



JANUARY 2003

**MODIFICATION REPORT**  
**MODIFICATION PROPOSAL P95 -**  
**Transitional Amelioration of**  
**Barriers to Licence Exempt**  
**Generators' Market Participation**

Prepared by ELEXON on behalf of the Balancing  
and Settlement Code Panel

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### c References

Ref.	Document	Owner	Issue Date	Version
1.	Modification Proposal P95		12/07/02	1.0
2.	Modification P95 Initial Written Assessment	ELEXON	17/07/02	1.0
3.	Modification P95 Definition Report	ELEXON	06/09/02	1.0
4.	P95 Requirements Specification	ELEXON	11/10/02	1.0
5.	P95 Consultation Document	ELEXON	08/11/02	1.0
6.	Modification P95 Assessment Report	ELEXON	06/12/02	1.0

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## 1 SUMMARY AND RECOMMENDATIONS

### 1.1 Recommendation

On the basis of the analysis, consultation and assessment undertaken in respect of this Modification Proposal during the Modification process, and the resultant findings of this report, the Balancing and Settlement Code Panel recommends that:

**Proposed Modification P95 should not be made;**

**Alternative Modification P95 should not be made;**

**In the event that the Authority determines that the Alternative Modification P95 should be made, the Implementation Date should be:**

- **5 November 2003 if a decision is received from the Authority prior to 1 February 2003; or**
- **25 February 2004 if a decision is received on or after 1 February 2003 and prior to 1 May 2003;**

**Note that no legal text has been provided for the Proposed Modification P95.**

### 1.2 Background

Modification Proposal P95 'Transitional Amelioration to Licence Exempt Generators' Market Participation' (P95) seeks to ameliorate perceived failings in the market that the Proposer believes are damaging the economic viability of both existing and potential Licence Exempt Generators (LEGs). It is suggested that a neutral cash-out price should be applied to all imbalances attributable to each LEG.

The Proposer suggests that there are currently barriers to LEGs' market participation and that allowing a LEGs' imbalance to be treated at a neutral price will reduce the balancing risk associated with the LEGs output that a Balancing and Settlement Code Party (BSC Party) faces when trading with a LEG in its portfolio. The result would be to ameliorate the effects of the barriers for LEGs therefore, better facilitating competition in the generation and supply of electricity.

### 1.3 Rationale for Recommendations

The majority view of the Panel was that neither the Proposed Modification P95 nor the Alternative Modification P95 would promote competition in the generation and supply of electricity (Applicable BSC Objective (c)). During the Assessment Procedure for P95, Proposed Modification P78 'Revised Definition of System Buy Price (SBP) and System Sell Price (SSP)' (P78) was approved. P78 introduces changes to the definitions of SSP and SBP such that only one of the energy imbalance prices (i.e. SSP or SBP), depending on the Net Imbalance Volume of the system, would be calculated from energy balancing actions taken by the Transmission Company. The other price, "P78 reverse price" would be calculated from the forwards and spot markets. The Panel supported the majority view of the P95 Modification Group (P95MG) that after the implementation of P78 imbalance charges would be more cost reflective, and Exemptable Generating Plant would not be exposed to any significantly non-cost reflective imbalance charges when compared to other Parties. It was also felt that P95 would introduce a cross subsidy between Parties.

The Panel also agreed that Applicable BSC Objective (b) was not better facilitated, as both the Proposed Modification and the Alternative Modification decrease the incentive on Parties to balance

their positions. In light of this the Panel recommended that the Proposed Modification and the Alternative Modification should not be made.

10 responses to the draft Modification Report consultation were received. 8 responses (32 BSC Parties) supported the Panel's recommendations and 1 response (1 BSC Party) did not support the Panel's recommendations. No new issues were raised in the consultation responses. A summary of the responses received is given in section 8.

## 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 ('the Code'). The Code 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 Code.

This Modification Report is addressed and furnished to the Gas and Electricity Markets Authority ('the Authority') and none of the facts, opinions or statements contained herein may be relied upon by any other person.

An electronic copy of this document can be found on the BSC Website, at [www.elexon.co.uk](http://www.elexon.co.uk).

## 3 HISTORY OF PROPOSED MODIFICATION

Slough Energy Supplies Ltd submitted P95 on 12 July 2002 (reference 1). P95 seeks to ameliorate perceived failings in the market that the Proposer believes are damaging the economic viability of both existing and potential LEGs. The Initial Written Assessment (reference 2), was submitted to the Panel at their meeting on 18 July 2002, where it was agreed to submit P95 to the Definition Procedure to be carried out by a new Modification Group, the P95MG. Membership for the P95MG was sought from pricing experts in the Pricing Issues Modification Group and other industry experts with knowledge of Licence Exempt Generation.

