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12 June 2002

The National Grid Company, BSC Signatories and
Other Interested Parties

Our Ref: MP No P57

Dear Colleague,

Modification to the Balancing and Settlement Code (“BSC”) - Decision and Notice in relation to Modification Proposal P57: “Amendment to the BSC Failing Supplier process to allow a Legal Entity to have two Party Ids for a short period”

The Gas and Electricity Markets Authority (the “Authority”)¹ has carefully considered the issues raised in the Modification Report² in respect of Modification Proposal P57, “Amendment to the BSC Failing Supplier process to allow a Legal Entity to have two Party Ids for a short period”.

The Balancing and Settlement Code Panel (the “Panel”) recommended to the Authority that Modification Proposal P57 should not be made.

The Authority has decided not to direct a Modification to the BSC.

This letter explains the background and sets out the Authority’s reasons for its decision.

Background

Modification Proposal P57, “Amendment to the BSC Failing Supplier process to allow a Legal Entity to have two Party Ids for a short period”, was submitted as an Urgent Modification on 3 December 2001 by British Gas Trading. The justification for the Modification Proposal was the better facilitation of all of the Applicable BSC Objectives³ contained in Condition C3 (3) of

¹ Ofgem is the office of the Authority. The terms “Ofgem” and “the Authority” are used interchangeably in this letter.

² ELEXON document reference 016MMU, Version No. 1, dated 18 March 2002

³ The Applicable BSC Objectives, as contained in Condition C3 (3) of National Grid Company’s Transmission Licence, are:

- (a) the efficient discharge by the licensee of the obligations imposed upon it by this licence;
- (b) the efficient, economic and co-ordinated operation by the licensee of the licensee’s transmission system;
- (c) promoting effective competition in the generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity;
- (d) promoting efficiency in the implementation and administration of the balancing and settlement arrangements.

National Grid Company's Transmission Licence. On 3 December 2001, the Panel agreed that the Modification Proposal should be treated as urgent, and the Panel Chairman consulted the Authority on the urgency of the Proposal. The Authority consented to the urgent treatment of the Proposal and directed that the Modification Report should be completed and submitted for determination by 20:00 on 3 December 2001.

It soon became apparent that the existing provisions of the BSC were sufficient to avoid the need to progress Modification Proposal P57 to the agreed short timetable. The Authority therefore agreed that the timetable and process for dealing with the Proposal should be amended. Following the Panel Meeting on 13 December 2001, the Panel agreed that there was no longer a requirement to hasten the progress of the Modification Proposal beyond the normal Definition and Assessment Procedures. However, they decided that the Modification Proposal should still be treated as an urgent.

A Modification Group was established on 8 January 2002, and, following their initial set of deliberations, a consultation document was issued on 21 January 2002. The second meeting of the Modification Group on 30 January 2002 considered two main areas of analysis: the responses to the consultation of 21 January 2002 and the impact of Modification Proposal P57 on the BSC and BSC Systems. ELEXON then issued an Interim Report, which was presented to the Panel at its meeting of 14 February 2002. The Report made a recommendation to reject Modification Proposal P57. The Panel agreed with the recommendations of the Modification Group. ELEXON issued a final consultation paper on 21 February 2002, which included their assessment of the full impact of the Modification Proposal on the BSC and BSC Systems.

The Modification Proposal

Modification Proposal P57 seeks to modify the Failing Supplier Process of the BSC to allow the transfer of the Failing Supplier's Party Id to the Replacement Supplier in the event of an emergency trade sale or Supplier of Last Resort (SoLR) appointment. This would allow the Replacement Supplier to have 2 Party Ids; their original Party Id, and the Party Id of the Failing Supplier.

The arrangement proposed under Modification Proposal P57 only allows for the complete and total transfer of all BM Units as well as all liabilities and obligations accrued against the Failing Supplier Party Id. However, if a trade sale does not involve the purchase of all of the Party's liabilities and assets then a process is required to allow those liabilities and entitlements to be transferred back to the Failing Supplier. The Failing Supplier will need to be allocated a new Party Id; a Change of BM Unit Ownership (COBO) will transfer any unaffected BM Units to the new Party Id of the Failing Supplier.

