispute Deadline at the Post-Final Settlement Run under exceptional circumstances. This meant that a proportion of the Settlement Error associated with Trading Dispute DA686 could not be corrected.

Solution

P331 seeks to extend the Dispute Deadline for Settlement Errors at the Post-Final Settlement Run from one month to two months, under exceptional circumstances.

Impacts & Costs

Implementation of this Modification is not expected to directly impact any participants.

Implementation

The proposed Implementation Date for this Modification is **30 June 2016** as part of the June 2016 Release. There are no system or process changes required to implement this Modification.

Recommendation

The Panel initially recommends that P331 should be approved as a Self-Governance Modification.

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2 Why Change?

Trading Dispute DA686

Trading Dispute DA686 was raised to address an incident where the Supplier Volume Allocation Agent (SVAA) manually end dated a Data Aggregator (DA) appointment in error. This affected the Post-Final Settlement Run (also known as the Disputes Final (DF) Run) for 41 Settlement Days. The consequence of this is that Half Hourly (HH) consumption was understated by 144,000 MWh, causing Non-Half Hourly (NHH) Suppliers to overpay their Trading Charges. We calculated the total materiality of DA686 to be £6,344,398.

At an ex-committee meeting on 24 July 2014, the Trading Disputes Committee (TDC) upheld DA686 (TDC 193/01). The TDC determined that four Settlement Days did not meet the applicable Dispute Deadline, and as such were not subject to correction. The four Settlement Days not subject to correction equated to a materiality of £860,370.

A Party referred Trading Dispute DA686 to the Panel for determination. The Referring Party's Points of Claim focused on whether the four Settlement Days not subject to correction should be considered to be within the Dispute Deadline. In particular, the Referring Party had requested that the Panel consider whether the TDC had correctly determined and applied the applicable Dispute Deadline. On 22 January 2015, the Panel upheld the TDC's determination on DA686 (Panel 233/01).

Current Requirements

A Trading Dispute is 'raised' when a valid BSC Procedure (BSCP) 11 'Trading Disputes'/01 form is submitted. The TDC is required to determine whether the Trading Dispute is 'raised' by the **Dispute Deadline** in accordance with BSCP11.

BSCP11 paragraph 1.4 provides that Trading Disputes will not be accepted or processed by the Dispute Secretary unless a BSCP11/01 form is submitted, completed and contains the required information. In the context of these provisions, a Trading Dispute can only be regarded as 'raised' when a valid BSCP11/01 form is completed.

Disputes Deadline

BSC Section W 1.2.6 (b) provides that the Dispute Deadline shall, in the case of an alleged Settlement Error in a Post-Final Settlement Run, not be later than one month after the date of the Post-Final Settlement Run.

The Dispute Deadline is determined in accordance with the following provisions:

- Section W1.2.5 states that 'No Trading Dispute shall be raised in respect of an affected Settlement Period after the 'Dispute Deadline' as defined in paragraph 3.2…'
- Section W3.2.2 specifies that the Dispute Deadline is 'the 20th Business Day following the day on which the relevant Settlement Run was carried out' except for specific types of Trading Disputes where the applicable Dispute Deadline is as specified in BSCP11.
- Section W3.2.4 permits the TDC (or the Panel) to determine that there are exceptional circumstances as a result of which the requirement to raise the dispute by the Dispute Deadline should not apply. However, the TDC or the Panel

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may not waive the Dispute Deadline so as to allow a Trading Dispute to be raised after the relevant date in Section W1.2.6.

- Section W1.2.6(b) provides that, if later than the limit specified in W1.2.6(a), the Deadline Date shall not be later than:

  'where the alleged Settlement Error is an error in a Post-Final Settlement Run or an Extra-Settlement Determination the date 1 month after the date of the Post-Final Settlement Run or Extra-Settlement Determination in which the Settlement Error first occurred.'

In the case of DA686, the Settlement Error was an error in a Post-Final Settlement, so the Dispute Deadline could not be later than one month after the date of the Post-Final Settlement Run.

When does the one month period begin?

The one month period in Section W1.2.6(b) begins to run from the Settlement Administration Agent (SAA) Run Date, being the date on which the SAA performs its determination of Trading Charges in accordance with BSC Section T.

