

Responses P84 Assessment Consultation

Consultation issued 22 May 2002

Representations were received from the following parties:

No	Company	File Number	No. Parties Represented
1.	Scottish Power	P84_ASS_001	5
2.	London Electricity	P84_ASS_002	1
3.	Aquila Europe	P84_ASS_003	1
4.	SEEBOARD Energy	P84_ASS_004	1
5.	Powergen UK	P84_ASS_005	4
6.	British Gas Trading	P84_ASS_006	1
7.	Edison Mission Energy	P84_ASS_007	4
8.	AEP Energy Services	P84_ASS_008	1
9.	Innogy	P84_ASS_009	9
10.	BP Gas Marketing Ltd	P84_ASS_010	1
11.	Scottish and Southern Energy	P84_ASS_011	4

P84_ASS_001 – Scottish Power

Response to P84

This response is submitted on behalf of Scottish Power UK Plc, Scottish Power Generation Limited, ScottishPower Energy Trading Limited, ScottishPower Energy Retail Limited and Emerald Power Generation Ltd.

ScottishPower fully supports P84 for Amendment to the Process for Past Notification Errors (2). The text in the BSC relating to Past Notification Errors, Section P6, is based on the concept that a Past Notification Error occurs in relation to a single Settlement Period. Recognising that Volume Notifications tend to be for multiple Settlement Periods, the Code then implicitly acknowledges that the investigation of individual Past Notification Errors is likely to revolve round the investigation of the Volume Notification by which these individual volumes were notified by charging the claim fee on the basis of the Volume Notification. However, the Volume Notification is not necessarily the level of aggregation at which the investigation of the Past Notification Error will take place. In the event that, as suggested by the Proposer of P84, a single transaction is incorrectly transcribed into a number of Volume Notifications the investigation will take place mainly at the level of the transaction.

ScottishPower believes that the purpose of the £5000 claim fee is to recover, or at least defray, the cost of carrying out the investigation (and also to deter frivolous claims). The claim fee is not in any way intended to form part of the penalty for incorrect notification; that is provided by the deduction of the Error Correction Payment from successful claims. We therefore believe that the claim fee should be applied at the level of aggregation at which the investigation of the claim takes place, i.e., at the level of the cause of the Past Notification Errors, rather than at the Volume Notification or, necessarily, the transaction level. However, whilst supporting the aggregation of the Past Notification Errors for investigation purposes, we believe that the essence of the Past Notification Error lies at the level of the Settlement Period and we do not therefore agree that the claim should be made at the aggregated level of the transaction. We believe that the extent of any change to P6 at this stage should be minimised given the level of consultation which took place in relation to P37. We further believe that to change the basis of charge for the claim fee will better achieve BSC objective B1.2.1 (b) (iii) of promoting competition in the generation and supply of electricity but that to change the basis of the claim at this stage would reduce the efficiency with which the balancing and settlement arrangements are operated, especially as those parties who have already submitted claims would be required to re-work and re-submit their claims.

Our answers to the specific questions are therefore:

Q1: Do you believe that, in regard to the Administration Fee, BSC P6 is unclear?

We believe that in this respect P6 is open to interpretation.

Q2: Do you agree that the Administration Fee defined in BSC P6 should be changed?

Yes, for the reasons set out above.

Q3: Do you agree that the Fee as currently defined discriminates against users of the overwrite notification strategy, and might be considered penal?

The levying of the administration fee on any basis other than on the number of investigations which have to be carried out to validate a claim could be considered penal. In this respect users of the overwrite strategy are no worse off than any other party who incurs multiple notification errors from a single underlying cause.

Q4: If you support adjusting the basis of the fee then, considering the possible approaches identified do you support:

(i) the definition in the BSC of a Transaction Notification Error'?

Not necessarily. We believe that the charging of the administration fee should relate back to the underlying cause of the Past Notification Errors, which may or may not relate to a 'transaction'.

(ii) (Option a) redefining 'Past Notification Error' to include all contiguous Settlement Periods related to a Transaction Notification Error?

No.

(iii) (option b) stating that all Past Notification Errors related to a single transaction Notification Error should be included in a single claim?

