

ANNEX 1 – COPIES OF REPRESENTATIONS FROM CONSULTATION ON THE DRAFT MODIFICATION REPORT

The following submissions were received.

No	Company	File Number
1.	Scottish & Southern	P14_MR_001
2.	Seeboard	P14_MR_002
3.	Northern Electric & Gas	P14_MR_003
4.	ScottishPower	P14_MR_004
5.	British Gas Trading	P14_MR_005

P14_MR_001 Scottish & Southern

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

We support the recommendation of the Panel that the Modification and its Alternative are rejected. The existing Manifest Error provisions provide a means of resolution that is transparent and independent, that any benefit from these Modifications is at best marginal and therefore that they do not further the BSC objectives. However, we agree that clarification is required of the existing Manifest Error process and support that this is being undertaken.

Regards

Robert Hackland

P14_MR_002 Seeboard

Seeboard agrees with the recommendations summarised in this report.

Sue Fraser
for Dave Morton
0190 328 3465

P14_MR_003 Northern Electric & Gas

Northern Electric and Gas welcomes the opportunity to comment on modification P14 'Manifest Error provisions where the Bid/Offer Acceptance in Question has not been acted upon'.

Having considered the options outlined in the Modification Report of Modification Proposal P14', Northern Electric does not support this proposal. We support the recommendation in the Modification Report that the Modification Proposal and the Alternative be rejected.

Our overriding concern towards P14 regards allowing the National Grid Company (NGC) to make the decision on whether a Manifest Error has occurred. As stated in our response to the Initial Assessment,

we believe safeguards are required to ensure that competition in the Balancing Mechanism isn't undermined. What would the consequences be if NGC cancelled a bid/offer by mistake?

We note the recommendation that the existing Manifest Error process requires clarification and that this is being addressed in a forthcoming Panel paper and we look forward to the findings of that paper.

We hope that these comments are helpful,

Yours faithfully

Lesley Mulley
Industry Communications Manager
Northern Electric and Gas

P14_MR_004 ScottishPower

After further consideration of the above proposal and the Draft Modification Report, I refer you to our previous comments at the assessment stage. While we agree with the principle of the proposal, we do not feel that our concerns have been satisfactorily dealt with, particularly with regard to the need for additional safeguards to be built into the process. ScottishPower therefore agrees with the Panel's recommendation to reject the proposal.

We however understand the need for some clarification of the Manifest Error Process and support the Panel's pursuance of this issue.

I trust you find these comments helpful, and please do not hesitate to contact me should you wish to discuss any points further.

Yours sincerely,

Man Kwong Liu
Scottish Power UK Plc, Manweb Plc and Emerald Power Generation Ltd

P14_MR_005 British Gas Trading

Thank you for the opportunity of responding to this modification. British Gas Trading supports the rejection of both this modification and the Alternative.

We believe that there is insufficient evidence of these errors occurring at a significant level to justify the costs of implementation. In addition, the Manifest Error process, which is the current means of resolving these errors, is due to be clarified shortly.

Yours faithfully

Sarah Grimes
Commercial Manager

ANNEX 2 – COPIES OF REPRESENTATIONS FROM ASSESSMENT CONSULTATION

The following submissions were received.

No	Company	File Number
1.	Scottish & Southern	P14_ASS_001
2.	Seeboard	P14_ASS_002
3.	GPU Power	P14_ASS_003
4.	TXU Europe	P14_ASS_004
5.	British Energy	P14_ASS_005
6.	Northern Electric	P14_ASS_006
7.	ScottishPower	P14_ASS_007
8.	London Electricity	P14_ASS_008
9.	Dynegy	P14_ASS_009
10.	Powergen	P14_ASS_010

P14_ASS_001 Scottish & Southern

Comments are submitted on behalf of Scottish and Southern Energy, Southern Electric, Keadby Generation Limited and SSE Energy Supply Limited.

Background

This modification proposal suggests a Bid / Offer acceptance should be capable of being cancelled prior to delivery where it is established that an error has occurred. The modification has been raised to try and improve effectiveness and efficiency of current arrangements. Whilst SSE agrees with this principle we have several concerns regarding the detail and do not believe this proposal would facilitate better achievement of the applicable BSC objectives.

