

EB GL Article 18 - Summary of Responses

Respondent:	Steve Wilkin
Company Name:	ELEXON Ltd.
Does this response contain confidential information? If yes, please specify.	No – this response may be made public in its entirety.

No	Question	Response (Y/N)	Rationale	NGET comments
1	Do you agree with the approach taken in the letter? please provide rationale	Yes	We agree that terms and conditions for balancing service providers and balancing responsible parties (the subjects of Electricity Balancing Guideline (EB GL) Article 18) already exist in Great Britain and are comprised within the current suite of electricity codes, methodologies, etc. So it makes sense to use these as the starting basis for assessing GB compliance with Article 18. We therefore support the approach taken in the letter.	
2	Do you agree that the letter is consistent with the principle of minimum necessary change? please provide rationale	Yes	Where the current suite of electricity codes, etc. need amending to ensure compliance with European Network Codes, modifications to such codes, etc. would be consistent with a minimum necessary change approach.	

No	Question	Response (Y/N)	Rationale	NGET comments
3	Do you have any other comments in relation to the letter?	Yes	<p>Future changes in the terms and conditions</p> <p>We strongly support NGET's proposal that the Article 18 Terms and Conditions for Great Britain (GB) continue to be held in the existing GB frameworks of BSC, Grid Code, etc.</p> <p>An important point is that the Article 18 terms and conditions should be able to flex as their constituent parts change under their existing change processes. So we strongly support that the Article 18 terms and conditions automatically include any updates required from time to time for European Network Code compliance and organic changes (whether industry-led or otherwise, so we would extend NGET's point in the letter here).</p> <p>The reason for such flexibility being inherent to the Article 18 terms and conditions is that the EB GL change process for the Article 18 terms and conditions is more cumbersome than, for example, the existing BSC change process.</p> <p>If an approved BSC Modification (or change to other constituent part of the Article 18 terms and conditions) did not have the effect of automatically modifying the Article 18 terms and conditions as well, then a delay may result, for example, to Urgent Code Modifications. Indeed any change to a constituent part might otherwise require a full Article 18 change process in parallel.</p> <p><u>Article 18 mapping to the BSC</u></p> <p>We have some comments on the mapping to the BSC set out in Annex 1. These are set out in the table rows below.</p>	We agree with Elexon Ltd's comment regarding the ability of the proposal under Article 18 to facilitate future changes required, both for European Network Code compliance and organic changes. Therefore we have further emphasised this point in the proposal letter.
	Article 18 reference		BSC reference	

No	Question	Response (Y/N)	Rationale	NGET comments
	18.4.b and 18.5c		BSC Modification P344 (and in relation to the Grid Code, GC0097) should be mentioned as, if approved, these will deliver requirements associated with EB GL 18.4b and 18.5c such as aggregation.	We agree with this point and have updated the mapping table accordingly.
	18.4.d		This should also reference the BSC section T4. (Under the EB GL, the definition of 'balancing services' includes any form of balancing energy and so includes bid-offers in the GB Balancing Mechanism. In consequence imbalance adjustments will also include bid-offer acceptance volumes calculated in accordance with the BSC.)	We agree with this point and have updated the mapping table accordingly.
	18.5.a		The reference should be amended to BSC J3 and K.	We agree with this point and have updated the mapping table accordingly.
	18.5e		Suggest the BSC reference is broadened to T4, rather than limiting it to T4.6 as, for example, T4.3 is also relevant here.	We agree with this point and have updated the mapping table accordingly.
	18.5g		As we have no European standard products in GB yet, this aspect will presumably be reflected in the national framework via the implementation of future changes such as BSC Modification P344 and Grid Code Modification GC0097 (for TERRE standard products) and similar (yet to be raised) Modifications for MARI standard products.	We agree with this point and have updated the mapping table accordingly.
	18.5h		The BSC reference should be T3 rather than T4.6 (because T3 covers the calculation of Bid Offer Volumes and associated payments).	We agree with this point and have updated the mapping table accordingly.
	18.5i		The scope of 18.5i is wide as it includes the whole of EB GL Chapter 2 of Title V i.e. the settlement of balancing energy. Because of this we suggest that the BSC reference should also include BSC section T (in addition to section U).	We agree with this point and have updated the mapping table accordingly.
	18.5k		18.5k should reference BSC section H3 (in addition to those sections already listed).	We agree with this point and have updated the mapping table accordingly.