No.

(iv) (Option c) stating that only a single fee of £5000 + VAT should be payable in respect of all claims related to a single Transaction Notification Error?

We believe that the number of fees payable should relate to the number of investigations which are carried out, which will relate to the underlying causes of the Past Notification Errors. We do not believe that it is desirable to define in the Code a specific underlying cause to the exclusion of any other type.

P84_ASS_002 – London Electricity

URGENT CONSULTATION ON P83/84

I refer to modification proposal P83, which was posted on Elexon's website last night.

The issues appearing to be covered by this proposal were discussed at length in the P37 modification process last year. We do not believe that the drafting of Section P6 of the BSC means, or is capable of meaning, what Innogy says it "seems" to mean.

We also believe that the matter has been clarified in Elexon's recent advice

circulars on claims under Section P6.

We therefore consider that both this modification and the associated modification, P84, are unnecessary.

Roger Barnard
Regulatory Law Manager
LEG plc

P84_ASS_003 – Aquila Europe

With regard to Innogy's modification I have listed below Aquila's responses.

Question 1.

We believe the question is unclear. Several members of our staff came to different conclusions as to your interpretation. We asked for Elexon to clarify same. We understand that a circular has been sent in an effort to clarify this.

Question 2.

We agree that the fee should be changed. We cannot believe that if a case is unsuccessful a party should pay a large amount of money, when no extra administration is involved. If an applicant is successful however, they are penalised twice. They not only incur £5000 per notification, their claim is reduced by 20 percent. This seems to be an arbitrary figure, what is the cost justification of this???

Question 3

We agree that the over-write method of notification, would be penalised under the paragraph 6.2.2. This would be treated as a number of notifications rather than a single transaction.

Question 4.

We would be in favour of option C.

Bill Bruce

Energy Operations Manager,
Aquila Europe.

P84_ASS_004 – SEEBOARD Energy

With respect to above mentioned urgent modification assessment. Prior to responding to specific questions we would like to stress that this modification covers a part of BSC code that we do not feel has better facilitated BSC objectives. We have always made this clear in response to modification proposal 37 from which these rules have arisen. As such we would generally be of a view that given all BSC Parties had ample opportunity to raise these issues during P37 modification assessment that this new modification should be rejected. Specific answers to questions for P84 are:

Q1 - No we feel definition is clear.

Q2 - No.

Q3 - Depending upon type of notification strategy a Party uses this could be argued either way. Given this is supposed to be an administration fee it could be considered discriminatory if two different Parties were charged different amounts for problems covering an identical number of contiguous settlement periods. It would suggest that BSC Panel would need to assess all claims made and determine a fair administration fee for each BSC Party.

Q4 - Possibly a way forward is to say a minimum administration fee of £5,000+VAT is payable by a BSC Party but actual costs will be determined by BSC Panel and agreed with Authority such as not to disadvantage Parties using different notification strategies. A fee will be payable for each contiguous series of settlement periods claimed under this process.

Dave Morton
SEEBOARD Energy Limited

P84_ASS_005 – Powergen UK

P84 – Amendment To Process For Past Notification Errors

Thank you for giving us the opportunity to comment on the above proposal. Our response is also made on behalf of the following BSC Parties; Powergen Energy Limited, Diamond Power Generation Limited and Cottam Development Centre Limited.

We are surprised that this modification has been raised at this late stage, especially given the time available for the industry to prepare for possible implementation of P37. The P37 Urgent Modification Report was submitted to Ofgem with final legal drafting last November.

Nevertheless we have some sympathy with the points raised by the proposer, particularly where arguably a more prudent 'overwrite' approach to ECVNs has been adopted which under the current definition of P37 Past Notification Error seems to result in the need for multiple claims. In our view, however, it would be impractical (even with the proposed revised definitions) for Elexon to determine 'up-front' what constituted a single transaction and hence apply a single £5,000 claim fee. Determining what constitutes a single claim will be particularly difficult with intra company transactions but even with inter company

transactions it would require documentary evidence to show that a series of Volume Notifications were 'linked' in some way.

