Department for
Energy Security
& Net Zero

Nuclear RAB consultation on industry code and licence modifications

Closing date: 5 December 2023

October 2023

Any enquiries regarding this publication should be sent to us at:
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Contents

General information

Why we are consulting

The Nuclear Energy (Financing) Act 2022 ("the Act") makes provision for the implementation of a Regulated Asset Base ("RAB") funding model to finance new nuclear energy generation projects. The Nuclear Regulated Asset Base Model (Revenue Collection) Regulations 2023 ("the Regulations") made under the powers in Part 2 of the Act, set out the detailed mechanics of how the revenue stream would operate under the model.

Section 29(1) of the Act gives the Secretary of State powers to make modifications to Transmission and Distribution Licences, and the industry codes maintained in accordance with these licences so that the revenue stream can function as intended. Section 29(4) places a requirement on the Secretary of State to consult with the persons set out in that subsection before making these modifications. The purpose of this consultation is to seek views on the proposed modifications to industry codes and licences.

The annexes to this consultation document set out the draft amendments that the Secretary of State proposes making.

Issued: 24 October 2023

Respond by: 5 December 2023

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Consultation reference: Nuclear RAB consultation on industry code and licence modifications

Audiences:

Before making modifications section 29(4) of the Nuclear Energy (Financing) Act 2022 requires the following persons to be consulted:

- the Scottish Ministers
- the Welsh Ministers
- the holder of any licence being modified

- every holder of a licence to supply electricity under section 6(1)(d) of the Electricity Act 1989
- the Authority (i.e. Ofgem)

Section 29(4)(f) of the Act makes provision for consultation with such other persons as the Secretary of State considers appropriate. The Secretary of State considers it appropriate to consult with industry code administrators, holders of Transmission and Distribution Licences[1], Balancing and Settlement Code ("BSC") parties, the BSC Panel, the Low Carbon Contracts Company Limited ("LCCC") and EMR Settlement Limited ("EMRS"), which is a subsidiary of Elexon Limited ("Elexon"). The Government expects certain types of contributions from the consultees in relation to nuclear RAB related licence and code modifications as follows:

- **Ofgem** would be able to provide input in respect of whether the proposed modifications allow it to carry out its functions as the Economic Regulator for nuclear RAB projects. Given that Ofgem also administers Transmission and Distribution Licences and plays a decision-making role in code changes in certain circumstances, Ofgem would be able to provide input on whether the proposed changes are fit for purpose and whether any other modifications are required.
- **Holders of Transmission and Distribution Licences** would be able to provide input in respect of whether the proposed modifications have any impact on their activities involving the transmission and or/distribution of electricity. Additionally, as licensees are required to maintain, become party to, or comply with the industry codes (in accordance with the conditions of their licence), they would also be well placed to provide views on code changes.
- **Industry code administrators (electricity)** are the point of contact for each code. They would be able to provide input on whether the proposed modifications are fit for purpose and achieve objectives. They would also be able to consider whether the modifications proposed as part of this consultation have any consequential impact on the code they administer.
- **Parties to the BSC** would be able to provide input on any impacts the proposed modifications have on their obligations under the BSC and whether the proposed modifications are fit for purpose.
- **BSC Panel** would be able to provide input on behalf of industry and consumer representatives on whether the proposed modifications to the BSC are fit for purpose and achieve objectives.
- **LCCC** would be able to input in respect of whether the proposed modifications allow them to carry out their functions (i.e. as the Revenue Collection Counterparty under nuclear RAB).

[1] Holders of Transmission and Distribution Licences (e.g. National Grid ESO and Elexon) are being consulted with under section 29(4)(f) of the Act where they do not fall in scope of section 29(4)(c)

- **EMRS** would be able to provide input in respect of whether the modifications would allow them to carry out their envisaged settlement functions (i.e. as the Nuclear RAB Settlement Services Provider).

Consultees are not limited to the areas mentioned above and are able to respond to the consultation questions as they consider appropriate. Consultees may find it useful to review the Regulations, alongside this document and accompanying annexes for additional context.

