

Annex B - Responses from P59 Draft Modification Report Consultation

Consultation issued 27 March 2002

Representations were received from the following parties:

No	Company	File Number	No. Parties Represented
1.	NGC	P59_MR_001	1
2.	Williams Energy	P59_MR_002	1
3.	EdF Trading Ltd	P59_MR_003	2
4.	TXU Europe	P59_MR_004	21
5.	GPU Power UK	P59_MR_005	1
6.	Innogy	P59_MR_006	1
7.	British Energy plc	P59_MR_007	3
8.	LE Group	P59_MR_008	1
9.	SEEBOARD Energy Limited	P59_MR_009	1
10.	Dynegy	P59_MR_010	1
11.	ScottishPower	P59_MR_011	5
12.	Scottish and Southern	P59_MR_012	4
13.	Powergen UK plc	P59_MR_013	4
14.	British Gas Trading Ltd	P59_MR_014	3

P59_MR_001 – NGC

Thank you for the opportunity to comment on the assessment report for Modification Proposal 59, "The Acceptance of Bids and Offers to Honour a BM Unit's Dynamic Parameters Beyond the Balancing Mechanism Window". We have reviewed the report and support the Panel's recommendation to the Authority that the modification should not be made.

In reaching this conclusion, we concur with the Panel that the draft alternative modification proposal would have similar effects to change made to the Balancing Principles Statement on 26 February 2002. Further, we are supportive of avoiding further costs in assessing a proposal where the Authority's provisional thinking is that they would be unlikely to change the BSC.

Nicholas Sillito.

P59_MR_002 – Williams Energy

Please find outlined below my comments on behalf of Williams Energy.

- (i) Whilst pragmatism in general is to be welcomed in terms of use of time and resource, I am concerned at the precedent set that the BSC panel decision is (a) effectively steered by what they think Ofgem will accept rather than what they think is the right solution and/or (b) short-circuited by alternative Ofgem actions. I prefer the BSC Panel to recommend what it thinks is right based on Mod Group assessment etc and let Ofgem formally decide "yea or nea" with supporting justifications, whilst in the meantime Ofgem to let due process occur. One might suggest the events surrounding this Mod P59 highlight problems in cross-governance that many in the industry have raised.
- (ii) Given that Mod P59 relates to a specific feature of the BSC, name bid-offer acceptances, in principle it appears more appropriate that the obligations sit within the BSC rather than the BPS (under the Transmission Licence). Also the BSC is better defined, has better clarity, has better transparency and has more efficient processes for enforcement, amendment and dispute. As more aspects of BM related activities transfer to governance under NGC's Transmission Licence the more concerns I have about the loose nature of the Balancing Principles Statement, the weaker transparency of NGC bilateral actions and the influence NGC have on the market and participants with limited auditability. In summary, I agreed with majority response Yes/No profile as outlined in Table 8.1 of the Draft Modification Report.
- (iii) Where possible I prefer codification of such market features rather than discretionary application as it aids market transparency, competition and efficiency. This is especially the case in a fast moving, complex and information rich market which is already true to some extent in NETA now but will be ever more so in future.
- (iv) Mod P59 cannot be judged in isolation. There is crucial interaction with P12 (1hr Gate Closure) and related issues such as Pre Gate Closure Transactions (PGBTs), which affect the dynamics of market behaviour. In this context assessing the impact of implementation against the status quo will not reflect the likely impact in outturn. For example, the volume of "beyond the wall" BOAs may increase significantly. The fact that we have to restrict ourselves to consideration of Mod

P59 in isolation both highlights a weakness of the BSC process itself but also wider cross governance failings.

Michael Wilks
UK Power Operations Manager
Williams Energy

P59_MR_003 – EdF Trading Ltd

On behalf of EdF Trading Ltd and EdF (Generation), thank you for the another opportunity to comment on this modification proposal, that seeks the obligation to return plant to its FPN to be within the BSC and that in addition, the governance of the modification and consultation process should be under the BSC. However it is disappointing, if not of some concern, that the full consultation process has apparently been curtailed because of what has amounted to an early direction by the Authority.