In reality it is only when the decision-making body has considered a claim or series of claims that it is possible to determine the overall administration fee. We therefore suggest an alternative that would both address the concerns of the proposer and also the practicalities of applying an 'up-front' administration fee. This is as follows:

- The claim would be submitted as per the current P37 drafting although the claimant would identify which Volume Notifications it wished to be considered together as a 'linked claim';
- Administration fees for each claim would continue to be applied for each Volume Notification as per P37;
- The decision making body considering each 'linked claim' would determine whether in its view the claims originated from a single transaction constituted a single claim;
- Administration fees would be refunded, in full or part (reflecting any additional Elexon administration costs), for those Volume Notifications that were determined by the decision making body to be 'linked' in a single claim to other Volume Notifications.

We would like this alternative to be proposed at tomorrow's Modification Group meeting.

Yours sincerely,

Peter Bolitho
Trading Arrangements Manager

Attachment – consultation pro-forma.

Question 1 Do you believe that, in regard to the Administration Fee BSC P6 is unclear

No - this would seem to be the only practical basis by which Elexon could realistically apply an up-front fee without having to determine whether a claim was in fact a 'single transaction'.

Question 2 Do you agree that the Administration Fee defined in BSC P6 should be changed?

No. This was extensively considered during the P37 Modification discussions. Nevertheless we believe it might be appropriate to consider a refund of administration fees (as appropriate) should the decision making body determine that Volume Notifications merit being considered as a single claim. Please see our proposed alternative outlined above.

Question 3 Do you agree that the fee as currently defined discriminates against users of the Overwrite Notification strategy, and might be considered as penal?

Probably yes but this would have to be determined by the decision-making body. Our suggested solution to this problem is to refund administration fees where this is considered appropriate by the decision-making body (see our alternative proposal).

Question 4 If you support adjusting the basis of the fee, then considering the possible approaches identified in the proposal, do you support:

- (i) The definition in the BSC of a 'Transaction Notification Error'?
- (ii) (Option a) redefining 'Past Notification Error' to include all contiguous settlement periods related to a 'Transaction Notification Error'?
- (iii) (Option b) stating that all Past Notification Errors relating to a single Transaction Notification Error should be included in a single claim?
- (iv) (Option c) stating that only a single fee of £5,000 + VAT should be payable in respect of all claims related to a single Transaction Notification error?

We do not believe it is possible for Elexon to determine 'up-front' whether a single claim fee is applicable. We therefore suggest fees are paid according to the current P37 drafting, with the decision making body determining whether it is appropriate to refund fees in full or part when a clear linkage between Volume Notifications has been established.

P84_ASS_006 – British Gas Trading

Urgent Modification Proposal 84: Amendment to Process for Past Notification Errors (2)

Thank you for the opportunity of responding to this consultation on the above Urgent Modification Proposal. This response is on behalf of British Gas Trading Ltd (BGT).

BGT agree that the legal drafting in Section P, paragraph 6 of the BSC could be open to misinterpretation with regards to how the Administration Fee is applied to claims for Past Notification Errors. Our understanding of the intention behind this aspect of the original modification proposal was that the Administration Fee was intended to cover the costs that would be incurred during the investigation of the error that led to the claim. It would be inappropriate therefore, and indeed could be construed as penal, to oblige Parties to pay the Fee for every 'overwrite' notification subsequent to the notification in which the error occurred.

We are uncertain as to the true extent of the problem that this modification seeks to address and believe the Modification Group should consider what the correct legal interpretation of this clause is before recommending any further changes to the BSC. However, in consideration of Options presented under Option 4 of the consultation BGT believe that option c) to be the most appropriate. We are concerned that should a 'Transaction Notification Error' be defined too narrowly at this stage it may prejudice any claims that are brought under these provisions. Also we note that such definitions would be difficult to agree with a consensus considering the very short timescales that are involved.

I hope that these comments are useful in the further development of this modification. Should you wish to discuss any of these issues further please do not hesitate to contact me, in the first instance, on the above number.

Yours faithfully

Danielle Lane
Transportation Analyst

P84_ASS_007 – Edison Mission Energy

Thank you for the opportunity to respond to the urgent Modification Proposal P84. I am responding on behalf of Edison Mission Energy, representing BSC Parties First Hydro Company, Edison First Power and Lakeland Power

Question 1

Do you believe that, in regard to the Administration Fee, BSC P6 is unclear?

