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3 September 2002

The National Grid Company, BSC Signatories and  
Other Interested Parties

Our Ref: MP No P50

Dear Colleague,

**Modification to the Balancing and Settlement Code (“BSC”) - Decision and Notice in relation to Modification Proposal P50: “Distribution of BM Aggregation Report Data to Non BSC Parties”**

The Gas and Electricity Markets Authority (the “Authority”)<sup>1</sup> has carefully considered the issues raised in the Modification Report<sup>2</sup> in respect of Modification Proposal P50, “Distribution of BM Aggregation Report Data to Non BSC Parties”.

The Balancing and Settlement Code Panel (“the Panel”) recommended to the Authority that:

- Neither the Proposed Modification Proposal nor the Alternative Modification P50 should be made; and
- Should either the Proposed Modification P50 or the Alternative Modification P50 be made, it should have an Implementation Date of the BSC Systems release date which first occurs not less than 3 months after the date of the Authority’s decision.

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 P50, “Distribution of BM Aggregation Report Data to Non BSC Parties”, was submitted on 8 November 2001 by UK Coal Mining Ltd. The justification for the Modification Proposal was to better facilitate achievement of the Applicable BSC Objective<sup>3</sup> C3 (3) (c).

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

<sup>2</sup> ELEXON document reference MR 012, Version No. 4, dated 12 March 2002.

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

ELEXON presented an Initial Written Assessment to the Panel meeting of 13 December 2001, where the Panel agreed that an Assessment Report should be presented to the Panel meeting on 14 February 2002.

The Volume Allocation Modification Group (the Group) which held its first meeting on 8 January 2002 assessed the Modification Proposal. The Group sought advice on potential legal issues, carried out an Impact Assessment of the potential delivery options for the Proposed Modification Proposal and consulted with BSC Parties on the Modification Proposal<sup>4</sup>. A further meeting of the Group meeting was held on 5 February 2002. At this meeting, the Group formulated an Alternative Modification that it believed would better facilitate achievement of the Applicable BSC Objectives.

The Panel granted a one-month extension of the Assessment Procedure to allow for an Impact Assessment and consultation on the Alternative Modification<sup>5</sup>. The Group met again on 5 March 2002. On the basis of the responses to the consultation and the principles established during previous meetings of the Group, it was decided that the Alternative Modification would better facilitate achievement of the Applicable BSC Objective C3 (3) (c) and should be approved.

### **The Modification Proposal**

The Modification Proposal sought to make the data contained within the 'BM Aggregation Report' (i.e. the "Aggregated Data Report" [CDCA-I042] listed in Table 5 of Annex V-1 of the BSC) available to non-BSC parties. The Report provides information on the metered volumes associated with each CVA-registered BM Unit for each settlement period, and is sent to BSC Parties, ELEXON and the System Operator (SO). The Modification Proposal stated that the information contained in the BM Aggregation Report had been available to non-BSC Parties under the Pooling & Settlement Agreement but it was no longer available under NETA. The Proposer stated that provision of the information to non-BSC Parties would improve transparency.

In its initial assessment, the Group felt that the Proposal would not better facilitate achievement of the Applicable BSC Objective C3 (3) (c). This was because only generation data would be made available, which would result in asymmetric disclosure of information because no demand side data would be available at the same time. The Group believed that the original Proposal would only provide a partial picture of the market that could, in their view, damage competition rather than facilitate it.

The Group concluded that they should formulate an Alternative Modification Proposal to rectify the defects identified in a manner that would facilitate achievement of the Applicable BSC

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- (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.

<sup>4</sup> Consultation questionnaire seeking opinion was issued on 10 January 2002. The deadline for responses was 24 January 2002.

<sup>5</sup> Consultation questionnaire was issued on 19 February 2002. The deadline for receipt of responses was 4 March 2002.

Objectives. An option considered by the Group was that the metered volumes associated with Directly Connected Demand Sites<sup>7</sup> (DCDSs) would be made available at the BMU level. The Group felt that whilst rectifying the defect identified in the Proposal, it would not provide sufficient market transparency to facilitate competition and could potentially compromise the competitive position of DCDSs. The Group agreed on an Alternative Modification that originated a new report to provide appropriate metered volume data to increase market transparency, whilst at the same time protecting the anonymity of individual DCDSs. The specific content of this report is described in the Assessment Report<sup>8</sup> for P50.

ELEXON published a draft Modification Report on 25 March 2002, which invited respondents' views by 9 April 2002.

### **Respondents' views**

In total, ELEXON received nine responses (representing 41 parties) to the first consultation on Modification Proposal P50. Of the responses, seven responses (representing 35 Parties) expressed support for the Modification Proposal. Two responses (representing 6 Parties) felt that Modification Proposal P50 would better facilitate achievement of the Applicable BSC Objectives in that the Proposal should increase market transparency.

The majority (8 responses representing 34 Parties) had no objections to disclosing the BM Aggregation Report to non-BSC Parties who hold licence agreements. However, several respondents stated that their position was conditional on non-BSC Parties being subject to the same licence agreements as Parties. Respondents were split on the issue of the disclosure of data relating to DCDSs. Three respondents (representing 21 Parties) had no objection, four respondents (representing 10 Parties) objected and two respondents (representing 10 Parties) made no comment. On the issue of the charging mechanism established by the Modification Group, none of the respondents objected to the proposed charging mechanism.

