
Balancing and Settlement Code (BSC) P477: Introducing data protection provisions that facilitate processing of personal data under the Market-wide Half-Hourly Settlement arrangements (P477)

Decision	The Authority ¹ directs that this modification shall be made ²
Target audience	National Energy System Operator (NESO), Parties to the BSC, the BSC Panel and other interested parties
Date of publication:	23 January 2025
Implementation date:	7 March 2025

Background

The BSC Panel (“the Proposer”) raised this Modification on 8 August 2024 on the recommendation of Elexon. Its purpose is to address the need for personal information sharing in the BSC once the Market-wide Half Hourly Settlement (MHHS) arrangements are operational. Under the current settlement arrangements, Elexon receives aggregated meter volume data that does not constitute personal data. Once MHHS is in place, Suppliers and Distribution System Operators will be required to submit data, including personal data, to BSC central systems. The personal data will include Meter Point Administration Number (MPAN) core data, MPAN address and Meter ID data. The BSC needs to include provisions that set out the terms on which this personal data is being shared to remain compliant with data protection laws.

The modification proposal

This Modification proposes to include more detailed and enduring data protection provisions in the BSC. The provisions would modify section H of the BSC to reflect the new settlement arrangements, enable Parties to process personal data to the extent necessary for BSC

¹ References to the “Authority”, “Ofgem”, “we” and “our” are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

purposes and establish legally binding contractual arrangements between controllers and processors such that controllers can comply with their data protection obligations.³

Amendments were made to the legal text as a result of comments made during the Report Phase Consultation. The Final Modification Report (FMR) states that “the changes are not material because, while they refine the obligations, they are consistent with enabling compliance with data protection legislation and do not impose significantly more onerous obligations on Parties”. The changes include

- defining ‘BSC Controller’ and ‘BSC Processor’ so as to make clear that ‘Controller’ and ‘Processor’ have the meaning given to those terms in data protection legislation;
- further governance around providing Relevant BSC Personal Data to third parties where the processing of that data is permitted or required. The legal text makes clear that any such data sharing would need to be subject to a data sharing agreement and that such data could only be used for the purposes of the Code or the purposes of the relevant Legal Requirement, Nominated Agreement or Industry Code. This is intended to allow comparable levels of compliance/oversight as under the BSC, while recognising that controllers under other central industry arrangements will be basing their processing on lawful purposes determined by those arrangements and not the BSC;
- an explicit process by which the Panel, on behalf of BSC Controllers, can object to a sub-processor. This wording is aligned to data protection legislation but has been framed to prevent a scenario where a single controller could object with BSCCo having then to take steps that might cause disruption to the delivery of BSC obligations.

³ A data controller is responsible for providing information to data subjects about their processing activities and for implementing measures to protect the rights of data subjects. The responsibilities of a data processor include maintaining records of personal data and processing activities, implementing security measures and notifying the controller of any data breaches. Data controllers and processors must carry out their responsibilities in a manner that is compliant with UK data protection legislation, including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426) as amended.

The FMR states that the addition of data processor and controller obligations offers a robust framework for handling and sharing data that will facilitate compliance by BSC Parties with data protection laws and thus enable them to manage the risk of legal challenges, penalties and reputational damage. Without this change, each BSC data controller would need an individual data sharing agreement with BSCCo, which would be inefficient and impractical. By providing a uniform set of rules for data sharing, P477 streamlines this process, saving both time and resources for all involved parties. This approach is consistent with other industry codes, such as the Retail Energy Code. In addition, by enforcing robust data handling practices, consumers can be reassured that their personal information is being managed and protected appropriately, in line with data protection laws.

BSC Panel⁴ recommendation

At the BSC Panel meeting on 10 October 2024, the BSC Panel considered that P477 would better facilitate the BSC objectives and the Panel therefore recommended its approval.

In particular, the Panel unanimously agreed that P477 would better facilitate Applicable Objective (d) 'efficiency in the implementation of the Balancing and Settlement arrangements' by introducing uniform data processor and controller obligations. This would, it was noted, eliminate the need for individual data sharing agreements between BSC Parties and so save time, reduce complexity, and align all Parties on their roles and responsibilities. The Panel agreed that the modification would create a more practical and efficient framework for the management and sharing of personal data in the settlement and balancing process. Furthermore, by ensuring compliance with data protection laws, the Panel agreed that P477 would reduce the risk of legal issues that could delay or disrupt settlement procedures. The Panel also agreed unanimously that, while P477 does impact the EBGL Article 18 Terms and Conditions held within the BSC, the impact on the EBGL objectives was neutral. Finally, the Panel recommended that P477 should be implemented on 7 March 2025, if an Authority decision is received on or before 3 February 2025. This date was to ensure that the enduring data protection provisions would be implemented on or before MHHS Milestone 8 (M8), which

⁴ The BSC Panel is established and constituted pursuant to and in accordance with Section B of the BSC and Condition E1 of the Electricity System Operator Licence.

was at that time 7 March 2025.⁵

Our decision

We have considered the issues raised by the modification proposal and the FMR⁶ dated 18 October 2024. We have considered and taken into account the responses to the industry consultation on the modification proposal which are attached to the FMR. We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable objectives of the BSC;⁷ and
- directing that the modification be made is consistent with our principal objective and statutory duties.⁸

Reasons for our decision

We consider that this modification proposal will better facilitate BSC objective (d) and that it will have a neutral impact on the other applicable objectives.

(d) promoting efficiency in the implementation and administration of the balancing and settlement arrangements

We note that the Panel unanimously agreed that P477 would better facilitate this objective because it would introduce uniform data processor and controller obligations that create a more practical and efficient framework for the management and sharing of personal data in the settlement and balancing process. Furthermore, by ensuring compliance with data protection laws, the Panel agreed that P477 would reduce the risk of legal issues that could

⁵ M8 has now been moved to 24 September 2025 following the approval of MHHS Change Request CR055.

⁶ BSC modification proposals, modification reports and representations can be viewed on the Elexon website at www.elexon.co.uk

⁷ As set out in Condition E1 of the Electricity System Operator Licence.

⁸ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989.

delay or disrupt settlement procedures. Ofgem agrees with the Panel and therefore agrees that the proposal would better facilitate objective (d).

Decision Notice

In accordance with Condition E1 of the Electricity System Operator Licence, the Authority hereby directs that modification proposal BSC P477: Introducing data protection provisions that facilitate processing of personal data under the Market-wide Half-Hourly Settlement arrangements shall be made.



Melissa Giordano

Deputy Director, Retail Systems and Processes

Signed on behalf of the Authority and authorised for that purpose