Criteria

The modification proposal seems to suggest the criterion for deciding whether an error has occurred would be based on whether material cost has been incurred and whether NGC believes the claim is justified. Provisions already exist under the Balancing and Settlement Code for defining and determining a Manifest Error. BSC provisions were set after a period of extensive consultation. The BSC states the error must be "self-evidently an error". Given the difficulty associated with defining and determining what constitutes a Manifest Error, the Party claiming the error is required to provide evidence and information which will be considered by the Panel or Trading Disputes Committee. SSE believes it inappropriate at this stage to deviate from these guidelines.

Furthermore it is difficult to see how a decision on whether an manifest error has occurred or not could be made in the short timescales proposed and how you could ensure consistency and fairness. The Trading Disputes Committee currently operate a precedents register and can spend considerable time debating new precedents. SSE is concerned there would be insufficient time to consider all the facts and past experience if this modification were implemented. One suggestion might be to introduce post event analysis but this would increase the effort involved and reduce efficiency.

Responsibility for Making Decision

Of further concern is the fact that responsibility for considering details and making a final decision would move from the Panel or Trading Disputes Committee to NGC. During the original consultation on Manifest Error provisions, concern was expressed regarding NGC's potential role in the process and the potential conflict of interest, given their role in the Balancing Mechanism. These concerns still exist. SSE believes it is inappropriate for NGC to act as "judge and jury" in respect of such claims. We believe there is a potential conflict of interest. We would not wish to see decision moving away from the Panel or TDC.

Process

There is very little detail regarding the process for considering and determining a claim and in particular how other participants would be notified or kept informed.

Frequency and Materiality

SSE believes further consideration should be given to the likely frequency and materiality of such claims. Materiality should be considered in respect of impact on the individual participant and BM prices generally. Further consideration should also be given to the materiality in respect of impact on central systems.

Other Modifications

This proposal must be considered in light of the Ofgem / DTI intention to review Gate Closure and Modification Proposal P12 which suggests it should be reduced to 1 hour. SSE believes this would exacerbate the problems listed above, giving even less time to consider details and ensure consistency and fairness in decisions.

Beverley Grubb
Market Development
Scottish and Southern Energy plc

P14_ASS_002 Seeboard

We do not feel there is enough information to fully assess this proposal. However, it appears a sensible, if controversial, solution.

Sue Fraser
for DAVE MORTON 0190 328 3465

P14_ASS_003 GPU Power

Whilst we understand the motives behind this modification, the Innogy Group of Companies are concerned that the suggested approach would, in some circumstances, move the decision on whether a manifest error has occurred from the Panel (or TDC) to NGC. We believe that NGC already has considerable discretion under the NETA arrangements.

Implementation of this modification could leave NGC open to criticisms that they may have acted in an arbitrary or unaccountable manner. It is therefore appropriate that the Mods Group contains governance expertise. It would be unreasonable to extend the discretionary powers of NGC without ensuring that sufficient safeguards are put in place that allow the audit of NGC's actions.

Terry
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07989-493038

P14_ASS_004 TXU Europe

TXU Europe Energy Trading Ltd (on behalf of all TXU Europe companies) would like to make the following comments on Modification P14 - Manifest Error Provisions Where the Bid/Offer Acceptance in Question Has Not Been Acted Upon.

TXU do not currently support this proposal. We do not believe that it is appropriate for NGC to determine whether or not a manifest error has occurred. Further we believe that the proposal as drafted is very one-sided. If NGC were able to rescind a BOA prior to delivery time due to a manifest error, then the same rules should apply to participants - and we don't believe that this would be appropriate either as there would be huge opportunities for gaming. TXU believe that decisions relating to manifest errors should only be taken by the Panel or TDC.

Regards

Nikki Lea
Market Development Analyst

P14_ASS_005 British Energy

British Energy agree that improvements to the method of handling manifest errors are required. The broad aim of the proposal should be carried forward to definition and assessment phase. However, we do not agree with the detail of the proposed process because it reduces the incentive on NGC to instruct acceptances in an accurate and timely manner, and reduces transparency in the balancing mechanism, in particular the BMRA reporting system.

Our preference would be that upon identifying an acceptance which is not required in advance of or during its delivery NGC should accept a cancelling acceptance for the volume which can at that point be cancelled in the normal way. NGC should then raise a manifest error claim in respect of the original erroneous acceptance and the TDC should be given increased flexibility in determining the appropriate remedy.

Regards

Rachel Ace

For
British Energy Power and Energy Trading
British Energy Generation Ltd
Eggborough Power Ltd

P14_ASS_006 Northern Electric

Northern Electric and Gas welcomes the opportunity to comment on modification P14 'Manifest Error provisions where the Bid/Offer Acceptance in Question has not been acted upon'.