The P95MG met three times during the Definition Procedure and a Definition Report (reference 3) was presented to the Panel on 12 September 2002. The Panel agreed to submit P95 to a 3-month Assessment Procedure to be carried out by the P95MG.

The P95MG met eight times during the Assessment Procedure of P95 and issued a high level impact assessment and a consultation. The results of these and the other discussions during meetings were used by the P95MG to reach a recommendation, which was presented in the Assessment Report. The BSC Agent costs highlighted in the Assessment Report were approximately £570,000 for the Proposed Modification and £430,000 for the Alternative Modification. Further details of the costs and timescales for implementation are given in Annex 1.

The Assessment Report for P95 was submitted for consideration at the Panel meeting of 12 December 2002. The Panel agreed with the recommendations of the P95MG and decided to submit P95 to the Report Phase. The Panel recommended that the Proposed Modification and the Alternative Modification should not be made. The Panel also agreed that in the event that the Authority determines that the Alternative Modification should be made, the Implementation Date should be:

- 5 November 2003 if a decision is received from the Authority prior to 1 February 2003; or
- 25 February 2004 if a decision is received on or after 1 February 2003 and prior to 1 May 2003;

The Panel consulted with the Authority on whether legal text was required for the Proposed Modification and the Authority confirmed that it was not necessary.

On the basis of the Assessment Report, the Panel supported the P95MG view that P95 does not better facilitate achievement of the following Applicable BSC Objectives, set out in paragraph 3 of Condition C3 of the Transmission Licence:

- (b) The efficient, economic and co-ordinated operation by the Transmission Company of the 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.

A draft Modification Report for P95 was issued for consultation on 18 December 2002. 10 responses, representing 34 BSC Parties, were received. The draft Modification Report was presented to the Panel meeting of 16 January 2003. The Panel noted that the majority of consultation responses were from larger Generators and Suppliers and that they supported the Panel's recommendations. They also noted that the one response against the Panel recommendation, was from a smaller Generator.

The Panel confirmed their provisional recommendations and agreed by a majority, that the Proposed Modification and the Alternative Modification should not be made.

## **4 DESCRIPTION OF THE MODIFICATION**

### **4.1 Proposed Modification**

During the Definition Procedure the P95MG considered potential implementation methods and agreed that the implementation method of creating an Exemptable Energy Account should be considered as the Proposed Modification. This was discussed in further detail during the Assessment Procedure and can be summarised as the creation of a new Exemptable Energy Account against which a Party can choose to register Exemptable Generating Plant. BM Units registered against the Exemptable Energy Account must only contain Exemptable Generating Plant and may have the imbalance attributable to them settled at the Neutral Price up to the total Exemptable Capacity (EC) of the account. Further details can be found in the Assessment Report.

The P95MG agreed that the Proposed Modification should be applied to all Exemptable Generating Plant regardless of whether they export on to the system. However the P95MG agreed that the Exemptable Generating Plant had to be capable of exporting energy onto the system even if in practice this did not occur, to be able to benefit from P95.

### **4.2 Alternative Modification**

The P95MG discussed a potential alternative to the neutral price definition defined in the Proposed Modification, due to the change in BSC baseline with the approval of Proposed Modification P78 during the Assessment Procedure. The P95MG agreed that the alternative neutral price would be the "P78 reverse price".

The P95MG also discussed a possible alternative to the implementation method and agreed that the Alternative Modification should be the creation of an Exemptable Neutral Band. This can be summarised as the creation of a neutral band (for all BSC Parties that choose to register one) that will be settled at a neutral price up to the total registered EC against that Energy Account. This will allow Parties to register the amount of Exemptable Generating Plant that they have in their Production and

Consumption Energy Accounts and have the imbalance settled at a neutral price irrespective of which BM Units cause the imbalance. Further details can be found in the Assessment Report.

## **5 RATIONALE FOR PANEL RECOMMENDATIONS**

### **5.1 Proposed Modification**

The Panel agreed with the recommendations of the P95MG as set out in the Assessment Report. The P95MG agreed that allowing Exemptable Generating Plan to have imbalance settled at a neutral price, where the neutral price is defined as the average of SSP and SBP, would not better facilitate the achievement of the Applicable BSC Objectives. The rationale given for this was that the neutral price defined within the Proposed Modification, was no longer cost reflective under the current baseline recognising the approval of the Proposed Modification P78. The change in BSC baseline during the Assessment Procedure lead to the P95MG identifying a potential Alternative Modification.