The Secretary of State has carefully considered whether it would be appropriate to consult any other persons on this matter (e.g. consumer groups, the general public and any other persons with an interest in this area). However, this is a technical consultation regarding proposed modifications to implement the provisions of the Regulations that have already come into force (as outlined below). Prior to the Regulations coming into force, the Secretary of State consulted and invited views in respect of the functioning of the revenue stream. These opportunities included:

- The full public consultation on the application of the RAB model for new nuclear build projects in summer 2019. This allowed for public input on the principles and approach behind the RAB funding model.
- The passage of the Nuclear Energy (Financing) Act 2022, where the proposed funding model (including matters related to the revenue stream) was scrutinised by MPs and Peers during its passage through Parliament.
- The full public consultation on the nuclear RAB revenue stream in summer 2022. This allowed the public to comment on proposals for the Regulations.
- The passage of the Nuclear Regulated Asset Base Model (Revenue Collection) Regulations 2023, where the provisions for the Regulations were scrutinised by MPs and Peers during its passage through Parliament.

Taking the above into account, the Secretary of State is satisfied by the scope of consultees. It is considered that the interests of consumers and the wider public interest will be reflected through this consultation, particularly given that Ofgem is a statutory consultee and has a duty to protect the interests of existing and future electricity consumers.

Publication

In the interests of transparency, although not required to do so, the Secretary of State is publishing this consultation.

Territorial extent

This consultation is only relevant to England, Scotland, and Wales.

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.

Respond online at: beisgovuk.citizenspace.com/clean-electricity/nuclear-rab-industry-code-and-licence-modification

or

Email to: rabrevenueconsultation@energysecurity.gov.uk

Write to:

Nuclear Projects Delivery
Department for Energy Security and Net Zero

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Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable data protection laws. See our privacy policy.

We will summarise all responses and publish this summary on GOV.UK. The 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 consultation principles.

If you have any complaints about the way this consultation has been conducted, please email: bru@energysecurity.gov.uk.

Introduction

The role of nuclear

In 2019 the UK became the first major economy in the world to set legally binding targets to bring all greenhouse gas emissions to Net Zero by 2050. In the Net Zero Strategy, the Government also committed to have a fully low carbon power sector by 2035, subject to security of supply.[2] This means that renewable energy sources (i.e. wind and solar) will play an important role in achieving a Net Zero compliant system. However, to ensure the system remains reliable, intermittent renewables will need to be complemented by technologies which will provide continuous and stable electricity that is not dependent on weather conditions. Therefore, the Government is pursuing nuclear as a reliable source of low carbon electricity and has a long-term ambition to increase our deployment of civil nuclear power up to 24GW by 2050.[3]

On 31st March 2022, the Nuclear Energy (Financing) Act ("the Act") received Royal Assent. The Act provides the legislative framework to implement a Regulated Asset Base ("RAB") model to fund new nuclear energy generation projects. A key component of a nuclear RAB model is a robust revenue stream. On 23rd March 2023, The Nuclear Regulated Asset Base Model (Revenue Collection) Regulations 2023 ("the Regulations") came into force. These Regulations, which were made using the powers under Part 2 of the Act, set out the detailed mechanics of how the revenue stream would operate to ensure a consistent flow of revenues between electricity suppliers and nuclear companies benefiting from the model.

This presents a significant step forward in fully establishing a model for potential use on all new nuclear projects –to ensure a low-carbon, low-cost and resilient electricity system, allowing the UK to reach its emission reduction targets and provide energy security. To support this, the Government has also recently designated the Sizewell C project as the first that could use a RAB model.

Powers to make modifications

Section 29 of the Act gives the Secretary of State powers to make modifications to Transmission and Distribution Licences, the standard conditions incorporated into those licences, and industry codes that are maintained under those types of licences for the purpose of enabling the Regulations to function as intended through:

- allowing or requiring services to be provided to a Revenue Collection Counterparty; and
- enforcing obligations under a revenue collection contract.

[2] Net Zero Strategy (2021), available - https://www.gov.uk/government/publications/net-zero-strategy
[3] British Energy Security Strategy (2022), available - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1069969/british-energy-security-strategy-web-accessible.pdf

This provision (as with other provisions) in the Act was modelled on the Contracts for Difference ("CFD") legislative framework set out in the Energy Act 2013, in this case, section 26 of the 2013 Act. In 2014, the Government consulted on and made consequential modifications to industry codes and licences to implement the CFD legislative framework.[4] The CFD revenue mechanism was used as a starting point in the design of the nuclear RAB revenue stream, meaning that they would function in similar ways (see below for more details). Therefore, as a starting point, the Government has considered what modifications were made to implement the CFD revenue regime and whether similar modifications would be required for the nuclear RAB revenue stream.