Ofgem have put great credence in the past on the governance arrangements of the BSC and yet they are indicating to the Panel and to the industry a course of action that appears to undermine the whole process, because they and presumably NGC do not like the proposal, despite its wide-spread support by the rest of the industry.

Moreover, the proposal itself recognised the positive aspects of the BSC governance and sought to bring the formal obligation on the Transmission Company to return a BMU to its FPN actually within the BSC. As stated in our previous response, this seems to be the most appropriate place for such an obligation, bearing in mind the subject matter and purpose of the BSC. This was even recognised by the PIMG which considered that it offered a better solution than the NGC Balancing Principles Statement route.

We still believe that the proposal would improve transparency and encourage participation in the Balancing Mechanism and we would still support the Alternative Proposal as offered by the PIMG.

Steve Drummond
UK Market Adviser to EdF Energy Merchants Ltd

P59_MR_004 – TXU Europe

P59 Draft Mod Report Comments

The issue at stake appears to be one of principle rather than detail. We agree that it would be better to place the obligation proposed by the Alternative in the BSC rather than in the BPS. Given that the Authority have already approved the changes to the BPS to accommodate this we agree with the rationale of the Panel recommendation that the Mod Proposal should be rejected.

Philip Russell
Market Development Manager
21 TXU Europe BSC Parties

P59_MR_005 – GPU Power UK

Please find that GPU Power UK response to P59 Consultation on Draft Modification Report is 'No Comment'.

Rachael Gardener
Deregulation Control Group &
Distribution Support Office
GPU POWER.NETWORKS (UK) plc

P59_MR_006 – Innogy**Innogy Comments****Introduction**

This document presents Innogy's comments on the Final Report published by Elexon regarding proposed Modification P59 to the Balancing and Settlement Code entitled "The Acceptance of Bids and Offers to Honour a BM Unit's Dynamic Parameters Beyond the Balancing Mechanism Window".

Modification Status

Generally, we are concerned that the basis on which the Panel is recommending rejection of Modification P59 is outside the vires of the Panel. Ofgem, in their provisional thinking (letter dated 26th February 2002), indicated that they are minded to reject Modification P59 on the grounds that the issue should be addressed through NGC's Balancing Principles Statement and Procurement Guidelines (without prejudice to their final consideration). However, this point of view does not constitute grounds for rejection of a modification by the BSC Panel. The Panel is required to determine any modification against the Relevant Objectives as set out in BSC Section B1.2.

Furthermore, the Panel cannot determine whether a matter identified in a modification should or should not be addressed through the BSC or in other industry documents that exist outside the BSC. Indeed, in this case Condition C3.2(a) of the Transmission Licence seems to require that the matters dealt with by P59 are specifically addressed by the BSC and thus must be considered by the Panel. Ofgem did not address these issues in their provisional thinking. It would be helpful if they could now explain why this matter should not be within the BSC.

We therefore believe that the Panel should reconsider Modification P59 against the relevant objectives as set out in the BSC and the Modification Report should then be amended to reflect the conclusions of any further discussion.

P59 Alternative

On a more detailed matter, the precise status of any "alternative" modification to P59 is unclear from the document. A number of alternative arrangements to deliver P59 were discussed at the Modification Group as it was believed that these could better facilitate the relevant objectives as set out in the BSC. From the discussion at the Modification Group it is clear that the *intent* of the Group was to develop an alternative modification based on predefined rules embodied in Section Q of the BSC rather than amending the algebra of Section T. This Alternative Modification should also be assessed by the Panel in relation to the relevant objectives.

P59_MR_007 – British Energy plc

British Energy believe BSC Modification P59 "Alternative" provides a pragmatic yet robust method of honouring BM Unit Dynamics "beyond the wall".

An automatic method, as in the original proposal, could reduce manual processes and errors and provide full transparency. However, it would be complex, expensive and time consuming to develop and implement.