### **5.2 Alternative Modification**

The Panel agreed with the recommendations of the P95MG as set out in the Assessment Report. The P95MG agreed that the Alternative Modification does better facilitate the Applicable BSC Objectives as compared to the Proposed Modification. The rationale for this was:

- the P78 Reverse Price as a Neutral Price is more appropriate as it is more cost reflective and the P95MG believed it was more neutral than the average price;
- the Exemptable Neutral Band implementation approach is less complex for BSC Parties and less costly overall (£430,000 versus £570,000 for BSC Agent development); and
- the Exemptable Neutral Band implementation approach retains the portfolio effect for BSC Parties.

However, the majority of the P95MG agreed that when compared to the current BSC baseline the Alternative Modification did not better facilitate achievement of the Applicable BSC Objectives. The majority of the P95MG believed that:

- as it could not be shown that P78 would produce significantly non-cost reflective charges for Exemptable Generating Plant as compared to other Parties, then P95 would potentially introduce a cross subsidy between Parties, therefore not facilitating BSC Objective (c).
- it would decrease the incentive to balance, therefore not facilitating BSC Objective (b) as it would not promote efficient operation of the Transmission System by the Transmission Company.

A minority of the P95MG, in support of both the Proposed Modification and the Alternative Modification, believed that cost reflectivity was not the only issue to be considered when considering the benefits be gained under P95. Additionally they felt that both the Proposed Modification and the Alternative Modification promote competition in generation (BSC Objective (c)) as they address an existing distortion in the market, namely that Exemptable Generating Plant are exposed to the same imbalance risk as larger generators, but unlike larger generators, are unable to manage their imbalance risk by trading in the NETA markets. They believed that the benefit gained by increasing competition offsets other perceived barriers to Exemptable Generating Plant participation and outweighs any disbenefit seen from the cost of implementation, therefore facilitating the Applicable BSC Objectives overall.

## 6 LEGAL TEXT TO GIVE EFFECT TO THE MODIFICATION

### 6.1 Proposed Modification

At the end of the Assessment Procedure the Panel consulted with the Authority on whether legal text would be needed for the Proposed Modification, the Authority agreed that it would not be necessary to provide this text.

### 6.2 Alternative Modification

Alternative Modification P95 requires changes to Sections K, T and X-2 of the Code. A summary of the changes is given below and a detailed red lined version of the legal text is included in Annex 3. During the consultation on the draft Modification Report a minor error in the Legal Text was identified. This has led to the term "Distribution Company" in paragraph 3.4A.4 being changed to "Licensed Distribution System Operator" to be consistent with current Code terminology.

The legal drafting included with this report is drafted against the version of the Code current on the date of the Panel meeting (16 January 2003). The legal drafting was checked against all Modifications that had been approved by the Authority on the date of the Panel meeting, including those that have not yet been implemented. If the baseline of the Code changes prior to implementation of P95, or if other Modification Proposals are to be implemented at the same time as P95, the legal text may need to be amended.

#### ***SECTION K: Classification and Registration of Metering Systems and BM Units (version 7.0)***

This section will need to be amended to give details of the "Exemptable Capacity" of a BM Unit along with details of how it can be changed and to which Plant it applies.

#### ***SECTION T: Settlement and Trading Charges (version 8.0)***

This section will be updated with the "System Neutral Price" definition and the "Account Exemptable Imbalance Volume". Changes are also needed to the calculation of Energy Imbalance Cashflow for all Energy Accounts. These changes will mean any amount up to the Account Exemptable Imbalance Volume is cashed out at the neutral price and anything over that at SSP or SBP as is currently the case.

#### ***ANNEX X-2: Technical Glossary (version 10.0)***

System Neutral Price, Exemptable Capacity, Account Exemptable Imbalance Volume and Exemptable Generation Quantity should be defined in tables X2 and X3.

## 7 ASSESSMENT

This section of the report summarises the assessment carried out by the P95MG during the 3-month Assessment Procedure. Full details are contained in the P95 Assessment Report, which can be found on the BSC Website at [www.elexon.co.uk](http://www.elexon.co.uk).

During the Assessment Procedure the P95MG considered the issues raised from the terms of reference. An impact assessment was issued with the requirements specification (reference 4) to determine the cost and timescale for implementation of the Proposed Modification and the other potential alternative options. From this the P95MG determined the preferred implementation option and the preferred variant of the Neutral Price definition and issued a consultation document to seek BSC Party views on whether the Proposed Modification or the Alternative Modification better facilitated the BSC Objectives. The majority of the consultation responses agreed with the majority of the P95MG that neither the P95 Proposed Modification nor the P95 Alternative Modification better facilitated the BSC Objectives. The responses to both the consultation and impact assessment can be found in the Assessment Report and the conclusions of the P95MG are detailed below.



