

MODIFICATION REPORT for Modification Proposal P221 'Amendments to the BSC to reflect the revised Fuel Security Code (FSC)'

Prepared by: ELEXON¹ on behalf of the BSC Panel

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This document has been distributed in accordance with Section F2.1.10 of the Balancing and Settlement Code.²

Proposed Modification P221 seeks to amend the BSC to reflect the changes made to the Fuel Security Code (FSC), as designated on 22 October 2007.

No Alternative Modification has been developed.

BSC PANEL'S RECOMMENDATIONS

Having considered and taken into due account the contents of the P221 draft Modification Report, the BSC Panel recommends:

- **that Proposed Modification P221 should be made;**
- **an Implementation Date for Proposed Modification P221 of 1 Working Day after an Authority decision; and**
- **the proposed text for modifying the Code, as set out in the Modification Report.**

¹ ELEXON Ltd fulfils the role of the Balancing and Settlement Code Company ('BSCCo').

² The current version of the Code can be found at <http://www.elexon.co.uk/bscrelateddocs/BSC/default.aspx>

CONTENTS TABLE

Summary of Impacted Parties and Documents	3
1 Description of Modification	4
1.1 Proposed Modification	4
2 Implementation Approach and Costs.....	4
2.1 Proposed Modification	4
3 Rationale for the panel's Recommendations TO THE AUTHORITY	5
3.1 Assessment of Proposed Modification Against Applicable BSC Objectives	5
3.2 Implementation Date	5
3.3 Legal Text.....	5
4 Rationale for Panel's Recommendations to the Authority.....	5
4.1 Results of Report Phase Consultation.....	5
4.2 Panel's Consideration of Draft Modification Report	7
4.3 Panel's Final Recommendation to the Authority	7
5 Terms Used in this Document	7
6 Document Control	7
6.1 Authorities	7
6.2 References.....	8
Appendix 1: Legal Text	9
Appendix 2: Process Followed	9
Appendix 3: Results of Impact Assessment.....	9
Appendix 4: Report Phase Consultation Responses	10

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SUMMARY OF IMPACTED PARTIES AND DOCUMENTS

As far as BSCCo has been able to assess, the following parties/documents would be impacted by P221.

Please note that this table represents a summary of the full impact assessment results contained in Appendix 3.

Parties	Sections of the BSC	Code Subsidiary Documents
Distribution System Operators <input type="checkbox"/>	A <input type="checkbox"/>	BSC Procedures <input type="checkbox"/>
Generators <input checked="" type="checkbox"/>	B <input type="checkbox"/>	Codes of Practice <input type="checkbox"/>
Interconnectors <input checked="" type="checkbox"/>	C <input type="checkbox"/>	BSC Service Descriptions <input type="checkbox"/>
Licence Exemptable Generators <input type="checkbox"/>	D <input type="checkbox"/>	Party Service Lines <input type="checkbox"/>
Non-Physical Traders <input checked="" type="checkbox"/>	E <input type="checkbox"/>	Data Catalogues <input type="checkbox"/>
Suppliers <input checked="" type="checkbox"/>	F <input type="checkbox"/>	Communication Requirements Documents <input type="checkbox"/>
Transmission Company <input checked="" type="checkbox"/>	G <input checked="" type="checkbox"/>	Reporting Catalogue <input type="checkbox"/>
Party Agents	H <input type="checkbox"/>	Core Industry Documents
Data Aggregators <input type="checkbox"/>	I <input type="checkbox"/>	Ancillary Services Agreement <input type="checkbox"/>
Data Collectors <input type="checkbox"/>	J <input type="checkbox"/>	British Grid Systems Agreement <input type="checkbox"/>
Meter Administrators <input type="checkbox"/>	K <input type="checkbox"/>	Data Transfer Services Agreement <input type="checkbox"/>
Meter Operator Agents <input type="checkbox"/>	L <input type="checkbox"/>	Distribution Code <input type="checkbox"/>
ECVNA <input type="checkbox"/>	M <input type="checkbox"/>	Distribution Connection and Use of System Agreement <input type="checkbox"/>
MVRNA <input type="checkbox"/>	N <input type="checkbox"/>	Grid Code <input type="checkbox"/>
BSC Agents	O <input type="checkbox"/>	Master Registration Agreement <input type="checkbox"/>
SAA <input type="checkbox"/>	P <input type="checkbox"/>	Supplemental Agreements <input type="checkbox"/>
FAA <input type="checkbox"/>	Q <input type="checkbox"/>	Use of Interconnector Agreement <input type="checkbox"/>
BMRA <input type="checkbox"/>	R <input type="checkbox"/>	BSCCo
ECVAA <input type="checkbox"/>	S <input type="checkbox"/>	Internal Working Procedures <input type="checkbox"/>
CDCA <input type="checkbox"/>	T <input type="checkbox"/>	BSC Panel/Panel Committees
TAA <input type="checkbox"/>	U <input type="checkbox"/>	Working Practices <input type="checkbox"/>
CRA <input type="checkbox"/>	V <input type="checkbox"/>	Other
SVAA <input type="checkbox"/>	W <input type="checkbox"/>	Market Index Data Provider <input type="checkbox"/>
Teleswitch Agent <input type="checkbox"/>	X <input checked="" type="checkbox"/>	Market Index Definition Statement <input type="checkbox"/>
BSC Auditor <input type="checkbox"/>		System Operator-Transmission Owner Code <input type="checkbox"/>
Profile Administrator <input type="checkbox"/>		Transmission Licence <input type="checkbox"/>
Certification Agent <input type="checkbox"/>		
Other Agents		
Supplier Meter Registration Agent <input type="checkbox"/>		
Unmetered Supplies Operator <input type="checkbox"/>		
Data Transfer Service Provider <input type="checkbox"/>		