No	Question	Response (Y/N)	Rationale	NGET comments
	18.6b		18.6b should reference BSC sections A and J (in addition to section K).	We agree with this point and have updated the mapping table accordingly.
	18.6c		18.6c should reference BSC sections N and T (in addition to section K). We would also note that in GB 'settled with the connecting TSO' should be interpreted as 'settled with BSCCo/ BSC Clearer' because of the assignment to BSCCo/BSC Clearer by BEIS in its letter dated 18 December 2017 and the requirement of EB GL Article 13(5) to read TSO references in the EB GL as referring to the assigned entity.	We agree with this point and have updated the mapping table accordingly.
	18.6d		18.6d should reference BSC section Q (as well as O). We would also note that in GB 'delivered to the connecting TSO' should also be interpreted as 'delivered to BSCCo/ BSC Clearer' because of the assignment of the calculation of imbalances to BSCCo/BSC Clearer by BEIS in its letter dated 18 December 2017 and the requirement of EB GL Article 13(5) to read TSO references in the EB GL as referring to the assigned entity.	We agree with this point and have updated the mapping table accordingly.
	18.6f		18.6f should reference BSC section T4 (as well as section U).	We agree with this point and have updated the mapping table accordingly.
	18.6i		18.6i should reference BSC section H3 (in addition to those already listed).	We agree with this point and have updated the mapping table accordingly.
	18.6j		We would also note that in GB 'submit to the connecting TSO' should be interpreted as 'submit to BSCCo/ BSC Clearer' because of the assignment of the calculation of imbalances to BSCCo/BSC Clearer by BEIS in its letter dated 18 December 2017 and the requirement of EB GL Article 13(5) to read TSO references in the EB GL as referring to the assigned entity. This is because 'position' is the equivalent of 'energy contract volume' in GB parlance and is a component of the imbalance calculation.	We agree with this point and have updated the mapping table accordingly.

No	Question	Response (Y/N)	Rationale	NGET comments
	18.6k		18.6k should reference BSC section T4 (as well as section U).	We agree with this point and have updated the mapping table accordingly.

Respondent:	Garth Graham
Company Name:	SSE
Does this response contain confidential information? If yes, please specify.	No

No	Question	Response (Y/N)	Rationale	NGET Comments
1	Do you agree with the approach taken in the letter? please provide rationale	No	[See below]	[See below]
2	Do you agree that the letter is consistent with the principle of minimum necessary change? please provide rationale	No	[See below]	[See below]
3	Do you have any other comments in relation to the letter?	No		

1) Do you agree with the approach taken in the letter? please provide rationale

The approach proposed in the May 2018 letter comprehensively fail to reflect the clear requirement, as set out in Article 18, that there are to be two sets of distinct terms and conditions; one for Balancing Service Providers (BSPs) and one for Balance Responsible Parties (BRPs).

These are defined, in Article 2 of EB GL, in the following terms:

“(6) ‘balancing service provider’ means a market participant with reserve-providing units or reserve-providing groups able to provide balancing services to TSOs”

“(7) ‘balance responsible party’ means a market participant or its chosen representative responsible for its imbalances”

Instead the approach taken in the May 2018 letter is to propose a single set of terms and conditions in GB for these two entirely separate legal entities; each with their own obligations / requirements according to EB GL; which would, according to the approach suggested in the letter, be treated as being one and the same.

Furthermore, this proposed single approach for the two distinct parties (BSP and BRPs) is discriminatory – as it treats them both the same when they are, in law, to be treated different. This proposed single approach in GB is thus incompatible with the EB GL, as set out in Recital (8):

“The rules defining the role of balancing service providers and the role of balance responsible parties ensure a fair, transparent and non-discriminatory approach.”

