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*Promoting choice and
value for all customers*

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Date: 7 November 2008

Dear Stuart,

Formal information request pursuant to Section C of the Balancing and Settlement Code (BSC), 'BSCCo and its subsidiaries'

As you may be aware, Ofgem are currently considering the issues relating to Draft Modification Proposal P227 "Extension of the definition of Energy Contract Volume Aggregation Agent (ECVAA) systems to include the centrally provided communications network" (the 'Proposal') in preparation for when the Balancing and Settlement Code (BSC) Panel send the final modification report (FMR) to the Authority for decision.

The Proposal is largely drawn from previous Modification Proposal P1 "Extension of the definition of ECVAA system failure". Modification Proposal P1 sought to enable parties to re-submit contract notifications, affected by failures of the centrally procured High Grade Communications Service, by extending the contingencies for ECVAA System Failures¹, to include the centrally provided communication network. An alternative was proposed that extended this provision to the Low Grade Communication Service.

In May 2002, the Authority decided not to direct implementation of Modification Proposal P1, and the alternative, largely due to the failure of the Modification Proposal to provide for competition in the provision of relevant parts of the communications system through a 'sunset' clause. At this time there was only one central services communication provider and this 'sunset' provision was deemed by the Authority to be necessary to take account of the expectation that competition would develop for the provision of the communications services. Relevant to this decision was a clause in the BSCCo's contract with the central services agent that dealt with early termination charges.

Currently, there is still only one central communication service provider and in order to assess whether the competition issues Ofgem highlighted in its decision on Modification Proposal P1 are relevant in its assessment of the Proposal it requires information relating to the BSCCo's contract with the central services agent. Therefore, Ofgem requests information related to the BSCCo's contract with the central services agent. In particular the Authority requests information relating to:

- Any clauses within the BSCCo's contract with the central services agent that contain information relating to any charges incurred by the BSCCo or industry participants for early termination of the contract; and

¹ Section P of BSC defines a ECVAA system failure is 'a breakdown of the system that results in the ECVAA not being able to receive volume notifications submitted to it by all or any volume notification agents, and/or send within 20 minutes a confirmation receipt'. In this situation Users are permitted to re-submit notifications.

- any charges or restrictions that would be applied on the BSCCo or industry participants if they were to contract for this service with another provider.

The Authority considers this information to be 'relevant information' necessary for the purpose of performing its functions and requests this information pursuant to paragraph 3.6 of Section C of the BSC. The Authority considers that the contract between the BSCCo and the central services agent was produced and created pursuant to paragraph 3.6 of Section C of the BSC, which enables the Authority to request information that is "produced or created pursuant to the Code".

Ofgem would request that the information detailed in this letter be provided in electronic format to GB.Markets@ofgem.gov.uk, by **5:00pm on Friday, 14 November 2008**.

If you wish to discuss any of the issues associated with this formal information request, please contact Richard Holmwood on 020 7901 7262.

Yours sincerely,



Mark Feather
Director, Industry Codes and Licensing

Cc Dorcas Batstone, Head of Stakeholder Assurance, Elexon and Ian Marlee, Director of Trading Arrangements, Ofgem.