Assessment Procedure Consultation

P361 'Revised treatment of BSC Charges for Lead Parties of Interconnector BM Units'

P361 seeks to exclude Interconnector Balancing Mechanism (BM) Units from the Main Funding Share and SVA (Production) Funding Share BSC Charges, in order to better facilitate the EU Third Package.

This Assessment Procedure Consultation for P361 closes:

5pm on **Tuesday 15 May 2018**

The Workgroup may not be able to consider late responses.

The P361 Workgroup initially recommends **approval** of P361

This Modification is expected to impact:

- Interconnector Users
- Interconnector Error Administrators
- ELEXON
- Generator
- Supplier
- Non-Physical Trader

ELEXON

Phase

Initial Written Assessment

Definition Procedure

Assessment Procedure

Report Phase

Implementation

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About This Document

The purpose of this P361 Assessment Procedure Consultation is to invite BSC Parties and other interested parties to provide their views on the merits of P361. The P361 Workgroup will then discuss the consultation responses, before making a recommendation to the BSC Panel at its meeting on 14 June 2018 on whether or not to approve P361.

There are three 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 P361 Proposed solution.
- Attachment B contains the legal guidance provided by ELEXON legal counsel, regarding the permitted charges under the Third Energy Package.
- Attachment C contains the external legal advice, as sought by the Workgroup, surrounding further clarification on BSC Charges and alignment with the EU Third Package.
- Attachment D contains supplementary legal advice, from external counsel, which details clarification on given Specified BSC Charges and alignment with the EU Third Package.
- Attachment E contains the Business Requirements for P361.
- Attachment F contains the specific questions on which the Workgroup seeks your views. Please use this form to provide your response to these questions, and to record any further views or comments you wish the Workgroup to consider.

Contact

Harry Parsons

020 7380 4321

harry.parsons@elexon.co.uk

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1 Summary

Why Change?

The current Balancing and Settlement Code (BSC) charging arrangements are not aligned with the EU Third Package. Currently, for the purposes of calculating BSC Charges, Interconnector flows are treated as Production or Consumption and not as part of the Transmission System, as required by the EU Third Package.

BSC Charges derived from BM Unit Credited Energy Volumes are paid for by all BSC Parties having Production and Consumption BMUs with non-zero Metered Volumes, including Interconnector Users.

The application of BSC Charges to cross-border flows creates a differential between those trades that facilitate competition within a national market and pan European trades that facilitate competition across a single European electricity market. Efficient trading between Great Britain (GB) and other Member States is therefore compromised. The Proposer contends that the current arrangements are not aligned with EU law and removal of these given charges would better facilitate the EU Third Package.

"Production" or "Consumption" BM Units

A BM Unit shall be a Production BM Unit where it belongs to a Trading Unit for which the sum of the Relevant Capacities, for all BM Units which belong to that Trading Unit, is positive and greater than zero; and otherwise shall be a Consumption BM Unit.

Solution

P361 seeks to exempt Interconnector BM Units Credit Energy Volumes from the:

- Main Funding Share; and
- SVA (Production) Funding Share.

Please see the P361 business requirements in attachment E and the draft legal text in attachment A for the full proposed solution.

P361 will calculate Parties Net Main Costs and Production-Charging Supplier Volume Allocation (SVA) Costs using the revised Main Funding Share SVA (Production) Funding Share respectively. P361 will also re-calculate Party's Net Main Costs and Production-Charging SVA Costs from the P361 Implementation Date back to the start of the financial year. The re-calculated charges will be billed as one lump sum, with payment due within the normal BSC timescales of 12 working days on receipt of invoice.

What is an Interconnector BM Unit?

For the purposes of the Code, an "Interconnector BM Unit" is a notional BM Unit associated with an Interconnector

Each Party who registers Interconnector BM Units in relation to any Interconnector will be allocated (and registered in respect of) two Interconnector BM Units designated as a Production BM Unit and a Consumption BM Unit respectively.

Impacts & Costs

P361 will directly impact **BSC Parties with a non-zero Funding Share**. Parties with Interconnector BM Units will pay less, whilst those without will pay more.

A full, detailed description of the impacts of P361 can be found in section 4 of this report.

The central implementation costs will be approximately **£41k**. ELEXON's implementation effort totals approximately 21 days, with the associated costs of approximately **£5k**.

Implementation

The recommended Implementation Date for P361 is:

- **22 February 2019** as part of the February 2019 BSC Scheduled Release.

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Recommendation

The majority of the Workgroup initially believes that P361 **would** better facilitate Applicable BSC Objective (e) compared to the current baseline, and so should therefore be **approved**. There is a split view with respect to BSC Objective (c).

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2 Why Change?

Background

What are BSC Charges?

All costs, expenses and other outgoings of BSCCo are referred to as **BSC Costs**. These costs are recovered from BSC Parties. BSC Parties pay a proportion of the BSC Costs every month, known as **BSC Charges**. Section D of the BSC details the BSC Charges and their recovery. Appendix 3 contains a diagram to illustrate the BSC funding arrangements and worked examples.

BSC Costs are recovered under two different approaches:

1. Recover costs on a tariff-style approach, where charges are fixed (subject to periodic reviews) to a per unit price. These charges are known as the **Total Specified BSC Charges**.
2. Recover costs based on a Party's market share.

Tariff-Style Approach (Specified Charges)

Total Specified Charges are made up of:

- Main Specified Charges: Parties pay a monthly fixed amount for various services on a tariff style basis. Examples include a monthly BSC subscription charge and a monthly Balancing Mechanism (BM) Unit charge;
- Supplier Volume Allocation (SVA) Specified Charges: Payable only by Suppliers for each of their SVA Metering Systems (account for half of SVA Costs, which cover the operational aspects of the SVA system. Generators pay the other half via the Production Charging SVA Costs – see below); and
- Further Charges: Any ad-hoc additional services required by any provision of the BSC or a Code Subsidiary Document (CSD), with prior approval from the Panel.

Market Share Approach (Funding Shares)

Funding Shares are calculated using a Party's:

1. energy volumes (MWh)

A Party's BSC Charges are calculated using its **Main Funding Share** and its **SVA (Production) Funding Share**. Both are calculated using a Party's energy volumes.

Generators pay the **Production Charging SVA Costs** based on the SVA (Production) Funding Share, which is calculated using the total Credited Energy Volumes for Production BM Units. These costs account for half of the SVA Costs. Suppliers pay the other half of SVA Costs via the SVA Specified Charges.

All other BSC Costs are recovered from **Net Main Costs** using a Party's Main Funding Share. A Party's Main Funding Share is equivalent to its market share, calculated for each BSC Party using their generation or supply in the last month.

2. proportion of their BSC Charges (£)

BSC Guidance

For more information on BSC Charges and Funding Shares please see the Funding Share guidance document: https://www.elexon.co.uk/guidance-note/funding-shares/

For more information on BSC Interconnector Trading, please see the guidance document: https://www.elexon.co.uk/guidance-note/interconnector-trading/

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A **General Funding Share** is calculated using a Party's share of the total BSC Charges. It calculates a percentage share of the total Net Main Costs, Production Charging SVA Costs, and Specified Charges. The General Funding Share is used in the payment Default process and in calculating an Annual Funding Share. The Annual Funding Share is an average of the General Funding Share, on a rolling 12-month basis. This is used to calculate the Voting Share for Trading Parties.

Occasionally a Party defaults on its payments and leaves its share unpaid. This 'bad debt' or **Default Costs** is reallocated among the other Parties using a **Default Funding Share**. A Default Funding Share is calculated as a proportion of the total defaulted amount for non-defaulting Parties.

Each month a Party must pay its:

- Total Specified Charges;
- Monthly Net Main Costs via the Main Funding Share; and
- Monthly Production Charging SVA Costs via the SVA (Production) Funding Share.

For the financial year 2016/2017, BSC Costs were recovered:

- 79% via Funding Shares;
- 21% via Specified Charges.

What are Interconnected System Operators?

An Interconnected System Operator (ISO) is responsible for the Exports and Imports at an Interconnector Boundary Point, the point at which an Interconnector is connected to a either a Transmission System or a Distribution System. The flows of energy imported or exported by an Interconnector are recorded by the relevant Metering Systems. These volumes are notified to the relevant Interconnector Administrator by the ISO.

Determination of Interconnector Metered Volumes

The BSC[1] defines an Interconnector as the transmission apparatus used to transfer electricity to or from the Great Britain (GB) Total System[2], to or from an electricity network outside of GB operated in another country. BSC Parties wishing to trade energy that is transferred over the Interconnector must register themselves as an Interconnector User. Interconnector Users are always allocated a pair of Interconnector Balancing Mechanism (BM) Units:

- A Production BM Unit for electricity entering the GB Total System; and
- A Consumption BM Unit for electricity being taken off the GB Total System.

For each Settlement Period, a Metered Volume is only ever allocated to either the Production or the Consumption Interconnector BM Unit, as any imports and export are netted and the difference applied to the relevant BM Unit.

Appendix 4 illustrates the allocation of BM Unit Metered Volumes to Interconnector BM Units.

