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Assessment Report
MODIFICATION PROPOSAL P20
***Revision of Obligations on Parties in
Relation to BM Unit Registration***

Prepared by ELEXON Limited on behalf of the P20
Modification Group

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1 SUMMARY AND RECOMMENDATIONS

1.1 Recommendations

On the basis of the analysis, consultation and assessment undertaken in respect of this Modification Proposal during the Assessment Phase, and the resultant findings of this report, the Modification Group recommends that the BSC Panel should:

- 1 undertake a further Assessment Process to fully develop P20, and
- 2 that an Assessment Report should be presented to the Panel at its meeting to be held on 20 September 2001.

1.2 Background

Modification P20 was submitted on 18 May 2001 and was considered by the P20 Modification Group on 10 July 2001. Following a consultation exercise, the Modification Group met for a second time on 17 July 2001 to review responses to the consultation along with initial High Level Impact Assessments.

The Modification seeks to enable responsible Parties to transfer obligations for registration of BM Units (and it was later confirmed, Metering Systems) to affiliated Parties. An alternative proposal, P20 (alternative), enabled such transfers to any nominated Party.

The proposal states that the applicable BSC objective, as described in NGC licence condition 7A.3 (c), is better achieved for the following reasons:

- 1 Promotes effective competition in the generation and supply of electricity in that companies that hold generating and supply business assets in separate companies are placed in the same position as companies holding generating assets and supply businesses in one corporate vehicle in respect of the following factors:
 - the risk management of an equal number of balancing mechanism units;
 - the costs of its information technology (IT) infrastructure;
 - the risk of IT system failure.
- 2 The Proposed Modification will provide efficiency in the implementation and administration of the BSC by reducing risk and costs involved in the implementation and administration of BSC processes for BSC parties.
- 3 In addition, the Proposed Modification complies with the objective of the BSC Panel to give effect to the Code without undue discrimination between parties or classes of Party. As mentioned above, the purpose of the Proposed Modification is to ensure a level playing field between corporate structures.

1.3 Rationale for Recommendations

The following key points reflect the reasoning behind the recommendations:

- Further development of the precise detail of the proposal is required.
- Further understanding is required of the potential impact of the Modification on the Balancing and Settlement Code, other Core Industry Documents and Central Settlement Systems. In particular, the overall framework of obligations needs to be considered in the light of P20.
- the timescale for such further assessment has been established on the basis that the proposal impacts upon the overall framework of obligations that permeates licences, the BSC and Core Industry Documents.

It should be noted that, notwithstanding the above, consensus as to the perceived benefit of P20 has not been reached amongst the Modification Group members.

2 INTRODUCTION

This Report has been prepared by ELEXON Ltd., on behalf of the Balancing and Settlement Code Panel ('the Panel'), in accordance with the terms of the Balancing and Settlement Code ('BSC'). The BSC is the legal document containing the rules of the balancing mechanism and imbalance settlement process and related governance provisions. ELEXON is the company that performs the role and functions of the BSCCo, as defined in the BSC.

An electronic copy of this document can be found on the BSC website, at www.elexon.co.uk.

3 PURPOSE AND SCOPE OF THE REPORT

BSC Section F sets out the procedures for progressing proposals to amend the BSC (known as 'Modification Proposals'. These include procedures for proposing, consulting on, developing, evaluating and reporting to the Authority on potential modifications.

The BSC Panel is charged with supervising and implementing the modification procedures. ELEXON provides the secretariat and other advice, support and resource required by the Panel for this purpose. In addition, if a modification to the Code is approved or directed by the Authority, ELEXON is responsible for overseeing the implementation of that amendment (including any consequential changes to systems, procedures and documentation).

The Panel may decide to submit a Modification Proposal to an 'Assessment Procedure'¹. Under this procedure, a Modification Group is tasked with undertaking a detailed assessment of the proposal to evaluate whether it better facilitates achievement of the Applicable BSC Objectives². The group may also develop an alternative proposal if it believes that the alternative would better facilitate achievement of the objectives.

The Modification Group must prepare a report for the Panel, setting out the results of the assessment of the modification proposal and any alternative. The following matter should be included (to the extent applicable to the proposal in question)³:

- an analysis of and the views and rationale of the Modification Group as to whether (and, if so, to what extent) the Proposed Modification would better facilitate achievement of the Applicable BSC Objective(s);
- a description and analysis of any Alternative Modification developed by the Modification Group which, as compared with the Proposed Modification, would better facilitate achievement of the Applicable BSC Objective(s) and the views and rationale of the Group in respect thereof;
- an assessment or estimate (as the case may be) of:
 - the impact of the Proposed Modification and any Alternative Modification on BSC Systems;
 - any changes and/or developments which would be required to BSC Systems in order to give effect to the Proposed Modification and any Alternative Modification;
 - the total development and capital costs of making the changes and/or delivering the developments referred to in paragraph (ii);
 - the time period required for the design, build and delivery of the changes and/or developments referred to in paragraph (ii);
 - the increase or decrease in the payments due under the BSC Agent Contracts in consequence of the Proposed Modification and any Alternative Modification;
 - the additional payments (if different from those referred to in paragraph (v)) due in connection with the operation and maintenance of the changes and/or developments to BSC Systems as a result of the Proposed Modification and any Alternative Modification;
- any other costs or liabilities associated with BSC Systems attributable to the Proposed Modification and any Alternative Modification;

¹ See BSC F2.6

² As defined in the Transmission Licence

³ See BSC F2.6.4 and Annex F-1

- an assessment of:
- the impact of the Proposed Modification and any Alternative Modification on the Core Industry Documents;
- the changes which would be required to the Core Industry Documents in order to give effect to the Proposed Modification and any Alternative Modification;
- the mechanism and likely timescale for the making of the changes referred to in paragraph (ii);
- the changes and/or developments which would be required to central computer systems and processes used in connection with the operation of arrangements established under the Core Industry Documents;
- the mechanism and likely timescale for the making of the changes referred to in paragraph (iv);
- an estimate of the costs associated with making and delivering the changes referred to in paragraphs (ii) and (iv),
- together with a summary of representations in relation to such matters;
- an assessment of:
- the likely increase or decrease in BSC Costs (to the extent not already taken into account in paragraph © above) in consequence of the Proposed Modification and any Alternative Modification;
- the changes required to Systems and processes of BSCCo in order to give effect to the Proposed Modification and any Alternative Modification; and
- the BSC Costs which are expected to be attributable to the implementation of the Proposed Modification and any Alternative Modification, to the extent not taken into account under any other provision above;
- to the extent such information is available to the Modification Group, an assessment of the impact of the Proposed Modification and any Alternative Modification on Parties in general (or classes of Parties in general) and Party Agents in general, including the changes which are likely to be required to their internal systems and processes and an estimate of the development, capital and operating costs associated with implementing the changes to the Code and to Core Industry Documents;
- an assessment of the Proposed Modification and any Alternative Modification in the context of the statutory, regulatory and contractual framework within which the Code sits (taking account of relevant utilities, competition and financial services legislation);
- a summary of the representations made by Parties and interested third parties during the consultation undertaken in respect of the Proposed Modification and any Alternative Modification and the views and comments of the Modification Group in respect thereof;
- a summary of the analysis and impact assessment prepared by the Transmission Company and the views and comments of the Modification Group in respect thereof;
- a summary of the impact assessment prepared by relevant BSC Agents and the views and comments of the Modification Group in respect thereof;
- a summary of any impact assessment prepared by Core Industry Document Owners and the views and comments of the Modification Group in respect thereof;