We believe a combination of firm obligations on the Transmission Company and use of existing bid-offer acceptance methods as in the alternative proposal would be more cost effective, at least in the short term, and would also provide a method of accommodating reductions in the gate closure period. Placing such obligations in the BSC rather than elsewhere has a number of advantages for trading parties:

- A single reference for trading BM Unit specific energy for system operator balancing purposes.
- Transparency and clarity, both in description, management of change and publishing of market information.
- A ready-made framework for resolving queries and disputes.

These features should promote effective competition, reduce market uncertainty and promote efficiency.

In our view, Ofgem's belief that these matters are best dealt with outside the BSC brings into question the fundamental purpose of the BSC.

From: Rachel Ace

On behalf of British Energy Generation, British Energy Power and Energy Trading & Eggborough Power Ltd

P59_MR_008 – LE Group

LE GROUP RESPONSE TO MODIFICATION PROPOSAL 59 MODIFICATION REPORT

This document contains the response by LE Group to the Modification Report on P59 "The Acceptance of Bids and Offers to Honour a BM Unit's Dynamic Parameters Beyond the Balancing Mechanism Window"

We recognise that the Authority has taken a decision regarding the appropriateness of the governance structure proposed by the Modification Proposal. We therefore understand why the Panel decided to stop the Assessment of P59 and send it to the Report Phase with a recommendation that the Modification should not be made. However we do not believe that the changes to the Balancing Principles Statement made by the Authority on 26th February deliver the same benefits as either the Proposed Modification or the Alternative Modification. Our reasons are set out below.

The changes to the Balancing Principles Statement do not oblige NGC to return a BM unit to its FPN using its dynamic parameters "beyond the wall". This is because it contains caveats such as "taking into account system conditions". Also it does not explain in detail the process and set of rules for determining whether a unit is returned to its FPN or not. Therefore the changes made to the Balancing Principles Statement do not increase the certainty that BM participants will be returned to their FPN beyond the wall using their dynamic parameters. The only way to remove this uncertainty is for a set of explicit criteria for

controlling BOA “beyond the wall” to be defined and communicated to market participants. Only then would the risk of exposure to imbalance cash-out prices be removed and:

- risk-averse companies be encouraged to participate in the BM; and
- prices reduced through the removal of risk premiums used to provide protection against the risk of imbalance cash-out prices.

Our position remains that we would prefer that the obligation for the system operator to return a unit to its FPN was incorporated in the BSC rather than in the Balancing Principles Statement. BSC modification 59 would achieve this.

The reasons for this are:

- it is more transparent to have the obligation within the BSC;
- the BSC Modification process ensures that any further changes would better facilitate the achievement of the Applicable BSC Objectives; and
- the process for disputing a BOA is clearer within the BSC, and would allow Settlement data to be amended if necessary.

Yours faithfully,
Liz Anderson
General Manager
Energy Strategy and Regulation

P59_MR_009 – SEEBOARD Energy Limited

We accept the recommendations to reject this modification made within section 1.1 of draft modification report dated 27th March 2002.

Dave Morton
SEEBOARD Energy Limited

P59_MR_010 – Dynegy

MODIFICATION PROPOSAL P59: The Acceptance of Bids and Offers to Honour a BM Unit's Dynamic Parameters Beyond the Balancing Mechanism Window

Thank you for the opportunity to respond to the draft modification report for the above proposal.

Dynegy continues to support the implementation of modification proposal P59, and is disappointed that the BSC panel has requested that the modification report be sent to the Authority with a recommendation that the modification and its alternate not be made. While the changes required by modification P59 have largely been made through changes to the BPS, the vast majority of BSC parties believe that governance of beyond the wall issues belongs within the BSC. To remove a balancing function from the BSC is contradictory.

By keeping all balancing actions within the BSC, this gives transparency to all parties, security in the lastingness of the arrangements, and most importantly, a clear process for dispute resolution. In the Authority's response, they address issues of the inability to modify the BPS and some of the risks with the continuation of the present gentlemen's agreement, but fail to address the key issue of dispute resolution. While this is not a new argument, it is one that merits emphasis.