Interconnector Administrators

Each Interconnector will have an Interconnector Administrator and an Interconnector Error Administrator. Each Interconnector User provides the Interconnector Administrator with a copy of its Physical Notification for each Settlement Period by Gate Closure.

[1] Section Annex X-1
[2] The Total System is made up of the Transmission and Distribution Systems that are covered by the BSC

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The Interconnector Administrator will allocate Metered Volumes to each Interconnector User's BM Unit based on the notifications from the Interconnector Users, having regard for the total Active Energy Flow over the Interconnector, as provided by the Interconnected System Operator.

This means that the Metered Volumes are 'deemed volumes' and may not necessarily match the volume provided by the Interconnector. For example, the volumes may be changed to accommodate operational issues such as a failure or a reduction in capacity of the Interconnector.

Interconnector Error Administrators

The Interconnector Administrator will also aggregate all deemed Metered Volumes for a given Settlement Period to give a total volume. The Interconnector Administrator will then compare the total volume of deemed volumes with the actual Metered Volume (the physical flows over the Interconnector), as metered at the point the Interconnector connects to the GB Total System. Any difference between the two will be allocated to the Interconnector Error Administrator.

As with all other Trading Parties, the difference between an Interconnector User's (and Interconnector Error Administrators) Imports or Exports (adjusted for Transmission Losses) and their total Notified Energy Contract Volume represents the Energy Imbalance Volumes. These volumes are multiplied by the System Price to calculate a Parties Trading Charges.

What BSC Costs do Interconnectors pay?

BSC Parties with Interconnector BM Units currently pay all of the BSC Charges detailed above. This includes Specified Costs for things like the number of BM Units, the number of Central Volume Allocation (CVA) Metering Systems, BSC Subscription and charges based on Funding Shares. Typically, the biggest charges calculated using a Funding Share will be the Net Main Costs (72% of total BSC Costs for 2016/2017 for all BSC Parties).

EU Legislation

The European Union (EU) Third Package came into force on 3 September 2009, which supersedes national legislation in member states, including GB. Under the EU Third Package regulation on conditions for access to the network for cross-border exchanges in electricity (EC 714/2009), Interconnectors are treated as a part of the Transmission System.

The EU Third Package also created a regulatory framework to support the development and implementation of European-wide Energy Network Codes and guidelines, which form a legally binding set of common technical and commercial rules and obligations that govern access to and use of the European energy networks.

One of the Electricity Network Codes, the Capacity Allocation and Congestion Management (CACM), came into force on 15 August 2015. The CACM governs the establishment of cross-border EU electricity markets in the day-ahead and intraday timeframes (known as single day ahead and intraday coupling), as well as methods for the calculation of interconnection capacity.

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Amongst other things, CACM requires that nominated NEMOs are designated by the National Regulatory Authority (NRA) in each member state. Ofgem are the NRA in GB and have designated two NEMOs in GB, European Commodity Clearing (ECC) AG (which is a child company of EPEX SPOT SE) and Nord Spot Pool AS. From a BSC perspective NEMOs are classified as Interconnector Users.

What are Physical Notifications?

Physical Notifications are a notification made by a Lead Party for a BM Unit and Settlement Period to the Transmission Company of the expected level of Export or Import for that BM Unit and Settlement Period.

Implicit and Explicit Trading

Interconnector owners offer capacity to Interconnector Users via implicit or explicit auctions in accordance with EU electricity codes and guidelines, including CACM and the Forward Capacity Allocation guideline (Regulation (EU) 2016/1719). Capacity is purchased for a particular direction on the Interconnector. Further, Interconnector Users can trade energy over an Interconnector through implicit and explicit auctions at day ahead or intraday timescales.

Explicit auctions allow participants to purchase the right to utilise capacity on the Interconnector from intraday to long term timescales. Auction participants submit bids in £/MWh for the number of MW they want. Successful bidders pay the auction clearing price and have 'explicit' visibility with the capacity that they have purchased.

Implicit auctions enable available capacity to be indirectly purchased on the intraday markets and day ahead via power exchange auctions. NEMOs operate the power exchanges for cross-border trading. The capacity is made available within the spot price mechanism in the relevant power exchange, rather than to individual users (as in explicit auctions).

The implicit auction methodology is known as 'market coupling'. Successful bidders do not have visibility of who they have traded with or where the traded power originates/is delivered. The implicit trades will be notified by NEMOs to the Interconnector Administrator, who will allocate the volumes to the NEMOs Interconnector BM Units.

It should be noted that NEMOs have no control over the volumes allocated to their BM Units as it varies depending on the capacity available after explicit trading has occurred and the price differential between the interconnected markets. The volumes are an output of an algorithm that they run as a NEMO.

What is the issue?

Under the EU Third Package (Article 2 of Regulation 714/2009) Interconnectors are treated as part of the Transmission System and not as Production or Consumption. As a consequence, in the context of the EU Internal Market in Electricity, interconnector flows should be neither classed as production (generation) nor consumption (demand), but part of the overall transmission infrastructure facilitating the wider market.

For the purposes of calculating BSC Charges, Interconnector BM Units in GB are currently treated as either a Production BM Unit (generation) or Consumption BM Unit (demand), equivalent to being treated the same way as generators or Suppliers. The BSC Charges derived from Credited Energy Volumes are paid for by all BSC Parties having Production and Consumption BMUs with non-zero Metered Volumes, including Interconnector Users.

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The application of BSC Charges to cross-border flows creates a differential between:

- those trades that facilitate competition within a national market; and
- pan European trades that facilitate competition across a single European electricity market.

Efficient trading between GB and other Member States is therefore compromised. This has the effect of reducing the number of occasions where potentially beneficial trades could have taken place and therefore conflicts with the EU Third Package objectives.

Furthermore, the flow of energy across these interconnectors is determined by a central algorithm, which takes into account the local areas order book and the available interconnector capacity between two bidding areas. The results of this calculation will determine the area price and direction of flow across the Interconnector.

The BSC Costs of the GB Interconnectors cannot be included as a factor in the calculations. This means that in market coupling optimisations the shipping paths along Interconnectors connected to GB have add on costs which other European Interconnectors do not normally have.

This is not in line with the goals of the EU Third Package that aims to deliver a well-functioning internal market in electricity e.g. more cross-border trade, so as to achieve efficiency gains, competitive prices, and higher standards of service, and to contribute to security of supply and sustainability.

The Proposer believes that if the current charging arrangements do not change, the liquidity in the market will be reduced because either there will be fewer NEMOs or the BSC Charges will result in prohibitive costs for participating in implicit trading.

Previous similar BSC Modifications

Two previous BSC Modifications have been raised to address a similar issue raised in P361.

P278 'Treatment of Transmission Losses for Interconnector Users' was raised by National Grid to always apply a fixed Transmission Loss Multiplier of 1 to Interconnector BM Units, so that the BSC does not adjust Interconnector BM Unit's Metered Volumes for GB transmission losses. The Proposer argued that, the BSC's allocation of GB transmission losses to Interconnector Users could be seen as charging for those GB transmission losses which occur as a result of hosting cross-border flows and therefore in conflict with the EU Third Package. Ofgem approved P278 on 1 May 2012 and was implemented on 29 November 2012.

The Authority's decision to approve this BSC Modification which removed charges for transmission losses from Interconnector Users was based on the following consideration that the Modification would remove the irregularity of charging Interconnector Users in GB for transmission losses, as this should be dealt with through National Grid's participation in the ITC mechanism. The fact that P278 would remove a barrier to cross-border trade and provide a consistent basis upon which all parties compete in the wider European market, was taken into consideration by the Authority also. Ofgem's view was that it would reduce the risk of cross-border flows being inefficiently impeded at times when price difference is not sufficient to cover the cost of losses, would facilitate price convergence and market integration.

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P285 'Revised treatment of RCRC for Interconnector BM Units' was raised by National Grid to exclude Interconnector BM Units from Residual Cashflow Reallocation Cashflow (RCRC) charges / payments in consequence to Connection Use of System Code (CUSC) Modification Proposal (CMP) 202. CMP202 removed Balancing Service Use of System (BSUoS) charges from Interconnector BM Units as BSUoS charges were perceived as a barrier to cross-border trades across Interconnectors in conflict with the EU Third Package. The P285 Proposer argued there was an anomalous situation where Parties were liable for RCRC charges / payments from the Settlement imbalance process but were not liable for BSUoS charges / payments that include the cost to the System Operator of resolving those imbalances. Ofgem approved P285 on 23 January 2013 and was implemented on 7 June 2013.

The Authority's decision on this BSC Modification which removed Interconnector BM Units from RCRC charges/payments was based on the consideration that P285 would prevent a distortion to cross-border trades and allow trades across Interconnectors to be based on market price differentials. Although RCRC is related to the imbalance arrangements, and imbalance charges are permissible under the Third Package, this Modification was argued to be consistent with the wider European objective of enabling the development of a single internal electricity market. In addition, P285 would remove the potential for RCRC to be perceived as a charge on Interconnector flows when negative and an improper incentive to flow when positive should therefore ensure that trades across Interconnectors are based on price differentials, thereby improving competition within the single EU internal electricity market.