Nuclear RAB revenue mechanics

The Act enables the Secretary of State to designate a nuclear company to potentially benefit from the RAB model. Following a designation, the Secretary of State may make modifications to the company's electricity generation licence, including by inserting new conditions, to facilitate the operation of the RAB model. It is the modified licence ("RAB licence"), amongst other things, that would enable the nuclear company to receive a regulated revenue stream (i.e. "Allowed Revenue") as determined by Ofgem during the design, construction, commissioning, and operation of the nuclear project in question (including its activities in complying with obligations under an approved funded decommissioning programme under the Energy Act 2008).

The Regulations establish a revenue mechanism that applies once the Revenue Collection Counterparty[5] and a designated nuclear company enter into a revenue collection contract, to allow the Revenue Collection Counterparty to collect the amounts (i.e. "RAB payments") [6] it must pay to/ or receive from relevant licensee nuclear companies[7] under revenue collection contracts. RAB payments to relevant licensee nuclear companies would be funded by all licenced electricity suppliers in Great Britain who could pass these costs on to their consumers (but there is no requirement for them to do so under the Regulations).

[4] EMR consultation on industry code and licence modifications (2014), available - https://www.gov.uk/government/consultations/emr-consultation-on-industry-code-and-licence-modifications

[5] The Secretary of State has designated LCCC to perform the role of Revenue Collection Counterparty – i.e. to be the counterparty for revenue collection contracts and to channel funds between electricity suppliers and relevant licensee nuclear companies. Designation notice (2022), available - https://www.gov.uk/government/publications/low-carbon-contracts-company-designated-as-revenue-collection-counterparty-for-nuclear-regulated-asset-base-rab-model

[6] During the construction phase the RAB payments a relevant licensee nuclear company would receive would be equal to its full Allowed Revenue (as it would not be generating electricity). During operations, the RAB payment paid to or received from a relevant licensee nuclear company would equal the Allowed Revenue minus any applicable Forecast Market Revenue ("FMR") from sales of electricity. To the extent that the licensees FMR from electricity sales would be insufficient to allow it to recover its Allowed Revenue, then it would receive from the Revenue Collection Counterparty RAB payments up to its Allowed Revenue (funded by electricity suppliers). If the relevant licensee nuclear company's FMR exceeds the Allowed Revenue, it would pay RAB payments reflecting the difference to the Revenue Collection Counterparty - who would pass this back to suppliers.

[7] Under the Act designated nuclear companies (with a RAB licence) become relevant licensee nuclear companies upon entry into revenue collection contracts with the Revenue Collection Counterparty.

Under these Regulations the Revenue Collection Counterparty will collect two levies, the supplier obligation and operational costs levy. Suppliers would receive notification of RAB interim levy rates, reserve amounts, and operational costs levy rates. They would then be invoiced for daily RAB interim rate payments, quarterly reserve payments and daily operational cost payments. These payments would be calculated according to factors including the amount of electricity supplied by each supplier (i.e. market share) and reconciliations would be carried out (see below for further details).

These mechanics are similar to the CFD revenue regime. However, the Regulations do have differences to account for the specific requirements of the nuclear RAB revenue mechanics. The key differences to the CFD revenue regime have been set out below:

- The Regulations enable payments to be made to relevant licensee nuclear companies during a project's construction phase.[8]
- The amounts to be paid to or from relevant licensee nuclear companies under revenue collection contracts would be according to amounts (e.g. Allowed Revenue) confirmed by Ofgem (as calculated in accordance with the conditions of their RAB licence).[9] The Revenue Collection Counterparty would then determine what to charge suppliers to meet those amounts.
- The Regulations require the Revenue Collection Counterparty to determine the RAB interim levy rate at least 30 days before the start of a quarterly obligation period and then to notify suppliers as soon as reasonably practicable. They also require the Revenue Collection Counterparty to determine and notify suppliers of the total reserve amount at least 30 days before the start of that period and to provide suppliers with around two and a half weeks' notice of their individual reserve payment.[10]
- The Regulations include provision allowing the Revenue Collection Counterparty, Ofgem, and the Secretary of State to receive information and/ or advice from specified persons so that the revenue stream can run effectively (see below).

[8] Under the CFD, payments are only made to CFD generators once the plant is operational.
[9] This is in contrast to CFDs where the CFD counterparty would be fully responsible for determining amounts to pay to or receive from CFD generators based on the terms of the CFD.
[10] This is in contrast to CFDs where suppliers receive at least 3 months' notice of the CFD interim levy rate and total reserve amount, and around 2 months and 2 & half weeks' notice of their individual reserve amount.