In addition, this proposed single approach in GB is incompatible with the EB GL, as set out in Recital (17):

“The general objective of imbalance settlement is to ensure that balance responsible parties support the system’s balance in an efficient way and to incentivise market participants in keeping and/or helping to restore the system balance. This Regulation defines rules on imbalance settlement, ensuring that it is made in a non-discriminatory, fair, objective and transparent basis. To make balancing markets and the overall energy system fit for the integration of increasing shares of variable renewables, imbalance prices should reflect the real-time value of energy.”

Notwithstanding the above, the proposed approach set out in the May 2018 letter, with its ‘adoption’ of certain sections of the existing GB national codes¹ (such as the Grid Code and BSC) fails to recognise that those GB national codes do not distinguish between BRPs and BSPs; as there are neither the equivalent, distinct, definitions for either a BSP or BRP currently contained in those national codes, nor are there any specific clauses (in the GB national codes) that pertain to BSPs and BRPs respectively.

We note that the approach proposed in the May 2018 letter is not compatible with supporting new entrants to the market, and it is also not conducive to facilitating competition in the generation and supply of electricity.

This is because it requires potential BSPs and BRPs to read hundreds of pages within the Codes / Sections, as listed in Annex 1, in order to understand their terms and conditions which will (with the proposed approach) include additional obligations/ requirements which are superfluous for them in terms of their EB GL duties as either a BSP or BRP respectively – this is also more stringent (which is incompatible with the Third Package legislation).

Finally, we note that the proposed approach in the May 2018 letter will make it very difficult for the NRA, the Member State and the Commission to assess if GB has / is complying with the obligations set out in Article 18 of EB GL.

NGET RESPONSE:

Article 18 of the EB GL does not specify that the terms and conditions for Balancing Service Providers (BSPs) and Balance Responsible parties (BRPs) should be two distinct sets of terms and conditions. Article 18 (1) states that “TSOs of this Member State shall develop a proposal regarding...” and then lists both BSPs and BRPs as elements that this proposal must contain.

It is important that in the cases where a BSP and the BRP are the same entities, we “avoid undue barriers to entry” – Article 3.1. (e). We believe that separating these requirements out from existing frameworks, as well as from each other would indeed present barriers to entry for such market entrants. Furthermore separating terms and conditions out into two documents independent from our existing frameworks would further complicate the market entry process and therefore go against recital (8) of ensuring “a fair, transparent and non-discriminatory approach”. For these reasons NGET’s propose that the Terms and Conditions related to balancing continue to be held in existing frameworks.

2) Do you agree that the letter is consistent with the principle of minimum necessary change? please provide rationale

¹ Annex 1 to the letter refers to ‘C16’ within the ‘Codes’ column. We note that C16 is not a ‘Code’ and that Ofgem’s CACoP does not apply to C16. In addition we note that the C16 document approach is neither harmonised or transparent – and as such it would be incompatible with EB GL.

The principle, as set out by Ofgem in its 18th December 2014 letter, is to undertake the necessary change.

What Ofgem stated was:

“Where changes are needed to implement part of a European Regulation, we will make only those changes necessary to the relevant industry document to ensure compliance with the European codes and guidelines.” [emphasis added]

The word ‘*minimum*’ does not appear in the Ofgem 18th December 2014 letter.

In the context of the Ofgem principle, the May 2018 letter is not consistent with the principle of necessary change as it fails to make the necessary change of providing terms and conditions for BRPs and BSPs respectively.

That there are two distinct sets of requirements is clear from reading Article 18(4), (5) and (6).

(4) *“The terms and conditions for balancing service providers shall:*

(a) define reasonable and justified requirements for the provisions of balancing services;

(b) allow the aggregation of demand facilities, energy storage facilities and power generating facilities in a scheduling area to offer balancing services subject to conditions referred to in paragraph 5 (c);

(c) allow demand facility owners, third parties and owners of power generating facilities from conventional and renewable energy sources as well as owners of energy storage units to become balancing service providers;

(d) require that each balancing energy bid from a balancing service provider is assigned to one or more balance responsible parties to enable the calculation of an imbalance adjustment pursuant to Article 49.”