Some responses and the minority of the P95MG believed that the benefit gained by increasing competition offsets other perceived barriers to Exemptable Generating Plant participation in the market and outweighs any disbenefit seen from the cost of implementation, therefore facilitating the Applicable BSC Objectives overall.

The P95MG considered if the Code was the best place to address the issues that were raised by P95. Some members felt that the imbalance charges passed on to non BSC Parties was a commercial issue between the BSC Party and the Exemptable Generating Plant. Other members felt that it was an issue that should be addressed by the Code. The P95MG agreed that the Assessment Procedure should look at whether the Modification better facilitates the BSC Objectives and if it could be shown to do so then the Code was the appropriate place.

## **7.1 Discrimination**

The Panel agreed that one of the terms of reference of the P95MG should be to address the issue of whether or not P95 was discriminatory. The legal advice that the P95MG received indicated that although the Panel must ensure that the Code is given effect without undue discrimination between Parties or classes of Parties, it is not limited in the type of Modification that it can make to the Code.

Some members of the P95MG felt that the issue of discrimination should still be considered when determining whether or not the Proposed Modification or potential Alternative Modification better met the BSC Objectives, as discriminatory arrangements can distort competition. Other members of the group felt that Exemptable Generating Plant were already discriminated against elsewhere in the trading arrangements given that they are unable to manage their imbalance risks in the same way as larger generators. They believed that implementing P95 would address the adverse effect of this discrimination.

## **7.2 Cost Reflectivity / Competition Issues**

The majority of the P95MG agreed the only barrier that would be directly addressed by P95 was the issue of non cost-reflective imbalance prices and that the other barriers, listed in the Modification Proposal, were secondary barriers that make it relatively difficult for Exemptable Generating Plant to manage non cost-reflective imbalance prices.

Other members believed that P95 also directly addresses the barrier seen by Exemptable Generating Plant when realising the value of embedded benefits. They also believed that it addresses the effects of illiquidity and administrative burdens by reducing the need for LEGs to escape the consequences of the first two barriers by trading in the NETA Markets.

The P95MG agreed that in order to assess if P95 better facilitated one or more of the Applicable BSC Objectives, the issue of cost reflectivity had to be addressed first before considering the other barriers mentioned in the Modification Proposal. They then agreed a number of other criteria that had to be addressed in a logical sequence to help them reach a view. The P95MG agreed that the following questions and resulting discussions would help assess whether P95 better facilitates the Applicable BSC Objectives.

- Are the baseline cash-out prices likely to be cost reflective under P78?
- Do any non cost-reflective charges differentially and adversely affect Exemptable Generating Plant?
- What will the effect of introducing P95 be on Exemptable Generating Plant and will there be any other, adverse effect on competition?

Details of the discussions held for each of these issues can be found in the Assessment Report.

### **7.3 Effect of P95 on System Operation**

The P95MG discussed the possible effect that implementation of P95 would have on the System Operator's ability to balance the system. The Transmission Company indicated that given an estimate of 6 GW of Exemptable Generating Plant capacity there is a potential of 3 GWh of imbalance being subjected to the Neutral Price. They also believe that some form of asymmetry will encourage participants to maximise the benefit of the neutral band and therefore estimate that most of the neutral band will translate into imbalance.

The majority of the P95MG agreed with the Transmission Company analysis that P95 would not incentivise Parties to balance their position. The P95MG agreed that the Proposed Modification would, due to the Neutral Price definition, give Parties the incentive to hold a position opposite to the market length, whereas the Alternative Modification has the potential to increase the volume of imbalance. The P95MG also agreed that in a 'long' market participants could be incentivised to go 'less long' under the Alternative Modification.

The minority view of the P95MG was that P95 would not remove the incentive to balance, given that the current imbalance risk imposed on Exemptable Generating Plant is disproportionate to their ability to manage it. They also believed that the effect of P95 would be to remove the penal element of imbalance charges and that Exemptable Generating Plant would have no means of predicting SSP and SBP and so would remain incentivised to avoid exposure to these prices

### **7.4 Cross Subsidy**

Some members believed that P95 could be seen as a cross subsidy between BSC Parties trading with an Exemptable Generating Plant in their portfolio and a BSC Party trading without an Exemptable Generating Plant in their portfolio. This was thought to be even more so under the Exemptable Neutral Band implementation option.

