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<b>Meeting name</b>	BSC Panel
<b>Date of meeting</b>	13 December 2007
<b>Paper title</b>	Recommendation to raise a Modification Proposal: Amendments to the BSC to reflect changes to the Fuel Security Code
<b>Purpose of paper</b>	For Decision
<b>Synopsis</b>	<p>The Panel is required to raise a Modification Proposal to give effect to the revised Fuel Security Code. In support of this ELEXON has prepared a Modification Proposal and the associated text to amend the BSC. ELEXON has subsequently undertaken the requisite consultation with the Secretary of State and the Authority. The Panel is therefore invited to:</p> <p><i>Raise the necessary Modification Proposal; and</i></p> <p><i>Submit the Modification Proposal direct to the Report Phase, with the recommendation that the Proposed Modification be made.</i></p>

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## **1 Background**

- 1.1 The Fuel Security Code (FSC) sets out the framework within which the Secretary of State may exercise the powers contained in sections 34 and 35 of the Electricity Act 1989 (the "Act"), during a Fuel Security Period and provides, amongst other things, market participants with information as to how those effected by the exercise of those powers will be remunerated as a result of the Secretary of State's actions.
- 1.2 During a Fuel Security Period the Secretary of State has the power to direct a generator as to the manner in which it is to use fuel stocks and other materials, as well as the way in which it is to operate its generation business. Furthermore, the Secretary of State has the power to direct the Transmission Company to operate the Transmission System in a specified manner during a Fuel Security Period.
- 1.3 In October 2007 an updated version of the FSC was designated (superseding the version designated in 1999) as a result of a review conducted by the Department for Business, Enterprise & Regulatory Reform (BERR). Guidance to the updated FSC was also provided and both documents can be found here:
- <http://www.berr.gov.uk/energy/reliability/downstream/page30313.html>
- 1.4 The revisions made in the October 2007 FSC enable participants to comply with the directions of the Secretary of State with minimum interference to the market. The most relevant change to the FSC for BSC purposes are changes to the manner in which costs incurred by generators during to a Fuel Security Period (referred to as 'exceptional costs') can be recovered by generators.
- 1.5 The FSC guidance is provided to assist the reader in understanding the reasons for and background to the FSC. The guidance describes the roles of Ofgem, the industry (with reference to industry Codes), National Grid, the Government and the Joint Response Team under a Fuel Security Period. The guidance also provides a description of the expected operational activities including the issuing of directions and provisions of information to National Grid. Finally the guidance describes how cost recovery might occur, noting that generator cost recovery is through

the BSC Panel (but not proscribing the process) from a cost recovery mechanism from Supplier Trading Parties in a manner to be determined by Ofgem.

## 2 Impact on the BSC

- 2.1 The BSC currently contains provisions which take effect when a Fuel Security Period has been declared including arrangements to compensate generators via Generator Compensation Instructions.
- 2.2 As a result of the recent changes to the FSC, consequential changes to the BSC will be required. It is important to remember that during a Fuel Security Period, the provisions of the BSC are superseded by the FSC, so should a Fuel Security Period occur, the current FSC would come into effect regardless of the BSC provisions. However in order to promote the efficient implementation and administration of the BSC, the BSC should correctly reflect the FSC. This is consistent with Applicable BSC Objective (d).
- 2.3 The need to amend the BSC following the review of the FSC is explicitly recognised in the BSC (G 1.5). The Panel is required to propose a modification to the Code which, in the opinion of the Panel, on the recommendation of BSCCo and after consultation with the Secretary of State and the Authority, supports and/or reflects the revised arrangements.

## 3 Issue 20 Group

- 3.1 The Issue 20 Group was established on 26 October 2005, after a request from Gaz de France, to consider the changes being proposed for the FSC and allow BSC Parties to provide feedback to the DTI (and subsequently BERR). The Group met twice and provided input to the DTI during the course of the following two years at each point when a revised FSC was being suggested by the DTI. The list of Issue 20 Group members and attendees is included as Appendix 1.
- 3.2 BERR wrote to the Issue 20 Group, via ELEXON, when the FSC was designated to provide a response to the feedback provided by the Group. ELEXON circulated the revised FSC, the revised FSC guidance and the letter from BERR along with the draft legal text for revising the BSC to the Issue 20 Group. ELEXON recommended that Issue 20 be closed and all Issue 20 Group members who responded agreed. ELEXON received a query from two Issue Group members regarding the revised FSC provisions and the BSC legal text but after discussion, agreed that no revisions to the draft text were required.
- 3.3 ELEXON noted to the Issue Group that we would ask the Panel to raise a Modification to implement the FSC provisions within the BSC and seek a recommendation to send such a Modification direct to the Report Phase. It was noted that, should any Party wish to discuss matters arising from the revised FSC (e.g. to develop further the concepts within the FSC guidance), they should contact ELEXON in order that a new Issue can be considered and targeted at those specific areas.
- 3.4 ELEXON will publish a note in Newscast to communicate that a Modification consultation will be sent regarding the BSC changes arising from the FSC. ELEXON will clarify that the text simply reflects the provisions of the FSC and therefore if any Party believes there are any other areas for consideration that they contact ELEXON to discuss how these should be addressed.

