

Mr Nicholas Durlacher
Chairman, BSC Panel
c/o Elexon Limited
Third Floor
1 Triton Square
London NW1 3BX

RB/MVB

25 May 2001

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