The P95MG discussed whether an imbalance caused by a Party without Exemptable Generating Plant requires more balancing actions to be taken than an identical imbalance caused by a Party with Exemptable Generating Plant in its portfolio. The P95MG agreed that if this were to be the case then it would be justifiable to target a greater proportion of the cost of those actions at Parties without Exemptable Generating Plant and that this would not be seen to be a cross subsidy.

Some members of the P95MG commented that they did not see a difference between small imbalances be it from an Exemptable Generating Plant or any other premises and therefore had the view that it would indeed be a cross subsidy between BSC Parties.

### **7.5 Cost Recovery Mechanism**

The P95MG noted that the changes proposed under P95 could be used by all BSC Parties and would be a change to the Settlement mechanism. Therefore, they agreed that the costs should be borne by all BSC Parties to maintain consistency with current charging mechanisms detailed in section D of the Code.

The P95MG noted that most Exemptable Generating Plant operators are not Parties to the Code and therefore may find that their contract prices with BSC Parties have a higher administration charge within them. The reason for this being that the BSC Party they trade with will have to update their systems to trade under the P95 mechanism and may incur higher overheads.

## **8 SUMMARY OF REPRESENTATIONS**

The draft Modification Report was issued for consultation on 18 December 2002 with responses due back on 6 January 2003. 10 responses were received;

- 8 responses (32 BSC Parties) supported the recommendation that the Proposed Modification and the Alternative Modification should not be made;
- 1 response (1 BSC Party) did not support the Panel recommendations;
- 1 response had no comment.

Annex 2 of this report contains a summary of the responses and copies of the actual responses received. A summary of the arguments raised in the responses is given below in sections 8.1 and 8.2. These arguments were all discussed during the Assessment Procedure and are summarised for completeness.

### **8.1 Arguments Supporting the Panel Recommendations**

The following arguments were raised in the consultation responses, in support of the Panel recommendation that the Proposed Modification and the Alternative Modification should not be made. These arguments were all discussed by the P95MG during the Assessment Procedure;

- the Proposed Modification and the Alternative Modification introduce a cross subsidy between Parties;
- the Modification does not address a fault in the Code, it addresses a perceived failing by giving financial compensation;
- the implementation of P95 would not incentivise participants to balance their position;
- Exemptable Generating Plant have other options by which to reduce their exposure to the imbalance price risks, which are faced by all participants;
- the considerable cost involved for a change where only a limited number of participants may wish to use the proposed solution does not promote efficiency in the implementation of the Code.

### **8.2 Arguments Against the Panel Recommendations**

The following arguments were raised in the consultation response that did not support the Panel recommendations (from the Proposer). These points have been discussed by the P95MG during the Assessment Procedure and further details of the discussions on them can be found in the Assessment Report;

- the Proposed Modification and the Alternative Modification would better facilitate competition in the generation and supply of electricity;
- Exemptable Generating Plant are exposed to the same imbalance risk as larger generators, but, unlike larger generators are unable to manage their imbalance risk by trading in the NETA market;
- P95 does not remove the incentive to balance because, the current imbalance risk imposed on Exemptable Generating Plant is disproportionate to their ability to manage it. Exemptable Generating Plant would have no means of predicting SSP and SBP and so would remain incentivised to avoid exposure to these prices;

## ANNEX 1 COST SUMMARY

The implementation costs identified during the Assessment Procedure are summarised below for both the Proposed Modification and the Alternative Modification.

### A1.1 Proposed Modification

Name	Implementation Timescale	Cost
Central Services Agent	6 months BSC Agent + 3 months ELEXON	£570k + 60 man days + £7k per month operational costs
ELEXON	3 months	60 man days
<b>Total BSC Costs / Timescale</b>	<b>9 months</b>	<b>£570k + 120 ELEXON man days + £7k per month operational costs</b>

Name	Implementation Timescale	Cost
Transmission Company	3 months after February 2003	
BSC Parties	Minimum	3 months
	Maximum	6 months
		~£20k
		£250k +

### A1.2 Alternative Modification

Name	Implementation Timescale	Cost
Central Services Agent	5 months BSC Agent + 3 months ELEXON	£430k + 60 man days + £5k per month operational costs
ELEXON	3 months	60 man days
<b>Total BSC Costs / Timescale</b>	<b>9 months</b>	<b>£430k + 120 ELEXON man days + £5k per month operational costs</b>

Name	Implementation Timescale	Cost
Transmission Company	3 months after February 2003	
BSC Parties	Minimum	3 months
	Maximum	6 months
		£7k
		£50 - £75k

## ANNEX 2 REPRESENTATIONS

### A2.1 Summary of Representations

The draft Modification Report was sent out for consultation on 18 December 2002 with responses due back on 6 January 2003. The table below gives a summary of the responses and the actual responses received are attached below.

