

What stage is this document in the process?

01 Initial Written Assessment

02 Definition Procedure

03 Assessment Procedure

04 Report Phase



#### Your response

We invite you to respond to the questions in this form.



#### How to return your response

Please send responses, entitled 'P264 Assessment Consultation' to [modifications@elexon.co.uk](mailto:modifications@elexon.co.uk) by 5pm Wednesday 16 March 2011

## Stage 03: Assessment Consultation Questions

# P264: Two-Thirds Majority Panel Recommendation on Licence originated Modifications

### Response Form

The P264 Modification Group requests your impact assessment of P264. In particular, we ask for your responses to the following questions and your reasons for those responses.

### Transmission Company Questions

#### Question 1:

#### Response:

Would the Proposed Modification P264 help to achieve the Applicable BSC Objectives when compared to the current arrangements?

Neutral

**Please explain the reason(s) for your view and state which Applicable BSC Objective(s) your views are based on:** **Page Ref: 12**

We recognise industry concerns that have previously been raised over the SCR process, specifically that changes to the Transmission licence can have a significant impact on non-licensees' businesses. We also agree with the principle that existing rights of appeal should be maintained. However, we are not fully convinced by all of the arguments put forward to support P264 as set out below.

One reason given against objective (a) in the Workgroup consultation is: "If National Grid fulfil their License obligation by having Licensee raised SCR Modifications recommended for approval by a two-thirds majority, Parties are less likely to appeal the decision and therefore National Grid would have completed their obligation in the most efficient way." It is not within National Grid's gift to second guess the circumstances under which a party may wish to appeal a Modification Proposal decision. Even with a two thirds majority vote for implementation, it is possible that a party may choose to raise an appeal, where it considers that it has a strong case and the impact on its business warrants the costs and effort of doing so. Therefore, implementation of P264 would not necessarily be more efficient in terms of fulfilling our licence obligations.

We also note that one of the arguments under objective (c) states: "Providing a strong Panel view to Ofgem helps makes issues clear and safeguards interests of the majority view of the industry." We would agree that where there is a unanimous Panel vote, that certainly provides a clear message to Ofgem and the industry. However, with P264 there is the possibility that only one additional vote would secure the two thirds majority required; this represents only a marginal difference from the current position.

P264 Assessment Consultation Questions

25 February 2011

Version 1.0

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<b>Question 2:</b>	<b>Response:</b>
What are the impacts and costs of the Proposed Modification on your organisation?	N/A

<b>Please explain the reason(s) for your view:</b>	<b>Page Ref:</b> 11
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We do not anticipate any material impacts or costs on our organisation as a result of the Proposed Modification.

<b>Question 3:</b>	<b>Response:</b>
Do you support the Modification Group's preferred implementation approach?	Yes

<b>Please explain the reason(s) for your view:</b>	<b>Page Ref:</b> 12
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We support the proposed implementation approach as it is in line with standard practice.

<b>Question 4:</b>	<b>Response:</b>
Would potential alternative 1 provide any benefits over and above the Proposed solution?	No

<b>Please explain the reason(s) for your view:</b>	<b>Page Ref:</b> 07
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We consider that potential alternative 1 has a number of disbenefits as compared to the Proposed solution.

The first is that applying the two thirds majority vote threshold to a Modification Proposal raised prior to an SCR is inconsistent with the existing modification process which does not apply the SCR rules retrospectively. The SCR process, as set out in the BSC, allows that Modification Proposals raised prior to an SCR are not subject to the assessment requirements placed on proposals which relate to an SCR and are raised during the SCR phase. Therefore, potential alternative 1 would not appear to promote efficiency in the implementation and administration of the balancing and settlement arrangements (objective (d)).

The second issue is that proposed alternative 1 could be considered unduly discriminatory against the Licensee. The potential undue discrimination would arise at the end of the modification process, when two Modification Proposals raised on the same issue by different parties (one being the licensee) would receive different treatment in terms of the threshold required to achieve a recommendation for implementation. The licensee's proposal, raised prior to or during an SCR, which was deemed to be related to a future or ongoing SCR, would require a two thirds majority vote, whereas a proposer who is not the Transmission licensee would only have to achieve a simple majority vote to secure a recommendation for implementation. This difference in application of the rules would appear to be unnecessarily discriminatory and go against the principles of good governance, thereby also not furthering objective (d).

<b>Question 5:</b>	<b>Response:</b>
Would potential alternative 2 (a) provide any benefits over and above the Proposed solution?	Yes

<b>Please explain the reason(s) for your view:</b>	<b>Page Ref:</b> 08
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We agree with the Workgroup that subsumed or suspended Modifications would be seeking to address the same issues as any Modification Proposal the Licensee raised as a

**Question 5:****Response:**

result of an SCR direction following conclusion of the SCR Phase. We also agree that all Modifications seeking to address the same issue should be treated consistently in order to ensure an efficient, transparent and fair process. Therefore, we believe that potential alternative 2(a) would be a good addition to or should form part of the Proposed solution.

**Question 6:****Response:**

Would potential alternative 2 (b) provide any benefits over and above the Proposed solution?

No

**Please explain the reason(s) for your view:****Page Ref:** 08

As stated in our views against potential alternative 1, we think that this approach would be inconsistent with the existing modification process and that Modification Proposals raised prior to an SCR, regardless of who raises them, should not be subjected to two thirds majority voting retrospectively. To allow retrospective application of voting rules would create uncertainty within the modifications process and would not further objective (d).

**Question 7:****Response:**

Would potential alternative 3 provide any benefits over and above the Proposed solution?

No

**Please explain the reason(s) for your view:****Page Ref:** 09

We agree with the majority of the Workgroup that potential alternative 3 would be very hard to "police", due to the high levels of subjectivity involved, and therefore would not facilitate an efficient modifications process. This option also has the unfortunate potential to require the code administrator or members of the BSC Panel to call a Proposer's statement, and therefore their honesty, into question.

It could also make Proposers, particularly smaller parties who are likely to be less familiar with the intricacies of the modification process, feel unwilling to discuss their proposed modification with an Ofgem representative, even on an informal basis, in case they were deemed to be "guilty by association". Similarly, it may discourage Ofgem from seeking to better understand a potential modification proposal or even an idea for a modification, which would be unfortunate given the industry criticism that has previously been aimed at Ofgem for not fully engaging in the modification process.

**Question 8:****Response:**

Are there any alternative solutions, which the Modification Group has not identified, that they should consider?

No

**Please explain the reason(s) for your view:****Page Ref:** 09

We are not aware of any further alternative solutions for consideration.

**Any questions?**

If you have any queries on this form, please contact Adam Lattimore on **020 7380 4363** or **adam.lattimore@elexon.co.uk**.



## Further Information

To help us process your response, please:

- Email your completed response form to **modifications@elexon.co.uk**
- Use the following text in the subject line of your email: "P264 Transmission Company Analysis"
- Include a phone number in your covering email, so that we can contact you if we have any questions
- Respond by 5pm on Wednesday 16 March 2011 (the Modification Group may not be able to consider late responses)

The Modification Group will consider your consultation response at its next meeting. Once it has completed its assessment of P264, it will draft the Assessment Report, and present it to the September Panel meeting.

### Applicable BSC Objectives

The Applicable BSC Objectives, contained in the Transmission Licence, are:

- a. The efficient discharge by the licensee [i.e. the Transmission Company] of the obligations imposed upon it by this licence [i.e. the Transmission Licence];
- b. The efficient, economic and co-ordinated operation of the national 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.