Engagement with relevant stakeholders

In preparing this consultation, the Government informally engaged with Ofgem and electricity code administrators[11] and other relevant stakeholders (e.g. LCCC and EMRS) to get their initial views on whether the Regulations might impact or be impacted by Transmission and/or Distribution Licences and the electricity industry codes. Given the technical nature of the licences and codes, the Government sought expert input from these stakeholders to identify which changes might need to be made to the documents they are responsible for administering.

To inform this assessment the Government engaged with the relevant stakeholders to learn more about the documents they administer, explain the Secretary of State's powers to make modifications to them, and provide them with an overview of the mechanics of the nuclear RAB revenue stream. Where it was determined that documents might require modifications, the Government ran the relevant stakeholders through the Regulations and key features to consider when identifying possible modifications (see below).

The drafting of proposed modifications has been led by the relevant document administrators, working alongside Government and other relevant stakeholders to seek to ensure that they would operate effectively to implement the Regulations as intended. Ofgem and all electricity code administrators have had the opportunity to review the draft modifications to allow them to identify any consequential modifications that might be required in the documents they administer.

[11] These include Elexon, National Grid ESO, Electralink, Energy Networks Association, Smart Energy Code Administrator and Secretariat, REC.

Modification considerations

Parties involved in administering the nuclear RAB revenue stream

- Government/ Secretary of State – sets the policy framework, leads nuclear RAB policy design and legislative actions.
- Ofgem – determines the amount (i.e. Allowed Revenue) relevant licensee nuclear companies benefitting from the RAB model receive (in accordance with the conditions of their RAB licence).
- Revenue Collection Counterparty (i.e. LCCC)– Government-owned company that is a party to revenue collection contracts and channels money between electricity suppliers and relevant licensee nuclear companies.
- Settlement Services Provider – calculates and settles amounts payable (based on supplier market share data) under revenue collection contracts on behalf of the Revenue Collection Counterparty.
- Relevant licensee nuclear companies – nuclear companies that benefit from the RAB model and are parties to revenue collection contracts.
- Electricity suppliers – required to pay certain levies under the Regulations.

Supplier Obligation

The 'supplier obligation' (as set out in Part 2 of the Regulations) places a requirement on all electricity suppliers to make payments to the Revenue Collection Counterparty in the form of a compulsory levy. This is to enable the Revenue Collection Counterparty to make RAB payments due to relevant licensee nuclear companies under their revenue collection contracts.

These payments made by suppliers under the supplier obligation would be calculated by the Revenue Collection Counterparty in proportion with their market share (i.e. the proportion of electricity that each supplier supplied for that period – excluding any 'excluded electricity' under the Energy Intensive Industries ("EII") exemption[12]). To facilitate this, the Revenue Collection Counterparty will determine and set a £/MWh interim levy rate to apply over each quarterly obligation period and give suppliers advance notice of the levy rate in accordance with the Regulations (see above). Over each quarterly period each supplier would receive daily invoices from the Revenue Collection Counterparty and will make daily 'interim rate payments' corresponding to their daily volume of electricity supply.

[12] In accordance with The Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015 (as amended).

The Regulations also make provision for the Revenue Collection Counterparty to make payments to suppliers (e.g. where it has received monies from relevant licensee nuclear companies under revenue collection contracts in proportion with their market share. As with costs, suppliers may pass on benefits associated with their payment obligations to their consumers (same applies to the operational costs levy – see below).

To ensure the Revenue Collection Counterparty can make the required payments to relevant licensee nuclear companies under revenue collection contracts, the Regulations set out the following arrangements for the Revenue Collection Counterparty to hold sums in reserve and to provide for cases of default by an electricity supplier:

- **Collateral:** Suppliers are required to post collateral calculated to cover 21 days of interim rate payments.
- **Reserve amounts:** Suppliers will make a lump sum reserve payment to the Revenue Collection Counterparty at the start of each quarterly obligation period. The reserve fund held by the Revenue Collection Counterparty will be sized to ensure it has a 95% certainty in meeting its payment obligations to relevant licensee nuclear companies with whom it has revenue collection contracts. Like the interim levy rate, suppliers will receive advance notice of the total reserve amount as well as their individual reserve amount (i.e. their share of their total reserve amount), in accordance with the Regulations (see above).
- **Mutualisation:** Should an electricity supplier default on a payment that it was required to make, and the Revenue Collection Counterparty not hold enough collateral from the defaulting supplier, the Revenue Collection Counterparty could require other suppliers to pay further amounts to cover the amount of that default in proportion with their respective market shares.

Operational costs levy

Suppliers will also be liable for the operational costs of LCCC carrying out its functions as the Revenue Collection Counterparty. This levy will also be charged to suppliers based on how much electricity each supplier has supplied on each day within the operational cost levy period.