	Responses	BSC Parties
Support recommendations	8	32
Do not support recommendations	1	1
No Comment	1	1
<b>Total</b>	<b>10</b>	<b>34</b>

Representations were received from the following parties:

No	Company	File Number	No. BSC Parties Represented	Views
1.	SEEBOARD Energy	P95_DR_001	1	Agree with Panel recommendation to reject both
2.	LE Group	P95_DR_002	7	Agree with Panel recommendation to reject both
3.	British Gas Trading	P95_DR_003	1	Agree with Panel recommendation to reject both
4.	Slough Energy Supplies	P95_DR_004	1	Disagreed with Panel recommendation to reject both
5.	Aquila Networks	P95_DR_005	1	No comment
6.	Innogy	P95_DR_006	9	Agree with Panel recommendation to reject both
7.	Scottish Power	P95_DR_007	6	Agree with Panel recommendation to reject both
8.	British Energy	P95_DR_008	3	Agree with Panel recommendation to reject both
9.	Scottish and Southern	P95_DR_009	4	Agree with Panel recommendation to reject both
10.	Powergen (late response)	P95_DR_010	1	Agree with Panel recommendation to reject both

## A2.2 Detailed Responses

### P95\_DR\_001 – SEEBOARD Energy

With respect to draft modification report for P095 (Transitional Amelioration of Barriers to Licenced Exempt Generators' Market Participation) dated 18th December 2002. We agree with recommendations contained in section 1.1 of this report that neither main nor alternate modification be made.

Dave Morton

SEEBOARD Energy Limited

### P95\_DR\_002 – LE Group

Dear Modifications

LE Group is pleased to see that the recommendation from the Panel is to reject both P95 and its Alternative. We DO NOT support this Modification Proposal.

This reply is sent on behalf of: LE Group Plc, London Electricity Plc, Jade Power Generation Ltd, Sutton Bridge Power Ltd, West Burton Power, London Power Network Plc, and Eastern Power Network Distribution Ltd, ECS.

With kind regards, Paul Chesterman

for Liz Anderson

General Manager, Energy Strategy & Regulation

### P95\_DR\_003 – British Gas Trading

Thank you for the opportunity of responding to this consultation. British Gas Trading Ltd supports the Panel's view that neither the original proposal nor the alternative proposal should be implemented.

We consider that the implementation of either the proposal or the alternative would introduce a cross subsidy between Parties and as such would be against Applicable BSC Objective (c). In addition, we believe that either proposal would, if adopted, incentivise Parties to a position of imbalance as they would have a "buffer" zone of the Exemptable Generating Plant capability, thus not facilitating Applicable BSC Objective (b).

Furthermore, we believe that this modification does not address a specific fault of the BSC, it merely addresses a "perceived failing" with financial compensation, and as such we cannot support it.

If you require any further information, please contact me on the number above.

Yours faithfully

Sarah Grimes  
Commercial Manager

## **P95\_DR\_004 – Slough Energy Supplies**

### **FIRST RESPONSE**

We are responding on behalf of Slough Energy Supplies Limited, the Proposer of P95, to the draft Modification Report, issued on 18<sup>th</sup> December.

In response to the draft report, we wish to reiterate all the points made in our response to the P95 Assessment Consultation, sent on behalf of the Proposer on 22nd November. In addition, we have the following specific points on the draft:

#### **Paragraphs 5 and 7**

The draft Modification Report makes no mention of one of the central themes of P95, namely that LEGs are exposed to the same imbalance risk as larger generators, but, unlike larger generators, are unable to manage their imbalance risk by trading in the NETA markets. This is stressed both in the P95 proposal itself and in our response to the P95 Assessment Consultation and was also emphasized by us in numerous P95 Modification Group meetings. It is this which lies at the heart of the discriminatory nature of NETA as it affects LEGs. It is important that this point is at least referred to in any discussion of the arguments put forward in favour of P95 and it seems to us that the most logical place for this to appear would be in paragraph 5 (Rationale for the Panel Recommendations) and/or paragraph 7 (Assessment).

