



Direct Dial: 020-7901-7412
1 May 2003

National Grid Company plc, BSC Signatories and
Other Interested Parties

Our Ref : MP No: P89

Dear Colleague,

Modification to the Balancing and Settlement Code (“BSC”) - Decision and Direction in relation to Modification Proposal 89: “Clarification of the Timescales for Submitting MEL/MIL Data to the BMRA”

The Gas and Electricity Markets Authority (the “Authority”)¹ has carefully considered the issues raised in the Modification Report² in respect of Modification Proposal P89, “Clarification of the Timescales for Submitting MEL/MIL Data to the BMRA”.

The BSC Panel (the “Panel”) recommended to the Authority that the Proposed Modification P89 should be made and implemented 15 Working Days after the date of the Authority’s decision.

Having considered the Modification Report and the Panel’s recommendation and having regard to the Applicable BSC Objectives and the Authority’s statutory duties, the Authority has decided to direct a Modification to the BSC.

This letter explains the background and sets out the Authority’s reasons for its decision. In addition, the letter contains a direction to National Grid Company plc (“NGC”) to modify the BSC in line with Modification Proposal P89, as set out in the Modification Report. This letter also constitutes the notice by the Authority under section 49A Electricity Act 1989 in relation to the direction.

¹ Ofgem is the office of the Authority. The terms “Ofgem” and “the Authority” are used interchangeably in this letter.

² ELEXON document reference P89MR, version No. 1.1, dated 17 October 2002.

Background

The Maximum Export Limit (“MEL”) and the Maximum Import Limit (“MIL”) express the maximum export and import capacities respectively that a Balancing Mechanism Unit (“BMU”) is capable of at any time. The MEL and MIL information, in addition to other information, is used for the operational planning of the transmission system by NGC in its capacity as System Operator (“SO”). BSC Parties can notify NGC of changes to the MEL and/or MIL of a BMU at any time. The BSC requires NGC to submit such revised data to the Balancing Mechanism Reporting Agent (“BMRA”) within 5 minutes of being received, regardless of whether Gate Closure³ for the Settlement Period has occurred. NGC is also required to submit to the BMRA notified changes to Quiescent Physical Notifications⁴ (“QPN”) in the same timescale.

However, the BSC requirement is inconsistent with NGC’s current practice. NGC sends any MEL/MIL data received after Gate Closure to the BMRA within 5 minutes of receipt but any changes submitted before Gate Closure (including QPN changes) are not sent to the BMRA until after Gate Closure. The data is submitted within 15 minutes of the relevant Gate Closure as part of a bulk transfer of data relevant for the Settlement Period. This current practice complies with the BMRA and Settlement Administration Agent (“SAA”) Interface Specification and the specification of the NETA Central Systems.

On 2 July 2002, NGC (the “Proposer”) submitted Modification Proposal P89, “Clarification of the Timescales for Submitting MEL/MIL Data to the BMRA”.

The Proposer recognised that current practice is inconsistent with the BSC and suggested that significant costs would be associated with making changes to comply with the requirements in the BSC.

The Proposer suggested that making the MEL/MIL information available before Gate Closure could place the market participant to whom the data relates at a commercial disadvantage as the availability of this information might make it difficult for the participant to trade out its position. Therefore, the Proposer considered that the Modification Proposal would better facilitate the achievement of Applicable BSC Objective⁵ (c): promoting effective competition in the

³ Gate Closure is currently one hour before real time.

⁴ QPN Data describes the MW levels to be deducted from the Physical Notification of a BM Unit to determine a resultant operating level to which the Dynamic Parameters associated with that BM Unit apply, and the associated times for such MW levels. The MW level of the QPN must always be set to zero.

⁵ The Applicable BSC Objectives, as contained in Condition C3 (3) of National Grid Company’s Transmission Licence, are:

- (a) the efficient discharge by the licensee of the obligations imposed upon it by this licence;
- (b) the efficient, economic and co-ordinated operation by the licensee of the licensee’s transmission system;
- (c) promoting effective competition in the generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity;
- (d) promoting efficiency in the implementation and administration of the balancing and settlement arrangements;
- (e) without prejudice to the foregoing objectives and subject to paragraph 3A, the undertaking of work by BSCCo (as defined in the BSC) which is:
 - (i) necessary for the timely and effective implementation of the proposed British Electricity Trading and Transmission Arrangements (“BETTA”); and
 - (ii) relevant to the proposed GB wide balancing and settlement code;and does not prevent BSCCo performing its other functions under the BSC in accordance with its objectives.

generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity.