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3 Solution

Proposed solution

P361 proposes to exclude Interconnector BM Units Credited Energy Volumes[3] from the following:

- Main Funding Share; and
- SVA (Production) Funding Share.

The solution requires a change to the SAA-I025 'SAA BSC Section D Charging Data', which is used as an input file into the Funding Share System (FSS), used to calculate BSC Charges. The Settlement Administration Agent (SAA), which produces this file, will be amended to exclude Interconnector Credited Energy Volumes from the file.

P361 does not amend the General Funding Share, Default Funding Share or Annual Funding Share, as any amendments to the Main funding Share or SVA (Production) Funding Share will flow into these other types of Funding Share.

In addition to the impacted BSC Charges being amended from the Implementation Date, the impacted BSC Charges will be re-calculated and re-billed from the Implementation Date back to the start of the financial year. The re-calculated charges will be re-billed as one lump sum.

BSC Legal text for P361 Proposed solution

The proposed redlined changes to the BSC to deliver the P361 Proposed Modification can be found in Attachment A.

Assessment Consultation Question
Do you agree that the draft legal text in Attachment A delivers the intention of the P361 Proposed solution? *Please provide your rationale*.
The Workgroup invites you to give your views using the response form in Attachment F.

Are there any alternative solutions?

An alternative solution was discussed, which would mirror the Proposed Modification except, the Main Funding Share and SVA (Production) Funding Share charges derived from Interconnector BM Unit volumes, would be 'ring-fenced' and billed to the Transmission Company. The rationale behind this solution was that these costs are considered network (Transmission System) access charges.

It was proposed that benefits to consumers could be gained if National Grid recovered these costs from the Inter-Transmission System Operator Compensation (ITC) mechanism. The proposal was dropped as the BSC cannot detail how National Grid should recover these costs and the ITC mechanism would need to be changed. This would require agreement by all member TSOs and the Agency for the Cooperation of Energy Regulators (ACER). The proposal was therefore dropped as it was seen to be unsuitable and not in

[3] Defined in Annex X-1 as QCE_{iaj}

Settlement Administration Agent (SAA)

The Settlement Administration Agent is responsible for calculating payments resulting from trades in both the Balancing Mechanism and Imbalance Settlement processes.

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line with the Proposer's timelines. Further explanation of this rationale can be found in section 6.

Assessment Consultation Question
Do you agree with the Workgroup that there are no other potential Alternative Modifications within the scope of P361 which would better facilitate the Applicable BSC Objectives? *Please provide your rationale and if 'No' please provide full details of your Alternative Modification(s) and your rationale as to why it/they would better facilitate the Applicable BSC Objectives.*
The Workgroup invites you to give your views using the response form in Attachment F.

Self-Governance

The Workgroup considered whether P361 could be progressed as a Self-Governance Modification. A Modification Proposal can be progressed as Self-Governance if:

- The Panel believes that it satisfies the Self-Governance Criteria, and the Authority does not issue a contrary direction; and/or
- The Authority believes that it satisfies the Self-Governance Criteria and issues a notice to that effect.

The Workgroup unanimously believes that this Modification does not meet the Self-Governance Criteria on the basis of criteria (a)i, (a)ii, (a)v and (b). The Workgroup's rationale is detailed in section 6.

Assessment Consultation Question
Do you agree that P361 does not meet the Self-Governance Criteria and so should not be progressed as a Self-Governance Modification? *Please provide your rationale with reference to the Self-Governance Criteria.*
The Workgroup invites you to give your views using the response form in Attachment F.

What is the Self-Governance Criteria?

The Self-Governance route is set out in the Transmission licence and provided for in Section F of the BSC. A Modification Proposal may be considered by the Self-Governance route if, when implemented, it is:

a) unlikely to have a material effect on:

i) Existing or future electricity consumers; and

ii) Competition in generation or supply; and

iii) The operation of the transmission system; and

iv) Security of supply; and

v) Governance of the BSC (including its modification procedures); and

b) unlikely to discriminate against different classes of BSC Parties.

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4 Impacts & Costs

This is the Workgroup's initial view of the impacts directly related to the implementation of Modification P361. We invite participants to detail any impacts that the implementation of the P361 solution would have on their organisation, quantifying where possible the approximate lead time and estimated costs associated with the identified impacts.

Estimated central implementation costs of P361

The estimated implementation costs of P361 are approximately **£46k.** This consists of:

- approximately **£41k** arising from changes to the SAA and to ELEXON's Funding Share System (FSS), as detailed below; and
- approximately **£5k** (21 man days) for ELEXON to implement and test changes to BSC billing processes and systems, along with the associated document changes.

P361 impacts

Impact on BSC Parties and Party Agents	
Party/Party Agent	Impact
BSC Parties with Interconnector BM Units	P361 proposes to reduce BSC Charges for these BSC Parties. No system or process impacts are anticipated.
All other BSC Parties with a non-zero Funding Share	BSC Charges will be increased for these Parties, as the BSC Charges paid by BSC Parties with Interconnector BM Units will be smeared across all other BSC Parties. No system impacts are anticipated for BSC Parties. It's important to note that, should P361 be approved, BSC Charges will additionally be re-calculated and re-billed from the start of the financial year (1 April) to the P361 Implementation Date as one-lump sum. P361 is targeting the February 2019 release.

Impact on Transmission Company
No impact has been identified but we aim to seek confirmation through the Transmission Company Impact Assessment.

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Impact on BSCCo	
Area of ELEXON	Impact
Finance	Changes will be required to BSC billing processes and systems. ELEXON will need to update its guidance document on Funding Shares and the BSC Section D Simple Guide. Support development and running of user acceptance testing (UAT)/operational acceptance testing (OAT) Test Scripts
Market Analysis	Minor update to the Funding Share Guidance Note
IT	Deploy changes to FSS and support UAT/OAT
Configuration Management	ELEXON will need to implement this Modification Proposal.

Impact on BSC Systems and process	
BSC System/Process	Impact
SAA	Changes will be required to this system; the SAA-I025 file will be modified to exclude Interconnector volumes.
FSS	Changes will be required to this system

Impact on Code	
Code Section	Impact
Section D	Changes to the BSC Charges calculations will be required.

Impact on Code Subsidiary Documents	
CSD	Impact
Settlement Administration Agent User Requirements Specification	Changes to 'F008: Calculate Credited Energy Volumes to reflect changes to BSC'

Impact on Core Industry Documents and other documents	
Document	Impact
Ancillary Services Agreements	None anticipated
Connection and Use of System Code	
Data Transfer Services Agreement	

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Impact on Core Industry Documents and other documents	
Document	Impact
Distribution Code	
Distribution Connection and Use of System Agreement	
Grid Code	
Master Registration Agreement	
Supplemental Agreements	
System Operator-Transmission Owner Code	None anticipated
Transmission Licence	
Use of Interconnector Agreement	

Impact on a Significant Code Review (SCR) or other significant industry change projects
Ofgem confirmed on 8 November 2017 that P361 is SCR Exempt.

Impact on Consumers
The costs arising from exempting Interconnector BM Units from given BSC Charges will have to be picked up amongst other BSC Parties and could therefore be indirectly passed to customers.

Impact on the Environment
No direct impact identified.

Further impacts

The amendment of the Main Funding Share and the SVA (Production) Funding Shares for Interconnector BM Units will have a subsequent effect on both the Voting Share and any other funds, the amounts of which are determined by a Party's overall Funding Share.

Assessment Consultation Question
Will P361 impact your organisation? *If 'Yes', please provide a description of the impact(s) and any activities which you will need to undertake between the Authority's approval of P361 and the P361 Implementation Date (including any necessary changes to your systems, documents and processes).*
The Workgroup invites you to give your views using the response form in Attachment F.

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Assessment Consultation Question
Will your organisation incur any costs in implementing P361? *If 'Yes', please provide details of these costs, how they arise, an indication of magnitude, and whether they are one-off or on-going costs.*
The Workgroup invites you to give your views using the response form in Attachment F.

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5 Implementation

Recommended Implementation Date

The Workgroup recommends an Implementation Date for P361 Proposed Modification and Alternative Modification of:

- **22 February 2019** as part of the February 2019 BSC Release.

The Proposer contends that the implementation of the Proposed Modification should be achieved as quickly as possible to minimise the impact on Interconnector Users, particularly NEMOs, and ensure compliance with the EU Third Package.

The Workgroup's discussions regarding the proposed Implementation Date can be found in Section 6.

Assessment Consultation Question
Do you agree with the Workgroup's recommended Implementation Date? *If 'No', please provide your rationale.*
The Workgroup invites you to give your views using the response form in Attachment F

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EU Law

Electricity Regulation (No 714/2009) of the European Parliament and of the Council of 13 July 2009 details conditions for access to the network for cross-border exchanges in electricity. This Regulation aims at laying a framework for cross-border exchanges in electricity with a view to improving competition and harmonisation in the internal market for electricity. This was a starting point for the Workgroup, as a key component of Modification P361 was assessing and gauging compliance of the BSC Charging methodology, in relation to current EU legislation.