1 DESCRIPTION OF MODIFICATION

For a full description of the original Modification Proposal as submitted by the BSC Panel ('the Proposer'), and the background to the proposal, please refer to Panel paper 134/07 (Reference 1 in section 6.2) which constitutes the Initial Written Assessment (IWA) for P221. P221 seeks only to align the BSC with the FSC and does not seek to develop any further detail on the processes underlying a Fuel Security period that are not further developed within the FSC itself.

1.1 Proposed Modification

P221 seeks to revise the BSC to reflect the changes made to the FSC on 22 October 2007 (Reference 2). As the FSC is a higher legislative document, the BSC should be revised to ensure consistency across the two governance arrangements.

P221 seeks to align the BSC with the FSC by making the following revisions to Section G of the Code:

- Confirming those definitions that shall have the meaning ascribed to the terms in the FSC;
- Creating a process for applications for recovery of Exceptional Costs and setting out the timeframe for such applications;
- Creating Party obligations in assisting the Panel with Exceptional Cost recovery applications; and
- Describing the Panel's interaction with the Authority in processing Exceptional Cost recovery applications.

P221 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 sections 1 to 4 of the Energy Act 1976; and
- X to remove the term 'Generator Compensation Instruction' as the term no longer has meaning under the FSC.

It should be noted that if a Fuel Security period occurs whilst the BSC changes are awaiting amendment, the provisions of the FSC shall take precedence.

2 IMPLEMENTATION APPROACH AND COSTS

2.1 Proposed Modification

The only identified costs associated with the change are those of Elexon in administering the Modification process and revising the legal text.

a) BSC Agent Impact

No impact.

b) BSC Party and Party Agent Impact

No impact.

c) Transmission Company Impact

No impact.

d) BSCCo Impact

BSCCo will progress the changes and apply the revised text.

3 RATIONALE FOR THE PANEL'S RECOMMENDATIONS TO THE AUTHORITY

This section summarises the recommendations of the Panel.

3.1 Assessment of Proposed Modification Against Applicable BSC Objectives

The Panel considered the recommendation contained in the draft Modification Proposal that, as well as being obliged to progress a Modification in accordance with Section G of the Code, this Modification will align the BSC with the provisions of the FSC. It was therefore agreed that this Modification better facilitates Applicable Objectives:

- (a) *'The efficient discharge by the Transmission Company of the obligations imposed under the Transmission Licence';*
- (b) *'The efficient, economic and co-ordinated operation by the Transmission Company of the Transmission System';*
- (d) *'Promoting efficiency in the implementation and administration of the balancing and settlement arrangements'.*

3.2 Implementation Date

As P221 simply seeks to amend the BSC to reflect the revised FSC, the Panel agreed the following recommended implementation approach for P221:

- An Implementation Date for the Proposed Modification of 1 Working Day after an Authority decision

3.3 Legal Text

The draft legal text for P221 has been drafted and reviewed by ELEXON. The text was provided to the Issue 20 Group for information³. In accordance with Section G 1.3.5 of the BSC, the draft legal text was provided to both the Authority and the department for Business Enterprise and Regulatory Reform (BERR, formerly the Department for Trade and Industry (DTI)) as part of a pre-Modification consultation exercise. Both bodies have noted no reason why the Modification Proposal and draft legal text should not be submitted to the Modification process for industry consultation. There were minor revisions to the legal text arising from the Report Phase consultation (see section 4.1) and these were provided to BERR for comment. BERR confirmed that they are satisfied that the text adequately reflects the FSC.

