



Department
of Energy &
Climate Change

EMR: Consultation on industry code and licence modifications

January 2014

Department of Energy and Climate Change
3 Whitehall Place
London
SW1A 2AW

Telephone: 0300 068 4000

Website: <https://www.gov.uk/government/organisations/department-of-energy-climate-change>

© Crown copyright 2014

Copyright in the typographical arrangement and design rests with the Crown.
This publication (excluding logos) may be re-used free of charge in any format or medium provided that it is re-used accurately and not used in a misleading context. The material must be acknowledged as crown copyright and the title of the publication specified.

For further information on this consultation, contact:

Electricity Market Reform Programme Team,
4th Floor, Area D,
Department of Energy and Climate Change,
3 Whitehall Place,
London,
SW1A 2AW
Email: SecondaryLegislationEMR@decc.gsi.gov.uk

The consultation can be found on DECC's website:

<https://www.gov.uk/government/consultations/emr-consultation-on-industry-code-and-licence-modifications>

Published by the Department of Energy and Climate Change

Contents

EMR: Consultation on industry code and licence modifications	1
Contents.....	3
General information.....	4
Executive Summary.....	6
Section 1: Overview of Electricity Market Reform (EMR)	6
1.1 Objectives and Challenges	6
1.2 Components of EMR.....	7
1.3 Overview of the EMR Framework.....	8
1.4 How EMR will be implemented.....	8
1.5 Powers to modify industry codes, agreements and licences.....	9
Consequential changes to industry codes and licences and other documents	10
2.1 Explanation of industry codes and licences and other documents.....	10
2.2 Changes to industry licences	10
2.3 Changes to industry codes and industry agreements.....	15
2.4 Subsidiary Documents	23
Timeline for EMR Implementation and consequential changes to industry code, licence, industry agreements and other documents	25
Catalogue of consultation questions	26

General information

Purpose of this consultation

The Government is seeking views on the consequential changes to industry code, licences, industry agreements and other documents required as a result of the implementation of Electricity Market Reform. The documents attached to this consultation document set out drafts of the amendments considered necessary to enable the effective delivery of EMR. This consultation is relevant to electricity generators, electricity suppliers, electricity consumers and their representatives, network operators, Ofgem, the EMR delivery body National Grid, ELEXON, environmental and energy efficiency organisations, electricity service companies, the construction sector, financial institutions and other stakeholders with an interest in the energy sector. DECC invites interested parties to submit comments and evidence.

Issued: 15/01/2014

Respond by: 13/02/2014

Enquiries to:

Electricity Market Reform Programme Team
Department of Energy & Climate Change,
4th Floor Area D,
3 Whitehall Place,
London, SW1A 2AW
Tel: 0300 068 8006

Email: SecondaryLegislationEMR@decc.gsi.gov.uk

Consultation reference: URN 13D/326 – EMR: Consultation on Industry code and licence modifications

Territorial extent:

This consultation applies to England, Scotland, Wales and Northern Ireland.

How to respond:

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome. Electronic responses should be enclosed to the email above using the pro-forma provided, or you can complete the consultation e-survey at https://econsultation.decc.gov.uk/decc-policy/emr-industry-code-lic-mods/consult_view

Additional copies:

You may make copies of this document without seeking permission. An electronic version can be found at <https://www.gov.uk/government/consultations/emr-consultation-on-industry-code-and-licence-modifications>.

Other versions of the document in Braille, large print or audio-cassette are available on request. This includes a Welsh version. Please contact us under the above details to request alternative versions.

Confidentiality and data protection:

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information legislation (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

We will summarise all responses and place this summary on our website at <https://www.gov.uk/government/organisations/department-of-energy-climate-change>. This summary will include a list of names or organisations that responded but not people's personal names, addresses or other contact details.

Quality assurance:

This consultation has been carried out in accordance with the Government's Code of Practice on consultation, which can be found here:

<http://www.bis.gov.uk/files/file47158.pdf>

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

DECC Consultation Co-ordinator
3 Whitehall Place
London SW1A 2AW
Email: consultation.coordinator@decc.gsi.gov.uk

Executive Summary

Section 1: Overview of Electricity Market Reform (EMR)

1.1 Objectives and Challenges

1. Our electricity market faces major challenges throughout the next decade and beyond. Electricity Market Reform (EMR) creates a framework to transform the UK electricity market to meet these challenges, and will:
 - Maintain a secure supply of electricity, despite the closure of around a fifth of our 2011 capacity expected over the coming decade.
 - Enable the UK to meet its ambitious climate and renewable targets to build a cleaner energy future for Britain and the world; and
 - Power an increasing electricity demand over the next 40 years as we increasingly turn to electricity for heat and transport.
2. EMR is aimed at incentivising increased investment in secure, low-carbon electricity generation; not only to meet these challenges, but to improve affordability for consumers. We estimate up to £110 billion of investment is needed in the sector by the end of the decade to achieve our objectives.
3. EMR will support a range of forms of low carbon generation and thus diversify our domestic energy supply, helping to improve our energy security and reduce reliance on energy imports. This will help to avoid blackouts, while also protecting consumers against global spikes in fossil fuel prices.
4. Therefore, EMR is a set of arrangements to take us through this transition, working with the existing market to address market failures. It will ensure that the UK remains a leading destination for investment in low carbon electricity – boosting our economy and generating skills, expertise and hundreds of thousands of jobs in this sector.
5. Further information on the objectives and benefits of EMR can be found on the DECC website¹.