- a copy of the terms of reference and any report or analysis of external consultants or advisers engaged in respect thereof;
- a list of the key assumptions which the Modification Group has made in formulating its views;
- any other matters required by the terms of reference of such Modification Group;
- any other matters which the Modification Group consider should properly be brought to the attention of the Panel to assist the Panel in forming a view as to whether the Proposed Modification and any Alternative Modification would better facilitate achievement of the Applicable BSC Objective(s);
- subject to paragraph 2.6.8 and 2.6.9 of Section F of the BSC, the proposed text to modify the Code in order to give effect to the Proposed Modification and any Alternative Modification, together with a commentary setting out the nature and effect of such text and of other areas of the Code which would be affected by the changes;
- the Modification Group's proposed Implementation Date(s) for implementation (subject to the consent of the Authority) of the Proposed Modification and any Alternative Modification;
- an executive summary of the project brief prepared by BSCCo;
- a recommendation (where applicable) as to whether, if the Proposed Modification or Alternative Modification is approved, Settlement Runs and Volume Allocation Runs carried out after the Implementation Date of such Approved Modification in respect of Settlement Days prior to that date should be carried out taking account of such Approved Modification or not;
- the proposed text (if any) to modify the Memorandum and Articles of Association of BSCCo and/or the BSC Clearer in order to give effect to the Proposed Modification and any Alternative Modification, together with a commentary setting out the nature and effect of such text and of other areas of the Memorandum and Articles of Association and/or the Code which would be affected by the changes; and
- a summary of any changes which would be required to Code Subsidiary Documents as a consequence of such Proposed Modification or Alternative Modification.

This Assessment Report therefore addresses all of the above items to the extent relevant to the Modification Proposal in question.

4 MODIFICATION GROUP DETAILS

The Membership of the Modification Group was established as that of the ISG, namely:

Panel Sponsor	Employer
Tony Bramley	Tanaris Energy
Barbara Vest	Yorkshire Electricity
Industry Members	Employer
Lisa Waters	Dynegy UK
Ian Moran	Scottish & Southern Energy
Tony Diccico	PowerGen
Paul Mott	London Electricity
Ben Willis	Yorkshire Electricity
Ian Moss	APX
Steve Garrett	Slough Heat & Power
Martin Mate	British Energy Group
Consumer Members	Employer
TBA x2	Consumer
Transmission Member	Employer
Nigel Brooks	Transmission Company
Alternates	Employer
Chris Gibson	Innogy
Duncan Jack	St Clements Services
Sharif Islam	Total Fina Elf Gas & Power
Libby Glazebrook	Edison Mission Energy
Maurice Smith	Campbell Carr
Andrew Foster	UK Power Exchange
Attendees	Organisation
Jonathon Purdy	Distribution System Operator
Steven Hodges	Ofgem
Malcolm Burns	SESL
David McNair (ELEXON)	Group Secretary
Chris Rowell	BSCCo

The following members and attendees were present at the first meeting of the P20 Modification Group held on 10th July 2001:

Neil Cohen	ELEXON	Chairman
Duncan Jack	St. Clements Services	Mods Group Member
Nigel Brooks	NGC	Mods Group Member
Lisa Waters	Dynegy	Mods Group Member
Paul Mott	London Electricity	Mods Group Member
Martin Mate	British Energy	Mods Group Member
Louise Elder	NGC	Attendee
Terry Ballard	Innogy	Attendee
David Edward	Ofgem	Attendee
Cathy Woods	ELEXON	Attendee
Drew McGregor	ELEXON	Secretary

The following members and attendees were present at the second meeting of the P20 Modification Group held on 17th July 2001:

Neil Cohen	ELEXON	Chairman
Duncan Jack	St. Clements Services	Mods Group Member
Louise Elder	NGC	Mods Group Member
Paul Mott	London Electricity	Mods Group Member
Lisa Waters	Dynegy	Mods Group Member
Richard Harrison	Innogy	Attendee
David Edward	Ofgem	Attendee
Natalie Frith	Ofgem	Attendee
Cathy Woods	ELEXON	Attendee
Drew McGregor	ELEXON	Secretary

5 PROCESS

Modification proposal P20 was submitted on the 18 May 2001 by London Electricity. An Initial Written Assessment (IWA) was then issued and responses were subsequently received. Following the BSC Panel decision to undertake an assessment procedure, as detailed in Clause 2.6 of Section F of the BSC, a Modification Group met on 10th July 2001 to consider the proposal. The Panel nevertheless asked for an Assessment Report to be presented at its meeting of 26 July 2001. One comment that was received in response to the IWA was that the timescales for progressing the Modification were too short

Following the first Modification Group meeting, a consultation was undertaken with responses invited by 17 July 2001. Concurrent with this consultation exercise, ELEXON undertook refinement of their view on the impact on the BSC and High Level Impact Assessments were requested from NGC, MRASCo and the Central Registration Agent. A second Modification Group meeting was held on 17 July 2001 to consider the responses to the consultation, updates in impact assessments and the contents of the report to be presented to the BSC Panel.

6 DESCRIPTION OF MODIFICATION P20 AND DELIBERATIONS OF FIRST MODIFICATION GROUP

6.1 Description of P20

The proposal seeks to allow BM Units (and their associated metering systems) to be registered in the name of a BSC Party that is an Affiliate (as defined in the BSC) of the BSC Party that is responsible (pursuant to paragraph K1.2.2 of the BSC) for the exports or imports of electricity at the relevant Boundary Point. A copy of the Modification Proposal is attached in Annex 1.

Before considering the applicable BSC objectives, the Modification Group considered a number of aspects of the proposal which had not been developed in the original, but which had been raised as a series of specific questions in the IWA. The questions raised were as follows:

- Who is responsible for notifying the appointment/de-appointment of the Affiliate?
- What happens if the Affiliate goes into liquidation?
- What are the credit cover requirements where an Affiliate is registered, rather than the Lead Party?
- Who can authorise affiliate MVRNs?
- Should the status of the Affiliate be monitored?

One respondent to the IWA also raised the question of responsibilities and obligations as between the Affiliate and the Party, particularly in relation to registration of BM Units, metering, energy and imbalances, credit cover, default, licence obligations (see section 6) and provision of information.

In seeking to address these issues, the Modification Group considered that the Party responsible for the relevant imports or exports would be responsible for establishing the Affiliate as the legitimate nominated Lead Party (and Registrant) and informing the appropriate BSCCo Agent of any subsequent change to that arrangement. It would then be for the nominated Lead Party to comply with any obligations under the BSC, just as any other Lead Party would.

One respondent to the IWA also raised the issue of business separation. However, the Modification Group was of the view that this was not an issue since consumption and production were still to be accounted for separately.

6.2 Applicable BSC Objectives

The proposal suggests that the applicable BSC objective that would be better achieved by P20 is Condition 7A.3 (c); promoting effective competition in the generation and supply of electricity, and (so far as is consistent therewith) promoting such competition in the sale and purchase (as defined in the

Transmission Licence) of electricity. The means by which the above is judged to be better achieved is for the following reasons:

- By placing groups of companies that hold generation assets and supply businesses in separate companies in the same position as BSC Parties that hold generation assets and supply businesses in the same company.
- By virtue of the risk management involved in the administration of one BM Unit being necessarily less than the risk management involved in managing two BM Units.
- The IT infrastructure and level of credit cover required to operate via one registration being necessarily less than the infrastructure for two or more separate registrations.
- The risk of IT system failure being less if only one account is operated, rather than two or more separate accounts being operated.