4 RATIONALE FOR PANEL'S RECOMMENDATIONS TO THE AUTHORITY

4.1 Results of Report Phase Consultation

There were seven responses received to the P221 consultation all representing BSC Parties (no responses were received from non BSC Parties). The tables below summarises the responses against each question:

Q	Question	Yes	No
1.	Do you agree with the Panel's provisional recommendation to the Authority contained in the draft Modification Report that Proposed	7	0

³ Issue 20 'Fuel Security Code' was raised in October 2005 to ensure any changes to the FSC would be reflected in the BSC.

	Modification P221 should be made? Please give rationale.		
2.	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P221 (i.e. 1WD after Authority approval)? Please give rationale.	7	0
3.	Do you agree with the Panel's view that the legal text provided in the draft Modification Report delivers the solution for P221? Please give rationale.	7	0
4.	Are there any further comments on P221 that you wish to make?	4 (see below)	3

All respondents agreed with the Panel recommendation that P221 should be made and that the implementation date should be 1 Working Day after Authority approval has been provided.

Two respondents provided comments on the legal text. Both respondents commented that some of the detail contained in Section 5.04 of the FSC relating to the Lead Party making a compensation claim was not reflected within the legal text. ELEXON confirmed that the details should be reflected within the BSC and a paragraph had actually been omitted in error from a previous version of the legal text. In translating the earlier versions of the draft text to the "Legal Text" format we omitted to bring across the relevant paragraph. ELEXON has reinserted the paragraph (which is paragraph 5.4.1).

One respondent commented that a reference to Section 35 of the Act was not contained within the BSC but was within the FSC. ELEXON confirmed with the respondent that our original understanding was that the reference to 'Section 35 of the Act' (5.02 of the FSC), is not needed. This point was discussed with BERR prior to P221 being raised and it was noted that Section 35 relates to the giving of information by the Transmission Company and the operation of the Transmission System in a specified manner by the Transmission Company (as directed by the Secretary of State) when a direction under 34(4) is in place. Discussions with respondents highlighted that, due to the broad nature of the FSC, it is believed that there is a possibility where the provision of such information could lead to Exceptional Costs being incurred. Any claim would of course have to be proven. Therefore the reference to Section 35 has been included in the legal text. The final version of the legal text has been reviewed and included as Attachment 1 to this report. Both respondents confirmed this addressed the comments in relation to these matters.

The aforementioned respondents made a few further comments. An incorrect cross reference was noted and has been corrected. One respondent commented on the formatting of the paragraphs in the legal text but was advised that the formatting followed normal Code conventions. Both respondents are happy that the legal text therefore delivers the P221 Modification Proposal.

ELEXON provided a copy of the comments and the corrected legal text to BERR who have confirmed that they are satisfied that the text adequately reflects the FSC.

Four respondents noted further comments in relation to P221. One respondent highlighted their comments on the legal text as discussed in the previous paragraphs.

Akin to the Panel discussions in December two respondents confirmed that they would like to see a new issue raised under Section F to allow industry discussion of the processes surrounding recovery of Exceptional Costs (for example the Panel role and process, communication processes, interim claims, likely mechanism for recovering costs of payment from Suppliers). One respondent suggested that the FSC guidance and the BERR letter to ELEXON would be useful to base these discussions around and the other respondent suggested that, as a result, guidance could be produced by ELEXON and Ofgem. **It is therefore suggested that the Panel agrees to raise a new Issue to consider the recovery of Exceptional Costs processes.**

Finally one respondent made the following observations on the report. The respondent made two observations which are an FSC matter and these have been noted to BERR. Firstly it was noted that the FSC only applies to generators operating under a generation licence and therefore licence exemptible generators are excluded from the FSC provisions within the BSC. Secondly it was noted that there may arise circumstances when BM Units might be affected by the limitation of bid-offer prices to historical values but these BM Units may not be subject to a Fuel Security direction and therefore not able to claim Exceptional Costs. Finally the respondent observed a typo and suggested amendments to the draft report. The typo has been corrected and the wording amended.

The full list of Report Phase consultation responses is included in Appendix 5.

4.2 Panel's Consideration of Draft Modification Report

The Panel noted the unanimous support from consultation responses for the recommendation that P221 be made, the implementation date and the final version of the legal text. The Panel reconfirmed their unanimous view that P221 better facilitates Applicable BSC Objectives (a), (b) and (c) as set out in Section 3.1. The Panel agreed to raise a standing Issue to consider the FSC guidance, this will be progressed outside of the P221 process.