ELEXON received ten responses (representing 46 Parties and one DCDS) in relation to the consultation on Alternative Modification Proposal P50. Despite attempts to elicit responses from non-Parties (who would be the main beneficiaries of the Modification Proposal), only one such response was received. The majority of responses (7 representing 21 Parties and 1 DCDS) indicated that they would not be interested in receiving nor paying for the proposed report. Three respondents (representing 21 Parties) stated their reason for not being interested in receiving the proposed report was due to the fact that they already received the data contained in it. One respondent (representing 2 Parties) indicated that they would be interested in receiving the proposed report and paying for it. However, the respondent did not specify an amount that they were willing to pay.

ELEXON received twenty responses to the draft Modification Report. Nine (representing 50 Parties) were from BSC Parties and eleven were from non-BSC Parties. Of the nine BSC Parties, eight respondents (representing 49 Parties) supported the Panel's recommendation to reject both the Proposed Modification and the Alternative Modification. The respondents agreed that Parties would face a significant risk of losing money because there appeared to be little demand amongst non-BSC Parties for either of the reports. One respondent (representing 1 Party) made no comment.

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<sup>7</sup> Directly connected demand refers to directly connected importing BM Units (i.e. CVA registered) such as large industrial demand premises (i.e. BM Units where import exceeds export for all or the vast majority of Settlement Periods). The term is not defined in the BSC.

<sup>8</sup> ELEXON document reference MAR50, Version 1.0, dated 8 March 2002

All eleven responses from non-BSC Parties supported the principle of increasing market transparency through the release of appropriate data to non-BSC Parties. However, only two respondents explicitly supported either the Proposed Modification or the Alternative Modification. One expressed support for the Proposed Modification, because it would make the data previously available under the Pool available again, and the other expressed support for a retrospectively active version of either the Proposed or the Alternative Modification.

The respondents' views are summarised in the Modification Report<sup>9</sup> for Modification Proposal P50, which also includes the complete text of all respondents' replies.

### **Panel's recommendation**

The Panel met on 14 April 2002 and considered the Modification Proposal P50, the draft Modification Report, and the consultation responses received to that draft Modification Report.

The Balancing and Settlement Code Panel ("the Panel") recommended to the Authority that neither the original Modification Proposal nor the Alternative Modification Proposal P50 should be made. The Panel believed that the economic case for approval of either the Modification Proposal or the Alternative Modification Proposal had not been proven. One Panel member stated that if there were a means of providing the relevant data to non-Parties at no cost to Parties, the Panel might look more favourably on any such future request.

The Panel added that should either the Proposed Modification or Alternative Modification be made it should have an Implementation Date of the release date for BSC Systems which first occurs not less than 3 months after the date of the Authority's decision.

### **Ofgem's view**

Ofgem considers, having had regard to its statutory duties, that neither Modification Proposal P50 nor the Alternative Modification Proposal better facilitate achievement of the Applicable BSC Objectives.

In considering both the Proposed Modification and the Alternative Proposal, it is Ofgem's view that appropriate market information should be made available to all active and potential participants where it is practical and prudent to do so. The rationale is that this release of information increases market transparency, thereby facilitating competition and reducing barriers to market entry. Ofgem believes that the responses of non-Parties have made a reasoned case as to the manner in which the release of the BM Aggregation Report data (or other similar datasets) could improve competition in the generation of electricity. However, this information release should be done in an efficient and cost-effective manner, such that Parties and non-Parties bear the costs in an equitable manner appropriate to the circumstances. Information asymmetries, which may provide distorted views of the market, are also to be avoided where possible.

The original Modification Proposal sought to facilitate obtaining a wider release of generator data without an equivalent release of supply data. Whilst this met the Proposer's requirements, the Group believed there would not have been parity of information disclosure over the two halves of the electricity network, so market distortions may be possible. This argument is somewhat weakened by the fact that the data had been in the public domain prior to the

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<sup>9</sup> ELEXON document reference MR012, Version 1.1, dated 23 April 2002

implementation of NETA, without any reported evidence of such market distortions. An additional problem was the confidentiality of the DCDS data (as confirmed by legal advice) in the BM Aggregation Report and the difficulty in obtaining the necessary written consents for its disclosure. Ofgem notes that the Group seems to have followed the presumption that the data requested could only be released on an historical aggregated basis, rather than in its existing daily report format. This has resulted in the proposed origination of a new aggregated report, which has considerably increased the proposed implementation costs. These costs, together with the confidentiality aspects of the data, mean that the Authority is unable to approve the original Modification Proposal.

It is Ofgem's view that the Alternative Modification Proposal is not a cost-efficient means of achieving the objectives of the Proposal. No attempt has been made to adequately apportion the IT costs associated with facilitating the Modification. Further, the costly development of additional reports when existing ones can achieve the same means without compromising commercial confidentiality is wasteful. This has resulted in the proposed cost for the relevant data access being much greater than that which existed in the pre-NETA environment. Consequently, few non-Parties expressed a willingness to subscribe to the proposed Report, so there is a strong likelihood that implementation costs would not be recovered. Ofgem considers that it would be appropriate for any future Modification Groups evaluating proposals on the provision of data as described in the Modification Proposal and its Alternative to consider the cost element in more detail.

However, Ofgem notes some consultation responses and a subsequent Panel consideration of the draft Modification Report, wherein it was highlighted that an alternative report which contains a similar dataset to the BM Aggregation Report could possibly be made available to non-Parties at little or no cost.

Ofgem agrees with the Panel's recommendation to reject the original and the Alternative Modification Proposals.

### **The Authority's decision**

The Authority has therefore decided not to direct that Proposed Modification P50, as set out in the Modification Report, 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 feel free to contact me on the above number.

Yours sincerely,



**David Edward**  
**Head of Electricity Code Development**

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