(5) *“The terms and conditions for balancing service providers shall contain:*

(a) the rules for the qualification process to become a balancing service provider pursuant to Article 16;

(b) the rules, requirements and timescales for the procurement and transfer of balancing capacity pursuant to Articles 32, 33 and 34;

(c) the rules and conditions for the aggregation of demand facilities, energy storage facilities and power generating facilities in a scheduling area to become a balancing service provider;

(d) the requirements on data and information to be delivered to the connecting TSO and, where relevant, to the reserve connecting DSO during the prequalification process and operation of the balancing market;

(e) the rules and conditions for the assignment of each balancing energy bid from a balancing service provider to one or more balance responsible parties pursuant to paragraph 4 (d);

(f) the requirements on data and information to be delivered to the connecting TSO and, where relevant, to the reserve connecting DSO to evaluate the provisions of

balancing services pursuant to Article 154(1), Article 154(8), Article 158(1)(e), Article 158(4)(b), Article 161(1)(f) and Article 161(4)(b) of Regulation (EU) 2017/1485;

(g) the definition of a location for each standard product and each specific product taking into account paragraph 5 (c);

(h) the rules for the determination of the volume of balancing energy to be settled with the balancing service provider pursuant to Article 45;

(i) the rules for the settlement of balancing service providers defined pursuant to Chapters 2 and 5 of Title V;

(j) a maximum period for the finalisation of the settlement of balancing energy with a balancing service provider in accordance with Article 45, for any given imbalance settlement period;

(k) the consequences in case of non-compliance with the terms and conditions applicable to balancing service providers. “

(6) ”The terms and conditions for balance responsible parties shall contain:

(a) the definition of balance responsibility for each connection in a way that avoids any gaps or overlaps in the balance responsibility of different market participants providing services to that connection;

(b) the requirements for becoming a balance responsible party;

(c) the requirement that all balance responsible parties shall be financially responsible for their imbalances, and that the imbalances shall be settled with the connecting TSO;

(d) the requirements on data and information to be delivered to the connecting TSO to calculate the imbalances;

(e) the rules for balance responsible parties to change their schedules prior to and after the intraday energy gate closure time pursuant to paragraphs 3 and 4 of Article 17;

(f) the rules for the settlement of balance responsible parties defined pursuant to Chapter 4 of Title V;

(g) the delineation of an imbalance area pursuant to Article 54(2) and an imbalance price area;

(h) a maximum period for the finalisation of the settlement of imbalances with balance responsible parties for any given imbalance settlement period pursuant to Article 54;

(i) the consequences in case of non-compliance with the terms and conditions applicable to balance responsible parties;

(j) an obligation for balance responsible parties to submit to the connecting TSO any modifications of the position;

(k) the settlement rules pursuant to Articles 52, 53, 54 and 55;

(l) where existing, the provisions for the exclusion of imbalances from the imbalance settlement when they are associated with the introduction of ramping restrictions for the alleviation of deterministic frequency deviations pursuant to Article 137(4) of Regulation (EU) 2017/1485.” [emphasis added]

If the intention of the Council of Ministers, the Commission and the European Parliament had been to have a single set of requirements (as is proposed in the May 2018 letter) in EB GL for BSPs and BRPs then why did they, in Article 18, set out in detail two entirely separate sets of items that the terms and conditions for BSPs and BRPs, respectively, had to contain?

In our view the responsible GB TSO should produce the necessary two sets of terms and conditions, for BSPs and BRPs respectively, on the basis of the criteria set out in the EB GL. This will maximise transparency (in accordance with Article 3 of EB GL) and allow stakeholders, the NRA, the Member State and the Commission to clearly understand what is expected of BSPs and BRPs in GB.

NGET RESPONSE:

Although the wording “minimum necessary change” is not used in Ofgem’s letter, it is stated that “changes will only be made where needed” and “we will make only those changes necessary to the relevant industry document to ensure compliance with the European codes and guidelines”.

The process of re-writing the GB industry frameworks in order to facilitate the creation of two distinct terms and conditions document would not follow the above principles, and would require comprehensive and unnecessary modifications to national codes.

The proposed solution of continuing to hold Terms and conditions for Balancing in existing frameworks, and updates for required ENC compliance and organic change continue to be reflected in them, represents the most efficient and pragmatic solution which would allow us to achieve timely implementation of the requirements within Article 18.