Reconciliation

The Revenue Collection Counterparty (via a Settlement Services Provider) will need to have access to market share data to determine the actual payments that suppliers are liable to pay under their supplier obligation and operational costs levy and carry out reconciliations accordingly. Where suppliers are overcharged under the supplier obligation, amounts would be returned to them and where they were undercharged, they would be invoiced for further payments. These reconciliations would take place at the end of each quarter and on a rolling basis (as more data becomes available from Elexon, in accordance with the Balancing and

Settlement Code)[13]. In respect of operational costs payments, should there be any excess paid by suppliers, this would be returned to them after the end of the operational cost period, which in most cases will be a year.

Enforcement

The use of market share data can also extend to features such as enforcement under the Regulations whereby this data can be used by the Revenue Collection Counterparty and/or Ofgem for the purpose of enforcing against a supplier for non-payment.

Provision for information sharing

Part 6 of the Regulations makes provision for information exchange between the various persons set out below so that the revenue stream can function as intended.

Revenue Collection Counterparty

To enable the Revenue Collection Counterparty to carry out its functions (e.g. determining each supplier's proportion of the RAB payments and channelling funds between them and relevant licensee nuclear companies) the Regulations make provision for the counterparty to request information from:

- Electricity suppliers - to assist the counterparty in making determinations about supplier payment obligations (according to their market share).
- The CFD counterparty - to provide information about the proportion of excluded electricity supply from a supplier's market share (under the EII exemption) for the purpose of calculating their payment obligations.

Provision is also made in the Regulations for Ofgem and the CFD counterparty to provide information to the Revenue Collection Counterparty.

Ofgem

In order for Ofgem to carry out its functions (e.g. determining the amounts the relevant licensee nuclear companies are allowed to receive) it may request information from:

- The Revenue Collection Counterparty– for example, to verify information such as reference price data (where applicable).
- National Grid ESO – for example, to confirm or verify any information from a nuclear company on balancing actions that it took part in.

[13] The data relating to each supplier's share of payments are updated on a regular basis as more up to date meter readings are obtained. It typically takes 14 months from the day of supply for metered data to be finalised. Until this data is finalised, suppliers will be billed and invoiced on the basis of interim data. This is the data that will be used by the Revenue Collection Counterparty to conduct quarterly reconciliations.

Secretary of State

Given the Secretary of State's role (e.g. in the designation and RAB licence modification processes including ongoing licence modification powers in the event of administration) the Regulations make provision for the Secretary of State to request information from certain persons in connection with revenue collection contracts, this includes:

- the Revenue Collection Counterparty
- Ofgem
- a nuclear administrator
- the national system operator (i.e National Grid ESO)
- relevant licensee nuclear companies

The Revenue Collection Counterparty, Ofgem and the nuclear administrator are able to provide information and advice to the Secretary of State should they consider it necessary for the Secretary of State's functions.

The Secretary of State also may request Ofgem to provide information to the Revenue Collection Counterparty, this includes information in relation to amounts due to relevant licensee nuclear companies (as set out above). Additionally, the Secretary of State may request a nuclear administrator to provide information to Ofgem, for example, where information is needed to calculate payments due during a period of special administration for a nuclear RAB project.

Proposed changes to industry codes and Transmission and Distribution Licences

Electricity industry codes

Industry codes underpin the electricity wholesale and retail markets. Holders of electricity licences (e.g. Transmission, Distribution, Supply etc.) are required to maintain, become a party to, and/or comply with such codes in accordance with the conditions of their licences. In developing the proposed modifications the Government, alongside the relevant code administrators, have considered electricity related codes maintained in accordance with Transmission and Distribution Licences, these are:

Balancing and Settlement Code (BSC)

The BSC is administered by Elexon and is a legal document that contains the rules and governance arrangements for the balancing mechanism and imbalance settlement processes for electricity in Great Britain. The Balancing Mechanism (BM) is the National Grid ESO's primary tool to balance supply and demand on GB's network.[14] In the Electricity National Control Centre ("ENCC"), the Balancing Mechanism is used to buy and procure the right amount of electricity required to balance electricity supply and demand in each half hour trading period of the day.[15] This is achieved by increasing or decreasing generation or consumption.

Imbalance settlement processes are carried out by Elexon and address the discrepancies for each settlement period between:

- the amount of electricity that a company has contracted to generate or consume; and
- the amount of electricity which the company actually generated or consumed.