¹ <https://www.gov.uk/government/policies/maintaining-uk-energy-security--2/supporting-pages/electricity-market-reform>

1.2 Components of EMR

6. EMR will create two key mechanisms – Contracts for Difference (CfDs) and the Capacity Market (CM). These mechanisms will ensure that low carbon and reliable electricity generation is an attractive investment opportunity. The CfD will provide long-term revenue stabilisation to incentivise investment in low-carbon generation, while the Capacity Market will provide a steady payment to reliable forms of capacity (both demand and supply) to ensure there is enough to meet demand.
7. Underpinning these are measures to encourage and support new entrants into the electricity market, which will give consumers more choice as smaller electricity companies compete alongside established firms. Ofgem is also taking measures to improve wholesale market liquidity² which will facilitate market entry by offering a reliable route to market, enabling increased competition.
8. Alongside the CfD and the CM, the Emissions Performance Standard will provide a regulatory backstop to ensure that any new coal-fired power stations are equipped with Carbon Capture and Storage (CCS). The Carbon Price Floor³ which was implemented in April 2013, gives a clearer signal to the market of our commitment to low carbon electricity.
9. We have also announced measures to aid the reduction of electricity demand and at least £20 million will be made available to pilot Electricity Demand Reduction⁴, expected to begin in summer 2014.
10. Finally – to maintain investor confidence as these reforms are taken forward – the Government has put in place arrangements to support the transition from the current Renewables Obligation to the Contracts for Difference, and to allow for early investment decisions to be made under the FID Enabling process⁵.

² <https://www.ofgem.gov.uk/electricity/wholesale-market/liquidity>

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/42639/consult_carbon_price_support_condoc.pdf

⁴ <https://www.gov.uk/government/policies/reducing-demand-for-energy-from-industry-businesses-and-the-public-sector--2>

⁵ <https://www.gov.uk/government/publications/increasing-certainty-for-investors-in-renewable-electricity-final-investment-decision-enabling-for-renewables>

1.3 Overview of the EMR Framework

11. A number of parties will need to be involved in preparing for EMR implementation:

- **Government** – Sets the policy framework, provides sponsorship, leads design and legislative action.
- **Ofgem** – Regulates the electricity market, provides design advice, analysis and regulation.
- **National Grid** – EMR delivery body, administrator of CfD allocation and Capacity Market auction and provides advice to the Government.
- **CFD Counterparty** – Government owned company set up to act as counterparty to CfDs, signing and managing them, and administers the supplier obligation.
- **CFD Settlement Services Provider**⁶ – Subsidiary of ELEXON. Carries out settlement of CfDs on behalf of the CFD Counterparty.
- **Capacity Market Settlement Body** – Government owned company that acts as settlement body for the Capacity Market.
- **CM Settlement Services Provider**⁶ – Subsidiary of ELEXON. Carries out settlement of Capacity Market Agreements on behalf of the CM settlement body.
- **Devolved Administrations** – Oversees implementation and monitoring of proposals with DECC.
- **Generators** – Participants and parties to CfD and Capacity Market agreements.
- **Electricity Suppliers** – Fund CfD and Capacity Market payments to generators.

1.4 How EMR will be implemented

12. Measures for EMR are set out within the Energy Act 2013⁷. This Act provides the Secretary of State with powers to enact the changes to the electricity market to meet the challenges set out above. This includes supporting investment through the Contracts for Difference and the Capacity Market, and associated measures to support these mechanisms.

13. On 10 October 2013 the Government published a detailed consultation⁸ on the proposed policy designs which will be implemented through Secondary Legislation. This consultation

⁶ The CFD settlement agent and CM settlement agent (as referred to within previous EMR documents) have been named the CFD Settlement Services Provider and CM Settlement Services Provider.

⁷ <http://www.legislation.gov.uk/ukpga/2013/32/contents/enacted>

⁸ <https://www.gov.uk/government/consultations/proposals-for-implementation-of-electricity-market-reform>

included detail on the draft CfD Allocation and Supplier Obligation Regulations; draft Electricity Capacity Regulations; draft Electricity Capacity (Payment) Regulations; and draft Capacity Market Rules (CM Rules). This consultation closed on 24 December and responses are currently being analysed. The intention is to publish a Government Response and lay secondary legislation in Parliament later this year.

14. As a consequence of the provisions in the Energy Act 2013 to implement EMR, existing electricity licences, industry codes and related agreements and documents will require consequential amendments to meet the needs of these reforms. These modifications will be made in addition to the rules and regulations as set out in the October 2013 consultation on policy proposals for implementation.