EU Third Package

The Workgroup initially covered views on the Modification in relation to compliance with EU law. The Workgroup discussed the BSC cost recovery mechanism and the view that ELEXON's cost recovery does not have anything to do with the physical flows of electrons through Interconnectors and was thus not related to network access or to the treatment of interconnectors, under the EU Third Package, as part of a Transmission System. A member argued that the cost recovery mechanism was a way of apportioning costs and noted that ELEXON could equally have chosen to recover its costs using a flat fee. However, it was seen to be more cost reflective to charge Parties based on market share (Funding Share).

ELEXON confirmed there was sufficient uncertainty to seek external legal advice in order to clarify the EU Third Package legislation. The Workgroup initially heard ELEXON legal guidance, and subsequently heard external legal guidance.

The two legal views, explored below, broadly agreed. The Majority of the Workgroup agreed with the legal views, that the removal of Interconnector BM Units from BSC Charges would better facilitate the EU Third Package. The minority disagreed. They maintained that BSC Charges are a way for ELEXON to recover its costs and are not a charge to access the Transmission Network.

ELEXON guidance

The Workgroup believed it was important to understand how EU legislation should be interpreted and applied. They believed the legislation was open to interpretation. The Workgroup therefore decided to seek legal guidance following the first Workgroup meeting (8 January 2018).

The legal guidance was produced by ELEXON's legal counsel. It was provided to the Workgroup at its second meeting (12 February 2018) and can be found in attachment C. The guidance took note of previous Ofgem decisions, as detailed in section 2, in particular Ofgem's decision to approve CMP202. This Modification sought to exclude BSUoS charges from lead parties of interconnectors BM Units, as BSUoS charges were perceived as a barrier to cross-border trades across Interconnectors in conflict with the EU Third Package

In an attempt to interpret the legislation in line with previous Ofgem views, the Workgroup briefly focussed on GB ECM-26 'Review of interconnector charging arrangements'. It was noted that Ofgem had taken differing views on TNUoS, BNUoS and Section D charges; therefore, these views were not consistent enough to attempt to interpret the legislation on the basis of previous charges.

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The guidance concluded that there was a significant risk that BSC Charges were contrary to EU law on the basis of the close relationship between BSC Charges and flows of energy to and from the network and across borders. However, the extent of the risk was dependent upon the Workgroup's assessment of the extent to which current charging methodology risks distorting cross border trade.

Regarding this question, some Workgroup members took a viewpoint that BSC Charges charge should not be seen as a network access charge or distortion to cross border trade as it is simply a cost relating to utilising the system. It was argued that the associated costs for utilisation of a system, paid for by all trading Parties were a key aspect of the GB trading arrangements. Conversely, the Proposer contended, and members of the Workgroup acknowledged, that given BSC Charges were a barrier to entry for Interconnector Users and should be seen as a network charge. This was on the basis that these charges are a required prerequisite to trading and removal of these costs for Interconnector Users would better facilitate efficient cross border trade.

The Workgroup welcomed the ELEXON legal guidance but believed, given the importance of the guidance and the opaqueness of the EU legislation, a second opinion was needed. The Workgroup agreed that there was sufficient uncertainty in interpreting the BSC Charging arrangements with regard to EU legislation, to warrant seeking external legal advice. The Workgroup therefore agreed to seek external legal advice, which can be found in attachment D.

External advice

The external legal counsel's overarching advice was that BSC Charges could be seen as charges for network access within the meaning of the Electricity Regulation and compliance with the EU Third Package would therefore be better facilitated by exempting Interconnector BM Units from BSC Charges. They acknowledged, however, that this was not a definitive view.

In addition, following the conclusion that BSC Charges are network access charges within the meaning of the Electricity Regulation, charging Interconnector Users on the basis of fixed tariffs (rather than on the basis of metered volumes) will not make BSC Charges better aligned with the Third Package.

When commenting on possible methods of cost recovery, their view was that the viability of using the Inter-Transmission System Operator Compensation (ITC) Mechanism as a vehicle for recovering Interconnector BM Unit BSC Charges is unclear and would need to be investigated.

The Workgroup were led through a page-turn of the legal advice document by the external counsel at the Workgroup meeting on 13 March 2018, in which the Workgroup provided comments on the advice. A member noted that the Electricity Regulation does not refer to balancing charges but instead references 'access charges'. It was argued that balancing charges should not be deemed as access charges and as such should not be treated the same. Therefore, excluding interconnector BM Units from balancing charges should not be in scope.

A Workgroup member stated that the view could be taken that as the BSC was established through the Transmission License, Parties have no choice to sign up to the BSC in order to participate in the market and access the network. If this viewpoint is taken then all BSC Charges would be classed as network charges and not aligned with EU legislation.

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The Workgroup agreed that while there was not unanimous agreement for the view taken by the external legal counsel, it provided enough direction to move forward.

Article 77

A Workgroup member believed that Article 77, of regulation 2015/1222 'establishing a guideline on capacity allocation and congestion management', may allow BSC charges to be recovered where they are fair and reasonable. However, ELEXON legal counsel (advice detailed below) did not believe this was relevant; the Workgroup were content with this, as this Article refers to the costs of central counter parties and shipping agents, neither of which is a role that ELEXON performs under CACM.

Other members states

The Workgroup discussed how other EU Member States recover their equivalent of BSC Charges. There are other Member States that have 'Third Party Market Operators' who conduct imbalance and settlement calculations. However, TSOs conduct these functions in the majority of the Member States. For the majority of Member States, equivalent BSC Charges will be wrapped up in transmission infrastructure costs.

ELEXON was able to confirm with three other non-TSO market operators that:

- 2 do recover costs from Interconnectors using flows/trades; and
- 1 recovers costs based on the number of delivery points (previously based on MWh).

ELEXON is therefore not unique within the EU. It was confirmed that the operator who moved to a fixed (number of delivery points) method did so for political reasons.

The Workgroup considered whether any differences between how Member States recover comparable costs impact the P361 issues.

A member believed that if other non-TSO Member States were using an equivalent method as GB; recovering costs using a comparable market share approach there cannot be a distortion, and this supports the case for continuing to charge in this way.

Another member believed that the arrangements in other Member States were not relevant because it was a necessity for the BSC arrangements to comply with EU law regardless of whether other Member States were compliant.

The Workgroup agreed that compliance issues for other Member States was something that should be of interest to Ofgem, as the NRA, as it could be putting GB consumers at a disadvantage. It was not an issue for the P361 Workgroup to resolve.

Views on the issue

The Proposer maintains that using BM Unit volumes as the method of recovering BSC Charges is posing a barrier to cross-border trading, and at best creates a distortion. NEMOs cannot control the volumes assigned to its Interconnector BM Units, as they are allocated based on the outcome of an algorithm used for implicit trades on power exchanges. The Proposer maintains that it is not possible to forecast these flows as they are outside the control of the NEMO. Moreover, the volumes are volatile and consequently result in volatile BSC Charges. The NEMO is exposed to the full costs of the BSC Charges.

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The NEMO has no way to recover these costs as they do not know which Parties have made the trades that make up its BM Unit Metered Volumes. Currently this is an additional charge that NEMOS in GB are paying in order to comply with the market coupling arrangements.

The NEMO will know who is buying and selling power, but any interconnector trades arising from the auction aren't associated with a particular user.

For example, suppose that (in the day ahead auction) GB Suppliers buy 600 MWh of energy, 400MWh of it from GB generators, and 200 MWh of it from overseas generators. It is not clear where the costs of the 200 MWh interconnector trade should be recovered from. If it is shared out between all the Suppliers, this imposes the principle that Suppliers have to pay an additional fee (above the auction clearing price) as a result of foreign generators participating in the auction. The Proposer believes this is inconsistent with the idea of a single market and acts as a barrier to cross-border trading.

The Proposer has tried to find other ways to recover these costs but has not been able to find a mechanism to do so. As a result, P361 has been raised. The Proposer believes the costs incurred from BSC Charges are too high to pass on in members fees.

It was discussed how the Transmission Company would potentially treat BSC Costs if they operated the BSC and not ELEXON. It was suggested that they would be treated as part of their general operating costs and so equivalent BSC costs would not be passed onto Interconnector Users.

The Proposer maintains the current distortion is being passed onto NEMOs who are absorbing the costs. If NEMOs passed BSC Charges costs to members, it would impact competition in the market by driving the market away from market coupling arrangements. It could also force NEMOS to cease the shipper role, which would further harm competition.

Around 11 new interconnectors are expected to be commissioned, displayed in the table below, from the period of 2019-2022 and as such, the P361 issues will be exacerbated in the future.

Interconnector	Connecting Country	Capacity (MW)	Proposed commissioning date
Nemo Link	Belgium	1000	2019
ElecLink	France	1000	2019
NSL	Norway	1400	2020
IFA2	France	1000	2020
Greenlink	Ireland	500	2021
Viking Link	Denmark	1400	2022
FABLink	France	1400	2022
NeuConnect	Germany	1400	2022
NorthConnect	Norway	1400	2022
Gridlink	France	1400	2022
Aquind	France	2000	2022

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Development of Proposed solution

The Workgroup believed the legal guidance provided a basis on which to move forward and discussed which BSC Charges should be included and excluded.

