

P365 'Enabling ELEXON to tender for the Retail Energy Code (REC)'

This Modification seeks to enable ELEXON to participate in the process to appoint the Retail Energy Code (REC) administrator which is expected to occur in the near future.



ELEXON recommends P365 is progressed directly to the Report Phase with an initial recommendation to approve.

This Modification is expected to impact:

- Trading Parties

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About This Document

This document is an Initial Written Assessment (IWA), which ELEXON will present to the Panel on 8 February 2018. The Panel will consider the recommendations and agree how to progress P365.

There are three parts to this document:

- This is the main document. It provides details of the Modification Proposal, an assessment of the potential impacts and a recommendation of how the Modification should be progressed.
- Attachment A contains the P365 Proposal Form.
- Attachment B contains an extract of the proposed redlining for this Modification Proposal.



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1 Why Change?

Retail Energy Code

On 21 September 2017, Ofgem published their consultation '[Delivering Faster and More Reliable Switching: proposed new switching arrangements](#)'. The consultation proposed that the current code governance framework for switching is fragmented, with many processes and central systems operating differently for the electricity and gas markets.

Under the current code governance framework, switching arrangements and related central systems changes are primarily governed by:

- the Master Registration Agreement (MRA) for electricity; and
- the Supply Point Administration Agreement (SPAA) and the Uniform Network Code (UNC) for gas.

There are also some supporting elements of the switching process that are contained in other codes such as the BSC and the Distribution Connection Use of System Agreement (DCUSA).

Ofgem noted the opportunity that the switching programme provided to consolidate these into a more coherent and logical arrangement, and to form a new Retail Energy Code (REC).

What is the issue?

Ofgem has indicated that in the near future a competitive award process will be undertaken to appoint a body to administer a new REC.

Section C of the BSC currently precludes ELEXON from undertaking any business or activity which is not prescribed and provided for in the BSC. These restrictions preclude ELEXON from participating in any REC administrator appointment process.

If not addressed these restrictions will:

- Limit the pool of experienced code administrators that are able to participate in the competitive process;
- Limit the full range of commercial/operating models from being evaluated;
- Increase the potential for further fragmentation in the provision of code administration services; and
- Limit the opportunity for ELEXON to further defray its costs to Trading Parties (it is noted that this final point is subject to successfully securing the REC administrator role).

2 Solution

Proposed solution

ELEXON has taken on non-BSC roles in recent years, namely the administration of the Warm Homes Discount Scheme and as the Settlement Services Provider for the Electricity Market Reform (EMR). Participation in both of these government schemes resulted from 'directions' from the Secretary of State, rather than via a Modification process. It should be noted that subsequent to the direction, the operation of the Warm Home Discount Scheme was secured through competitive tender.

More recently, the ability for ELEXON to seek to become the Gas Performance Assurance Framework Administrator (PAFA) was the subject of Modification Proposal [P330 'Allowing ELEXON to tender for the Uniform Network Code Gas Performance Assurance Administrator \(PAFA\) role'](#) which was approved by Ofgem on 2 June 2016.

The proposed solution to this Modification Proposal repeats the implementation approach developed during the assessment of P330 and the arguments set out in [Ofgem's decision letter](#) where the detailed rationale behind their decision to approve P330 is set out.

The proposed solution to this Modification will require changes to the following BSC sections:

- Section C: BSCCo and its Subsidiaries, Annex C-1: Permissible Activities; and
- Section X: Definitions and Interpretation, Annex X-1: General Glossary.

It is proposed to use [BSC legal text developed under P330](#), but modified to reflect the REC administrator role, in this Modification Proposal.

At high level, the changes to Annex C-1 will:

- Establish REC administration as a Permissible Activity and establish the appropriate legal entity (REC Administrative Services Company (RECASCo));
- Detail the arrangements under which BSCCo may provide a loan or grant credit to RECASCo for the purposes of bidding for the REC administration role, together with the requirement for cost to be ring-fenced;
- Detail the arrangements for the repayment of any loan and what will happen in the event that RECASCo is unsuccessful in its bid; and
- Confirm the shareholder arrangements with RECASCo and its relationship with BSCCo.