The following provisions support this interpretation:

- Section W1.2.6 (b) specifically refers to 'the date 1 month after the date of the Post-Final Settlement Run'.
- A 'Post-Final Settlement Run' is defined in BSC Section U 2.3.1 (b) as 'a Settlement Run… required to be carried out by the Panel in accordance with paragraph 2.2'.
- A 'Settlement Run' is defined as:

  'means a determination (in accordance with Section T), in relation to a Settlement Day, of amounts giving rise, on the part of Trading Parties and the Transmission Company, to a liability to pay to or a right to be paid by the BSC Clearer amounts in respect of Trading Charges in each Settlement Period in that Settlement Day, and of the net credit or debit in respect of such amounts; and where the context requires a reference to a Settlement Run includes the data and information produced by the SAA following such a determination and delivered to the FAA in accordance with BSC Section N.'

The definition of a 'Settlement Run' is the key to determining when the one month period begins to run.

We consider that:

- The definition of a 'Settlement Run' is the carrying out (in relation to a Settlement Day) of the SAA's processes under Section T in relation to the determination of Trading Charges and, where the context requires, includes the data and information produced by the SAA and delivered to the SAA in accordance with Section N.
- The second limb of the definition commencing from 'and where the context requires' does not apply in this situation because:
  - the context does not require the extended definition to apply and

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- the second limb refers to data and information rather than an activity (the words 'and delivered to the FAA' operate to qualify or further define the data and information, rather than to the activity of delivering the data and information). A reference to the date of a Settlement Run is the date of a specific activity rather than to data or information.

- Given that the second limb of the definition does not apply, the definition of a 'Settlement Run' in this context only refers to the carrying out of the SAA's processes under Section T. As the 'Notification Date' is a defined term in the context of the SAA's obligations under Section N, the SAA's provision of data to the FAA (by the Notification Date) is not part of a 'Settlement Run'.

- Section T5.3 supports the general position that the SAA's notification of data and information to the FAA is not part of a 'Settlement Run' as this provision states that the SAA's provision of data to the FAA on the Notification Date must occur 'following each Settlement Run'.

In this context, the one month period in Section W1.2.6 (b) begins to run from the SAA Run Date, being the date on which the SAA performs its determination of Trading Charges in accordance with Section T. Accordingly, the TDC and the Panel cannot grant exceptional circumstances to enable a Trading Dispute to be raised later than one month after the date that the relevant Post-Final Settlement Run was carried out.

Lessons learned activities arising from DA686

Following the Panel's determination on DA686, we carried out a lessons learned activity and identified a number of preventative measures. Some of these have already been implemented. However, changes to the BSC and its central systems are required to provide further assurance in preventing a reoccurrence. These further changes are as follows:

- automating elements of the Post-Final Settlement Run process
- automating validation of volume outputs during Settlement Runs and
- extending the Dispute Deadline for Settlement Errors at the Post-Final Settlement Run.

At its meeting on 11 June 2015 (Panel 241/10), the Panel endorsed the progression of these changes. The first two will be considered as two Change Proposals (CPs), which will propose changes to central systems to reduce risk of errors and enable the identification of these going forward when they do occur. The third requires changes to the BSC, so requires a Modification. These changes are neither mutually exclusive nor dependent on one another.

What is the issue?

Due to the Dispute Deadline, a proportion of the disputed period under DA686 could not be corrected. An extension to the deadline would have permitted full correction, but this was not possible under the existing rules. However, as observed by a Panel Member, there was a 'moral hazard' associated with further extending the deadline for raising Trading Disputes, i.e. that extending the deadline could encourage more risky behaviour. The TDC, as part of the lessons learned exercise, was mindful of this and had therefore concluded

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that the deadline should only be extended under exceptional circumstances, rather than any broad extension to the overall deadline, and that this should be limited so not to disproportionately increase the risk. This aligns with the TDC's discretion to extend Dispute Deadlines under exceptional circumstances for all other Trading Disputes types as detailed in BSCP11 2.1 and 2.2.

TDC's final view

ELEXON presented the TDC with options for extending the deadline. The TDC agrees with ELEXON's view that extending beyond two months, even with the control of TDC determining exceptional circumstances, would risk a moral hazard. As such, any extension should be limited to two months and only under exceptional circumstances. The TDC unanimously agreed to recommend to the Panel that a Modification should be raised to and progressed under Self-Governance with a Implementation Date of 30 June 2016.

The Panel agreed to raise this Modification at its meeting on 14 January 2016 (Panel 248/05).

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3 Solution

Proposed solution

Extending the Dispute Deadline for Settlement Errors at the Post-Final Settlement Run will provide increased flexibility in the timeframes for which corrections can be authorised. Rather than any broad extension to the overall deadline, it is proposed that the Dispute Deadline only be extended under exceptional circumstances.