1.5 Powers to modify industry codes, agreements and licences

15. Sections 26 and 37 of the Energy Act 2013 include provisions for the Secretary of State to modify licence conditions and documents maintained under licence conditions, together with related agreements, for the purpose of giving effect to the EMR mechanisms.
16. Government has been working with its delivery partners Ofgem, National Grid and ELEXON, along with relevant code administrators, to assess which existing licence conditions, industry documents and agreements may need consequential amendments. The drafts of these changes are being published for consultation in this document.
17. Following this consultation the proposed consequential changes will be progressed through the prescribed modification processes⁹, in order to ensure consistency of approach and consideration of the effects of changes.
18. It should be noted that following review of the responses we receive in relation to the detailed consultation on draft policy proposals for EMR implementation and the finalisation of the EMR documents, additional consequential amendments may be required (i.e. any amendments related to the development of PPA policy¹⁰) or the amendments set out in this consultation may need to be revised.
19. This consultation requests that respondents assess the impact of the current EMR policy proposals upon the industry code and licences referred to below, and whether the proposed changes will enable current EMR policy to be implemented successfully.

⁹ The responses to this consultation will be analysed and considered. Following this, the licence and code modifications will then be finalised. Then, where necessary, it is intended for the modifications to be laid in Parliament alongside the EMR Secondary Legislation in summer 2014. Throughout this process it is intended the relevant code panels are kept up-to-date.

¹⁰ PPAs: Power Purchase Agreements. Any amendments to code and licences as a result of PPA policy will be considered following the forthcoming Government consultation on Route to Markets.

Consequential changes to industry codes and licences and other documents

2.1 Explanation of industry codes and licences and other documents

20. To implement EMR legislation successfully, once EMR secondary regulations have been agreed by Parliament and are in force, the changes set out in these regulations will need to be integrated within the appropriate existing industry codes, licences and other documents.
21. The appropriate documents include industry licences, which are granted by the Gas and Electricity Markets Authority (Ofgem). Such licences allow persons to take part in or carry out activities within the electricity sector such as transmission, distribution, interconnection, generation and supply. Section 2.2 indicates the licences which we propose will require modifying to integrate with EMR.
22. Industry codes and related documents and agreements will also require modifying. These underpin the electricity markets, and licensees are required to maintain, become a party to, and/or comply with such codes in accordance with the conditions of their licence. Section 2.3 highlights the code changes suggested within this consultation.

2.2 Changes to industry licences

23. Government, in conjunction with EMR delivery partners, has identified that it will be necessary to make amendments to National Grid's Electricity Transmission Licence ("NGET's Transmission Licence") as a consequence of the roles and mechanisms envisaged by EMR. Further details of these changes are set out below. At this stage, no consequential amendments to other licences have been identified.
24. The proposed amendments fall into two main groups:
- Amendments to the standard conditions for electricity transmission licences, the proposed text of which are set out in Annex A.
 - Amendments to the special conditions of NGET's Transmission Licence which are required as a consequence of the Delivery Body role being conferred on National Grid¹¹, the proposed text of which are set out in Annex B.

¹¹ Proposed amendments to these special conditions to deal with the conflicts of interest and synergies which may arise as a consequence of National Grid's role have been consulted on separately:

25. Further details on each group of changes are included in the sections below.
26. In preparing this consultation, Government and its delivery partners have considered all relevant electricity licences for potential consequential changes. As a result of this work it is considered that no changes are required to the Generation, Supply, Distribution and Interconnection licences.

2.2.1 Standard Conditions of Transmission Licences

Explanation and definition

27. Electricity Transmission licence standard conditions contain the requirements with which all electricity transmission licensees must comply, together with specific sections which apply to National Grid in its role as the System Operator, a section which applies only to Onshore Transmission Owners and a section which applies to the Offshore Transmission Owners. The standard conditions which apply to National Grid require, among other things, National Grid to have in force the Balancing and Settlement Code (BSC) and to have in force, and implement and comply with, the Grid Code.
28. We propose that NGET's Transmission Licence will be modified to allow the Balancing and Settlement Code to be modified so that subsidiaries of ELEXON can take on the role of CfD Settlement Services Provider and CM Settlement Services Provider, and to allow the BSC to contain provisions to support the operation of CfDs, Supplier Obligation and the Capacity Market. This will include appropriate safeguards to protect BSC parties from the costs of an ELEXON subsidiary acting as the CFD Settlement Services Provider and CM Settlement Services Provider and to ensure the provision of data required for the settlement of CfDs, the Supplier Obligation and the CM.

Licence conditions relating to the BSC

29. The BSC is required to set out the terms of the balancing and settlement arrangements and to establish a code administrator with certain functions relating to the carrying out of the balancing and settlement arrangements. The BSC must be designed to facilitate the achievement of certain objectives; modifications to the BSC must better facilitate the achievement of these objectives. These requirements are detailed in standard condition C3 of NGET's Transmission Licence. Section 2.3.7 of this document describes the proposed modifications to the BSC.