The Modification Group addressed each of the perceived benefits. Firstly, in so far as the equivalency of corporate groups to single companies was concerned, some Modification Group members were not convinced that such equivalence was necessarily appropriate. A counter-view was that the ability to act on behalf of another was an established principle in other markets. For example, under the Network Code, governing the wholesale gas arrangements in England and Wales, it was possible for a Shipper to take responsibility for another Shipper's gas. By contrast, the BSC appeared to be restrictive. Some argued against this point suggesting that the Meter Volume Reallocation Notification (MVRN) arrangements fully facilitated the underlying intent of the proposal.

In so far as IWA respondents were concerned, a number agreed with the view that existing arrangements were adequate for the purposes described. One response sought further explanation as to why this might not be the case. One respondent took the view that the issues raised in the proposal were bilateral matters for the relevant Parties. The respondent further suggested that the proposal might be anti-competitive. Broadly speaking, of the four responses to the IWA received, one (representing two signatories) supported the proposal, two did not support it and one (representing four signatories) required further information to justify the proposal.

As to the second point, the proposer acknowledged that the wording in P20 was misleading and the perceived benefit of the proposal was actually that it avoided the complexity and cost associated with the use of the MVRN facility. Members of the Modification Group recognised that some infrastructure was needed, for example the need to establish an Authorised MVRN Agent, and that there was a cost associated with each notification (detailed in section D of the BSC and currently set at a value of £0.0025 per MWh of notified volume). A counter to this point was that, to give a similar effect to the proposal, required only a single notification (reallocating 100% of the relevant BM Unit). Hence, the complexity was of a minor degree. It was also suggested that the use of registration arrangements, rather than the MVRN facility, to effect the intent of the Modification proposal implied a standing arrangement, rather than a dynamic one.

The Modification Group accepted the view that some benefit might accrue in respect of credit cover, although it was unclear how substantial such benefits might be. This benefit might arise in circumstances where, for example, one of two companies in a group might submit an Energy Contract

Volume Notification which reduced its indebtedness below zero. This negative indebtedness, or credit, would not be accounted for in indebtedness calculations for the company, taken on its own. However, if the company were affiliated to the second company and the second company was responsible for both companies' activities under the BSC, then a single indebtedness calculation would be appropriate and that negative indebtedness would be accounted for and would reduce the overall indebtedness for the combined companies.

Finally, in respect of the IT issues raised by the Modification, the Modification Group acknowledged the likelihood that infrastructure and risk of failure would be more complex for two or more registrations than for one. One other comment made was that, with only one set of registrations, a system failure might have greater impact.

6.3 Alternative Modification

In considering the basic elements of the Modification proposal, the Modification Group considered that there was no particular significance to the concept of an Affiliate acting on behalf of a given Party. The Modification Group took the view that, so long as the necessary undertakings were given that the Party acting as Lead Party was able to fully discharge all of its obligations under the BSC, then affiliation became a limitation, with no discernible benefit. The Modification Group, therefore, considered that an Alternative Modification should be established, whereby a Party acting on behalf of another Party, in the manner described in P20, could be any such Party so designated.

One respondent to the IWA (acting on behalf of two signatories) who supported the proposal noted that the above alternative could better achieve BSC objectives. The specific point made was that smaller participants could avoid certain infrastructure costs by allowing other Parties to act on their behalf.

6.4 Impact of the Proposal

As described in the IWA, the main impact on the BSC is considered to be in section K. It was also recognised that sections H, L, M, P and X may require certain consequential changes. The specific drafting to give effect to the proposal, and its alternative, continues to be considered by ELEXON. ELEXON are also continuing to check that the use of a nominated Lead Party (and Registrant) can be accommodated in all instances within the BSC where obligations arise.

One respondent to the IWA suggested that on the basis that the nominated Lead Party (and Registrant) would be discharging all relevant obligations under the BSC then changes to the BSC would be minimal. Given the Modification Group view that obligations should fall in this way, the provisional opinion of ELEXON was that changes to the BSC could be mainly limited to the introduction of the concept of a nominated Party into Clause 1.2.1 of Section K, along with suitable definitions. (It was later identified at the second Modification Group meeting that the impact on BSC drafting would be more considerable). A comprehensive legal view of the drafting changes has not yet been sought.

A further issue that the Modification Group considered was that of consistency with Core Industry Documents and with other relevant legal instruments. On a general level, some members noted that

the hierarchy between all of these documents was not always clear, rendering this particular consideration more difficult. Notwithstanding this, there was a view that the proposal might not be consistent with licences, given that a consequence of the proposal was that obligations which ultimately flowed from licences could be transferred to other Parties. A counter-argument was that the proposal merely sought to allow the transfer of commercial obligations and that other obligations flowing from any relevant licences would remain with the principal organisation.

In so far as the impact on the Grid Code was concerned, no issues of principle emerged during Modification Group discussions. However, it was suggested that NGC may need to consider the impact on its systems, as well as potential drafting changes in the Grid Code itself. It was further recognised that procedural issues, as well as potential drafting changes might arise in respect of the MRA. It should be noted that the assumption was that the nominated Lead Party, rather than the Principal Party, would sign the MRA and would itself, therefore, need to be a Supplier (it was subsequently suggested at the second Modification Group meeting that the principal Party should retain this responsibility). A particular practical issue that arose was that of NGC (and Distribution Businesses) utilising metering from BSC settlement to support their billing arrangements. Under the proposal, meter readings would be attributed to the nominated Lead Party, whereas relevant Connection and Use of System charges are assumed to continue to be levied against the Principal Party actually connected to the system. Hence, further processing might be required to identify the Principal Party, if a nominated Party were acting as Lead Party under the BSC.

In so far as Code Subsidiary documents are concerned, the Initial Written Assessment suggested that BSCP 15 (BM Unit Registration) and BSCP 71 (ECVNA and MVRNA Registration, Authorisation and Termination) would require changing. ELEXON are continuing to assess this. The provisional view of ELEXON was that the proposal could be effected without modifying central systems. Instead a separate register would be maintained identifying where Lead Parties had been nominated and by whom. It is anticipated that BSCP15 would form the main vehicle for this process and any relevant pro-forma documents, perhaps with some cross-reference to other procedures. It was stressed, however, that this view has yet to be subjected to a full assessment.

7 DELIBERATIONS OF THE SECOND MODIFICATION GROUP MEETING

7.1 Clarification of Modification

The proposer intimated that, in one particular instance, the Consultation Document contained an assumption that did not reflect the intent of the proposal. This assumption was that the nominated Lead Party would need to be a signatory to the MRA and take responsibility for the relevant metering systems. However, the proposer stated the intent of P20 was that the principal Party would retain this responsibility. The Modification Group acknowledged this point.

On a more general level, some Modification Group Members felt that the proposal (and its alternative) were ambiguous in relation to precisely which obligations transferred from the principal to the nominated Lead Party. One interpretation was that all the obligations detailed in clause 1.2.1 of section K of the Code transferred. The counter view was that those responsibilities in clause 1.2.1 (a) of Section K (relating to the installation of metering) would not transfer. There was also some debate as to whether the obligations in clause 1.2.1 (b) (relating to the registration of Metering Systems) should go hand-in-hand with those in clause 1.2.1 (a).