4.3 Panel's Final Recommendation to the Authority

On the basis of the above discussions the Panel UNANIMOUSLY agreed a recommendation to the Authority that the Proposed Modification SHOULD be made.

The Panel agreed the following recommended implementation approach for P221:

- An Implementation Date of 1 Working Day after an Authority decision is received.

The Panel agreed the legal text for modifying the Code in respect of the Proposed Modification, as provided in Appendix 1.

5 TERMS USED IN THIS DOCUMENT

Other acronyms and defined terms take the meanings defined in Section X of the Code.

Acronym/Term	Definition
BERR	Department for Business Enterprise and Regulatory Reform (formerly the Department of Trade and Industry (DTI))
FSC	Fuel Security Code

6 DOCUMENT CONTROL

6.1 Authorities

Version	Date	Author	Reviewer	Reason for Review
0.1	01/12/07	David Jones	John Lucas/Chris Rowell	For technical/quality review
0.2	13/12/07	BSCCo	BSC Panel	For review
0.3	17/12/07	BSC Panel	BSC Parties and other interested parties	For consultation
0.4	11/01/08	Change Delivery	BSC Panel	For Panel decision
1.0	21/01/08	BSC Panel		For Authority decision

6.2 References

Ref.	Document Title	Owner	Issue Date	Version
1	Panel Paper 134/07: 'Recommendation to raise a Modification Proposal: Amendments to the BSC to reflect changes to the Fuel Security Code' http://www.elexon.co.uk/bscpanelandcommittees/panelmeetings/Papers.aspx?category_id=3045&meeting_number=134&date=13/12/2007	BSC Panel	07/12/07	1.0
2	Fuel Security Code, October 2007 http://www.berr.gov.uk/energy/reliability/downstream/page30313.html	BERR	22/10/07	1.0

APPENDIX 1: LEGAL TEXT

Draft legal text for the Proposed Modification is attached as a separate document, Attachment 1.

APPENDIX 2: PROCESS FOLLOWED

Copies of all documents referred to in the table below can be found on the BSC Website at: [ELEXON - Modification Proposal P221](#)

Date	Event
13/12/07	Modification Proposal raised by BSC Panel
17/12/07	Draft Modification Report issued for industry consultation
04/01/08	Report Phase consultation responses returned
17/01/08	Draft Modification Report presented to the Panel
21/01/08	Final Modification Report issued to the Authority for decision

ESTIMATED COSTS OF PROGRESSING MODIFICATION PROPOSAL⁴

Meeting Cost	£ 0
Legal/Expert Cost	£ 0
Impact Assessment Cost	£ 0
ELEXON Resource	12 man days* £ 3,930

These include costs that have been incurred by BSCCo through the preparatory work prior to raising P221 (e.g. through consultation with the Authority/BERR).

APPENDIX 3: RESULTS OF IMPACT ASSESSMENT

As P221 seeks to reflect the provisions of the revised FSC any impacts on Parties do not arise directly from these BSC changes but from the changes already made by the FSC.

a) Impact on BSC Systems and Processes

No impact.

b) Impact on BSC Agent Contractual Arrangements

No impact.

⁴ Clarification of the meanings of the cost terms in this appendix can be found on the BSC Website at the following link: http://www.elexon.co.uk/documents/Change_and_Implementation/Modifications_Process_-_Related_Documents/Clarification_of_Costs_in_Modification_Procedure_Reports.pdf

c) Impact on BSC Parties and Party Agents

No impact.

d) Impact on Transmission Company

No impact.

e) Impact on BSCCo

BSCCo will be responsible for applying and communicating the changes. It is likely that Parties may wish to clarify matters within the FSC guidance as part of a standing issue.

f) Impact on Code

Code Section	Impact of Proposed/Alternative Modification
Section G	<p>Section G 1.5 will be updated 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.</p> <p>Section G 5 will be updated to reflect the FSC provisions for recovery of Exceptional Costs.</p>
Section X	The term 'Generator Compensation Instruction' will be removed from Section X.

A copy of the draft legal text to give effect to these changes can be found in Appendix 1.

g) Impact on Code Subsidiary Documents

No impact.

h) Impact on Core Industry Documents/System Operator-Transmission Owner Code

No impact.

i) Impact on Other Configurable Items

No impact.

j) Impact on BSCCo Memorandum and Articles of Association

No impact.

k) Impact on Governance and Regulatory Framework

No impact.

APPENDIX 4: REPORT PHASE CONSULTATION RESPONSES

The full list of Report Phase consultation responses is attached as a separate document, Attachment 2.