30. This consultation proposes that amendments will be made to the standard conditions to clarify that a subsidiary of ELEXON (the current code administrator) is not prevented or restricted by these conditions from carrying out the role of CFD Settlement Services Provider and CM Settlement Services Provider and to allow the BSC to contain provisions to support the operation of CfDs, the Supplier Obligation and the Capacity Market. Additional objectives will be added to the list of objectives which apply to the BSC. This will ensure that it is possible to rely on a specific EMR-related objective to make further amendments to the BSC in the future, including where such a change is necessary as a consequence of Ofgem exercising its power to make a change to the CM Rules.
31. Industry parties will have primary responsibility for identifying and proposing changes to the BSC which are consequential to a CM Rule change and, under NGET's Transmission Licence, National Grid is required to ensure that the BSC facilitates relevant objectives. Following a decision to make an amendment to the CM Rules, National Grid, as the licensee, will consider whether a modification to the BSC is necessary and, if so, it is the licensee's responsibility to raise a modification proposal in a timely fashion. It is considered that the existing obligations on National Grid to ensure that the BSC facilitates relevant objectives are sufficient. This consultation proposes not to include any further measures to ensure consistency.
32. Alternative models which we have considered include giving Ofgem a backstop power which would enable it to direct the licensee to consider whether a modification to the BSC is necessary following a change to the CM rules, and to report back within a specific period of time whether an amendment is necessary. A second alternative model which has been considered is to give Ofgem the power to direct that a modification is raised, in line with the power which exists for changes required to ensure consistency with certain instruments of EU law. However, the model proposed recognises that the licensee is obliged to ensure that the BSC promotes efficiency in the arrangements that facilitate the operation of the Capacity Market, and those include the CM Rules. In other words, National Grid must review any changes to the CM Rules to assess whether there is anything that will require a change to the BSC and, where there is a need, to raise a modification proposal.

Licence conditions relating to the Grid Code

33. The Grid Code covers the material technical aspects relating to connections to, and the operation and use of, the National Electricity Transmission System and is designed to achieve certain objectives. These objectives are detailed in standard condition C14. Section 2.3.1 of this document describes the proposed modifications to the Grid Code itself while proposed amendments to standard condition C14 are described below.
34. We propose to modify standard condition C14 by adding a further objective to the list of objectives which apply to the Grid Code. This will ensure that it is possible to rely on a specific EMR-related objective to make further amendments to the Grid Code in the future, including where such a change is necessary as a consequence of Ofgem exercising its power to make a change to the CM Rules.

35. The proposed amendments to the Transmission Licence are set out in Annex A.

Transmission Licence	
Question 1	Do you agree with the proposed changes to the Transmission Licence? If not, why, and what alternatives would you suggest?
Question 2	Do you agree with the proposed approach to identifying and modifying the BSC requirements as set out above? If not, would you suggest an alternative model?
Question 3	<p>a. Do you agree that the proposed changes go far enough to achieve the desired intention (e.g. to ensure ELEXON subsidiaries can perform the role envisaged)?</p> <p>b. Are there any further amendments which you have identified?</p> <p>c. Are there any unintended consequences of the proposed drafting?</p>
Question 4	Do you agree that no changes are required to the Generation; Supply; Distribution and Interconnection licences? If not, why, and what changes would you suggest?

2.2.2 NGET Special Conditions

Explanation and definition

36. The special conditions of NGET's Transmission Licence contain modifications to the electricity transmission licence standard conditions and specific obligations applying to National Grid. The Government has decided to confer the EMR functions on National Grid, which requires National Grid to carry out additional functions. The purpose of the proposed amendments to NGET's Transmission Licence special conditions is to ensure that the licence conditions permit National Grid to carry out the EMR functions.

37. These changes are in addition to the changes proposed to address potential conflicts of interest and maintain synergies between National Grid's various roles, which have been set out in a previous consultation.

Proposed changes

38. The consequential changes proposed to the special conditions primarily take the form of amendments to special condition 1C which modifies the standard conditions as applicable to

National Grid. We refer below to the relevant standard condition which would be modified through the proposed amendment to special condition 1C.

Standard condition A1 (definitions and interpretation)

39. An amendment is proposed which would revise the definition of “permitted purpose”, which broadly sets out the scope of the activities permitted under NGET’s Transmission Licence, to include the EMR Functions.

Standard condition B1 (regulatory accounts)

40. An amendment is proposed which would require National Grid to treat its EMR functions as part of the “transmission business” for the purpose of this condition. Consequentially, the regulatory accounts which National Grid produces for the transmission business must also include the necessary information in relation to its EMR functions.

41. National Grid is permitted to carry on a de minimis business provided the aggregate turnover of all de minimis businesses does not exceed a percentage of the aggregate turnover of the transmission business. This amendment (together with the amendment proposed to standard condition B6) will increase the cap on National Grid’s de minimis activities.

Standard condition B5 (prohibition on cross-subsidisation)

42. An amendment is proposed which would require National Grid to treat its EMR functions as part of the “transmission business” for the purpose of this condition. National Grid is required to ensure that the transmission business (which includes its EMR functions) does not give or receive any cross-subsidy from any other business of the licensee or any affiliate or related undertaking.