#### **Paragraph 7.1**

The second paragraph under 7.1 is intended to reflect the arguments in favour of P95 and reflect the view that "LEGs were already discriminated against elsewhere in the trading arrangements and that P95 would compensate for this". The Proposer has never used the term "compensate" in relation to P95 and indeed always objected when this term was used in P95 Modification Group meetings. The use of "compensate" is misleading in this context as it implies a payment of money from one party to another. This is not the effect of P95; as the Proposer has made clear throughout the Definition and Assessment procedures, P95 is intended to ameliorate the existing discriminatory effects of NETA on LEGs by making an alteration to the imbalance pricing mechanism, so that the risk LEGs carry more fairly reflects the extent to which the NETA structure enables them to manage it. We would therefore prefer to amend the final sentence of paragraph 7.1 to read as follows: "Other members of the group felt that LEGs were already discriminated against in the trading arrangements, given that they are

unable to manage their imbalance risks in the same way as larger generators. The proponents of this view emphasized that P95 was aimed at addressing the adverse affects of this discrimination against LEGs”.

### **Paragraph 7.2**

The first line of the second paragraph under 7.2 should read “other members believed that P95 also directly addresses ...”. It is important to emphasize the view of P95’s supporters that P95 addresses the embedded benefit barrier as well as the cost reflectivity barrier. The third paragraph under 7.2 implies that the entire P95 Modification Group agreed that a lack of cost reflectivity needed to be shown in order to assess whether P95 better facilitates the applicable BSC objectives. As we emphasized in a number of P95 Modification Group meetings, any attempt to give the impression that cost reflectivity was the only issue under P95 is misleading. This ignores the other three market barriers identified in P95, which exist independently of the cost reflectivity issue, although they are clearly exacerbated by the lack of cost reflectivity. In addition, this ignores the issue of LEGs’ inability to manage imbalance risk, which again exists independently of cost reflectivity concerns. It is important that the views of the supporters of P95 be reflected here.

### **Paragraph 7.3 and 7.4**

These paragraphs discuss the issues of incentive to balance and cross-subsidy, which, it is clear from paragraph 1.3, constitute the basis for the Panel’s recommendation that the Proposed Modification and the Alternative Modification should not be made. Given that these factors were so important in the Panel’s decision-making process and the fact that these concerns were addressed on behalf of the Proposer both in meetings of the P95 Modification Group and in the Assessment Consultation response, it is important that balance is maintained by reflecting these views, as well as those of the opponents of P95. We suggest that these paragraphs be amended as follows:

7.3: Add the following after the second sentence of the first paragraph: “However, others in the group rejected the proposition that P95 would remove the incentive to balance for LEGs. The Proposer emphasized that it recognised the need to retain an incentive to remain in balance. It argued that P95 achieved this, given that the current imbalance risk imposed on LEGs is disproportionate to their ability to manage it and the effect of P95 would be to reflect that by removing the penal element of imbalance charges. The supporters of P95 pointed out that under P95, LEGs would have no means of controlling or predicting SSP or SBP (which would still determine the imbalance charges under P95) and so would remain incentivised to avoid exposure to these prices”.

7.4: Add after the first paragraph under 7.4: “The Proposer disputed the relevance of the “cross-subsidy” argument, on the basis that this relied upon the assumption that NETA already enabled LEGs to gain proper access to the market. The Proposer’s view was that, for the reasons set out in P95, the true position is that the market unduly disadvantages LEGs.

In the final paragraph of 7.4, there is reference to a view expressed by some P95 Modification Group members that they did not see a difference between imbalances from LEGs or other premises. As explained above, the difference lies in LEGs’ inability to balance their own imbalance risk and if this paragraph is to be retained, we would like to ensure that this point is referred to here, to ensure a balanced view is given.

### **Paragraph 8**

We note that the majority of paragraph 8 is necessarily incomplete, given that it will reflect the responses to this consultation. We will therefore need to reserve our position in relation to the text which appears at paragraph 8 once the responses have been received. We did, however, note that at 8.3 there is reference to “the arguments raised in the consultation responses against P95” being

presented at the Panel meeting of 16 January 2003. Presumably the arguments in favour of P95 will be presented, to ensure a fair and balanced review of the responses.