There was some consideration as to whether it was practical to apply P20 to Interconnector BM Units given the added complexity about interactions with Interconnector Administrators and Interconnector Error Administrators as well as Interconnector Access Arrangements. This issue remains open.

The Modification Group accepted that these different interpretations may have been made by those providing impact assessments and in responses to consultation. The Modification Group endeavoured to bear these issues in mind in their further consideration of P20.

7.2 BSC Impact

ELEXON's further consideration of the way in which changes to the BSC drafting might accommodate P20 (and alternative) suggested that references to nominated Parties could be added to those clauses which currently referred to Lead Parties or Registrants without undermining the intent of these particular clauses. ELEXON also suggested that the alternative approach of re-defining responsible Party (i.e. including nominated Party) also appeared to be viable.

In consideration of these views, the Modification Group noted that the concept of responsible Party, Lead Party and Registrants pervaded the entire BSC (and subsidiary documents). Furthermore, there was a presumption in the BSC that all of these entities were one and the same Party.

It was therefore acknowledged that further assessment of BSC terms and conditions would be required. It was further acknowledged that if P20 implied a split in responsibilities between the principal and the nominated Lead Party, then a yet more significant analysis of BSC obligations would be required.

A number of other specific points arose in discussion:-

- One member of the Modification Group noted that section A of the BSC referred to the category of Trading Party as being those responsible for Imports or Exports. This area of the BSC would need to be considered in the light of P20.
- It was noted that obligations arising from health and safety law (for example, in the obligation to provide safe access to a site or plant as detailed in Section L of the BSC) would need to remain with the principal Party, regardless of whether BSC obligations were transferred. This may need to be reflected in any drafting changes.
- Further consideration of the BSC arrangements for default maybe required, given the possibility of a split in obligations.
- Some changes to reporting may be required to recognise the need to provide certain reports to either the principal or the nominated Party, or to both. This issue is exacerbated if obligation are split between the two Parties as described above.

7.3 High Level Impact Assessment

Assessments have been requested from the Central Registration Agent (CRA), MRASCo and NGC.

The CRA has provided an initial response stating that the impact is minimal. However, the Modification Group considered that the CRA was likely to have assumed that there was no split of responsibility between the two relevant Parties and that the minimal impact was based on the registration arrangements being largely indifferent as to the rationale behind a given Lead Party being so designated. However, where two Parties were to be involved, the principal undertaking certain metering obligations, whilst the nominated party took responsibility for the BM Unit, the Modification Group felt that the impact on central systems (not just the CRA system) could be more significant. The CRA assessment is attached in Annex 5.

No response has yet been received from MRASCo.

NGC provided some initial views on the proposal:-

- They suggested that further definition of the proposal was required, particularly in terms of clarifying precisely which responsibilities were to be transferred.
- They argued that Core Industry Documents, along with the BSC, were developed with a presumption that licences obliged Parties to comply with these documents and that the implications of Parties transferring obligations contained in these documents to a nominated Party who might

not be licensed could bring into question the licence framework. Some Modification Group Members questioned whether there was such a presumption relating to licences.

- They noted that Connection Agreements were made with the licensed Party and charges are then allocated to a Lead party based on BM Unit metering data. The proposal suggested that the Charging Statement would need to change (requiring consultation which, under the MCUSA, can only be undertaken in April of each year). It was also noted at the Modification Group that some difficulties might arise where a Party in default was not the Party holding a Connection Agreement (which provides the vehicle by which NGC can enforce a disconnection order under Section H of the BSC). It was, however, noted that a similar issue already exists where a customer (rather than a Supplier) holds a Connection Agreement.
- They stated that the Grid Code and the BSC were drafted so that there would be equivalence between them. A review of the Grid Code would be necessary if P20 were to be further progressed. They also raised the issue of the flow of obligations from licences via the BSC and the Grid Code and how they might be re-structured in the light of P20.
- They stated that their systems would require to be modified otherwise restrictions on accommodating P20 would arise.

NGC's comments are attached in Annex 5.

7.4 Responses to Consultation.

Four responses were received by the allotted deadline (one of which was provided on behalf of four signatories). A fifth response was received after the Modification Group meeting.

One respondent reiterated concerns originally expressed in a response to the IWA that the timescales for this Modification Proposal were not adequate.

One respondent (a Distribution Business) expressed concern at the prospect of the nominated Lead Party signing the MRA. This point was addressed at the second Modification Group meeting (see above). This respondent also expressed concern at the possible need for additional processing of meter data to facilitate Distribution Use of System Billing. If such processing were required of a Distribution Business, then the respondent could not support the proposal.

Another respondent, who supported the proposal, was of the view that P20 (alternative) was preferable to P20 in better achieving BSC objectives in that P20 (alternative) is less limiting than P20 since it makes the proposed facility available to all third parties. This respondent further emphasised that the proposal was preferable to the use of the MVRN facility since that approach involved system risks. A counter-argument, however, was made in the late response, that the risk associated with systems (and with credit issues) did not appear to be a problem for most Parties and that the cost of using an

MVRN was negligible (actually zero for percentage re-allocations ⁴). Hence the proposal did not better achieve objectives.

In summary, of the five responses received, one supported P20, favouring P20 (alternative) over P20, three (representing six signatories) did not support the proposal and one Distribution Business responded stating that they did not support the proposal, particularly if they would be required to undertake additional data processing as a result of the Modification. All responses are attached in Annex 6.

⁴ The Consultation document stated that there was a cost of £0.0025 per MWh of notified volume. This cost only applies to fixed volume reallocations. There is no cost for percentage volume reallocations.

8 CONCLUSIONS

The following conclusions may be drawn from the foregoing:

- In response to the IWA, one response supported the view that P20 better achieved applicable BSC objectives whilst 3 responses did not support this view.
- In response to the consultation, 1 response supported the view that P20 better achieved applicable BSC objectives whilst 4 responses (representing 7 signatories) did not support this view.
- If P20 were to be implemented, the Modification Group concluded that P20 (alternative) would be preferable to P20, on the grounds that the alternative merely removed a limiting feature that had no discernible benefit.
- A number of features of the Modification proposal, along with some of the ramifications and impacts remain outstanding. Some of these impacts involve the overall framework of obligations that underpin licences, the BSC and Core Industry Documents. Hence it is not currently possible to establish BSC drafting requirements or implementation timescales. Furthermore, changes to other documentation such as NGC's Charging Statement are likely to be required to accommodate P20.
- No consensus on the merits of P20 or P20 (alternative) has emerged amongst Modification Group Members.
- Further assessment is required to address outstanding issues.