No. Paragraph 6.2.2 and Paragraph 6.2.4 make it clear that a single claim can cover multiple settlement periods within a single Volume Notification. Where a error relates to more than one Volume Notification, a separate claim must be submitted for each Volume Notification. This was clear from the original P37 drafting and an amendment to the P37 drafting was not proposed although during the P37 discussions, there was sufficient opportunity to propose an amendment.

Question 2

Do you agree that the Administration Fee defined in BSC P6 should be changed?

The £5000 fee was considered suitable during the P37 discussions. However, if a single occurrence of a single error caused multiple volume notifications to be wrong for the same settlement day, then a single fee is appropriate. Where the same error has occurred repeatedly, each claim should attract a separate fee since there is ample opportunity to spot the error and rectify it. Providing the seven day report was available, it is unclear why an error should have continued beyond the first day of occurrence of the error.

Furthermore, to recognise BSC Parties that have prudently have made timely claims within the 5 Working Day window specified under the original version of BSC P6, it might be appropriate to say double the £5000 fee for those that make claims for days 6-10.

Question 3

Do you agree that the Fee as currently defined discriminates against users of the Overwrite Notification strategy, and might be considered as penal?

No. The opposite is true. This is because users of the overwrite notification strategy normally make a single Volume Notification covering all trades between two energy accounts. This means that there can only ever be one claim made for a particular day and pair of energy accounts since only the last submitted Volume Notification is relevant and used in settlements. Users of the additive notification strategy will make multiple notifications covering each separate trade and therefore may need to make multiple claims.

Question 4

If you support adjusting the basis of the fee, then, considering the possible approaches identified in the proposal, do you support:

(i) The definition in the BSC of a 'Transaction Notification Error'?

GTMA's may vary in their definition of a Transaction and some notifications are not made under a GTMA for example trades between IPPs and offtakers. Such a definition will not therefore be a catch all. It is better to retain the Volume Notification definition as it is a BSC term which will mean the same to all BSC Parties.

(ii) (Option a) redefining 'Past Notification Error' to include all contiguous Settlement Periods related to a Transaction Notification Error?

No - The present drafting is sufficient to cover contiguous settlement periods with erroneous volumes contained in the same Volume Notification.

(iii) (Option b) stating that all Past Notification Errors related to a single Transaction Notification Error should be included in a single claim?

This is most appropriate providing the BSC Volume Notification definition is applied. However, this should only apply where there is a single occurrence of a single error causing multiple volume notifications to be wrong for the same settlement day.

(iv) (Option c) stating that only a single fee of £5000 + VAT should be payable in respect of all claims related to a single Transaction Notification Error?

Please note that none of the above options have yet been tested for feasibility. Such issues will be assessed by the Modification Group when it meets on Friday.

Mark Edwards
Edison Mission Energy

P84_ASS_008 – AEP Energy Services

AEP supports Innogy's proposal P84

Megan Goss

AEP Energy Services Limited

P84_ASS_009 – Innogy

Response on behalf of Innogy Group (Innogy plc, Innogy Cogen Limited, Innogy Cogen Trading Limited, Npower Limited, Npower Direct Limited, Npower Northern Limited, Npower Northern Supply Limited, Npower Yorkshire Limited and Npower Yorkshire Supply Limited)

Question 1

Do you believe that, in regard to the Administration Fee, BSC P6 is unclear?

Yes - The definition of "Past Notification Error" talks about this occurring "in relation to ... Data for a Settlement Period". 6.2.2 talks about "claims of past Notification Error in respect of the same Volume Notification" being "treated as a single claim". This statement leaves some ambiguity as to whether there is a one-to-one relationship between a "claim" and a Volume Notification, and hence the number of claim forms which may have to be submitted for some errors, notwithstanding the discussion referred to in the P37 Urgent Modification Report. Removing doubt about this would further BSC objective (d).

Question 2

Do you agree that the Administration Fee defined in BSC P6 should be changed?