The extension should be two months as this gives it the maximum flexibility to the TDC and the Panel and does not risk a moral hazard. This would not necessitate the TDC (or Panel) to use the full period if it believed that only a portion of the two months was appropriate in an exceptional circumstance.

Legal text changes

Full details of the legal text changes to BSC Section W and redlined text for BSCP11 for P331 are provided in Attachment B and C, respectively.

Applicable BSC Objectives

This Modification better achieves Applicable BSC Objective (d) as providing more flexibility in the timeframes that corrections can be authorised, limited to when the TDC or Panel believe that there are exceptional circumstances, would enable the resolution of more Settlement Error.

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

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4 Impacts & Costs

Central impacts and costs

This Modification will be a document-only change to update one section of the BSC and BSCP11. There are no system impacts and no impact on BSC Agents.

The central implementation costs will be approximately £240 (one ELEXON man day) to implement the relevant document changes.

Impact on Code	
Code Section	Potential Impact
Section W	Changes will be required to deliver this Modification. *The proposed changes can be found in Attachment A*

Impact on Code Subsidiary Documents	
CSD	Potential Impact
BSCP11	Changes will be required to deliver this Modification. *The proposed changes can be found in Attachment B*

Participant impacts and costs

This Modification is a Code-only change. It will not have any impact on any industry participants.

5 Implementation

Recommended Implementation Date

The Panel initially recommends an Implementation Date for P331 of 30 June 2016 as part of the June 2016 Release.

P331 will make minor change to the Disputes Deadline parameter by extending it from one month to two months where the TDC or the Panel deem there are exceptional circumstances. There are no urgent drivers for this Modification and this is the earliest scheduled release available, the approach of which is recommended by the TDC.

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6 Panel's Initial Discussions

Panel's initial views against the Applicable BSC Objectives

The Panel initially unanimously agreed that P331 would better facilitate Applicable BSC Objective (d) as it would provide more flexibility in the timeframes that corrections can be authorised, limited to when the TDC or Panel believe that there are exceptional circumstances, and this would enable the resolution of more Settlement Error.

One Panel Member was concerned that extending the deadline could result in an unacceptable risk of a moral hazard. This was considered in developing the P331 solution, but the Panel agreed to consult on this point in order to give industry participants a clear opportunity to express their views.

The Panel therefore initially unanimously recommends that P331 be approved.

Self-Governance

The Panel initially unanimously agreed that P331 should be progressed as a Self-Governance Modification, as it has no material impact on the specified categories and does not discriminate between different classes of Parties.

Implementation approach

The Panel initially unanimously agreed with the recommended Implementation Date for P331 of **30 June 2016** as part of the June 2016 BSC Release (as noted in Section 5).

Legal text changes

The Panel initially unanimously agreed that the proposed redlined changes to BSC Section W and BSCP11 deliver the P331 solution. Full details of the proposed changes can be found in Attachments A and B.

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7 Report Phase Consultation Responses

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 P331 Report Phase Consultation Responses			
Question	Yes	No	Other
Do you agree with the Panel's initial unanimous recommendation that P331 should be approved?	2	1	0
Do you believe that extending the Disputes Deadline for Post-Final Settlement Runs creates an unacceptable risk of a moral hazard?	0	2	1
Do you agree with the Panel that the redlined changes to the BSC and BSCP11 deliver the intention of P331?	2	0	1
Do you agree with the Panel's recommended Implementation Date?	2	0	1
Do you agree with the Panel's initial view that P331 should be treated as a Self-Governance Modification?	2	0	1
Will P331 impact your organisation?	0	2	1
Will your organisation incur any costs in implementing P331?	0	3	0
Do you have any further comments on P331?	1	2	0

Views on the benefits of P331

One of the three respondents was not convinced that P331 would better meet BSC objectives, with the other two in support of P331.

The respondent that was not convinced noted that the existing Dispute Deadline provides timing certainty for the final end date for Settlement and provides an incentive for Parties to identify Settlement Errors in a timely manner. They believe that P331 would increase uncertainty over the final end date for Settlement, and would reduce the incentive on Parties to identify errors quickly. They have suggested that if the risk from these errors is considered significant, then these should be addressed through preventative measures in the Performance Assurance process.

We agree that extending the Dispute Deadline could be seen as a dis-incentive for Parties to get data correct first time, investigate issues promptly, or both. However, the extension is only applicable under exceptional circumstances (e.g. if the TDC or the Panel felt a Party was tardy in its actions, this could be grounds to reject an exceptional circumstance claim). This mitigates some of the concerns around potential changes to behaviours as a result of P331.