Standard condition B6 (restriction on activity and financial ring-fencing)

43. An amendment is proposed which would require National Grid to treat its EMR functions as part of the “transmission business” for the purpose of this condition. This amendment should ensure that this condition does not prevent National Grid from performing its EMR functions.

Standard condition B7 (availability of resources)

44. The proposed amendments would require National Grid to ensure that it has available to it the necessary resources to properly and efficiently carry out the EMR functions and to comply in all respects with its obligations under the EMR legislation. In addition, amendments are proposed to the form of the certificates to be given to the Authority relating to whether the licensee has the necessary financial or operational resources available to it.

Standard condition B8 (ultimate controller undertaking)

45. The proposed amendment would require the undertaking, which National Grid is required to procure from its ultimate controller regarding its compliance with its obligations under the Electricity Act 1989 and licence, to also cover its obligations under the EMR legislation. The proposed modification also sets out a timescale for National Grid to provide a revised form of undertaking which also covers the EMR functions.
46. The proposed amendments to NGET Special Conditions are set out in Annex B.

National Grid Special Conditions**Question 5**

Do you agree with the proposed changes to the National Grid Special Conditions? If not, why, and what alternatives would you suggest?

2.3 Changes to industry codes and industry agreements**2.3.1 Grid Code**Explanation and definition

47. This code is designed to permit the development, maintenance and operation of an efficient, co-ordinated and economical system for the transmission of electricity, to facilitate competition in the generation and supply of electricity and to promote the security and efficiency of the power system as a whole. National Grid is required by NGET's Transmission Licence to implement the Grid Code and National Grid and users of its transmission system are required to comply with the Grid Code.

Proposed changes

48. The areas where the provisions of the EMR legislation and EMR documents will require consequential changes to be made to the Grid Code relate to the General Conditions Planning Code and Definitions section. In particular:
- **Change Co-ordination Requirements:** This proposed amendment will be to the existing change co-ordination mechanisms in the Grid Code to ensure that the change co-ordination arrangements already in place facilitate the identification, co-ordination, making and implementation of a change to any relevant EMR Document consequent on a modification to the Grid Code.
 - **Data Flows for certain Grid Code related data:** This proposed amendment will be made principally to the confidentiality provisions, which will cover the use by National Grid of any data to be passed across under the Grid Code. The confidentiality provisions are

mostly contained in the CUSC, and so changes will be made to that document as well as to the Grid Code provisions. Changes will also be made to the confidentiality provisions in the CUSC applying to the users to enable them to pass data across as of part of their data provision requirements for EMR (e.g. as part of any application process for an EMR contract).

49. The proposed amendments to the Grid Code in relation to change co-ordination and data flows are set out in Annex C.

Grid Code	
Question 6	Do you agree with the proposed changes to the Grid Code? If not, why, and what alternatives would you suggest?

2.3.2 Connection and Use of System Code (CUSC)

Explanation and definition

50. The CUSC constitutes the contractual framework for connection to, and use of, National Grid's high voltage transmission system.

Proposed changes

51. The areas where provisions of the EMR legislation and EMR documents will require consequential changes to be made to the CUSC relate to sections 4 (balancing services), 6.7 (metering), 6.15 (confidentiality), 7.2 (disputes) and 8 (change co-ordination), along with associated changes to the definitions section.

- **Change Co-ordination Requirements:** This amendment, as with the amendment to the Grid Code, will ensure that the change co-ordination arrangements already in place facilitate the identification, co-ordination, making and implementation of a change to any relevant EMR Document consequent on a modification to the CUSC.
- **Data Flows for certain CUSC related data:** This change will cover the confidentiality of any data passed across under the CUSC, and/or under the Grid Code. In addition, it is necessary to amend the provision within Section 6 dealing with access to certain metering data when EMR functions are being carried out. There is also a need to make amendments in relation to data and information relating to the Balancing Services which is set out further in section 2.3.4.
- **Dispute co-ordination:** This amendment to the dispute resolution provisions exclude disputes relating to the Capacity Market or the CfD from their operation. Disputes will instead be subject to the appropriate provisions of the EMR legislation and EMR documents.

52. The proposed amendments to the CUSC are set out in Annex C.

Connection and Use of System

Question 7

Do you agree with the proposed changes to the Connection and Use of System Code? If not, why, and what alternatives would you suggest?

2.3.3 System Operator / Transmission Owner Code (STC)

Explanation and definition

53. The STC defines the high-level relationship between the National Electricity Transmission System Operator (NETSO) and Transmission Owners.

Proposed changes

54. The area where the provisions of the EMR legislation and EMR documents will require consequential changes to be made to the STC relate to section B (governance), along with associated changes to the definitions section.

- Change Co-ordination Requirements: This proposed amendment, as with the amendments to the Grid Code and the CUSC, will ensure that the change co-ordination arrangements already in place facilitate the identification, co-ordination, making and implementation of a change to any relevant EMR Document consequent on a modification to the STC.
- Due to the fact that balancing services are briefly referred to in the CUSC, a few relevant amendments relating to the provision of balancing services have also been proposed in relation to Section 4 of the CUSC.