Modification Proposal P57 also proposes a transitional period of three months for a Replacement Supplier to operate the old Party Id of the Failing Supplier. The implication of this transitional period is that the Replacement Supplier will have to execute a COBO or Change of Supplier process during the transitional period so that that all BM Units registrations are transferred from the old Id of the Failing Supplier to the Replacement Supplier's Party Id.

ELEXON published a draft Urgent Modification Report on 5 March 2002 that invited respondents' views by 7 March 2002.

Respondents' views

ELEXON received twelve responses to the consultation on 21 January 2002 (representing 47 Parties). Seven respondents (representing 31 Parties) expressed support for the Proposed Modification. Three respondents (representing 6 Parties) commented that further analysis was required before a final conclusion could be reached. One respondent (representing 9 Parties) did not support the Modification. One respondent (representing 1 Party) had no comments on Modification Proposal P57.

In light of the Modification Group's further consideration of the implications of the Proposal and its conclusions as to the merits of the Proposal, further questions were formulated for use in another consultation. Eleven responses (representing 45 Parties) were received to this final consultation. Ten respondents (representing 44 Parties) agreed with the conclusions of the Modification Group and the Panel that Modification Proposal P57 should be rejected. One response (representing 1 Party) made a "no comment" response.

The Urgent Modification Report noted that although the majority of responses endorsed the recommendation to reject, it was subject to some observations and remarks. However, the Urgent Modification Report noted that no new substantive issues were raised above those discussed in the Interim Report and Urgent Modification Report.

The respondents' views are summarised in the Urgent Modification Report for Modification Proposal P57, which also includes the complete text of all respondents' replies.

Panel's Recommendation

The Panel met on 14 March 2002 and considered the Modification Proposal P57, the Interim Report, the draft Modification Report, the views of the Modification Group and the consultation responses received.

The Panel heard that, in the opinion of the Modification Group, the intent of the proposal to deliver a process that was a practical and fast method of transferring assets and responsibilities would not be delivered. Considerable complexity, cost and processing would be required to implement and execute the arrangements for Modification Proposal P57. The Panel noted these conclusions and also noted that the current processes in place could cope with the transfer of both Supplier BM Units and non-Supplier BM Units under a rapid time scale in the event of an emergency trade sale or Supplier of Last Resort (SoLR) appointment.

The Panel agreed that in the light of the considerations above, the Proposed Modification would not better facilitate the Applicable BSC Objectives.

The Panel recommended that the Authority should reject the Proposed Modification P57.

Ofgem's view

Ofgem considers, having had regard to its statutory duties, that Modification Proposal P57 does not better facilitate achievement of the Applicable BSC Objectives since the Proposer's intention to provide an effective and timely transfer of customers and responsibilities between parties would not be delivered under Modification Proposal P57.

The work of the Modification Group has shown that this Modification Proposal would require a significant number of fundamental changes to the BSC Code, systems and processes. Necessary amendments include the introduction of start / end dates to core BSC systems, alterations to Fund Administration Agent (FAA) systems to permit allocation of credits and liabilities from 2 ids to one party and a review of the BSC credit arrangements. The resource requirement would be substantial, but it is doubtful that the resulting process would be any more efficient than that currently in place. The Modification Group identified circumstances where the proposed method would be more cumbersome than the existing Change of BMU Ownership (COBO) process, which has the advantage of being proven to be adequate in recent supplier failure situations.

Ofgem is mindful that all of the responses (with the exception of one “no comment”) to the 21 February consultation (including that of the proposer) supported the view that Modification Proposal P57 did not better facilitate the Applicable BSC Objectives. Such a finding gives additional weight to the decision to reject the Modification Proposal.

Ofgem agrees with the Panels recommendation to reject Modification Proposal P57.

The Authority’s decision

The Authority has therefore decided not to direct that Proposed Modification P57, as set out in the Modification Report for Modification Proposal P57, should be made and implemented.

Having regard to the above, the Authority, in accordance with Section F1.1.4 of the BSC, hereby notifies NGC that it does not intend to direct NGC to modify the BSC as set out in the Modification Report.

If you have any questions, please contact me on the above number.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Iain Osborne', written in a cursive style.

Iain Osborne
Director, Supply

Signed on behalf of the Authority and authorised for that purpose by the Authority