Fixed charges

The Workgroup discussed amending the BSC Charges so that they did not charge Parties with Interconnectors BM Units based on volumes of energy, but instead charged a fixed amount.

The Proposer does not support any method that will use Interconnector BM Units Metered Volumes. He believes such an approach would be unfair and distort competition as NEMOs do not have any control over these flows. The Proposer was open to paying 'local charges,' such as a fixed charge. However, charges related to cross-border flows, which the Funding Share charges currently use, was problematic for the reasons detailed above.

The External legal advice was of the view that fixed fees would not make the BSC Charges better aligned with EU law. The Proposer and the Workgroup discounted moving to a fixed fee approach.

Network or service charge

A key component of the Workgroup's discussions covered the network or service charge question. The Workgroup believed this question was the driver behind which BSC charges should exclude Interconnector BM Units. In this context, a network charge is an inherent barrier to cross-border trading, with a service charge merely being the cost of procuring a service from BSCCo.

A Workgroup member pointed out that Ofgem in its capacity as the NRA, approved a charging methodology for existing Interconnectors and the Workgroup wondered if this could be an alternative way for NEMOs to recover BSC Charges. Specifically the methodology relating to the IFA Interconnector was examined, which sets out the terms under which commercial access to IFA is made available. However, it was deemed that it is aimed at the participants' relationship with the TSO and not a third party such as a NEMO.

It was argued that all BSC charges are network charges, on the basis that BSC Charges are permitted by the BSC, which has been established to satisfy the Transmission Companies Transmission Licence. Nevertheless, this still did not reconcile with the fact that BSC Charges have not been identified in the network charging methodologies.

Conversely Workgroup members posed that BSC Charges are a fee for participating in the market and as the BSC is concerned with imbalance and settlement, these charges should be viewed as service charges. The alternative would be to settle bilaterally, which would not be cost effective or efficient.

The majority of Workgroup members concluded that some BSC Charges could be considered a network charge and some could not.

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Which BSC Charges should be excluded from Interconnector BM Units?

Originally, the Proposer was seeking to remove Interconnector BM Units' Credit Energy Volumes from the BSC Charges calculations (i.e. to remove Funding Share charges). The scope of which BSC Charges are in scope was the topic of contention with the Workgroup and the Proposer.

A Workgroup member noted the external legal guidance made reference to BSC Charges on Interconnector BM Units as a whole, which would cover Funding Shares, along with certain Specified Charges, shown in the table below. This position was contrary to what some members viewed as the charges that should be exempt for Interconnector BM Units; these members believed that only the Funding Shares should be exempt, due to their much higher fiscal material impact and their association with Credited Energy Volumes. The rationale behind this was once again linked to the Third Package, whereby an interconnector should be treated as Transmission infrastructure; rather than Production BM Units and Consumption BM Units. Utilising this reasoning, the same members believed Specified Charges should be treated as a service charge and should be left out of scope. However, as there was not a unanimous Workgroup viewpoint surrounding the compliance of the various BSC Charges, the external legal counsel was instructed to provide further clarification.

Supplementary legal advice

ELEXON sought further external legal advice to provide clarity on the extent to which individual Specified BSC Charges were contrary to the Third Package.

The Workgroup discussed this advice in the meeting on 18 April 2018, with a member noting that aspects of the supplementary advice appeared to contradict the initial advice given by the external counsel. In particular, the member queried the rationale for the distinction drawn between Base Monthly Charges (which would not be contrary to the EU Third Package) and other charges. Some members also queried the basis for treating certain other Specified BSC Charges as contrary to the Third Package, noting that the rationale provided could equally be applied to power exchange charges which were not contrary to the Third Package. Workgroup members agreed that, notwithstanding the supplementary advice, the position on Specified BSC Charges was not clear.

The conclusions drawn by the external legal counsel on the alignment of the Specific BSC Charges can be found in attachment D and outlined in the table below. The table also details the scope of the Proposed Modification, in terms of the charges to be excluded from Interconnector BM Units.

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BSC Charge		Network or service charge? (As determined by the external legal counsel)	In scope of Proposed solution?
Main Funding Share	Funding Shares	Network	**Yes**
SVA (Production) Funding Share		Network	**Yes**
CVA Metering System Monthly Charge	Specified Charges	Service	No
CVA BM Unit Monthly Charge		Network	No
Notified Volume Charge		Network	No
TIBCO Software Support Charge and TIBCO Set-up Charge		Service	No
Dataline Monthly Charge		Service	No
Base Monthly Charge		Service	No

Following this additional external legal guidance, the Proposer contemplated including the given Specified Charges, seen above, in the Proposed Modification. However, due to the additional lead times (19 week overall lead time) required to perform the associated system changes, as reported in a service provider impact assessment, it was decided to leave them out of scope and allow an additional Modification to be raised in the future if a Party chooses to do so. In addition, the Funding Shares hold a much higher material impact on Parties with Interconnector BM Units. The rationale behind the aim to achieve the quickest possible implementation of the Modification is to minimise the impact on Interconnector Users, particularly NEMOs and importantly ensuring compliance with the EU Third Package.

Regarding the potential scale of the exclusion of the charges given above:

- Around **5%** of the total Funding Shares (Main and SVA Production) belong to Interconnector BM Units; and
- in 16/17 this approximately equals **£1,323,181.**

If the 2016/17 financial year was re-run, we would therefore expect approximately £1,323,1181 to be re-distributed across any BSC Party with a non-zero Funding Share. It should be noted that we foresee that this figure will increase in the coming years as more interconnectors are commissioned and utilised. The impact on BSC Parties can be seen in the graph, on the following page.

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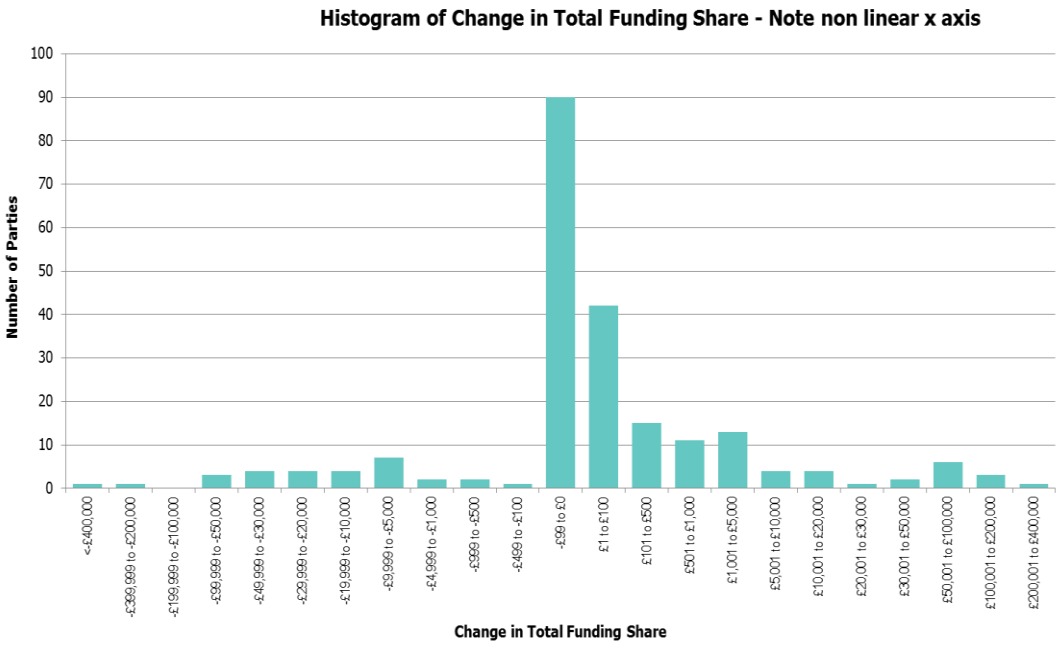

It can be seen that the majority of Parties would face a relatively low impact but looking towards the right-hand side of the graph it should be noted that some Parties would experience significant financial impact. This analysis was noted by the Workgroup and it was suggested that due to the retrospective element of the solution; that the re-calculated charges will be re-billed as one lump sum, that Parties should be made aware in advance of the potential financial impact this Modification could have.

Following the discussions surrounding the impacts of removing the Funding Shares from Interconnector BM Units, the Workgroup discussed the findings of the supplementary legal advice. The Workgroup acknowledged the viewpoint taken by the external legal counsel, and provided comments on the supplementary legal advice, which can be found in attachment D, relating to the categorisation (service or network charge) that had been the view assigned by the legal counsel. These views are outlined below.

Specified BSC Charge	Workgroup's comments
CVA Metering System Monthly Charge	The Workgroup noted the external legal guidance broadly agreed with their perspective that it is not a cost associated with "hosting cross-border flows of electricity" and that this cost is payable in respect to all CVA Metering Systems and not just those associated with interconnectors.
CVA BM Unit Monthly Charge	Certain Workgroup members believed that this was a charge associated with partaking in market trading and thus should be paid by every participant. On this point they disagreed with the external legal advice. It was also debated in favour of the external legal standpoint; that as an interconnector should be treated as Transmission infrastructure; this charge could be seen as a network access charge for Interconnector Users, as it is associated with Production BM Units and Consumption BM Units.
Notified Volume Charge	Some Workgroup members took a different viewpoint to that of the legal advice and believed that this charge should not be seen as a network access charge as it is simply a cost relating to utilising the system. It was argued that the associated costs for utilisation of a system, paid for by all trading Parties were a key aspect of the GB trading arrangements. Conversely, it was reasoned that as this charge should be deemed a network charge as it based on energy volumes, similar to Funding Shares, along with the fact that Trading Parties cannot use the system without paying this charge.