Having considered the options outlined in the 'Initial Assessment of Modification Proposal P14', Northern Electric does not support this proposal. We believe that the current system of allowing bids/offers to be delivered or issuing an 'unwinding' acceptance, even if the System Operator realises that an error has occurred, does require improvements. However, we have concerns regarding the proposed controls of this modification.

Our overriding concern regards allowing the National Grid Company (NGC) to make the decision on whether a Manifest Error has occurred. We believe safeguards are required to ensure that competition in the Balancing Mechanism isn't undermined. What would the consequences be if NGC cancelled a

bid/offer by mistake? This proposal will only have our support when NGC's role and responsibilities are clearly defined.

We note that Modification P14 is being submitted to a Modification Group under the definition procedure as section F2.5 of the BSC and we look forward to the outcome of the deliberations of this Group.

We hope that these comments are helpful,

Yours faithfully

Lesley Mulley
Industry Communications Manager
Northern Electric and Gas

P14_ASS_007 ScottishPower

ScottishPower is pleased to provide our comments on Modification Proposal P14: Manifest Error Provisions where the Bid/Offer Acceptance in Question has not been Acted upon. Please note that these comments are provided on behalf of ScottishPower plc, Manweb plc and Manweb Services Ltd. Please also be aware that ScottishPower has not undertaken a full review of this proposal at this stage, and that the points raised below may be superseded by subsequent analysis as the proposal progresses to Report Phase.

In general terms, ScottishPower supports the intent of this Modification Proposal and believes that it would better facilitate achievement of the Applicable BSC Objectives, in particular the efficient implementation of the trading arrangements (Condition 7A(3)(d)). However, we have some concerns around how this change will be delivered and we therefore need to assess the proposed drafting of the changes to the BSC and Grid Code before determining our final position.

ScottishPower has specific concerns around how NGC would implement the proposed process which we would wish to see addressed before any change to the arrangements is implemented. In particular, we would wish to see clarification, in terms of the amended legal drafting of the relevant provisions of Section Q, of how the proposed process will be applied equitably across all Trading Parties to minimise the potential risk of a subjective judgement being applied by NGC in the treatment of bid/offer data which may be considered manifestly erroneous. We would be in favour of safeguards being built into the process to ensure it is used in the manner in which it is intended. These might include:

- a) Assurance from NGC that their despatch systems are robust enough to limit the number of occasions on which NGC would invoke these provisions.
- b) That NGC should be subject to an application fee, should it wish to use the proposed process, to incentivise it to ensure that its despatch systems are robust in identifying manifest errors prior to delivery of the relevant bids/offers by Trading Parties.
- c) That the affected counterparty should retain the option to pursue the normal Manifest Error procedure which allows for an ultimate determination to be made by the TDC. We would wish to be assured that a Party would not be prevented from seeking recourse to an objective investigation of the circumstances surrounding a potential manifest error which would be undertaken by the TDC, particularly if NGC chose subjectively not to call a manifest error under the proposed process.

In the Initial Written Assessment, a question is posed as to whether the proposal could discourage participation in the Balancing Mechanism, presumably because Parties will not know if NGC acceptances are firm or not. ScottishPower recognises this concern, but believes that (if appropriate safeguards are in place), this would not be an issue.

In addition, we would consider it appropriate, should the BSC eventually be redrafted to incorporate the proposal, that corresponding Grid Code changes should be made in parallel for the sake of consistency between documentation.

I hope you find these comments helpful, and that they can be considered by the Modification Group during the further assessment of P14. If you have any questions on this response, please do not hesitate to contact me.

Yours sincerely,

Steve Field

P14_ASS_008 London Electricity

Thank you for the opportunity to comment on Modification Proposal P14. This relates to circumstances where a bid/offer acceptance has been issued by NGC, which has not been acted on by a power station, and which NGC wishes to withdraw - with the power station's agreement.

The modification could, in the context of NGC's current poor systems, make a minor contribution to objective (b) "The efficient, economic and co-ordinated operation by the Transmission Company of the Transmission System". This contribution would only occur to the extent that NGC's existing offer/bid assessment and acceptance systems were not operating correctly (the need implied by the submission of this modification to regularly withdraw acceptances within moments of their issuance is not a good sign). The modification ought, if implemented, to have only a limited life span.

