

## ANNEX 1 – CONSULTATION REPRESENTATIONS

Consultation issued 29 January 2002

Representations were received from the following parties:

No	Company	File Number	No. Parties Represented
1.	SEEBOARD	P35_MR_001	2
2.	APX	P35_MR_002	1
3.	TXU Europe Energy Trading Ltd	P35_MR_003	14
4.	ScottishPower UK plc	P35_MR_004	7
5.	British Gas Trading	P35_MR_005	4
6.	Scottish & Southern Energy plc	P35_MR_006	4

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### P35\_MR\_001 – SEEBOARD

We agree with the recommendations within draft modification report dated 29th January 2002.

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### P35\_MR\_002 – APX

APX is pleased that the Panel has supported modification P35 and is recommending to the Authority that the modification be approved.

At Panel meeting 39, Professor Brealey commented on cost recovery and noted that where systems and processes were already in place the efficient solution is to charge for the incremental costs associated with any modification.

The mechanisms and personnel for processing claims made under P35 already exists, as it utilises the same procedures as those followed after a ECVAAs system failure. We therefore believe that Elexon costs should not be charged at standard project rates of £500/day, but a more realistic cost of £200/day. The BSC Agent costs has stated their costs to be £780 per claim.

This would result in total costs for processing claims to be in the region of £1900 without a site visit, and £3400 with a site visit.

If the administration fee was reduced from £5000 to £3000 this would still allow for full cost recovery in processing claims and recovery of initial development costs, (noting that it is expected that the majority of claims will not require a site visit).

### **P35\_MR\_003 – TXU Europe Energy Trading Ltd**

Thank you for the opportunity to comment on the P35 modification report, TXU Europe Energy Trading Ltd would like to make the following comments on behalf of 14 TXU Europe companies.

TXU supports the general principle of this modification proposal, however we believe that the scope of the proposal should be limited to instances of system failure only. Further we have some concerns about excluding any late submissions from credit checking. Should a power exchange experience a notification system failure the MWh volumes involved in late submissions could be large and as such we believe that it may be appropriate to introduce some level of materiality as to whether late submissions should be included in the subsequent determination of parties credit cover percentages.

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### **P35\_MR\_004 – ScottishPower UK plc**

#### **P35: Qualified ECVNAs - Draft Modification Report Comments**

With reference to the above, I would refer you to our previous comments on the proposal.

In this consultation response, we wish to reiterate the view, which we have previously provided in support of Mod P35 subject to satisfactory PAF process to monitor the agents.

We would, therefore, wish to reiterate our concern that there would have been additional robustness in the process if reliance was not placed purely on a written undertaking of the applicant wishing to attain Privileged ECVNA status about the adequacy of its systems but through an initial site visit.

The DMR suggested that Performance Assurance workstream will be created and process implemented prior to the implementation of this proposal. This presumably would satisfy our concern.

However, we believe the legal drafting has not gone far enough in the pre-conditions for being a Qualified ECVNA. In particular, from our previous suggestion, we believed an on site system assessment should be carried out (under P8.4.4) as a matter of course at time of qualification, rather than just the satisfaction of network access tests (under O.3.2.). Also, there is a minor drafting error re. the change to Sec. D 4.1(a)(v) (should refer to Section P 8.3.2(a)).

I trust that you will find these comments helpful. Nonetheless, should you require further clarification of any of the above, please do not hesitate to contact me.

For and on behalf of: - *ScottishPower UK Plc.; SP Manweb Plc.; ScottishPower Energy Trading Ltd.; ScottishPower Generation Ltd.; Scottish Power Energy Retail Ltd.; Emerald Power Generation Ltd.; SP Transmission Ltd.*

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### **P35\_MR\_005 – British Gas Trading**

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

We concur with the Panel's view that this modification will better facilitate applicable BSC objectives and as such we support the implementation of the modification. We believe this modification provides the potential to increase the liquidity and transparency in the market through the reduction in notification risk to Parties.

### **P35\_MR\_006 – Scottish & Southern Energy plc**

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

Further to your note of 29th January 2002, and the associated Modification Report and Assessment Report, concerning Modification Proposal P35; we have the following comments to make.

Our previous comments on this proposed Modification remain valid, that is:-

We think it is a dangerous precedent to have a two tier structure. It will lead to a distortion in the market for Notification Services because it will reduce the risks to a third party Notification Agent significantly, hence its proposal by a Power Exchange. It is an odd way to go about introducing ex-post trading - and moves such activity into a "normal" situation as opposed to the other methods (which we have supported) of error correction, which preserves the abnormality of such events but enables them under certain circumstances to be corrected.

The term privileged implies that there will always be unprivileged agents. Presumably there is nothing to stop every agent from becoming privileged, in which case the modification is not about two classes of agent, but all about allowing ex-post trading and error correction to reduce notification risk. No mention is made of the issue of certification/accreditation that "privileged" status would entail. The experience of the 1998 arrangements for certification and accreditation resulted in rejection of such a process for NETA, and the business processes were designed so that agent performance was a commercial risk between the counterparties.. You really only need certification/accreditation when the actions of one supplier's agent can impact on others with whom he has no contractual relationship.

Whilst this is true in Supplier Allocation, it is not the case in a bilateral (or trilateral) contractual framework. To be effective, an accreditation / certification framework will cost BSC Parties, individually and collectively a great deal of money, time and effort. The benefit of hindsight says this should not be under-estimated, and that it is dubious value for money. We do find it paradoxical that an Agent who claims Privileged Status through having quality systems and robust procedures, does so for the sole purpose of being able to correct a mistake with impunity !

Furthermore, if this proposed Modification allows BSC Parties to register their own 'internal' "qualified ECVNAs", we believe there is a risk that serious market distortion could occur. BSC Parties could potentially regularly send 'false' notifications to their internal ECVNA, who would not pass them on.

Thus, in the event that market conditions warranted it, the BSC Party could activate these 'false' notifications for those periods of extreme cashout etc., to gain a competitive advantage having had access to market information on prices, production and demand up to two business days after the four hour period.

In addition to this we are concerned that BSC Parties may be able to set up and use multiple "qualified ECVNAs"; allowing them to have an unlimited number of 'errors' in a year, rather than the limited number suggested / agreed by the Panel; i.e. once their limit of errors with one "qualified ECVNA" has been reached, they move their 'account' to another "qualified ECVNA", and start off again with 'zero' errors.

For these reasons we believe that "qualified ECVNAs" should be strictly limited to independent bodies, with the granting of the privileged status of a "qualified ECVNA" being subject to Panel approval, to avoid undue advantage being afforded to one BSC Party over another.