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Base Monthly Charge	Several members noted that this was a fee associated with being a BSC Party, with no requirement to actually trade; describing it as more as a 'club fee', rather than a cost associated with trading. In contrast, it was argued that in order to trade a Party must pay this charge, thus being a barrier to trade.
TIBCO Software Support Charge and TIBCO Set-up Charge	These were broadly seen as optional service charges, as other methods could be used whereby Parties did not incur a fee. The Workgroup took a similar viewpoint to the external counsel on these charges.
Dataline Monthly Charge	

Are there any alternative solutions?

A Workgroup member suggested that by passing the BSC Charges onto non-Interconnector Parties, you are effectively asking for Parties who may not use Interconnectors to pay for them. Following this an Alternative solution was discussed, which mirrored the Proposed solution in terms of the charges being exempt but differed in relation to how the exempt charges would be recovered. Instead of spreading these costs amongst BSC Parties, these costs would be 'ring-fenced' and billed to the Transmission Company.

In order to pass these costs on to the Transmission Company and to exclude Interconnector BM Units Credited Energy Volumes from Party totals; it was proposed to potentially attribute the summed Interconnector volumes (for all BSC Parties, by Production and Consumption), to the Transmission Company.

The logic behind this potential alternative solution was that if these BSC Charges are deemed as network charges and not aligned with EU Third Package, they should by definition, be able to be recovered by the ITC Mechanism. It was noted by the Workgroup that although the ITC does not refer to BSC Charges specifically, that doesn't preclude them from being a cross-border flow charge. As ELEXON has no vehicle to recover these costs through the ITC mechanism, the Transmission Company, as Electricity System Operator (ESO), should hold this responsibility and utilise this ITC mechanism.

ITC Mechanism

National Grid (NG) provided an update on the ITC mechanism and its potential to be utilised for recovery of the costs discussed. While NG acknowledged that the BSC could not direct NG ESO in how it should recover any BSC Charges passed onto it, they felt it was important that the workgroup considered the implications of any cost recovery assumptions. The ITC mechanism is defined by the Commission Regulation (EU) 838/2010. The ITC mechanism provides compensation for:

1. the costs of losses incurred by national transmission systems as a result of hosting cross-border flows of electricity; and
2. the costs of making infrastructure available to host cross-border flows of electricity.

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In summary, the Transmission System Operators (TSOs) that host flows are compensated, and the compensation is funded by the TSOs who cause the flows. Imports to, and exports from the GB system are considered to cause flows on other systems; as GB is an overall importer, the net result is that GB is a contributor to the ITC mechanism. The ITC payment by GB is approximately the net of the costs that GB imposes on other Transmission Systems and the cost imposed on GB for hosting transits. GB's net contribution to the ITC is funded via Transmission Network Use of System (TNUoS) charges.

It appeared to both the Workgroup and NG that point (2) above was what the BSC Charges would potentially fall under. The annual EU cross-border infrastructure sum is set at €100m until determined otherwise by the European Commission. A transit factor and load factor are then calculated to apportion the above sum to each ITC party. The overall ITC methodology is covered in more detail in the annual monitoring report by the Agency for the Cooperation of Energy Regulators (ACER) (2016 report).

What is the process through which the ITC Mechanism can be changed?

The European Network of Transmission System Operators for Electricity (ENTSO-E) operates the ITC Mechanism through the ITC agreement, which contractually sets out ENTSO-E's and the ITC parties duties and entitlements. National Grid commented that a change to the ITC methodology would therefore require an amendment to this agreement and required the approval of all TSOs and ultimately ACER.

Workgroup's Conclusions

The Workgroup discussed the viability of a change to the ITC mechanism, with the consistency across all ITC parties a key consideration for any change proposed. The Workgroup felt that there posed a degree of uncertainty around this solution option, to 'ring-fence' and bill the Transmission Company with the costs associated with the exclusion of given BSC Charges from Interconnector BM Units; as it was not clear whether this would have any potential benefit to GB consumers. It was on this basis that the Workgroup decided not to formally raise this solution option as an alternative solution; however, it brought to light several questions to be explored in an avenue outside of Modification P361.

Further Comments

Following the discussions surrounding the ITC mechanism, the Workgroup decided it would be beneficial to explore the charging arrangements that other TSOs employ, paying particular consideration to those member states that have arrangements similar to GB i.e. with an independent market operator, such as ELEXON. This question would broadly address how other European TSOs are dealing with these costs; if they are absorbing them into organisational operational costs or if they are being passed to consumers. This question would also correspond to the EU Third Package; gauging what level of alignment other European TSOs have with it and following the external legal advice sought for this Modification, a wider assessment of the GB methodology and its potential non-alignment with EU legislation. It was noted that these questions are out of scope of P361 and should be posed outside of the P361 so as not to delay the overall Modification process.

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Urgency

The Proposer requested P361 be treated as an Urgent Modification Proposal on 31 January 2018. The Proposer commented if the issue was not resolved they would likely withdraw their shipper role. The request was taken to the Panel on 8 February 2018, who unanimously recommended to Ofgem that P361 be treated as an Urgent Modification Proposal. However, Ofgem rejected the Proposer's request to treat P361 as an Urgent Modification Proposal on 22 February 2018.

Ofgem acknowledged the fact that although the matter may be considered important by the Proposer, this does not equate to a need to progress a Modification proposal on an urgent basis. Though the Proposer argued that this issue is potentially having a significant commercial impact, Ofgem believed an inadequate case was demonstrated for why the issue must be urgently addressed. Ofgem felt as the Proposer or BSC Panel did not proposed an urgent timetable; it follows that granting the urgency request would have no practical effect.

Retrospection

In order to minimise the financial impact, the Proposer discussed a retrospective solution with both ELEXON and the workgroup. The key dates surrounding the notices that have been issued regarding retrospection are displayed in the table below.

Date	Comment
9 November 2017	The Initial Written Assessment was presented to the Panel on 9 November 2017 and this detailed the Proposer's consideration to seek a retrospective solution, following Workgroup discussions.
2 January 2018	ELEXON published notice that the Proposer was seeking recovery of BSC Charges, retrospectively from 31 October 2018, the date P361 was raised. The issue notice covered what the potential financial impacts could be on BSC Parties, should a retrospective solution be approved.
12 April 2018	ELEXON published a revised notice to industry, informing Parties of the Proposed solution, to re-calculate and re-billed from the Implementation Date back to the start of the financial year and any associated financial impacts this may have.

It should be noted that any P361 solution, including one with no retrospection still requires the impacted BSC Charges to be re-calculated back to the start of the financial year, due to the nature of the Section D calculations. The Proposer is therefore now seeking recovery of costs from within a financial year to expedite implementation and minimise implementation costs. This option was selected by the Proposer following impact assessments of a spectrum of solutions, entailing different degrees of complexity and system changes.

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Self-Governance Criteria

The Workgroup unanimously believes that this Modification does not meet the Self-Governance Criteria on the basis of criteria (a)i, (a)ii, a)v and (b), with their rationale as follows:

- **(a)i**: The Workgroup believed that due to the fact that if these charges were exempt from Interconnector BM Units and the associated costs spread amongst BSC Parties; these costs could potentially be reflected back onto the consumer.
- **(a)ii**: The Proposer believed the Modification will promote competition by lowering the barrier to Interconnector Users to enter the UK market. Conversely, some members felt that there was no clear impact on competition, although there may be increased competition between NEMOSs.
- **(a)v**: The Modification is proposing a change to Section D, which sets out how the BSC administers its charging arrangements, this could be deemed as an alteration of the Code's governance procedures.
- **(b)**: The Proposed Modification is potentially discriminating against other classes of Parties e.g. Generators and Suppliers, as charges excluded from Interconnector BM Units would be picked up by these parties.

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7 Workgroup's Initial Conclusions.

Workgroup's initial recommendation

At this stage, the **majority** of the Workgroup believes that P361 **would** overall better facilitate the Applicable BSC Objectives and so should be **approved**.

Members' views against each of the Applicable BSC Objectives are summarised below

Applicable BSC Objective (a)

At this stage, the Proposer and all Workgroup members believe that P361 is neutral against Applicable BSC Objective (a).

Applicable BSC Objective (b)

At this stage, the Proposer and all Workgroup members believe that P361 is neutral against Applicable BSC Objective (b).

Applicable BSC Objective (c)

The Proposer and one other Workgroup member believe that removing Interconnector BM Units from the BSC Charging methodologies will promote competition by lowering the barrier to Interconnector Users to enter the UK market and facilitating cross border trade. In addition, the removal of the proposed charges will mean that no unforeseen and potentially volatile BSC Costs for shipping flows will need to be managed and accounted for.