At high level, the changes to Annex-X1 will include, but not be limited to, the following definitions:

- Aggregate RECAS (REC Administrative Services) Tender Costs;
- RECAS Tender;
- RECAS Tender Costs;
- RECAS Tender Recovery Period;
- RECASCo;
- RECASCo Board;

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- RECASCo Shareholder; and
- RECAS Role.

Applicable BSC Objectives

The impact of the solution to this Modification Proposal on the relevant BSC Objectives is displayed in the table below:

Impact of the Modification on the Relevant BSC Objectives	
Relevant Objective	Identified impact
a) The efficient discharge by the Transmission Company of the obligations imposed upon it by the Transmission Licence	Neutral
(b) The efficient, economic and co-ordinated operation of the National Electricity Transmission System	Neutral
(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	Neutral
(d) Promoting efficiency in the implementation of the balancing and settlement arrangements	Positive
(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]	Neutral
(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	Neutral
(g) Compliance with the Transmission Losses Principle	Neutral

In the view of the Proposer and as agreed by ELEXON, this Modification will better facilitate BSC Objective (d). The Proposer believes that this Modification Proposal P365 will better facilitate Applicable BSC Objective (d) as:

- Sharing the fixed costs of ELEXON across the REC service allows costs to the BSC Parties to be defrayed; and
- Participating in the process for the appointment of the REC administrator role will provide a view to BSC Parties of the competitiveness of ELEXON in delivering their existing obligations and be used to consider efficiencies.

These were the same reasons cited by the Proposer of P330. Due to the parallels between this Modification Proposal and P330, it is worth highlighting the reasons for Ofgem's decision to approval P330. In their [decision letter](#), Ofgem stated that they had previously considered the case for allowing ELEXON to diversify its activities.

In accepting BSC Modification [P284 'Expansion of Elexon's role via the 'contract model''](#) in September 2012, Ofgem set out their view that whilst there might be benefits of



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

(g) Compliance with the Transmission Losses Principle

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diversification, robust arrangements had to be put in place to mitigate any additional risk to the BSC and BSC Parties. Ofgem considered that the following criteria would have to be met:

- BSC Parties should benefit from any diversification;
- The arrangements should not place disproportionate risk on BSC Parties;
- Standards of service under the BSC should be maintained; and
- ELEXON's BSC role should not give it any undue competitive advantage in a contestable activity.

In [accepting P284](#) Ofgem allowed for these criteria to be met by establishing, subject to a decision of the ELEXON Board, a 'contract model', whereby ELEXON would become distinct from, and provide services under contract to, the BSCCo. However, Ofgem also suggested that there might be other, more proportionate, means of meeting the criteria where the extent of risk was more limited. Ofgem also stated that it would be appropriate for the ELEXON Board and BSC Parties more generally to give further consideration to a more limited diversification under the existing structure.

Ofgem stated that they agreed with the BSC Panel that P330 should be assessed against relevant objective d) only, and that there will be a neutral impact upon the other BSC objectives. Ofgem considered that the first three of the criteria set out above were captured under relevant objective d), whereas the fourth extends beyond the BSC objectives and is suitably considered as part of Ofgem's wider statutory duties.

Regarding this final point and Ofgem's wider statutory duties they stated that whilst the benefits of ELEXON's participation in the gas PAFA tender may not directly be of consideration for the BSC Objectives, Ofgem considers that the existence of additional bidders should improve the extent and quality of the competition for that contract and is therefore consistent with Ofgem's wider statutory duties.

Implementation approach

As this is a document only change, this Modification is proposed for implementation 5 Working Days following determination by the Authority.

ELEXON has confirmed that it can deliver the document change for this Modification Proposal as an ad hoc Release.

3 Proposed Progression

Next steps

ELEXON agrees with the Proposer's recommendation that this Modification Proposal should be sent directly to the Report Phase and hence be subject to the Report Phase Consultation.