55. The proposed amendments to the STC are set out in Annex C.

System Operator / Transmission Owner Code (STC)

Question 8

Do you agree with the proposed changes to the System Operator / Transmission Owner Code? If not, why, and what alternatives would you suggest?

2.3.4 Balancing Services Agreements (BSA)

Explanation and definition

56. National Grid procures Balancing Services in order to balance demand and supply and to ensure the security and quality of electricity supply across the GB Transmission System. In accordance with LC C16 of NGET's Transmission Licence, National Grid has established and published statements and guidelines on Balancing Services, Procurement and Use, and the BSAs give effect to those statements.

Proposed changes

57. The areas where provisions of the EMR legislation and EMR documents will require consequential changes to be made to the BSAs relate to data flows and dispute resolution.

- Data Flows for certain BSA related data: This change will cover the confidentiality of data relating to certain BSAs so that it can be used as required by the EMR legislation and EMR Documents. For example,
 - Under the proposed CM Rules¹², in order to calculate the De-rating Factor Range for each De-rated Technology Class, the Delivery Body will be required to determine average availabilities using historical availability information for BM Units and Balancing Service DSR CMUs (defined in Rule 2.3.5 of the consultation draft). The De-rating Factor Ranges (but not the availability information) will be published in accordance with the CM Rules, and so the data to be utilised will merely enable a composite range to be prepared.
 - Under the draft Electricity Capacity Payment Regulations 2014¹³ the System Operator must provide the CM Settlement Services Provider, for each settlement period where a system stress event occurs, with details of any instruction given under a BSA by the System Operator to the owner of a CMU to change the output of that unit where the owner has not agreed to comply with the BSC framework agreement.
- Dispute co-ordination: This amendment to the dispute resolution provisions excludes disputes relating to the Capacity Market or the CfD contract from their operation. Disputes will instead be subject to the appropriate provisions of the EMR legislation and EMR Documents.

58. The proposed amendments to the Balancing Settlement Agreements are set out in Annex C.

¹²Draft CM Rules were published in October 2013 at <https://www.gov.uk/government/consultations/proposals-for-implementation-of-electricity-market-reform>

¹³https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249563/electricity_capacity_payment_regulations_2014_si.pdf

Balancing Services Agreements (BSA)

Question 9

Do you agree with the proposed changes to the Balancing Services Agreements? If not, why, and what alternatives would you suggest?

2.3.5 Distribution Code (DCode)

59. The Distribution Code (DCode) covers all material technical aspects relating to connections to, and the operation and use of, the DNO's Distribution System and the operation of electric lines and electrical Plant and Apparatus connected to the DNO's Distribution System. The code is designed to permit the development, maintenance and operation of an efficient, co-ordinated and economical system for the distribution of electricity, and to facilitate competition in the generation and supply of electricity. We have reviewed the DCode in respect of the EMR legislation and EMR documents, and have concluded that, at this stage, no consequential changes are necessary.

2.3.6 Distribution Connection and Use of System Agreement (DCUSA)

60. The Distribution Connection and Use of System Agreement (DCUSA) is a multi-party agreement between licensed electricity distributors, suppliers and generators within Great Britain, and is primarily concerned with the use of the distribution systems by suppliers. The DCUSA objectives include the development, maintenance and operation of an efficient, co-ordinated, and economical distribution system, including the maintenance of the charging objectives of the agreement; the facilitation of effective competition in the generation and supply of electricity; and (so far as is consistent with that) the promotion of such competition in the sale, distribution, and purchase of electricity. We have reviewed the DCUSA in respect of the EMR legislation and EMR documents, and have concluded that, at this stage, no consequential changes are necessary.

Dcode and DCUSA

Question 10

Do you agree that no changes are required to the DCode or the DCUSA? If not, why, and what change would you suggest?

2.3.7 Balancing and Settlement Code

Explanation and definition

61. The BSC will be modified by the Secretary of State so as to designate ELEXON¹⁴ as undertaking the CFD Settlement Services Provider and CM Settlement Services Provider roles. As above, NGET's Transmission Licence will also be modified to allow these changes to be made to the BSC.
62. ELEXON intend to establish a subsidiary company (or companies) to deliver the CFD and Capacity Market settlement roles and so the modifications allow an affiliate to be created, ring-fencing the CFD Settlement Services Provider and CM Settlement Services Provider liabilities from BSC Parties. This will ensure that the additional costs of providing support to EMR settlement are passed to the CFD Counterparty and Capacity Market Settlement Body rather than BSC Parties. This also prevents the BSCCo from lending or providing financial assistance or assets to the subsidiary companies acting as the CFD Settlement Services Provider or the CM Settlement Services Provider except on commercial terms in order to protect BSC Parties.