The Proposer suggests that if market participants are placed at a commercial disadvantage this could incentivise market participants to delay sending information to the SO, which would impact on its ability to operate the transmission system in an efficient and economic manner. Therefore, the Proposer also considered that the Modification Proposal would better facilitate the achievement of Applicable BSC Objective (b): the efficient, economic and co-ordinated operation by the Transmission Company of the Transmission System.

The Modification Proposal

The Modification Proposal seeks to modify the BSC to align it with NGC's current practice so as to require MEL/MIL updates relating to a Settlement Period for which Gate Closure has occurred to be notified to the BMRA within 5 minutes of Gate Closure but allow MEL/MIL data relating to a Settlement Period for which Gate Closure has not yet occurred to be notified within 15 minutes of Gate Closure for the Settlement Period to which the data refers.

During the drafting of legal text, it was noted that the Modification Proposal did not mention QPN data submissions. After consultation with the Proposer it was determined that the omission of QPN data submissions in the Modification Proposal was an oversight, and that it was the intent of the Modification Proposal to address both issues. In the interest of efficiency, the legal text was drafted to address MEL, MIL and QPN data submissions.

The Panel considered the Initial Written Assessment for Modification Proposal P89 and the draft legal text during its meeting on 18 July 2002. The Panel agreed that the draft legal text accurately represents the intent of the Modification Proposal. The Panel noted that NGC was in compliance with BMRA and SAA Interface Specification. Therefore, the Panel considered that implementing the proposed changes would ensure that the BSC better reflects the working practice already in place for the provision of data to the BMRA by NGC. The Panel also noted the argument that if any MEL/MIL updates were published to the market before Gate Closure, this might put affected market participants at a commercial disadvantage. The Panel agreed that Modification Proposal P89 was of a minor and inconsequential nature and that it should be submitted straight to its Report Phase for consideration at the Panel meeting on 15 August 2002.

ELEXON published a Draft Modification Report on 29 July 2002 inviting respondents' views.

Respondents' views

In total, ELEXON received ten responses to the consultation on the Draft Modification Report. Of the responses, six responses expressed support for the Proposed Modification. Two responses did not support the Proposed Modification and the remaining two responses from non-BSC Parties did not express an opinion regarding the desirability of the Proposed Modification.

Of the respondents that supported the Proposed Modification, one respondent specifically agreed that MEL, MIL and QPN data should not be released to the BMRA until after the relevant Gate Closure. The other respondents who supported the modification commented that the

approach outlined was a pragmatic solution that clarifies and reflects the working practice already in place.

Of the respondents that did not support the Proposed Modification, one respondent suggested that enforcing the current BSC requirements would result in a more efficient and competitive market. In addition, the respondent suggested that unless the current BSC requirements were enforced NGC would continue to receive information regarding MEL/MIL updates at least 15 minutes ahead of the rest of the market, which give NGC an unfair trading advantage. The other respondent opposed to the modification suggested that to seek to align the BSC with current practice would undermine the BSC as a contractual document and set a dangerous precedent.

Panel's Recommendation

The Panel met on 15 August 2002 and considered the Modification Proposal, the Draft Modification Report, and the consultation responses received.

The Panel recommended that the Authority should approve the Proposed Modification and that, if approved, the Proposed Modification should be implemented 15 Working Days after such Authority approval.

Revision to the Modification Report

On the 4 October 2002, with Ofgem's approval, ELEXON withdrew the Modification Report for Modification Proposal P89. ELEXON had received additional information concerning the cost of modifying NETA Central Systems and NGC systems to become compliant with the current wording of the BSC, if Modification Proposal P89 was not implemented. ELEXON considered that the Panel did not need to reconsider the revised report. On the 17 October 2002 ELEXON resubmitted to the Authority the Modification Report containing this additional information.