However, areas of real concern to London Electricity Group companies include :

- * New bid/offer rescindation flagging/tracking systems will be required by participants, and probably centrally as well. There should be a proper assessment of the time required by participant to implement; we would suggest that implementation of this modification should not take place for a period of 9 months, given the current efforts to create stable, robust and optimal trading and settlements systems in all respects.

- * There could be a potential lack of transparency if this modification were implemented

- * There would be a need for greater clarity that the offer-rescinding procedure would only be operated when the generator was in clear written or electronically-sent agreement, with clear acknowledgement that the default position would be a requirement to operate the manifest error provisions including TDC

The cost and complications of the modification (in terms of new rescindation systems) constitute a negative contribution to (d) "Promoting efficiency in the implementation and administration of the balancing and settlement arrangements".

It has to be said that given that this modification is only likely to be useful for a relatively short period of time, the cost-benefit case for it is far from clear.

Yours sincerely

Liz Anderson

(London Electricity, South Western Electricity, Jade Power and Sutton Bridge Power)

P14_ASS_009 Dynegy

Dynegy are sympathetic towards the National Grid Company's (NGCs) attempt to ensure lower prices are achieved by eliminating manifest errors where bid/offer acceptances in question have not been acted upon. However, we are concerned that the proposal does transfer the decision making on

whether a manifest error has occurred from the Trading Disputes Committee to NGC. Our main concern stems from NGC's own interest in these actions as the requirement to "undo" errors via alternative trades has a direct financial impact on NGC via its incentive.

Dynegy believe it is not appropriate for NGC to determine what constitutes a manifest error, without the introduction of some form of reporting and auditing mechanism. NGC could undertake an official reporting process allowing the Trading Disputes Committee to audit NGC's actions, the Disputes group must have the right to over turn NGC's decisions. The audit will determine whether NGC had made a real "error" and the impact on its incentives, possibly fining NGC in the event that it looks as if it was merely trying to save its self money against its balancing incentive. The Trading Disputes Committee is an independent body that can ensure that manifest errors are not simply raised to remove the costs that impact NGC incentives.

The principle of the modification should be persuade, but with some checks and balances put in place to protect the industry from NGC pursuing its own agenda at the expense of the industry.

Yours sincerely,

Rekha Patel.

P14_ASS_010 Powergen

Thank you for giving us the opportunity to make some initial comments on this proposal.

Powergen do not support this proposal. Although the proposal may be motivated by a belief that it will ensure it greater efficiency it creates some dangerous precedents for the future. In our view once a contract has been made between NCG and the BM participant by NGC accepting a BOA, that contract should stand except in very special limited circumstances where a claim for manifest error can be entertained. Allowing one of the parties (the system operator) to unilaterally rescind such a contract could potentially be abused.

If NGC has in error accepted a BOA will whenever possible use this route to cancel transactions - this is also likely to benefit them under their energy incentive. However, it is not clear how NGC would respond to a 'manifest error' request by a counter party. Too low a price for an offer could have been made - as this would lower energy balancing costs why would NGC choose to rescind such a BOA. The system operator might choose to allow some requests to rescind some transactions but deny other similar requests.

It is inevitably that some errors will occur from time to time. This proposal unfortunately weakens incentives on both BM participants and NGC to establish robust systems and procedures to minimise such errors. It also creates significant uncertainty as to the integrity of the contract agreed between NCG and a BM participant, and the transparency of NGC's balancing actions in particular.

We therefore do not believe it is appropriate to give the system operator powers to unilaterally cancel erroneous instructions. The proper route for resolving these issues remains with the Trading Disputes Committee who are in a better position to dispassionately assess costs and any necessary amendments to imbalance prices. One party to a contract is not best placed to decide the validity or otherwise of such a contract.

It may also be useful to consider similar 'precedents' that have occurred in the gas market. On 6 June 2000, Transco made an error in accepting bids for daily system entry capacity from gas shippers. Instead of simply buying-back such oversold capacity from shippers using the gas "capacity flexibility mechanism" they unilaterally decided to void contracts for the original sale of capacity. Although a specific Network Code modification aimed at obtaining damages from Transco was rejected, Ofgem were clear in their view that Transco should have dealt with this matter by buying-back the oversold capacity. The voiding of transactions for the purchase of capacity is analogous to rescinding an

instruction and the more appropriate buying-back capacity is analogous to "unwinding" an acceptance under the BM.

Yours sincerely

Peter Bolitho
Head of Modifications
Powergen UK plc