Description of the proposed changes

63. The modifications include provisions to protect BSC data and to ensure transparency for the BSC Panel by:
- Limiting the use of BSC data to that required for EMR settlement.
 - Extending the BSC's confidentiality requirements to the use of the data for EMR, while ensuring that it can be accessed by the CFD Counterparty, Capacity Market Settlement Body, CfD Settlement Services Provider, CM Settlement Services Provider and service providers.
 - Ensuring that the BSCCo provides the BSC Panel with a schedule of the data that will be required for EMR settlement, an explanation of why it is necessary and a copy of the agreement between the BSCCo and the CFD Settlement Services Provider and CM Settlement Services Provider.
 - Ensuring that the schedule of settlement data required for EMR settlement is published on the BSC website.
64. The modifications also create safeguards to ensure that the appropriate data required for CfDs and CM continues to be available, which will:
- Require the BSCCo to provide the necessary data for settlement to the CFD Settlement Services Provider and CM Settlement Services Provider.

¹⁴Subsidiaries of Elexon Ltd will be appointed to the role through a contract with the Counterparty Body and the Settlement Body following designation by the Secretary of State. The BSC changes within this section enable ELEXON to create subsidiaries to perform the roles required.

- Ensure that the BSC Panel and BSC Parties do not prevent the CFD Settlement Services Provider and the Capacity Market Settlement Services Provider from fulfilling their role.

65. The modifications include provisions that enable the CFD Settlement Services Provider and CM Settlement Services Provider roles to be performed by subsidiaries of BSCCo and protect BSC Parties from EMR costs and liabilities, which will:

- Enable BSCCo to establish affiliates for the purpose of performing the CFD Settlement Services Provider and CM Settlement Services Provider roles.
- Formally designate ELEXON to the roles of CFD Settlement Services Provider and CM Settlement Services Provider.
- Limit the additional roles that those affiliates can perform to the EMR settlement activities specified in the BSC.
- Require BSCCo to enter into an agreement with the CFD Settlement Services Provider and CM Settlement Services Provider to recover any costs they incur in supporting EMR (through providing data or providing other support services) from the CFD Settlement Services Provider and CM Settlement Services Provider.
- Require BSCCo to enter into an agreement with the CFD Settlement Services Provider and CM Settlement Services Provider to ensure that any risks or liabilities that arise through BSCCo providing support to EMR settlement are allocated, to the extent possible, to the CfD Settlement Services Provider or CM Settlement Services Provider.
- Require transactions between BSCCo and its affiliates to be on an arm's length commercial basis preventing cross subsidies.

66. The modifications include provisions that allow future modifications to the BSC that may be necessary to maintain the continued alignment between the BSC and EMR, which will:

- Ensure that the CFD Counterparty and Capacity Market Settlement Body are consulted when future modifications are proposed that may impact on CfD or CM arrangements.
- Add the CFD Counterparty and Capacity Market Settlement Body to the list of organisations which can propose modifications to the BSC, where a change to either CfD or CM arrangements may have an impact on the BSC.
- Require the consent of the Secretary of State to any modification to the BSC which would prevent the CFD Counterparty, the Capacity Market Settlement Body or the EMR Settlement Services Provider from performing their EMR functions or would have a material impact on the EMR arrangements.

67. The modifications include provisions that will require the BSCCo to notify the CFD Counterparty and the Capacity Market Settlement Body of any matters that may give rise to a trading dispute affecting a CfD holders or a Capacity Agreement. The modifications include

provisions that also reflect DECC's CfD and Capacity Market metering policies (such as creating additional BM Units¹⁵).

68. The proposed amendments to the Balancing and Settlement Code are set out in Annex D. A consolidated version of the BSC is available on Elexon's website¹⁶.

Balancing and Settlement Code (BSC)	
Question 11	Do you agree with the proposed changes to the Balancing and Settlement Code? If not, why, and what alternatives would you suggest?
Question 12	Should the CFD Counterparty and CM Settlement Body have the power to propose modifications to the BSC, where a change in either CfD or Capacity Market arrangements may have an impact on the BSC?
Question 13	Do you agree that the proposed wording in the BSC sufficiently provides the Secretary of State with the ability to stop the BSC being modified in any way which would prevent the CFD Counterparty, the Capacity Market Settlement Body, the CFD Settlement Services Provider or the CM Settlement Services Provider from performing their functions or would have a material impact on the EMR arrangements? If not, what is your reasoning?
Question 14	Do you agree that BSCCo should be able to provide support services to the CFD Settlement Services Provider and the CM Settlement Services Provider provided that those support services are incidental to helping the CFD Settlement Services Provider or the CM Settlement Services Provider perform their EMR functions?

¹⁵ DECC is still working on the exact mechanics that will enable the operation of its Additional Balancing Mechanism Units policy.

¹⁶ <http://www.elexon.co.uk/bsc-related-documents/balancing-settlement-code/>

2.4 Subsidiary Documents

2.4.1 System Security and Quality of Supply Standards (SQSS)

Explanation and definition

69. The SQSS sets out a co-ordinated set of criteria and methodologies that transmission licensees (both onshore and offshore) use in the planning and operation of the National Electricity Transmission System. We have reviewed the SQSS in respect of the EMR legislation and EMR documents, and have concluded that, at this stage, no consequential changes are necessary.

System Security and Quality of Supply Standards (SQSS)

Question 15

Do you agree that no changes to the System Security and Quality of Supply Standards are required? If not, why, and what changes would you suggest?