As generators may generate more or less electricity than they have sold, and consumers may consume more or less than their supplier has purchased, these BSC parties may then be regarded as 'in imbalance' and be required to pay or be paid in respect of their imbalance.

The current consolidated version of the BSC is available on Elexon's website.[16]

Nuclear RAB Settlement Services Provider

It is proposed that modifications are made to Section C of the BSC to establish EMRS as the Nuclear RAB Settlement Services Provider. EMRS would be responsible for carrying out the processes that enable supplier payments to be calculated and settled corresponding to each

[14] https://www.nationalgrideso.com/electricity-explained/how-do-we-balance-grid
[15] https://www.nationalgrideso.com/what-we-do/electricity-national-control-centre
[16] BSC Consolidated, available - https://bscdocs.elexon.co.uk/bsc

supplier's market share (referred to as metered data), on each day of the levy period, on behalf of the Revenue Collection Counterparty.

EMRS currently undertake similar functions as the EMR Settlement Services Provider for the Electricity Market Reform ("EMR") schemes (i.e. CFD and Capacity Market ("CM")). Therefore, it is considered that they have the requisite skills and experience to do so for nuclear RAB. These proposed modifications have been drafted so that the restrictions, liabilities, rights and obligations that apply to EMRS under the BSC in respect of the CFD and CM schemes also apply to it in respect of its roles under nuclear RAB, where in accordance with a Nuclear RAB Legal Requirement.[17] These modifications have also been made to facilitate EMRS's functions in their role as Settlement Services Provider which would enable them to carry out the following:

- calculation, invoicing, reconciliation and, where applicable, settlement of amounts payable or arising pursuant to a Nuclear RAB Legal Requirement; and
- calculation, collection, administration, and enforcement of financial collateral pursuant to a Nuclear RAB Legal Requirement.

These proposed modifications have been set out in **Annex A** (see Annex C-1 of Section C, paragraph 5.1.1).

Question 1

Do you consider that these modifications are sufficient to enable EMRS to perform the role of the Nuclear RAB Settlement Services Provider?

Use of BSC data for nuclear RAB

It is proposed that modifications are made to Section H and V of the BSC for the purpose of enabling data sharing in accordance with nuclear RAB legal requirements.

The proposed modification to Section H paragraph 4.1.1 (see **Annex B**) seeks to ensure that Elexon (and BSC Parties) are not in breach of BSC confidentiality provisions where they provide BSC data where they are required to do so under a nuclear RAB legal obligation. This modification will primarily apply in respect of Elexon, who will be providing data to the Nuclear RAB Settlement Services Provider and the Revenue Collection Counterparty. This modification may also apply in respect of other BSC Parties, for example, suppliers, if they need to pass information to the Revenue Collection Counterparty that might otherwise be subject to confidentiality restrictions under the BSC. It is proposed that this amendment is made in Section H as it would not be captured by the general provision proposed in **Annex A** (see

[17] Nuclear RAB Legal Requirement means the Nuclear Energy (Financing) Act 2022 and any rules, regulation, licence, licence condition or Directive (as defined in the BSC) made pursuant to, or in connection with, that Act (see **Annex A** – proposed definition set out in Annex C-1 of Section C, paragraph 5.1.1 (a))

Annex C-1, paragraph 5.1.3) that otherwise aligns the nuclear RAB and EMR settlement arrangements.

The proposed modification to Section V (see **Annex C,** Section V, paragraph 5.5) is intended to place an obligation on Elexon to provide data to the Nuclear RAB Settlement Services Provider and the Revenue Collection Counterparty. This both enables Elexon to provide BSC data and creates a requirement for that data to be provided. Reference is made to Section H11 in relation to the BSC open data requirements and is a back stop in case the arrangement for nuclear RAB requires BSC data that is not classified as open data, or in case the open data arrangements are revised in the future.

Question 2

Do you consider that these modifications are sufficient to allow BSC data to be provided to the Revenue Collection Counterparty and Nuclear RAB Settlement Services provider for the purpose of nuclear RAB?

Definitions

To accompany the changes set out above, it is proposed that the following terms are defined in Section X of the BSC (see **Annex D**):

- **Nuclear RAB Legal Requirement** – the intention is to ensure that the roles carried out by EMRS, and data provided to EMRS and the Revenue Collection Counterparty, are in accordance with nuclear RAB legal requirements.
- **Nuclear RAB Settlement Services** – the intention behind the proposed defined term and its use in the BSC is to ensure that the settlement functions EMRS carries out are those required for nuclear RAB in accordance with nuclear RAB legal requirements.
- **Nuclear RAB Settlement Services Provider** – the intention behind the proposed defined term and its use in the BSC is to establish EMRS's role as the settlement provider for nuclear RAB on behalf of the Revenue Collection Counterparty.
- **Revenue Collection Counterparty** – the intention behind the proposed defined term and its use in the BSC is to establish LCCC as the body appointing EMRS to carry out Nuclear RAB Settlement Services on its behalf and provide it with the ability to appoint other bodies to carry out this role in the future.