In contrast two members hold the view that passing the associated costs on to BSC Parties and thus ultimately consumers, is detrimental and BSC Charges should not be deemed as a network charge or barrier to entry. As such, removing these charges would realise no additional competition benefits.

Two Workgroup members voted neutral against this objective as they agree with the benefits outlined by Proposer above but feel this is balanced out with the charges being levied against other Parties.

Applicable BSC Objective (d)

At this stage, the Proposer and all Workgroup members believe that P361 is neutral against Applicable BSC Objective (d).

The Proposer originally believed that P361 would better facilitate this objective, as detailed in the Initial Written Assessment but later switched to a neutral stance, following Workgroup discussion and a reinterpretation of the objective.

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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Applicable BSC Objective (e)

The Proposer and the **majority** of the Workgroup believe that treating interconnector flows as part of the overall Transmission infrastructure instead of Production or Consumption and thus removing the Main Funding Share and SVA (Production) Share from Interconnector BM Units will better align with the goals of the EU Third Package. They agree with the views presented by the external legal counsel in the attached document.

In comparison, two members were of the opinion that if GB is not currently abiding by the EU Third Package, in terms of charging methodology, there should be further analysis done at a European level to determine how other TSOs are dealing with these associated costs, so that a standard across Europe can be set. They also believed that BSC Charges are not a network charge, rather they are a service charge. They did not agree with the views of the legal counsels.

Applicable BSC Objective (f)

At this stage, the Proposer and all Workgroup members believe that P361 is neutral against Applicable BSC Objective (f).

Applicable BSC Objective (g)

At this stage, the Proposer and all Workgroup members believe that P361 is neutral against Applicable BSC Objective (g).

Does P361 better facilitate the Applicable BSC Objectives?		
Obj	Proposer's Views	Other Workgroup Members' Views[4]
(a)	• **Neutral** – no impact.	• **Neutral (unanimous)** – no impact.
(b)	• **Neutral** – no impact.	• **Neutral (unanimous)** – no impact.
(c)	• **Yes** – Modification will promote competition by lowering the barrier to Interconnector Users to enter the UK market and facilitating cross border trade.	• **Yes** – agree with Proposer. • **No** – BSC Charges are not deemed as a barrier to entry and removing would realise no additional competition benefit. It is detrimental that costs potentially passed on to consumers. • **Neutral** – agree with benefits outlined by Proposer but balanced out with the charges being levied against other Parties.
(d)	• **Neutral** – no impact.	• **Neutral (unanimous)** – no impact.
(e)	• **Yes** – the EU Third Package would be better facilitated with the removal of the charges in scope of the Proposed Modification solution.	• **Yes (majority)** – agree with Proposer. • **Neutral** – BSC Charges should not be deemed as network charges. Further analysis on comparative EU TSO

[4] Shows the different views expressed by the other Workgroup members – not all members necessarily agree with all of these views.

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Does P361 better facilitate the Applicable BSC Objectives?		
Obj	Proposer's Views	Other Workgroup Members' Views[4]
		arrangements required.
(f)	• **Neutral** – no impact.	• **Neutral (unanimous)** – no impact.
(g)	• **Neutral** – no impact.	• **Neutral (unanimous)** – no impact.

Assessment Consultation Question
Do you agree with the Workgroup's initial majority view that P361 does better facilitate the Applicable BSC Objectives than the current baseline, and so should be approved? *Please provide your rationale*.
The Workgroup invites you to give your views using the response form in Attachment F.

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Appendix 1: Workgroup Details

Workgroup's Terms of Reference

Specific areas set by the BSC Panel in the P361 Terms of Reference
For any calculations of BSC Charges that that use energy volumes or Funding Shares, how should Interconnector BM Units be treated?
What BSC Charges should Parties with Interconnector BM Units pay in order to be consistent with the EU Third Package?
What impact will removing Interconnector BM Units from the Funding Share calculations have and is this appropriate? For example, impact on a Party's voting rights under the BSC.
How should Interconnector Users not subject to the CACM (i.e. non-EU countries) be treated?
How should Interconnector BM Units be excluded from BSC Charges?
What changes are needed to BSC documents, systems and processes to support P361 and what are the related costs and lead times?
What is the best way to exclude Interconnector BM Units from BSC Charges?
Are there any Alternative Modifications?
Should P361 be progressed as a Self-Governance Modification?
Does P361 better facilitate the Applicable BSC Objectives than the current baseline?

Assessment Procedure timetable

P361 Assessment Timetable	
Event	Date
Panel submits P361 to Assessment Procedure	9 Nov 17
Workgroup Meeting 1	8 Jan 18
Workgroup Meeting 2	12 Feb 18
Workgroup Meeting 3	13 Mar 18
Workgroup Meeting 4	18 Apr 18
Industry Impact Assessment	26 Apr – 15 May 18
Assessment Procedure Consultation	26 Apr – 15 May 18
Workgroup Meeting 5	24 May 18
Panel considers Workgroup's Assessment Report	14 Jun 18

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Workgroup membership and attendance

P361 Workgroup Attendance					
Name	Organisation	8 Jan 18	12 Feb 18	13 Mar 18	18 Apr 18
Members					
Jemma Williams	ELEXON *(Chair)*	✓	✓	✓	✗
Lawrence Jones	ELEXON *(Chair)*	✗	✗	✗	✓
	ELEXON *(Lead Analyst)*	✓	✓	✗	✗
Harry Parsons	ELEXON *(Lead Analyst)*	✗	✗	✓	✓
Richard Sarti	Nord Spot Pool AS *(Proposer)*	✓	✓	✓	☎
Andy Colley	SSE	✓	☎	✓	☎
Michael Carrington	EIRGRID	✗	✗	✗	✗
Alex Roberts	ElecLink Limited	✓	✓	✓	✓
Mark Thomas	RWE Supply & Trading GmbH	✓	✓	✓	✓
Damian Hudson	BritNed Development Limited	✓	✓	✓	☎
Phil Russel	Independent	✗	✗	✗	✗
Eric Reuter	European Commodity Clearing AG	✓	☎	✗	☎
Attendees					
Jeremy Caplin	ELEXON *(Design Authority)*	✓	✓	✓	✓
Nicholas Brown	ELEXON *(Lead Lawyer)*	✓	✓	✓	✓
Darren Draper	*ELEXON (Finance SME)*	✓	✓	✓	✓
David McCrone	Ofgem	☎	✓	✗	✗
Anna Fenton	Ofgem	✗	✗	✗	☎
Chris Fox	National Grid	✗	✗	✗	☎
Dan Beaven	National Grid	✗	✓	✗	✗
Kelly Larkin	National Grid	✗	✗	✓	☎
Eliza Barlett	CMS Cameron McKenna Nabarro Olswang LLP	✗	✗	✓	✗
Robert Lane	CMS Cameron McKenna Nabarro Olswang LLP	✗	✗	☎	✗

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Appendix 2: Glossary & References

Acronyms

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

Acronyms	
Acronym	Definition
ACER	Agency for the Cooperation of Energy Regulators
BM	Balancing Mechanism
BSC	Balancing and Settlement Code
CACM	Capacity Allocation and Congestion Management
CMP	CUSC Modification Proposal
CSD	Code Subsidiary Document
CUSC	Connection Use of System Code
CVA	Central Volume Allocation
ECC	European Commodity Clearing
ENTSO-E	European Network of Transmission System Operators for Electricity
EPEX	European Power Exchange
ESO	Electricity System Operator
EU	European Union
FSS	Funding Share System
GB	Great Britain
ITC	Inter-Transmission System Operator Compensation
MW	Mega-Watt
NEMO	Nominated Electricity Market Operator
NG	National Grid
NRA	National Regulatory Authority
OAT	Operational acceptance testing
QCE	Credited Energy Volumes
RCRC	Residual Cashflow Reallocation Cashflow
SAA	Settlement Administration Agent
SCR	Significant Code Review
SME	Subject Matter Expert
SVA	Supplier Volume Allocation
TSO	Transmission System Operator
UAT	User acceptance testing
UK	United Kingdom

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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
5	BSC Sections page on the ELEXON website	https://www.elexon.co.uk/bsc-and-codes/balancing-settlement-code/bsc-sections/
7	Regulation (EC) No 714/2009 of the European Parliament and of the Council page.	https://publications.europa.eu/en/publication-detail/-/publication/924a1d7c-1961-4421-be9e-3c740524436e/language-en
7	Commission Regulation (EU) 2015/1222 page	http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015R1222
9	P278 page on the ELEXON website	https://www.elexon.co.uk/mod-proposal/p278-treatment-of-transmission-losses-for-interconnector-users/
9	P285 page on the ELEXON website	https://www.elexon.co.uk/mod-proposal/p285/
9	CUSC Modification Proposal page on the National Grid website	http://www2.nationalgrid.com/UK/Industry-information/Electricity-codes/CUSC/Modifications/Concluded-201-250/
18	CMP202 page on the Ofgem website	https://www.ofgem.gov.uk/publications-and-updates/connection-and-use-system-code-cusc-cmp202-revised-treatment-bsuos-charges-lead-parties-interconnector-bm-units
20	Charging methodology statement for the IFA Interconnector	http://ifa1interconnector.com/media/1059/ifa-charging-methodology-2018.pdf
23	2016 report to the European Commission on the implementation of the ITC mechanism	http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ITC%20Monitoring%20Report%202016.pdf
24	BSC Panel 275 page on the ELEXON website	https://www.elexon.co.uk/meeting/panel-meeting-275/
24	Authority decision on urgency for P361 on the Ofgem website.	https://www.ofgem.gov.uk/publications-and-updates/p361-revised-treatment-bsc-charges-lead-parties-interconnector-bm-units-decision-urgency