2.4.2 Licence Condition C16 Statements

Explanation and definition

70. Various statements are maintained and issued by National Grid pursuant to Licence Condition C16 of NGET's Transmission Licence in relation to the procurement and use of balancing services. We have reviewed the C16 statements listed below and have concluded that, at this stage, no consequential changes are required to those statements:

- Balancing Principles Statement
- Procurement Guidelines
- Balancing Services Adjustment Data Methodology
- System Management Action Flagging Methodology Statement; and
- Applicable Balancing Services Volume Data Methodology Statement

LC 16 Statements

Question 16

Do you agree that no changes to the Licence Condition C16 Statements are necessary? If not, why, and what changes would you suggest?

71. The need for changes to the Fuel Security Code and Uniform Network Code has been considered in the production of this consultation. These codes have been reviewed in respect to the EMR legislation and documents, and at this stage no consequential changes are required.

Fuel Security Code and Uniform Network Code

Question 17

Do you agree that no changes to the Fuel Security Code and Uniform Network Code are necessary? If not, why, and what changes would you suggest?

Timeline for EMR Implementation and consequential changes to industry code, licence, industry agreements and other documents

72. Following the closure of this consultation, Government and its delivery partners will analyse responses and finalise the proposed code and licence modifications. The relevant Code Panels will be kept updated of further amendments, while any subsequent policy design changes as a result of the EMR consultation titled 'Electricity Market Reform: Consultation on Proposals for Implementation' (launched in October 2013) will be monitored for impacts on industry codes and licences.
73. Government intends to publish a response to this consultation alongside the response to the October 2013 EMR consultation, in late spring; and plan for the modifications to come into effect and at the same time as the implementing EMR secondary legislation – enabling EMR to be operational.

Catalogue of consultation questions

Transmission Licence	
Question 1	Do you agree with the proposed changes to the Transmission Licence? If not, why, and what alternatives would you suggest?
Question 2	Do you agree with the proposed approach to identifying and modifying the BSC requirements as set out in above? If not, would you suggest an alternative model?
Question 3	<p>a. Do you agree that the proposed changes go far enough to achieve the desired intention (e.g. to ensure ELEXON subsidiaries can perform the role envisaged)?</p> <p>b. Are there any further amendments which you have identified?</p> <p>c. Are there any unintended consequences of the proposed drafting?</p>
Question 4	Do you agree that no changes are required to the Generation; Supply; Distribution and Interconnection licences? If not, why, and what changes would you suggest?
National Grid Special Conditions	
Question 5	Do you agree with the proposed changes to the National Grid Special Conditions? If not, why, and what alternatives would you suggest?
Grid Code	
Question 6	Do you agree with the proposed changes to the Grid Code? If not, why, and what alternatives would you suggest?
Connection and Use of System	

Question 7	Do you agree with the proposed changes to the Connection and Use of System Code? If not, why, and what alternatives would you suggest?
System Operator / Transmission Owner Code (STC)	
Question 8	Do you agree with the proposed changes to the System Operator / Transmission Owner Code? If not, why, and what alternatives would you suggest?
Balancing Services Agreements (BSA)	
Question 9	Do you agree with the proposed changes to the Balancing Services Agreements? If not, why, and what alternatives would you suggest?
DCode and DCUSA	
Question 10	Do you agree that no changes are required to the DCode or the DCUSA? If not, why, and what change would you suggest?
Balancing and Settlement Code (BSC)	
Question 11	Do you agree with the proposed changes to the Balancing and Settlement Code? If not, why, and what alternatives would you suggest?
Question 12	Should the CFD Counterparty and CM Settlement Body have the power to propose modifications to the BSC, where a change in either CfD or CM arrangements may have an impact on the BSC?
Question 13	Do you agree that the proposed wording in the BSC sufficiently provides the Secretary of State with the ability to stop the BSC being modified in any way which would prevent the CFD Counterparty, the Capacity Market Settlement Body, the CFD

	<p>Settlement Services Provider or the CM Settlement Services Provider from performing their functions or would have a material impact on the EMR arrangements?</p> <p>If not, what is your reasoning?</p>
Question 14	<p>Do you agree that BSCCo should be able to provide support services to the CFD Settlement Services Provider and the CM Settlement Services Provider provided that those support services are incidental to helping the CFD Settlement Services Provider or the CM Settlement Services Provider perform their EMR functions?</p>
System Security and Quality of Supply Standards (SQSS)	
Question 15	<p>Do you agree that no changes to the System Security and Quality of Supply Standards are required? If not, why, and what changes would you suggest?</p>
LC 16 Statements	
Question 16	<p>Do you agree that no changes to the Licence Condition C16 Statements are necessary? If not, why, and what changes would you suggest?</p>
Fuel Security Code and Uniform Network Code	
Question 17	<p>Do you agree that no changes to the Fuel Security Code and Uniform Network Code are necessary? If not, why, and what changes would you suggest?</p>

© Crown copyright 2014

Department of Energy & Climate Change

3 Whitehall Place

London SW1A 2HD

<https://www.gov.uk/government/organisations/department-of-energy-climate-change>

URN 13D/326