Question 3

Do you have any comments on the defined terms?

Question 4

Do you have any comments on the proposed changes to the BSC to enable the functioning of the Regulations?

Question 5

Do you consider there to be any further changes needed to the BSC to enable the functioning of the Regulations?

Connection and Use of system Code (CUSC)

The CUSC is administered by National Grid ESO and is the contractual framework for connecting to and using the National Electricity Transmission System (NETS). Following engagement with National Grid ESO and review of the CUSC in respect of the Regulations, the Government considers that at this stage no changes would be required to the CUSC. This is on the basis that it is broad enough to enable the Regulations to function as intended.

The current consolidated version of the CUSC can be found on National Grid ESO's website.[18]

Grid Code

The Grid Code, administered by National Grid ESO, sets the technical requirements for connecting to and using the National Electricity Transmission System (NETS). Compliance with the Grid Code is one of the requirements of the CUSC. Following engagement with National Grid ESO and review of this code in respect of the Regulations, the Government considers that at this stage no changes would be required to the Grid Code. This is on the basis that it is broad enough to enable the Regulations to function as intended.

The current consolidated version of the Grid Code can be found on National Grid ESO's website.[19]

System Operator - Transmission Operator Code (STC)

The STC, also administered by National Grid ESO, defines the relationship between National Grid ESO, (being the system operator for Great Britain) and transmission system owners. Following engagement with National Grid ESO and review of this code in respect of the Regulations, the Government considers that at this stage no changes would be required to the

[18] CUSC, available - https://www.nationalgrideso.com/industry-information/codes/connection-and-use-system-code-cusc
[19] Grid Code, available - https://www.nationalgrideso.com/industry-information/codes/grid-code-gc

STC. This is on the basis that it is broad enough to enable the Regulations to function as intended.

The current consolidated version of the STC can be found on National Grid ESO's website.[20]

Distribution Use of System Code (DCUSA)

The DCUSA, administered by ElectraLink, is a multi-party agreement between licensed electricity distributors, suppliers, and generators within Great Britain. It is concerned with the use of electricity distribution systems to transport electricity to or from connections to them. Following engagement with ElectraLink and review of this code in respect of the Regulations, the Government considers no changes would be required at this stage. This is because there is not a direct interplay between the Regulations and the development, maintenance, or operation of the distribution system.

The current consolidated version of the DCUSA can be found on the DCUSA website.[21]

Distribution Code (DCode)

The Dcode is administered by the Energy Networks Association (ENA) and contains the minimum technical specifications for the operation and development of distribution networks in Great Britain, and for the connection of equipment to them. It is designed to allow the development, maintenance, and operation of an efficient, economical and coordinated electricity system. Following Engagement with the ENA and review of this code in respect of the Regulations, the Government considers that no changes would be required to the DCode at this stage for the purpose of nuclear RAB. This is because it is a technical code for Distribution Network Operators and does not deal with revenues, pricing, generation or suppliers, and there is no direct interplay between the Regulations and how the network operates.

The current consolidated version of the DCode can be found on the Dcode website.[22]

Smart Energy Code (SEC)

The SEC, administered by Gemserv (who is the Smart Energy Code Administrator & Secretariat (SECAS)), is a multi-Party agreement which defines the rights and obligations of energy suppliers, network operators and other SEC parties involved in the end-to-end management of smart metering in Great Britain. It details the smart metering communication services provided by the Data Communications Company (DCC). The charges for those DCC services are paid for by SEC Parties.

Following engagement with Gemserv and review of the SEC in relation to the Regulations, the Government considers that no changes would be required to it at this stage. This is because the SEC deals with the services the DCC provides to industry and how those costs are levied by the DCC on to SEC parties. Given that the Regulations would not result in changes to how

[20] STC, available - https://www.nationalgrideso.com/industry-information/codes/system-operator-transmission-owner-code-stc
[21] DCUSA, available - https://www.dcusa.co.uk/
[22] DCode, available - https://dcode.org.uk/

the DCC provides services and subsequently how those costs are levied, no modifications are required.