9 RECOMMENDATIONS

The BSC Panel is invited to:

- 1 note the conclusions of the Modification Group;
- 2 agree to undertake a further Assessment Process to fully develop P20; and
- 3 agree that an Assessment Report should be presented to the Panel at its meeting to be held on 20 September 2001

ANNEX 1 – MODIFICATION PROPOSAL

Modification Proposal – F76/01	MP Number:20 <i>(mandatory by BSCCo)</i>
Title of Modification Proposal <i>(mandatory by originator):</i> Revision of Obligations of Parties in Relation to BM Unit Registrations	
Submission Date <i>(mandatory by originator):</i> 18 May 2001	
Date Logged <i>(mandatory by BSCCo):</i>	
Description of Proposed Modification <i>(mandatory by originator):</i> London Electricity ('London') proposes to clarify the position in relation to the registration of BM Units in the name of a BSC Party that is an affiliate of the company responsible for the exports or imports connected with that BM Unit.	
Description of Issue or Defect that the Modification Proposal Seeks to Address <i>(mandatory by originator):</i> There is currently some dispute within the industry regarding the complex area of which BSC Party a BM Unit should be registered to. Even Elexon has the need to carefully consider internally what position in response to this question it should take. Clarification of this issue would therefore be very useful for all parties involved. London believes that BSC parties should be able to register BM Units in the name of affiliated companies that are themselves a Party to the BSC, with the capacity of a Trading Party. This should have the following advantages for all such BSC parties: 1. it would place groups of companies that hold generation assets and supply businesses in separate companies in the same position as BSC parties that hold generation assets and supply businesses in the same company; 2. the risk management involved in the administration of one BM Unit is necessarily less than the risk management involved in managing two BM Units; 3. the information technology infrastructure and level of credit cover required to operate via one registration is necessarily less than the infrastructure required for two or more separate registrations; 4. the risk of information technology system failures is less if only one account is operated, rather than two or more separate accounts being operated.	

Modification Proposal – F76/01	MP Number: <i>(mandatory by BSCCo)</i>
<p>Impact on Code <i>(optional by originator):</i></p> <p>Section K1.2 will need to be redrafted to read as follows:</p> <p>1.2 Obligations of Parties in Relation to Exports and Imports</p> <p>1.2.1 Subject to the further provisions of this Section K, the Party responsible (in accordance with paragraph 1.2.2 below) for any Exports or Imports of electricity at a Boundary Point shall:</p> <ul style="list-style-type: none"> (b) install, maintain and operate or secure that there is installed, maintained and operated, subject to and in accordance with Section L, Metering Equipment by which (over periods and otherwise in accordance with the further requirements of the Code) the quantities of such Exports and Imports separately can be measured, but subject to the provisions of Section S8 as to Unmetered Supplies; (c) register or procure the registration of the Metering System(s) which result or will result from installation of such Metering Equipment either in the name of the Party responsible (in accordance with paragraph 1.2.2 below) for any Exports or Imports of electricity, or in the name of a Party that is an affiliate of the Party responsible for any Exports or Imports of electricity (in accordance with paragraph 1.2.2 below); (d) establish and register BM Unit(s) comprising the relevant Plant and Apparatus in accordance with paragraph 3; (e) assign each BM Unit to a Trading Unit established and registered in accordance with paragraph 4. <p>Section K2.2 will also need to be amended as follows:</p> <p>2.2 Registration requirements</p> <p>2.2.1 A Party may apply to register a Metering System in CMRS by submitting a registration application to the CRA specifying:</p> <ul style="list-style-type: none"> (a) the identity of the Party to be registered as the Registrant; (b) the Metering System; (c) the Meter Operator Agent appointed or to be appointed in accordance with Section J6.1; and (d) the date with effect from which the applicant wishes the registration to be effective. 	

Impact on Core Industry Documents *(optional by originator):*

London does not consider that any other Core Industry Documents would require amendment.

Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties *(optional by originator):*

London does not believe that the BSC systems would need to be adapted, since the BSC systems currently process information in this way.

Impact on Other Configurable Items *(optional by originator):*

London does not believe any other configurable items would be affected.

Modification Proposal – F76/01	MP Number: <i>(mandatory by BSCCo)</i>
<p>Justification for Proposed Modification with Reference to Applicable BSC Objectives <i>(mandatory by originator):</i></p> <p>The Proposed Modification is consistent with the BSC objectives for the following reasons:</p> <ol style="list-style-type: none"> 1. The Proposed Modification promotes effective competition in the generation and supply of electricity in that companies that hold generating and supply business assets in separate companies are placed in the same position as companies holding generating assets and supply businesses in one corporate vehicle in respect of the following factors: <ul style="list-style-type: none"> • the risk management of an equal number of balancing mechanism units; • the costs of its mission technology infrastructure; • the risk of IT system failure. 2. The Proposed Modification will provide efficiency in the implementation and administration of the BSC by reducing risk and costs involved in the implementation and administration of BSC processes for BSC parties. 3. In addition, the Proposed Modification complies with the objective of the BSC Panel to give effect to the Code without undue discrimination between parties or classes of Party. As mentioned above, the purpose of the Proposed Modification is to ensure a level playing field between corporate structures. 	
<p>Details of Proposer:</p> <p>Name Roger Barnard</p>	

<p>Organisation London Electricity plc</p> <p>Telephone 020 7331 3398</p> <p>e-mail address roger-barnard@londonelec.co.uk</p>
<p>Details of Proposer's Representative:</p> <p>Name Roger Barnard</p> <p>Organisation London Electricity plc</p> <p>Telephone 020 7331 3398</p> <p>e-mail address roger-barnard@londonelec.co.uk.</p>
<p>Details of Representative's Alternate:</p> <p>Name N/A</p> <p>Organisation</p> <p>Telephone</p> <p>e-mail address </p>
<p>Attachments: Yes (delete as appropriate) (mandatory by originator):</p> <p>If Yes, Title and Number of Pages of Each Attachment:</p> <p>Letter dated 18 May 2001 addressed to BSC Panel Chairman and headed REGISTRATION OF BM UNITS TO TRADING PARTIES AFFILIATED TO BSC PARTIES (three pages)</p>

Mr Nicholas Durlacher
Chairman, BSC Panel
c/o Elexon Limited
Third Floor

RB/MVB

25 May 2001

1 Triton Square
London NW1 3BX

Dear Mr Durlacher

REGISTRATION OF BM UNITS TO TRADING PARTIES AFFILIATED TO BSC PARTIES

As some Panel Members may be aware, London Electricity plc ('London') has been in correspondence with Elexon regarding the registration of balancing mechanism units in the name of London rather than in the name of the wholly owned subsidiaries of London that hold the electricity generation licences in respect of the relevant generating stations.

The purpose of this letter is to ask the BSC Panel to exercise its discretion under Section K1.2.2(a)(iv) of the Balancing and Settlement Code (BSC) so as to clarify the above position. While the facts of this case are specific to London, it should be noted that we are not the only company group that holds generating assets and supply businesses in separate corporate vehicles.

As the Panel Members will be aware, the public electricity supply licence held by London prohibits London from conducting any business or carrying on any activity other than the supply business, the second tier supply business, and the distribution business (Condition 72.1). The effect of this is that London, by virtue of that requirement, is prevented both from carrying on any generation business and from transferring any generation assets to itself.

For ease of reference, Condition 72.2(a) addresses the position of subsidiaries in which the generation assets of the London Group are held.

While London is not questioning the licensing position, we do believe that the BSC should allow London (and, of course, any other company in the same position as London) to register an affiliated company as the party responsible for a balancing mechanism unit. Our view is that, in principle, a BSC Party should be entitled to register balancing mechanism units in the name of an affiliate who as a Trading Party is also a BSC Party.

We also think that this is consistent with BSC requirements. Section K2.2 sets out the registration process. A BSC Party may apply to the Central Registration Agent (CRA) to register a metering system in the Central Meter Registration Service, specifying, inter alia, the name of the applicant party. We maintain that if the only name that can be submitted under these procedures is that of the company making the application, then the requirements would not need to specify that the name of the applicant is required, as the CRA would already have this information.