## 4 Consultation with the Secretary of State and the Authority

- 4.1 Section G1.5.3 requires the Panel to propose a Modification to the BSC following the review of the FSC and to do so after consultation with the Secretary of State and the Authority. ELEXON provided the draft legal text to the BERR (who confirmed that this would fulfil the obligation to consult with the Secretary of State) and the Authority.
- 4.2 Both BERR and the Authority have confirmed that they believe a Modification Proposal and the draft legal text should be submitted to the Modification process. The responses are included as Attachments B (BERR response) and C (Authority response) to this paper.
- 4.3 BERR requested that they be provided with any revised text that arises from an industry consultation to ensure they agree that it still reflects the FSC provisions. ELEXON will liaise with BERR on any text with a view to ensuring any such further confirmation, if required, is received before the Panel provides its final recommendation to the Authority.
- 4.4 The Authority has a specific role in making the final determination on Modification Proposals and would therefore look to the confirmation from ELEXON, BERR, BSC Parties and the Panel that the changes made reflect the FSC provisions.

## 5 Proposed Modification

- 5.1 A draft Modification Proposal is enclosed (Attachment A) and associated draft legal text (Attachment F) to deliver the changes arising from the revised FSC. If raised, this Modification will become P221 (assuming no urgent Modification is raised before the next Panel meeting).
- 5.2 The Modification seeks to revise Section G of the Code to align with the following provisions from the FSC:
- Confirm those definitions that shall have the meaning ascribed to the terms in the FSC;
  - Applications For Recovery Of Exceptional Costs and timeframe for such applications;
  - Confirm Party obligations in assisting the Panel with cost recovery applications; and
  - Establish Panel interactions with the Authority in processing cost recovery applications.
- 5.3 The Modification also updates BSC Section:
- G1.5 to note that revisions to the BSC may arise from future amendments of the arrangements relating to Sections 35, 36 and 96 of the Electricity Act; and
  - X to remove the term 'Generator Compensation Instruction' as the term no longer has meaning under the FSC.

## 6 Rationale for recommendation to raise and proceed to Report Phase

- 6.1 Whilst the Panel is required to raise such a Modification under Section G 1.5.3 of the Code, it is felt that the proposed changes to the BSC would better facilitate the achievement of Applicable BSC Objective d): *The promotion of efficiency in the implementation and administration of the balancing and settlement arrangements* as the Proposed Modification would be aligning the requirements of the FSC within the BSC.

6.2 As this Modification merely seeks to align the BSC with the revised FSC it is recommended that the Modification Proposal is submitted directly to the Report Phase. A draft Modification Report and consultation questions are included as Attachments D and E respectively.

6.3 As the changes are only to the text of the BSC and given that the FSC provisions are already in place it is recommended that this Modification is implemented 1 Working Day after an Authority decision is received.

## 7 Recommendations

7.1 The Panel is invited to:

- a) **NOTE** that Issue 20 has been closed; and
- b) **NOTE** the responses from BERR and the Authority regarding the draft BSC legal text; and
- c) **AGREE** to raise a Modification Proposal, in accordance with Section G1.5.3 of the BSC, to reflect changes arising from the review of the Fuel Security Code; and
- d) **AGREE** to submit the Modification Proposal direct to the Report Phase; and
- e) **AGREE** a provisional recommendation that the Proposed Modification should be made; and
- f) **AGREE** a provisional implementation date of 1 Working Day after an Authority decision is received; and
- g) **AGREE** the legal text for Proposed Modification P221.

**David Jones**

### Change Delivery

#### ***Appendices***

Appendix 1 – List of Issue 20 Group members/attendees

#### ***List of attachments***

Attachment A – Modification Proposal

Attachment B – Letter from BERR

Attachment C – Letter from Ofgem

Attachment D – draft Modification Report

Attachment E – Consultation question form

Attachment F – draft Legal text

**Appendix 1 – List of Issue 20 Group members/attendees**

Member	Organisation	Email & Phone	03/11/05	16/01/07
Sarah Jones	ELEXON (Chairman)	sarah.jones@elexon.co.uk	✓	x
Kathryn Coffin	ELEXON (Chairman)	kathryn.coffin@elexon.co.uk	x	✓
Geoffrey Sekyere-Afriyie	ELEXON (Lead Analyst)	geoffrey.sekyereafriyi@elexon.co.uk	✓	x
Ysanne Hills	ELEXON (Lead Analyst)	ysanne.hills@elexon.co.uk	x	✓
Garth Graham	Scottish and Southern	garth.graham@scottish-southern.co.uk	✓	✓  (part)
Bill Reed	Npower	bill.reed@rwe.com	✓	✓
Mark Manley	BGT	Mark.Manley@centrica.co.uk		
Man Kwong Liu	Scottish Power	MAN.KWONG.LIU@saic.com	✓	✓
Martin Mate	British Energy Generation Lt	martin.mate@british-energy.com	✓	x
Lisa Waters	Waters Wye	lisa@waterswye.co.uk	x	✓
Ben Sheehy	E.ON UK	Ben.sheehy@eon-uk.com	x	✓
Dave Wilkerson	Centrica	Dave.wilkerson@centrica.com	x	✓
John Morris	British Energy	John.morris@british-energy.com	x	✓ 