Retail Energy Code (REC)

The REC, administered by the Retail Energy Code Company, sets out the rules suppliers in the retail energy sector must follow when selling to consumers. All licensed energy suppliers, gas transporters, electricity distribution network operators, metering operators and the Data Communication Company (DCC) must comply with the REC.

Following engagement with administrators of the REC, the Government considers that no changes would be required to it at this stage for the purposes of nuclear RAB given that the Regulations do not place any requirement on suppliers to pass on any cost or benefits to their consumers.

Question 6

Do you consider there to be any changes required to the CUSC, GRID Code, STC, DCUSA, DCode, SEC or REC for the effective functioning of the Regulations?

Electricity Licences

Transmission Licence

A Transmission Licence allows the licensee to participate in the transmission of high voltage electricity for the purpose of enabling a supply to be given. The Transmission Licence was reviewed with expert input from Ofgem, Elexon, National Grid ESO and other relevant expert stakeholders.

Given that changes are being proposed to the BSC, as part of the review of the Transmission Licence we considered whether the list of Applicable BSC Objectives set out in paragraph 3 of Condition C3 of the Transmission Licence should also include a ‘nuclear RAB objective’. This is on the basis that there is an existing objective relating to ‘EMR’ (being the legislative mechanism for implementing the CFD scheme) and, as above, the nuclear RAB and CFD revenue streams have similarities. The EMR introduced a number of substantive changes to the BSC that were necessary in order to facilitate payments to CFD/CM generators.

For nuclear RAB, the objective behind the modifications to the BSC are to enable the BSC to apply to nuclear RAB as it currently operates, and not as significant as they were under the EMR which introduced substantive changes which impacted balancing and settlement arrangements. Accordingly, there are a number of EMR related provisions in the BSC that would not be relevant to nuclear RAB.

The modifications to the BSC proposed in this consultation are for the purpose of providing Elexon (and therefore EMRS) with the authority under the BSC to perform the Settlement Services Provider role for nuclear RAB. In performing this role, EMRS will be using existing open BSC data[23] to settle supplier payments on behalf of the Revenue Collection Counterparty.

In the past where changes have been made to the BSC that are for the purpose of enabling Elexon to undertake settlement services, it has not resulted in the need for a new Applicable BSC Objective to deliver this. This is because the Transmission Licence allows for these activities, and by their nature, such changes do not impact the rules relating to the balancing and settlement arrangements. Therefore, at this stage it is considered that no changes are needed to the Transmission Licence.

The consolidated version of the Transmission Licence is available on Ofgem's website. [24]

Question 7

It is proposed not to add nuclear RAB to the list of Applicable BSC Objectives. Do you have any comments on this proposal?

Question 8

Do you consider there to be any changes required to the Transmission Licence for the effective functioning of the Regulations?

Distribution Licence

The Distribution Licence allows the licensee to distribute electricity for the purpose of enabling supply to be given. Electricity is distributed from the national electricity transmission system through a low voltage network of wires to customers (e.g. domestic premises, businesses, and factories).

Having reviewed this licence alongside Ofgem, the Government considers that no changes are required at this stage. This is on the basis that the Regulations do not impact on and are not impacted by the mechanics and activities which govern the distribution of electricity.

The consolidated version of the Distribution Licence is available on Ofgem's website. [25]

[23] The proposed modifications to Section V (set out above) means that EMRS and the Revenue Collection Counterparty can access BSC data that they require for performing their Nuclear RAB functions even if that data is not open BSC data.
[24] Transmission Licence, available - https://www.ofgem.gov.uk/licences-and-licence-conditions
[25] Distribution Licence, available - https://www.ofgem.gov.uk/licences-and-licence-conditions

Question 9

Do you consider there to be any changes required to the Distribution Licence for the effective functioning of the Regulations?

Next steps

The consultation period will last for 6 weeks and close on 5 December 2023.

Consultees should respond to the consultation questions during the 6-week consultation period so that we can capture a range of views on our proposals in relation to modifications to industry codes and Transmission and Distribution Licences for the purposes of nuclear RAB.

Following analysis of responses (alongside relevant stakeholders), we intend to publish a government response on the outcome of the consultation setting out how the Government have considered responses in informing the modifications. The modifications made by the Secretary of State will be implemented following publication on GOV.UK and on the relevant document website.

Any subsequent modifications to industry licences and/ or codes, following the ones established from the outcome of this consultation may be implemented through the powers under section 29(1) of the Act or through standard change processes at a later date.

This consultation is available from: www.gov.uk/government/consultations/nuclear-regulated-asset-base-rab-industry-code-and-licence-modifications

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