The costs for modifying NGC systems are estimated at £35,000 and the costs of modifying NETA Central Systems are estimated at development costs of £1,097,000 and operational costs of £12,798 per month.

Ofgem's view

Having carefully considered the Modification Report and the Panel's recommendation, Ofgem considers, having had regard to its statutory duties, that Modification Proposal P89 will better facilitate achievement of the Applicable BSC Objectives (c) and (d).

In general, Ofgem considers that transparency of information is vitally important for facilitating effective competition between market participants in wholesale gas and electricity markets. However, Ofgem agrees with the Proposer and the Panel that the publication ex-ante of changes to MEL, MIL and QPN information by BM Unit could put affected participants at a commercial disadvantage as the information would be released to the market before affected participants could trade out of their positions. Therefore, Ofgem considers overall that the Proposed Modification does better facilitate the achievement of Applicable BSC Objective (c): promoting

effective competition in the generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity.

Ofgem considers that the costs associated with making changes to NETA Central Systems to enable NGC to comply with the requirements in the BSC to submit MEL, MIL and QPN updates to the BMRA within 5 minutes of them being received, regardless of whether Gate Closure for the Settlement Period has occurred, are high and unnecessary. Implementing the Proposed Modification will avoid these costs. Therefore, Ofgem considers that the Proposed Modification better facilitates the achievement of Applicable BSC Objective (d): promoting efficiency in the implementation and administration of the balancing and settlement arrangements.

Ofgem further considers that the Proposed Modification is consistent with its wider statutory duties and particularly with its principal objective to protect the interests of consumers. It would be inconsistent with this objective to incur substantial costs to bring current practice into line with the BSC when the Applicable Objectives of the BSC can be better facilitated by the Proposed Modification.

Ofgem does not consider that the Proposed Modification would give NGC an unfair trading advantage. Under its Transmission Licence, NGC is regulated in a way that prevents it from using such information other than for prescribed purposes. If market participants have concerns about the provisions in NGC's Transmission Licence, or the behaviour of the Licensee, they should draw these to the attention of Ofgem.

Ofgem agrees that it is inappropriate for changes to be made to the BSC solely in order to bring the BSC into line with current practice. However, this is not the basis on which Ofgem has decided to direct the modification to be made. In this case, it is clear that an unintended incompatibility between the BSC and the BMRA and SAA Interface Specifications has led to the development of practices that are inconsistent with the BSC. Therefore, it is necessary for Ofgem to decide, on the basis of the Applicable BSC Objectives and its wider statutory duties how this incompatibility should be resolved. For the reasons outlined above, Ofgem has concluded that adopting the Modification would better facilitate two of the Applicable BSC Objectives. Moreover, Ofgem considers that the Proposed Modification is consistent with its wider statutory duties. Accordingly this decision does not, and cannot, fetter Ofgem's discretion in reaching decisions on any future Modifications that may be raised, without limitation, to bring the BSC into line with practices that have been adopted but are incompatible with the BSC. Consequently, Ofgem does not consider that this decision sets a precedent (of any description) or that it undermines the contractual nature of the BSC.

The Authority's decision

The Authority has therefore decided to direct that Modification Proposal P89, as set out in Modification Report, should be made and implemented.

Direction under Condition C3 (5) (a) of NGC's Transmission Licence

Having regard to the above, the Authority, in accordance with Condition C3 (5) (a) of the licence to transmit electricity granted to NGC under Section 6 of the Electricity Act 1989 as amended

(the "Transmission Licence"), hereby directs NGC to modify the BSC as set out in the Modification Report.

The Implementation Date for Modification Proposal P89 is 15 Working Days after the date of this decision letter, that being the day on which the Authority decided to approve the Modification Report.

In accordance with Condition C3 (5) (b) of NGC's Transmission Licence, NGC shall modify the BSC in accordance with this direction of the Authority.

If you have any queries in relation to the issues raised in this letter, please do not hesitate to contact me on the above number or alternatively contact Adam Higginson on 020 7901 7410.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Sonia Brown". The signature is written in a cursive style with a large initial 'S'.

Sonia Brown

Director, Electricity Trading Arrangements

Signed on behalf of the Authority and authorised for that purpose by the Authority