Although this is a complex issue, Elexon initially concurred with this approach. Having reconsidered the matter, Elexon has now concluded that the BSC does not currently permit this position. London disagrees with this conclusion, and believes that its preferred approach gives the following advantages:

1. It places companies that hold generation assets and supply businesses in separate corporate vehicles in the same position as companies holding generation assets and supply businesses in the same corporate vehicle.
2. The enhanced IT infrastructure costs and sub-optimal credit cover costs involved in the separate registration of balancing mechanism units would be avoided.
3. The risk of IT system failure will be minimised by maintaining only one system, rather than several.
4. The management time and costs of supervising a single registration will necessarily be less than those of maintaining several.

London therefore believes that enabling BSC parties to operate in its preferred manner would meet the following BSC and Panel objectives:

1. It will help to promote effective competition in the generation and supply of electricity by ensuring that parties which have different corporate structures are placed in the same position.

2. It will promote efficiency in the implementation and administration of the Balancing and Settlement Code.

3. It will give effect to the BSC itself without undue discrimination between public electricity suppliers and other energy companies with different corporate structures.

London wishes to emphasise that interpreting the BSC in its preferred manner will not lead to a reduction in the fees paid, in aggregate, by companies within the London Group. Nor are we seeking to avoid or reduce any obligations (including regulatory obligations) borne by London or any affiliated company. The sole purpose of the exercise is to establish the most efficient method of operating the registration and notification procedures under the BSC.

We have received Elexon's notice dated 21 May (to which this submission is our response) that we are in breach of the BSC. Even if that view is correct, which we do not accept, we would not regard the breach of the Code as material within the requirements under Section C for Code enforcement, since it is difficult to see how there could be any material adverse effect on the operation of the BSC consistent with the Section B objectives.

It would be helpful, however, to have the matter resolved beyond any possible doubt. London, therefore, invites the BSC Panel to exercise its discretion under Section K1.2.2(a)(iv) to determine that London's position is not in fact the same as the case set out in Section K1.2.2(a)(i) and that it is in accordance with the objectives of the BSC that London can operate in this way.

As an alternative, we have drafted a modification proposal which would permit BSC parties to register balancing mechanism units in the name of an affiliate who is also a BSC Party. If the Panel is unwilling to exercise its discretion in the manner requested, London will propose the enclosed modification.

If you or other Panel Members have any questions in relation to the above, we would be happy to deal with them. We look forward to hearing from you.

Yours sincerely
Roger Barnard
Roger Barnard
Regulatory Law Manager, London Electricity Group
on behalf of London Electricity, Jade Power
Generation, and Sutton Bridge Power

ANNEX 2 – RESPONSES TO THE INITIAL WRITTEN ASSESSMENT

P20_ASS_001 – Seeboard

From: Morton, David[SMTP:DMorton@seeboard.com]
Sent: 06 July 2001 11:53
To: 'Elexon Modifications'
Subject: P20 Assessment Comments - SEEBOARD

Prior to our comments on this proposal we feel strongly that the timescales given for this non-urgent modification were much too short. As a number of other issues from Elexon are currently out for assessment we feel that this has placed an unnecessary burden upon parties. We are also concerned that our request for an extension on both this and modification P22 went unanswered. Comments on this specific proposal are as follows:

Under our current ownership we do not feel that this will impact upon us. However, as a general comment of principle we do not agree to potential interchangeable Principals, Subsidiaries and Affiliates within the trading environment. Any arrangement between any Affiliate(s) can quite adequately be enacted outside the trading environment by a bi-lateral understanding between the parties. We do not believe that it is in the interests of BSC Parties to endorse and manage what is in effect an inter business accounting issue between Affiliate parties.

Notwithstanding the 'final obligations' (where does the buck stop?) on issues of non-compliance to BSCPs and/or Grid Code there is also the possibility that such an arrangement could be seen as being anti-competitive and support for such arrangements could fall foul of the Competition Act.

Dave Morton
SEEBOARD
0190 328 3465

P20_ASS_002 – Innogy

Assessment Comments on BSC Modification P20

Generally we would support the intent of the Modification to overcome complications to due particular corporate structures which exist for particular reasons but are really of no interest to either the Balancing & Settlement Code or the Grid Code.

It is not clear to us that the issues raised in Section 13 of the Initial Assessment are necessarily valid since, in legal terms, we believe that the Affiliate could be acting as the agent of the Party in fulfilling the obligations either (as in London's case) under the BSC or (more generally if the Modification were implemented) under the Grid Code etc. This is already explicitly provided for in certain Parties' Supply Licences.

With regard to ensuring the integrity of the arrangements under the BSC, we believe that from the standpoint of the Code that the 'Registrant' implicitly assumes all obligations and rights in respect of a BM Unit or Metering System, and it is their responsibility to ensure that they can meet all obligations, whether directly, through contractual arrangements or otherwise. If this argument is valid, very few (if any) other changes to the BSC or its Subsidiary Documents should be necessary.

Presumably, similar arguments would apply to the Grid Code etc.

[As regards the BSC objective of promoting effective competition in the generation and supply of electricity, it is interesting to note that if the changes proposed to Section K of the BSC were not restricted to Affiliates, this could also potentially open up simpler routes to market for small generators or small suppliers (or Consolidators) since, while still requiring Licences for the relevant activities (which would require accession and compliance with the BSC etc) they would be free to contract with any established players to fulfil their obligations on an agency basis, and would not have to go through the process of qualifying their own market processes.]

Richard Harrison

Innogy Group
(Innogy plc, Npower Limited, Npower Direct Limited and Innogy Cogen Trading Limited, Yorkshire Electricity)

P20_ASS_003 – Scottish and Southern Energy Group

From: Beverley Grubb[SMTP:Beverley.Grubb@scottish-southern.co.uk]
Sent: 09 July 2001 10:50
To: modifications@elexon.co.uk
Subject: P20 Assessment Comments

Following on from my previous e.mail can you please add to my list of queries the issue of business separation. I believe further clarification is required in relation to how these proposals fit with plans for future business separation.

Please find detailed below comments in relation to the above modification on behalf of Southern Electric, Scottish and Southern Energy, Keadby Generation Ltd and SSE Energy Supply Limited. I would be grateful if these comments could be passed to the Working Group for consideration at their next meeting and when preparing the Assessment Report.

Clarification is required in relation to the specific benefits this proposal is seeking to obtain, how they will be achieved and an explanation of why they can't be achieved using existing arrangements e.g ECVN or MVRN. Information is also required on the specific changes required to obtain the benefits being sought and in particular the detailed impact on obligations and responsibilities of the Affiliate and the Lead Party, particularly in relation to the following:

- Registration of BMUs
- Metering
- Responsibility for energy and imbalance
- Credit Cover and Default provisions / obligations
- Licences obligations
- Responsibility for provision of information - PNs, ECVNs, MVRNs, Dynamics etc.

I hope these comments are useful.

Regards

Beverley Grubb
Market Development

P20_ASS_004 – Powergen

9th July 2001

Dear Gareth,

Proposed Variation to BSC – Modification Proposal No: P20

Powergen welcomes this opportunity to make initial comments on the modification proposed.

