
Balancing and Settlement Code (BSC) P471: Amendment to BSC Section E to allow more flexibility in procurement of BSC Agents (P471)

Decision	The Authority ¹ has decided to reject this modification proposal ²
Target audience	National Energy System Operator (NESO), Parties to the BSC, the BSC Panel and other interested parties
Date of publication:	9 October 2024

Background

Section E of the BSC requires that Elexon appoint a single company (a BSC Agent) to deliver each BSC service (as set out in each BSC Service Description). Thus, Elexon must appoint a Supplier Volume Allocation Agent (SVAA) for the Supplier Volume Allocation Service and a Settlement Administration Agent to deliver the Settlement Administration Service. The appointment process includes a requirement to procure competitively in all circumstances.

The introduction of Market-Wide Half-Hourly Settlement (MHHS) will create new BSC services including the Load Shaping Service (LSS), the Market-wide Data Service (MDS) and the Volume Allocation Service (VAS). In order to support the transition to MHHS, Elexon will need to enter into contracts for the operation of these new services. Elexon has stated that being required to complete competitive procurements for the operation of these new services before the start of transition would “very likely cause delay to the MHHS Programme, increasing costs and uncertainty for Suppliers and other parties”. To reduce any risk of delay to the start of MHHS transition, Elexon’s preferred approach to the implementation of this Service Description is (subject to the outcome of commercial negotiation with the service providers) to leverage the knowledge and resources of the service providers already appointed (via a competitive process) to develop and test the new systems, so that:

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.

- existing 'legacy' elements of the SVAA service would continue to be operated by the existing BSC Agent, for the duration of the existing contracts (which run until 2026)
- new systems (such as the LSS, MDS and VAS) would be operated by the parties who developed them (for a limited period of time but at least for the duration of the MHHS transition period)
- BSC Agents will be subject to a new re-procurement activity for these new services, with new contracts that come into force after MHHS transition completes, and
- activities required to coordinate the effective delivery of the service (such as operating an online service desk for parties, and overall coordination of incident response services) would be carried out by Elexon.

Such an approach would require a modification of section E to give Elexon more flexibility in how it procures BSC Agents.

The modification proposal

P471 was raised by the BSC Panel (the Panel) on 11 April 2024. P471 proposes to remove the requirement for BSC Agents to be competitively procured in all circumstances. Whilst competitive procurement would explicitly remain the preferred approach, Elexon would be able to appoint a BSC Agent without competitive procurement where this offers value for money and/or other advantages. Before Elexon commences any appointment process, the BSC Panel would be required to approve an Appointment Approach Statement. Where Elexon does not intend to follow a competitive process, the Appointment Approach Statement must set out the rationale for that approach, the commercial and/or other advantages reasonably understood at the time (including value for money assessments, where practical and proportionate), and the duration of and/or overall amounts involved in such an arrangement. The BSC Panel may (and, if Elexon so wishes, will) establish a Panel Committee or appoint a Panel Member to advise Elexon on any such appointment.

Elexon notes that this new process would facilitate the appointment of existing service providers to operate new systems such as the LSS, MDS and VAS during and after the MHHS transition period. Elexon has stated that this would avoid the costs of running and taking part in competitive procurement processes and hence reduce costs for parties.

Under the Proposal, Elexon would also be able to appoint multiple service providers to deliver a single BSC Agent service without necessarily having to reconfigure the Service Description and consult upon it as currently required by section E. The proposed legal text allows but does not require Elexon to split a BSC Service Description into different documents (one per BSC Agent). In the context of MHHS, it would enable the BSC Service Description for BSC Central Services for Migrated Market-wide Half-Hourly Metering Systems either to be kept as a single document (with the details of which BSC Agent delivers which parts of it being documented elsewhere) or to be split into multiple documents, one per BSC Agent (subject to discussion with MHHS Programme on when and how to implement that change). Removing the section E requirement for industry consultation and Panel approval of any reconfigured Service Description would, in Elexon's view, "allow [it] to agree an appropriate split of responsibilities between the service providers delivering MHHS transition in an agile and timely way".

In addition, under this Proposal, Elexon would be able to perform activities, such as service desk management and incident response, that are needed to ensure the effective coordination of service providers delivering a BSC Service Description.

Elexon has stated that, although the specific issues giving rise to this Proposal relate to MHHS transition and the Supplier Volume Allocation service, P471 could provide value elsewhere (for example by opening up the option of splitting the data retrieval and data processing elements of the Central Data Collection Service when it is next re-procured). Finally, Elexon has noted that significant changes to the role of Elexon and the BSC Panel in the procurement of BSC Agents are likely to be required due to energy code reform. With that in mind, Elexon believes that the changes proposed by P471 should therefore be seen as "relatively tactical and short-term in nature, pending the outcome of the code reform process".

BSC Panel³ recommendation

At the BSC Panel meeting on 11 July 2024, the BSC Panel unanimously agreed that modification P471, including the alternative legal text, would better facilitate Applicable BSC Objective (d) and the BSC Panel therefore recommended its approval.

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR)⁴ dated 12 July 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 not better facilitate the achievement of the applicable objectives of the BSC.

Reasons for our decision

We consider this modification proposal will not better facilitate BSC objectives (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 and (d) promoting efficiency in the implementation and administration of the balancing and settlement arrangements.

Ofgem notes that the immediate reason for raising this proposal was to facilitate timely and efficient implementation of the new elements of the Supplier Volume Allocation Service required for MHHS. The proposal would do so by removing the absolute requirement for competitive tendering and by introducing flexibility to appoint multiple service providers to deliver one BSC Service Description. We further note that the Panel, and both respondents to the consultation, supported the principle of making adjustments to section E in order to de-risk MHHS implementation. Ofgem is committed to ensuring that MHHS is implemented in a

³ The BSC Panel is established and constituted pursuant to and in accordance with Section B of the BSC and Standard Condition E1 of the Electricity System Operator Licence.

⁴ BSC modification proposals, modification reports and representations can be viewed on the Elexon website at www.elexon.co.uk.

robust and timely manner so that its benefits can start to be realised as soon as practicably possible. We agree that introducing an ability to appoint multiple service providers to deliver a BSC Service Description would be a sensible change that, in itself, would be likely to increase administrative efficiency.

Ofgem notes, however, that the current proposal has general application in the appointment of BSC Agents and is not restricted to appointments that are required for the timely and efficient implementation of MHHS. We do not consider that we have seen compelling evidence to suggest that a blanket removal of the requirement for competitive tendering for BSC Agents would promote efficiency in the implementation and administration of the BSC. In addition, we note that one of the two consultation respondents stated that “there is risk associated with a general relaxation of procurement principles and that the scope of any exemption should be limited to meet the needs of the exception”. We share this concern. Indeed, Ofgem considers that such a significant modification to the requirement to procure BSC Agents on a competitive basis does not appear to better facilitate objective (c) and even risks undermining it.

Decision Notice

In accordance with Standard Condition E1 of the Electricity System Operator Licence, the Authority has decided that modification proposal BSC P471: Amendment to BSC Section E to allow more flexibility in procurement of BSC Agents should not be made.



Melissa Giordano

Deputy Director, Retail Systems and Processes

Signed on behalf of the Authority and authorised for that purpose

7 October 2024