While mindful of the BSC panel's concern to avoid expenditure on a modification proposal that is likely to be rejected. However, Dynegy feel that the BSC panel has an obligation to recommend modifications to the Authority that it and the BSC parties feel better fulfil relevant BSC objectives, irrespective of preliminary views of the Authority.

Sarah Maud
Power Regulatory Analyst

P59_MR_011 – ScottishPower

I would like to thank you for this opportunity to comment on the Modification Report for P59.

After some consideration, we would like to indicate our support of the Panel's recommendation to reject Modification Proposal P59.

I trust you will find these comments helpful.

James Nixon

Calanais Ltd.

For and on behalf of: -

ScottishPower UK Plc.

SP Energy Trading Ltd.

SP Generation Ltd.

Scottish Power Energy Retail Ltd.

SP Transmission Ltd.

P59_MR_012 – Scottish and Southern

This response is sent on behalf of Scottish and Southern Energy, Southern Electric, Keadby Generation Ltd. and SSE Energy Supply Ltd.

In accordance with our previous comments on this Modification proposal (P59), we very reluctantly agree with the Panel's recommendation to the Authority to reject both the original Modification and the Alternative Modification.

We believe that there remains a significant risk for BSC parties offering plant into the Balancing Mechanism from the continued risk and uncertainty surround the 'beyond the wall' issue. Without the resolution of this issue at the earliest opportunity, and the introduction of a satisfactory alternative, services currently provided to NGC, particularly by CCGT plants, may diminish. This will clearly have a detrimental effect on the Balancing Mechanism and is unlikely to enhance the achievement of the BSC Objectives.

As we have indicated in our response today to the Modification proposal P12; we are concerned that Modification P59 will be rejected. We believe that the issues that gave rise to Modification proposal P59 may be brought more sharply into focus with the introduction of 1 Hour Gate Closure associated with Modification proposal P12. Accordingly we would expect the Panel and the Authority to ensure that all major issues relating to 'beyond the wall' acceptance of bids and offers are satisfactorily dealt with before Modification proposal P12 is implemented. Furthermore, in the light of the work already done on P59, we can foresee at this time no reason why the Panel and the Authority could not expedite the Urgent processing of this work.

Garth Graham
Scottish & Southern Energy plc

P59_MR_013 – Powergen UK plc

Powergen UK plc makes this response on behalf of itself and the following BSC Parties, Powergen Retail Limited, Diamond Power Generation Limited, and Cottam Development Centre Limited.

We are disappointed that the assessment of P59 has been halted with a recommendation for rejection.

We remain unconvinced that placing an obligation within the BPS will overcome the reservations held by both ourselves and the majority of the modification group. These reservations are detailed below:

- Perceived lack of transparency of obligations under the BPS when compared to the BSC
- The imbalance risk for a Party lies within the BSC, not the BPS. Therefore, we believe the obligation for the system operator honouring a BMU's dynamic parameters should fall under the same governance arrangements that govern the commercial risk.
- The governance and modification arrangements under the BPS are less robust than those under the BSC. For example, energywatch and market participants are unable to propose changes to the BPS
- The BSC has an accessible and well defined disputes process, whereas the BPS has no such disputes process. We find it unacceptable to assume that there will never be a dispute over the system operator not honouring a BMU's dynamic parameters.

Until the above issues are addressed we believe that market participants will continue to have reduced confidence in the arrangements.

C A Price
Strategy & Regulation

P59_MR_014 – British Gas Trading Ltd

Modification Proposal 59: The Acceptance of Bids and Offers to Honor a BM Unit's Dynamic Parameters Beyond the Balancing Mechanism Window.

Thank you for the opportunity of responding to this consultation. This response is on behalf of British Gas Trading Ltd, Centrica King's Lynn Ltd and Centrica Peterborough Ltd.

We support the Panel's recommendation that this modification proposal should be rejected. The proposal has been overtaken by changes approved by Ofgem to the Balancing Principles Statement. As these changes give essentially the same effect as this proposal we do not believe it is appropriate to continue development of this proposal or its Alternative.

Danielle Lane
Transportation Analyst