Yours sincerely,  
DAVID LYON

## **SECOND RESPONSE**

I understand from Steve Garrett that you are unclear whether the response to the draft modification issues on behalf of the Proposer comprised a clear statement of the Proposer's view that P95 should be made. We had dealt with this by asking that all the points made in our consultation responses be taken into account and thought this would be clear from the amendments we suggested in the text. However, to avoid any room for doubt, I confirm Slough Energy Supplies Limited's position on these issues is as follows:

1. both Proposed Modification P95 and Alternative Modification P95 would promote competition in the generation and supply of electricity (applicable BSC Objective (c));
2. the Proposer therefore rejects the arguments put forward by those members of the Modification Group who argued that P95 would not better facilitate applicable BSC Objective (c). The Proposer maintains that no evidence to support such contentions has been produced;
3. alternative modification P95 better facilitates the relevant applicable BSC objective as compared to proposed modification P95;
4. therefore, either Proposed Modification P95 or (preferably) Alternative Modification P95 should be made; and
5. the Proposer therefore disagrees with the recommendation of the BSC Panel as set out in paragraphs 1.1 and 1.3 of the draft Modification Report.

Please give Steve or me a call if you have any further queries on this.

Kind regards

Yours sincerely,

DAVID LYON

## **P95\_DR\_005 – Aquila Networks**

Please find that Aquila Networks Plc response to P95 Consultation on draft Modification Report is 'No Comment'.

regards

Rachael Gardener

Deregulation Control Group & Distribution Support Office  
AQUILA NETWORKS

## **P95\_DR\_006 – Innogy**

The following comments are made on behalf of Innogy plc, Npower Limited, Innogy Cogen Trading Limited, Innogy Cogen Limited, Npower Direct Limited, Npower Northern Limited, Npower Yorkshire Limited Npower Northern Supply Limited, Npower Yorkshire Supply Limited.



We note that the BSC Panel is recommending that the Authority rejects both Modification Proposal P95 (P95) and Alternative Modification P95A (P95A).

We support the Panel's recommendation with regard to both P95 and P95A. We do not believe that either modification would better facilitate the achievement of the relevant BSC objectives.

#### **P95\_DR\_007 – Scottish Power**

**For and on behalf of: - *Scottish Power UK plc; ScottishPower Energy Trading Ltd.; Scottish Power Generation plc; ScottishPower Energy Retail Ltd.; SP Transmission plc; SP Manweb plc***

With reference to the above, we would reiterate our views, which we have previously expressed in rejection of P95: "Transitional Amelioration of Barriers to Licenced Exempt Generators' Market Participation", in particular, the fact that: -

- It was discriminatory to other BSC Parties;
- LEGs have other options by which to reduce their exposure to the imbalance price risks, which are faced by all participants; and
- The considerable cost involved on changes where only a limited number of participants may wish to use the proposed solution does not promote efficiency in the implementation of the trading arrangements.

In this Consultation, we therefore agree with the Panel's view that both the Proposed Modification P95 and the Alternative Proposal P95 do not better facilitate the Applicable Objectives ((c) and (b)) and support the recommendation that these proposals should not be made.

I trust that you will find these comments helpful. Nonetheless, should you require further clarification of any of the above, please do not hesitate to contact me.

Yours sincerely,

Man Kwong Liu  
Calanais Ltd.

#### **P95\_DR\_008 – British Energy**

To: Modification Secretary

From: Rachel Ace

Date: 6 January 2003

British Energy agrees with the recommendation in the Draft Modification Report that P95 or P95 alternative modifications should not be made. To change the BSC to implement this proposal would introduce a cross-subsidy resulting in distortions to the market which would have an adverse effect on competition. We also believe that the introduction of this modification would not incentivise Parties to balance their positions, therefore these modification would not better facilitate the objectives of the BSC.

Rachel Ace

On behalf of: British Energy Generation Ltd, British Energy Power and Energy Trading Ltd, Eggborough Power Ltd

#### **P95\_DR\_009 – Scottish and Southern**

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

Further to your note of 18th December 2002, and the associated Draft Modification Report for P95, we agree with the proposed BSC Panel recommendation to the Authority that the Original and Alternative Modification Proposal P95 should not be made.

If the Modification Proposal P95 is approved, we agree with the proposed BSC Panel recommendation on the timing for the Implementation Date, as outlined in Section 1.1 of the Draft Modification Report.

Regards

Garth Graham  
Scottish & Southern Energy plc

### **P95\_DR\_010 – Powergen**

Powergen agrees with the Panel that P95 does not better meet the applicable BSC objectives and should therefore be rejected. We have no new arguments to make over and above those made in our previous submissions, so do not propose to restate our detailed views. However, in summary, our arguments for supporting the Panel's position are:

- We do not agree with the defects described in the modification proposal.
- The modification does not attempt to address the claimed defects, so is inappropriate anyway.
- The proposal would introduce a cross subsidy from Parties who do not register LEGs, to those who do.

Yours sincerely,

Paul Jones  
Trading Arrangements

### **ANNEX 3 LEGAL TEXT**

See attached document (P95 Legal drafting v7.0).