In addition, this Dispute Deadline is the only one that the TDC and the Panel cannot currently extend under exceptional circumstances. The TDC and Panel felt that it was appropriate to bring this Dispute Deadline in-line with all other instances.

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Views on the redlined changes to the BSC and BSCP11

Two of the three respondents were supportive of the redlined changes to the BSC and BSCP11. However, the third respondent suggested amendments to both documents. Having reviewed these, our view is that the suggested amendments don't add any more clarity and that the current drafting is sufficiently clear and in line with the current wording for the existing Dispute Deadlines where exceptional circumstances exist.

Views against the implementation approach

There was no objection to the implementation approach, with two of the three in support.

Views on whether P331 should be treated as a Self-Governance Modification

Two of the three respondents were supportive of P331 being treated as Self-Governance. However, the other respondent, whilst not against, was uncertain whether P331 meets the criteria for Self-Governance. They believed that the consequential materiality for correction of Settlement Errors occurring very late in the Settlement process, which would not otherwise be corrected, is uncertain; and that this materiality could turn out to be very small or very large. It is ELEXON's view that the materiality of any given Settlement Error could turn out to be significant, and that P331 in itself does not directly contribute to this. Therefore, the respondent's argument is not relevant when considering the criteria for treating P331 under Self-Governance.

Other views

The respondent that was not convinced by P331 noted that the other changes identified at the same time as P331 should reduce the risk of errors in the Post-Final Settlement Run, thereby reducing the need to raise a Trading Dispute on PFSR data. Whilst this may be the case, we note that the risk identified under P331 remains and without this change the TDC and the Panel would not be able to consider extending the timescales beyond the current Disputes Deadline where there have been exceptional circumstances. It would also leave the Post-Final Settlement Run out of kilter with the other Dispute Deadlines, which the TDC and the Panel have the ability to extend under exceptional circumstances.

The respondent went on to say that adding an extra month would be contrary to Ofgem's Smarter Markets work and other discussions within the industry on reducing Settlement timescales. It is ELEXON's view that reducing the Settlement timescales is not mutually exclusive to P331. However, ELEXON notes that, in discussions on potentially reducing Settlement timescales, it has been recognised that there would need to be a review of the Trading Disputes process under any Modification that sought to progress such reductions.

Finally, the respondent noted that there was a potential for a future Modification to extend the Disputes Deadline even further in the future, especially if there was another Settlement Error that could not be fully rectified within the timescales. Whilst this is possible, the TDC noted that any such Modification would need to be justified in terms of not further increasing the risk of moral hazard.

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8 Recommendations

We invite the Panel to:

- **AGREE** that P331 **DOES** better facilitate Applicable BSC Objective (d);
- **DETERMINE** (in the absence of any Authority direction) that P331 is a Self-Governance Modification Proposal;
- **APPROVE** P331;
- **APPROVE** an Implementation Date of **30 June 2016**;
- **APPROVE** the draft legal text;
- **APPROVE** the draft redlined changes to BSCP11; and
- **APPROVE** the P331 Modification Report.

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Appendix 1: Workgroup Details

Acronyms

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

Acronym	
Acronym	Definition
BSC	Balancing and Settlement Code *(industry Code)*
BSCP	Balancing and Settlement Code Procedure *(Code Subsidiary Document)*
CP	Change Proposal
CSD	Code Subsidiary Document
DA	Data Aggregator *(Party Agent)*
DF	Disputes Final *(Settlement Run)*
FAA	Funds Administration Agent *(BSC Agent)*
HH	Half Hourly
IWA	Initial Written Assessment
NHH	Non Half Hourly
SAA	Settlement Administration Agent *(BSC Agent)*
SVAA	Supplier Volume Allocation Agent *(BSC Agent)*
TDC	Trading Disputes Committee *(BSC Panel Committee)*
WD	Working Day

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	TDC meeting 193 page on the ELEXON website	https://www.elexon.co.uk/meeting/tdc-193/
4	Panel meeting 233 page on the ELEXON website	https://www.elexon.co.uk/meeting/bsc-panel-233/
4	BSCPs page on the ELEXON website	https://www.elexon.co.uk/bsc-related-documents/related-documents/bscps/
4, 5	BSC Sections pages on the ELEXON website	https://www.elexon.co.uk/bsc-related-documents/balancing-settlement-code/bsc-sections/
6	Panel meeting 241 page on the ELEXON website	https://www.elexon.co.uk/meeting/bsc-panel-239/
7	Panel meeting 248 page on the ELEXON website	https://www.elexon.co.uk/meeting/bsc-panel-248/

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