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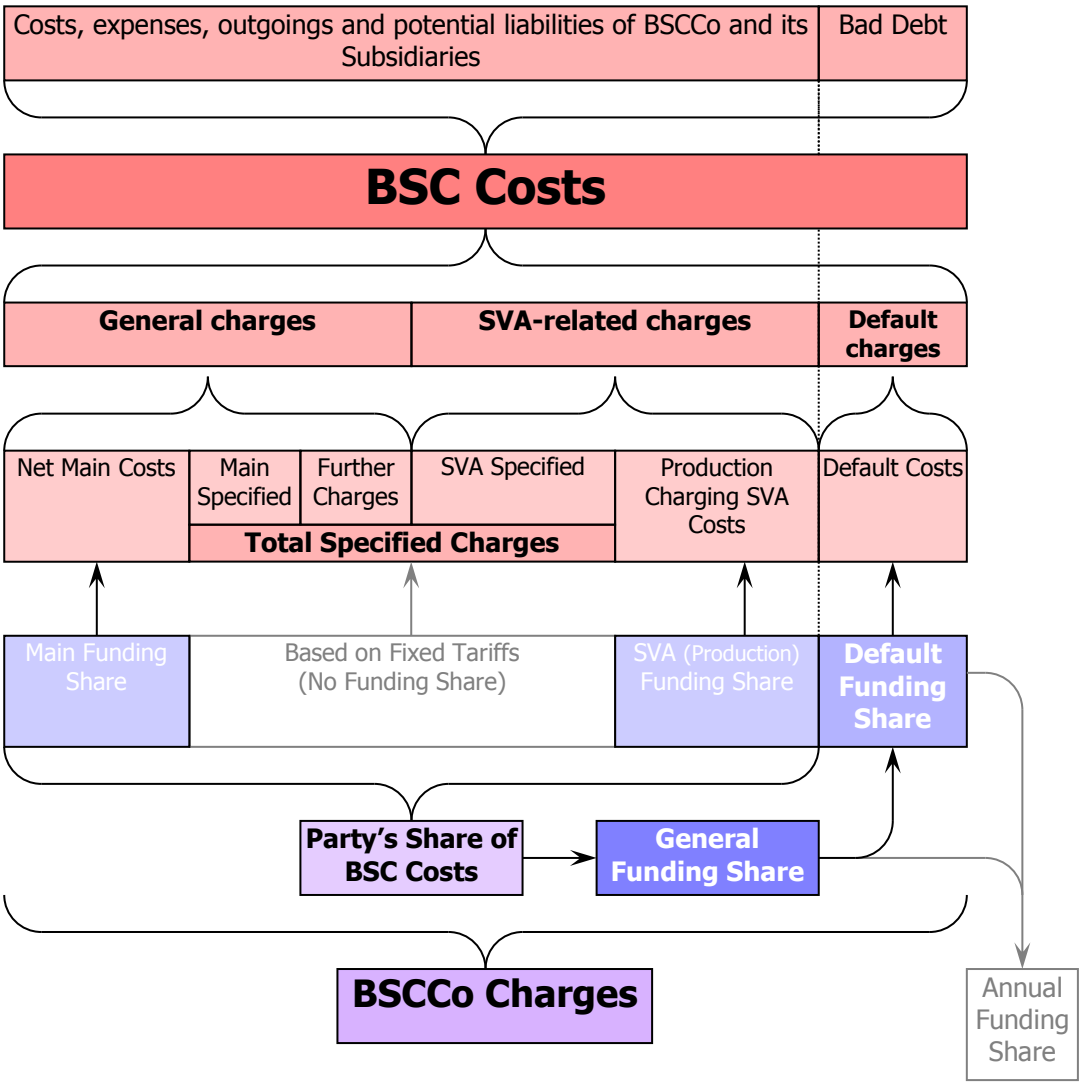

Main Funding Share Worked Example

If a Party has 200MWh credited to their Production account, and there is 20,000MWh credited overall to Production, the Party has 200/20,000 of the Production QCE, which is 0.01 or 1%. Say they also have 0.03 or 3% of the Consumption QCE then their Main Funding Share would be (0.01+0.03)/2, which is 0.02 or 2%. As a result, the Party would pay 2% of the money counted as the Net Main Costs.

SVA (Production) Funding Share

Continuing the above example, the Party has 200MWh of energy in their Production account, out of a total of 20,000MWh. As a result, their SVA (Production) Funding Share would be 200/20,000, which is 0.01 or 1%, and they would therefore pay 1% of the month's Production Charging SVA costs.

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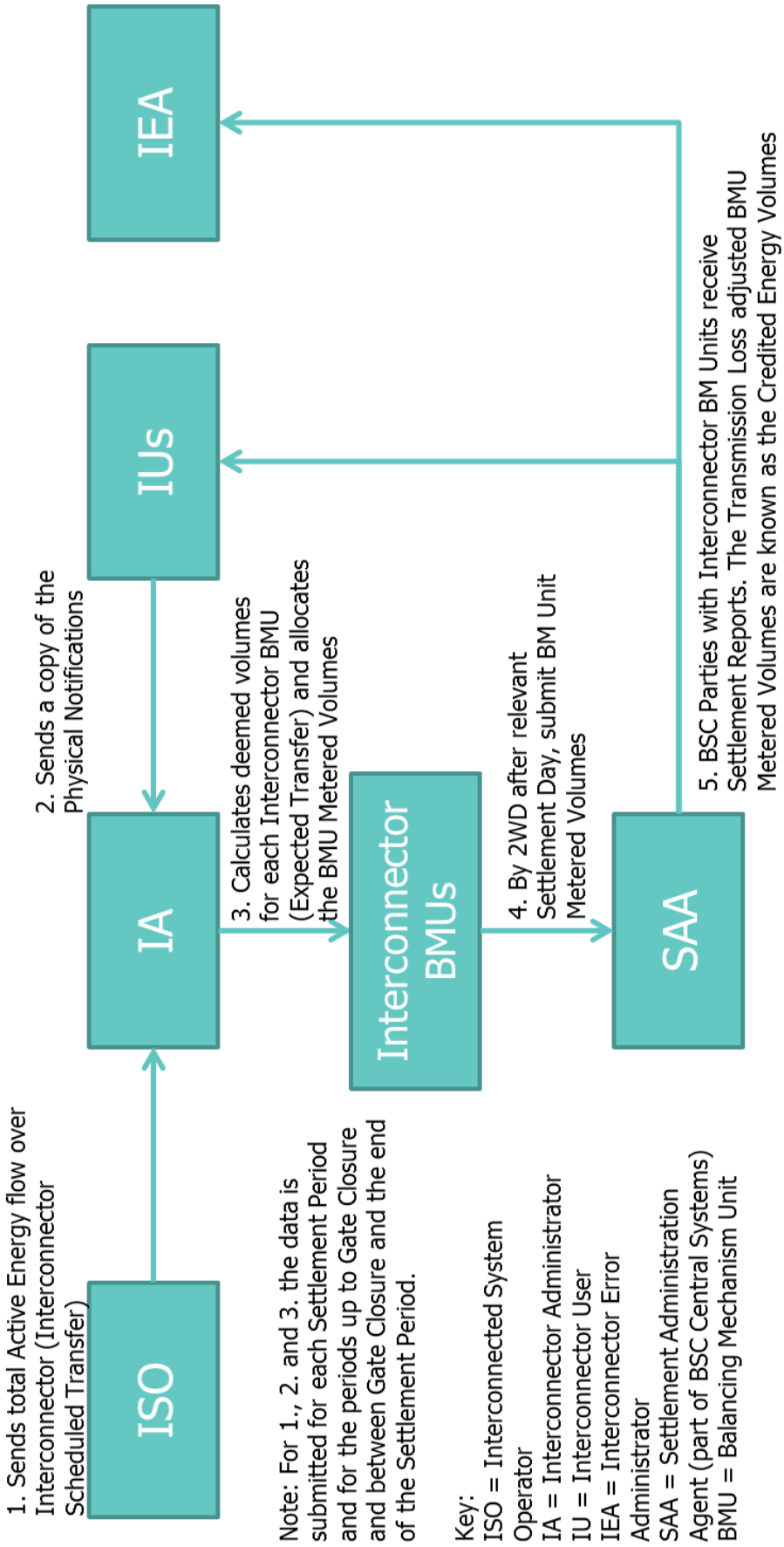
Appendix 4: Allocation of BM Unit Metered Volumes to Interconnector BM Units



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