1. Powergen do not support this modification raised by London Electricity in respect of BM Unit Registrations.
2. Powergen are satisfied that there are sufficient arrangements already in place to deal with the registration of BM units & thus do not feel that there are any changes necessary to the current arrangements.
3. Powergen would like to seek further clarification as to the nature of the justification from London Electricity from this proposal, furthermore, we are unable to establish the requirements that have led to this modification being raised.

Yours Sincerely
James Hawkins

Strategy & Regulation
Energy Trading
Powergen
02476 42 4737.

ANNEX 3 – HIGH LEVEL IMPACT ASSESSMENTS

1. CENTRAL REGISTRATION AGENT

NETA Change Form

To be completed by the Originator						
Change Request ID (to be provided by the Customer) P20 Logica reference: ICR122			Service affected BMRA/SAA/TAA/CRA/CDCA/ECVAA			
Change Request Name:			Revision of Obligations of Parties in Relation to BM Unit Registrations			
Agreement by the customer to proceed to the next stage						
	High Level Assessment	Detailed Level Assessment	Change Quotation	Implement Change	Emergency Fix Report	Change Request under Clause 14.2 (delay)
Tick which stage is being requested	✓					
Signed by Customer Baseline Manager						
Signed by Customer Contract Manager						
Date of agreement to proceed to next stage					n/a	n/a
Date this stage to be completed by	13/07/01					
Configuration of Service(s) (baseline affected)						
Assumed Changes (over baseline)						
Priority		High/Medium/Low				
Identified by : Sandy Blows			Date Submitted: 11/07/01			
Description of Change See attached original P20						
Reason for Change (benefits) See attached original P20						
Implications of not making the change See attached original P20						
Attachments/references		P20				
Competition Item Yes/No/n/a		Reasons for Competition				
If Change Request made under Clause 14.2 (delay)		Required supporting information attached				

To be completed by the Service Provider				
	High Level Assessment	Detailed Level Assessment	Change Quotation	
Tick which stage is being completed	✓			
Signed by Service Provider Contract Manager				
Date	13/07/01			
Validity period of costs/prices	Change Quotation			
	Change		30 days	
Does the change involve any changes to the System or Services			No	
Would the undertaking of a Detailed Level Assessment or Change Quotation delay the Trigger Milestone or the Planned Go-Live Date before Go Live or any Release Date after Go Live			N/a	
If Yes – specify which Milestones/Release Dates would be affected	N/a			
Impact on any Milestones of incorporation of change	N/a			
Indicative impact on resources for change incorporation	Phase of the work			
	Design	Build	Test & Trial	Operate
	Labour			
	Materials/3rd Party			
Impact on Service Levels	None			
Impact on IDD	No			
Price for Detailed Level Assessment				Indicative/firm
Price for Change Quotation				Indicative/firm
Price for Change	No cost			Firm
Assumptions for the above Price:				
<ul style="list-style-type: none"> It is understood that the only change to Central Services interfaces, validation etc. is that the physical registration request will come from a Party other than that designated as the registrant. Registration reports will be returned to the designated registrant, and charges arising through the Balancing Mechanism will be allocated to the designated registrant's Energy Accounts. Note that the authorised signatory for the registration will need to have been previously set up as an authorised signatory for the designated registrant (as the Central Services have no record of the affiliations between Parties). 				
If the change is to be incorporated after Go Live, is this change proposed to be a patch or release				
If patch, expected time of incorporation				
If release - what release number		Release number		
Date		Release Date		

For High Level Assessment only – is it a Detailed Level Assessment Yes/No		If No, estimate of time and resources required to complete	
Resources Required to undertake		Detailed Level Assessment	
Labour			
Materials			
Consequential amendments to base line:		It is not clear to us why his change will reduce the number of BM Units to be registered as implied by the description and purpose sections of the Modification Proposal.	
Proposed method of Change/ Work statement			
Proposed Plan for Change			
Has the customer has indicated this is a competitive change			No
Service Provider Plan for competition			
Risks/Constraints of competition			
Service Provider plan for incorporation of change including testing			
Documentation to be produced by Service Provider to enable competition according to plan above			
Indicative costs of Service Provider role in competition			
For Change Notice only – to be completed by the Customer			
Basis for payment			
Agreed Customer Caused Delay: Yes/No			
If Yes, amount of delay			
Date Change to become effective.		Is this to be a Release Date? Yes/No	
Other items as required under the Change Management Procedures			

2 NGC

From: Louise Elder

NGC has the following comments on P20:

The timescales for consultation for such a fundamental change are very short

and it has not been possible to give full consideration to all the issues but we raise the following. Our comments apply both to the ability of an Affiliate (ie the Proposal) or any other Party (the Modification Group extension of the Proposal) to assume responsibilities:

1. The proposal is not sufficiently defined. Various terms such as: 'Party responsible for Imports and Exports', Metering System Registrant, Lead Party (BMU registrant) and Payment Party are used throughout the BSC to identify particular obligations. It is not clear from the proposal which obligations are to be transferable and each incidence of the above terms would need to be examined to clarify this. Nearly all sections from the concept of Participation Capacities in Section A to Reporting in Section V would need review. BSC Procedures will also need to be reviewed and modified.

The Proposer acknowledged at the modification group meeting that the proposed changes to sections K1.2.1 and K2.2 were incomplete and that the intention was that registering Metering Systems, BMUs and assigning the BMU to a Trading Unit should be transferable activities. We have assumed that the Proposal intends that an Affiliate/anyone could assume the Lead Party role for a BMU.

2. The BSC and the Core Industry Documents were written from the basic precept that a licence obliges a Party to comply with the BSC and the Grid Code. The Proposal seeks to transfer the obligations set out in the BSC to other Parties not necessarily obliged by licence. The implications of this are not obvious and bring into question the licence framework.

3. NGC have Connection Agreements with the licensed Party ('the Party responsible for') and charges are allocated to the Lead Party from BMU metering. Our Charging Statement would need to change as this would no longer be appropriate. The statement can only be changed via consultation with the Industry. Under the MCUSA this can only be done once a year in April or through CUSC when it is implemented.

4. The Grid Code and the BSC were drafted so that there was an equivalence between them therefore any change to the BSC will require the Grid Code to be reviewed. The Grid Code uses the terms 'BM Participant' (which is generally 'the Party responsible for') and Lead Party and the BSC assumes the Lead Party will be making Bids and Offers etc (section Q).

5. The obligation to comply with the Grid Code comes through licences

and is reflected but not imposed by the BSC. We would need to consider how the relationships could be properly captured.

6. Systems would need to be established to link 'Parties responsible for Imports/exports' and those they had transferred obligations to. NGC systems are designed to accommodate physical changes in plant and the occasional transfer of ownership, they are not designed to facilitate contractual relationships. Without major investment in systems, severe restrictions would need to be imposed on the availability of any transfer mechanism.

7. The ultimate sanction under the BSC is de-energisation (H3.2.1(d)). It is not clear if the responsibilities change that this could be effected appropriately.

Louise Elder

Annex 4 – Responses to Consultation

1. TXU Europe

From: Phil Russell

I was under the impression that we (via Nikki Lea) had responded to the IWA process - but there was no sign of it at the back of the report.

However, our views were encompassed in PowerGen's comments - we too believe that this proposed Mod is unnecessary and does not better achieve the Relevant Objectives. We have considerably more Affiliates than the Proping Company and we have had no problem using MVRNs. We simply do not believe that these are complex or costly.

In conclusion we would urge the Panel not to recommend the Proposal to the Authority.