The Proposer believes it is likely that the Panel's recommendation to the Authority is self-evident. This is because much of the "ground work" necessary to enable the appropriate provisions to be introduced into the BSC was approved under Modification P330.

Timetable

The table below displays the proposed progression of Modification P365:

Proposed Progression Timetable for P365	
Event	Date
Present Initial Written Assessment to Panel	8 Feb 18
Report Phase Consultation	14 Feb 18 – 27 Feb 18
Present Draft Modification Report to Panel	8 Mar 18
Issue Final Modification Report to Authority	15 Mar 18



What are the Self-Governance Criteria?

A Modification 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.

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4 Likely Impacts

Impact on BSC Parties and Party Agents

Party/Party Agent	Potential Impact
Trading Party	<p>This Modification Proposal will impact the Trading Parties that fund BSC Costs. Trading Parties will initially fund ELEXON's bid costs. In the event that ELEXON is unsuccessful, bid costs will not be repaid to Trading Parties.</p> <p>However, if successful, ELEXON's bid costs will be repaid. Furthermore, securing the REC administrator role will enable certain existing ELEXON overheads to be defrayed, reducing the ongoing charges paid by Trading Parties.</p>

Impact on Transmission Company

None identified.

Impact on BSCCo

Area of ELEXON	Potential Impact
None identified.	

Impact on BSC Systems and processes

BSC System/Process	Potential Impact
None identified.	

Impact on BSC Agent/service provider contractual arrangements

BSC Agent/service provider contract	Potential Impact
None identified.	

Impact on Code

Code Section	Potential Impact
Section C	Redlining amendments as proposed by the solution to this Modification Proposal.
Section X	

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Impact on a Significant Code Review (SCR) or other significant industry change projects

We do not believe this Modification will impact any open SCRs.

The Proposer requests that this Modification be exempt from the Significant Code Review process.

Ofgem was notified that this Modification was to be raised on 19 January 2018 and that it was ELEXON and the Proposer's view that this Modification should be a SCR Exempt Modification Proposal.

Impact on Consumers

ELEXON agrees with the Proposer's view that the solution to this Modification does not have any direct impacts on consumers.

Impact on the Environment

ELEXON does not believe that the solution to this Modification has any direct impacts on the environment.

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5 Recommendations

We invite the Panel to:

- **AGREE** that P365 progresses directly to the Report Phase;
- **AGREE** that P365:
 - **DOES** better facilitate Applicable BSC Objective (d);
- **AGREE** an initial recommendation that P365 should be **approved**;
- **AGREE** an initial Implementation Date of 5 Working Days following determination by the Authority;
- **AGREE** the draft legal text;
- **AGREE** an initial view that P365 should not be treated as a Self-Governance Modification; and
- **NOTE** that ELEXON will issue the P365 draft Modification Report (including the draft BSC legal text) for a 10 Working Day consultation and will present the results to the Panel at its meeting on 8 March 2018.

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Appendix 1: Glossary & References

Acronyms

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

Acronym	
Acronym	Definition
BSC	Balancing and Settlement Code
BSCCo	Balancing and Settlement Code Company
DCUSA	Distribution Connection Use of System Agreement
EMR	Electricity Market Reform
IWA	Initial Written Assessment
MRA	Master Registration Agreement
PAFA	Performance Assurance Framework Administrator
REC	Retail Energy Code
RECAS	REC Administrative Services
RECASCo	REC Administrative Service Company
SCR	Significant Code Review
SPAA	Supply Point Administration Agreement
UNC	Uniform Network Code

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
3	Delivering Faster and More Reliable Switching: proposed new switching arrangements page on the Ofgem website	https://www.ofgem.gov.uk/publications-and-updates/delivering-faster-and-more-reliable-switching-proposed-new-switching-arrangements
4, 5	P330 page on the ELEXON website	https://www.elexon.co.uk/mod-proposal/p330/
5, 6	P284 page of the ELEXON website	https://www.elexon.co.uk/mod-proposal/p284/

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