Maybe - It may not be necessary to change the fee if the basis of application is changed as suggested in this Modification Proposal. Again, BSC objective (d) is relevant. In addition, the current basis of the fee could be argued to be detrimental to competition in generation and supply (BSC objective (c)), because of its relatively greater impact on certain types of Parties with certain types of systems.

Question 3

Do you agree that the Fee as currently defined discriminates against users of the Overwrite Notification strategy, and might be considered as penal?

Yes (see response to Q2 above)

Question 4

If you support adjusting the basis of the fee, then, considering the possible approaches identified in the proposal, do you support:

(i) The definition in the BSC of a 'Transaction Notification Error'?

Yes. It needs to be recognised that it is contracts that notifications (and notification errors) fundamentally refer to, and that claims based on a subdivision of these are likely to lead to serious problems if not decided 'as one'. Therefore BSC Objective (d) is clearly relevant.

(ii) (Option a) redefining 'Past Notification Error' to include all contiguous Settlement Periods related to a Transaction Notification Error?

If the revised definition of a Past Notification Error effectively makes this the same a "Transaction Notification Error" (as described) we would support this in principle. However, there may be a question whether all the Settlement Periods to which a "Transaction" relates are always contiguous - this restriction may be inappropriate.

(iii) (Option b) stating that all Past Notification Errors related to a single Transaction Notification Error should be included in a single claim?

Yes, we believe this to be the best approach, since it requires less paperwork associated with claims.

(iv) (Option c) stating that only a single fee of £5000 + VAT should be payable in respect of all claims related to a single Transaction Notification Error?

The problem with this option (as referred to in the Modification Proposal) is that it still means that a large number of separate claim forms may have to be submitted and processed for all the Volume Notifications affected by an error. It may therefore be detrimental to BSC Objective (d).

P84_ASS_010 – BP Gas Marketing

BP Gas Marketing Ltd. does not support Modification Proposal P84, and requests the BSC Panel to recommend that the Authority move to reject it.

Best regards,

Ian M. Mullins
Regulatory Advisor

BP Gas, Power & Renewables

P84_ASS_011 – Scottish and Southern Energy

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

In relation to the Urgent Modification Consultation on Modification Proposal P84, contained in your note of 13:08 on 22nd May 2002 and the questions posed in your note of 17:09 on 22nd May 2002, and in view of the linkage with P37, our comments on the questions are as follows:-

Q1 We believe that, in regard to the Administration Fee, BSC P6 is CLEAR.

Q2 We believe that the Administration Fee defined in BSC P6 should be NOT be

changed.

Q3 We believe that the Fee, as currently defined, provides an incentive to BSC Parties to be Reasonable and Prudent Operators irrespective of the notification strategy they freely choose to adopt, and therefore we do NOT consider the fee to be penal in nature.

Q4 We do NOT support adjusting the basis of the Fee. We note the comments in the "Background" part of your 17:09 note, that:-

"The size and nature of the Fee was discussed during the consideration of Modification Proposal P37 (which led to the modification of the BSC to include Paragraph 6, Section P). The size and nature of the Fee was addressed in a consultation question, consultation responses, Modification Group discussions and by the BSC Panel. These discussions are noted in the P37 Urgent Modification Report submitted to the Authority [which the Authority considered in coming to its decision on P37]."

We do have some sympathy with the circumstance being described in Modification Proposal P84. There is no doubt that the spirit of the discussions concerning Modification Proposal P37 was based around a single incident. If this affects more than one ECVN, then so be it, but it has to be a single occurrence. What we feel would go against the spirit of the P37 discussions is a situation where a party claims a whole series of ECVNs are affected by a single mistake (or even worse, a repeat of the same mistake), and seeks to get away with one administration fee; i.e. a faulty computer program, which resulted in all ECVNs of a certain type being affected.

To us this is a multiple incident and should be charged as such. A Reasonable and Prudent Operator should have arrangements in place to identify such incidents and quickly deal with them. If there is a multiplicity of errors over a period of time which result from a single cause, (or a repeat of same) then the BSC Party is not demonstrating due care or adopting satisfactory working practices.

Regards

Garth Graham
Scottish & Southern Energy plc