2. Scottish and Southern Electric

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

Timescale

We would like to note our concerns regarding the timescale in which this modification is being progressed:

- Initial Written Assessment issued on Thursday 21st of June
- Panel met to review the report on Thursday 28th June
- Invitation to provide comments issued Tuesday 3rd July
- Responses due by Monday 9th June
- Further memo issued on Thursday 12th July inviting comments
- Comments due by Tuesday 17th July.

This timescale has been very difficult to meet, particularly given the number of other modification proposals also requiring attention.

We are concerned that the Modification Group, the Panel and Parties have not been able to give this adequate attention or provide the detail as stated in Annex 3 of the consultation document. We believe this is also reflected by the fact that only 4 responses were received to the last round of consultation.

This is not an urgent modification. We believe it is more important to set and work to realistic timetables and give appropriate consideration to proposals rather than pursue an unnecessarily tight timetable.

BSC Objectives

We are unconvinced that the BSC Objectives would be better met by this modification. The consultation paper refers to a few potential benefits, but the arguments in most cases are unconvincing and remain unquantified in terms of implementation cost, timescale or benefit to Parties.

There is little evidence that a significant number of Parties would make use of or benefit from this modification proposal were it implemented. We would expect most companies to ensure their own corporate structure or commercial arrangements were set up in order to maximise potential benefits. It seems unreasonable to expect all Parties to contribute to the cost of implementing such a proposal.

We recognise that it is possible for a Shipper to take responsibility for another Shipper's gas under gas market arrangements but believe the circumstances being referred to are more similar to MVRN arrangements in electricity than those suggested under this modification proposal.

We still have concerns regarding the discharge of obligations under the BSC and under licenses and how responsibilities would be transferred. There appears to be little detail and in some cases conflicting views on these issues in the consultation document. Whilst the intention might only be to transfer commercial obligations we believe this could be more difficult to implement in practice.

Alternative Modification

Given our concerns expressed above with regard to the application of this modification by affiliates, we believe it is wholly inappropriate to consider extending this modification proposal for application by any Party. We believe this would introduce additional competition issues.

Potential Impact

This is not a modification that we envisage we would need to utilise, therefore we expect there would be no direct impact on SSE.

Beverley Grubb
Market Development
Scottish and Southern Energy

3. Western Power

From: Graham Smith

Please see below comments from Western Power Distribution, Distribution Business for the South West and South Wales GSP areas.

Our primary concern is that this modification proposal may adversely impact on our processes for billing Connection and Use of System charges, and that the party liable for these charges is obliged to act and make payment to us in accordance with the relevant agreements.

Page 13, paragraph 4, of the Elexon assessment states that if the proposal P20 is accepted BSC settlement data would attribute consumption to the lead party of the BM unit rather than to the party liable and that "further processing might be required to identify the principal party". It is our assumption that any extra processing needed would be undertaken within BSC systems and that it is not anticipated that Distribution Businesses would need to carry out this additional work. If this assumption is incorrect then we can not support the modification proposal.

Page 13, paragraph 4, also mentions an assumption that the lead party, rather than the principal party, would be the MRA signatory and that changes to the MRA may be required to accommodate modification P20. This is not acceptable if it allows a supplier to enter the market and register metering points in SMRA without their agreement to abide by the terms of the MRA and without gaining approval from Entry Process Testing. The MRA gives us rights to withdraw services when a Supplier breaches the agreement and we assume that any changes to the MRA as a result of this proposal will not prevent us from withdrawing services from the principal party. As above, if this assumption is incorrect then we can not support the modification proposal.

Overall we share the view expressed by SEEBOARD that arrangements between affiliated parties should be dealt with outside the BSC by bi-lateral agreement.

Graham Smith
Western Power Distribution

4. Dynergy

Dynergy support this modification proposal (P20), which seeks to allow BM Units to be registered in the name of a BSC party that is an affiliate of the BSC party. However, we believe the concept of an affiliate acting on behalf of a given party is too limited a proposal and the benefits of this modification, in terms of commercial flexibility, should be given to all third parties. Dynergy therefore welcomes the alternative modification that proposes any party acting on behalf of another party, in the manner described in P20, could be designated the same benefits.

The alternative modification, that expands the concept of P20 to all parties rather than just affiliates, facilitates parties to become consolidators without undertaking a Meter Volume Reallocation Notification (MVRN). Dynergy has investigated MVRN in detail and have come to the concluded that they are commercially inflexible. They also pose some additional systems risks that do not exists if a party acts as the lead party.

Dynergy are sympathetic to those market participants who are concerned about ensuring that the nominated lead party complies with any obligations under the BSC. We believe this issue should not prevent the implementation of the modification proposal, as these risks can be transferred through bilateral contracts between the lead party and the primary party. It is possible to ensure all BSC obligations are pick up the by the primary party, just as any other lead party would be exposed to these contractual obligations, how those parties manage those risks is a commercial matter for them to resolve.

It is not clear from the papers, but we do need to ensure that this proposal extends to all BM units, including the demand side units. This proposal needs to benefit all players and provides a valuable opportunity to help smaller BM units, such as CHP sites, which are currently subject to an Ofgem inquiry.

By taking into consideration the alternative proposal of P20, and ensuring demand-side BM Units are not being excluded, the modification will better fulfil BSC objective Condition 7A.3 (c); promoting effective competition in the generation and supply of electricity through opening the market by facilitating consolidation to take place.

Yours sincerely,



LISA WATERS

Senior Regulatory Analyst.

5. British Energy

From: Martin Mate

The specific benefits of the proposal as presented appear to be limited essentially to the areas of internal software systems and credit liability.

Most parties do not appear to have a problem with this issue in their internal systems and credit cover is under separate review. The proposal does not appear, in our view, to have benefits which warrant priority consideration and we do not support it in its current form. Additionally, we are concerned that the BSC should not be used as a vehicle to blur responsibilities between companies existing as legally separate entities. The proposer asserts that the proposal "would place groups of companies that hold generation assets and supply businesses in separate companies in the same position as BSC parties that hold generation assets and supply businesses in the same company". Further work is necessary to establish whether this would indeed be a benefit of the proposal, and to whom.

However, we accept that in principle there may be benefits in formally allowing a BSC Party to act as an agent for another party in fulfilling that party's obligations under the BSC and/or other codes, agreements and licences. We consider that a wider review of obligations and ultimate responsibilities could be undertaken, including the BSC, Licence conditions, Grid Code, MCUSA/CUSC and associated agreements, Distribution Code and MRA.

This review would establish the existing interactions and the full consequences of a change in this area. BSC Parties should always have a route by which appropriate action may be taken against parties breaching their obligations, and this route must ultimately lead to the person(s) physically owning and/or controlling the assets producing, transmitting or using electricity. We see no reason to restrict such a review only to affiliated companies.

For information, the British Energy Group has a number of subsidiary and affiliate companies and each registered company in the group which undertakes a licensed activity is registered as a BSC Party with its own BSC "accounts". The company uses the BSC Metered Volume Reallocation Notification (MVRN) facility to transfer volumes between accounts (noting that transfers between production and consumption accounts are not allowed). Using percentage volume reallocations this is achieved simply and at negligible cost (noting that percentage volume reallocations incur no BSC charges and credit cover requirements transfer with the volume reallocation). A one-off open-ended 100% reallocation of volume from one company to another would appear to achieve the effect that London Electricity are seeking, and is a method which we assume other companies in a similar situation have adopted.