

Responses from P221 Report Phase Consultation

Consultation Issued on 17 December 2007

Representations were received from the following parties

No	Company	File number	No BSC Parties Represented	No Non-Parties Represented
1.	National Grid	P221_dMR_01	1	0
2.	SAIC (on behalf of Scottish power)	P221_dMR_02	7	0
3.	E.ON UK plc	P221_dMR_03	5	0
4.	RWE Trading	P221_dMR_04	10	0
5.	Centrica	P221_dMR_05	9	0
6.	Scottish and Southern	P221_dMR_06	6	0
7.	British Energy	P221_dMR_07	5	0

P221 REPORT PHASE CONSULTATION QUESTIONS

BSC Parties ("Parties") and other interested parties are invited to respond to this consultation expressing their views or provide any further evidence on any of the matters contained within this document. In particular views are sought in respect of the following questions. Parties are invited to supply the rationale for their responses.

Respondent:	Rob Smith
Company Name:	National Grid
No. of BSC Parties Represented	1
Parties Represented	
No. of Non BSC Parties Represented	
Non Parties represented	
Role of Respondent	GB System Operator, Transmission System operator
Does this response contain confidential information?	

Q	Question	Response ¹	Rationale
1.	Do you agree with the Panel's provisional recommendation to the Authority contained in the draft Modification Report that Proposed Modification P221 should be made? Please give rationale.	Yes	
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.	Yes	The Fuel Security Code has been designated and as such is in place now. Changes to the BSC are predominantly for consistency and will have no bearing on the ability of the FSC to function. As such it seems appropriate to implement the changes as soon as is practicable
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.	Yes	

P221 REPORT PHASE CONSULTATION

Q	Question	Response ¹	Rationale
4.	Are there any further comments on P221 that you wish to make?	No	

P221 REPORT PHASE CONSULTATION QUESTIONS

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Respondent:	Man Kwong Liu
Company Name:	
No. of BSC Parties Represented	7
Parties Represented	<i>Please list all BSC Party names of Parties responding on behalf of (including the respondent company if relevant).</i> ScottishPower Energy Management Ltd, ScottishPower Generation Ltd, ScottishPower Energy Retail Ltd, SP Transmission Ltd, SP Manweb plc, SP Distribution Ltd, CRE Energy Limited
No. of Non BSC Parties Represented	0
Non Parties represented	<i>Please list all non Parties responding on behalf of (including the respondent company if relevant).</i>
Role of Respondent	<i>(Supplier/Generator/ Trader / Consolidator / Exemptable Generator / BSC Agent / Party Agent / Distributor / other – please state ¹)</i> Supplier/Generator/ Trader / Consolidator / Exemptable Generator /distributors
Does this response contain confidential information?	No

Q	Question	Response ¹	Rationale
1.	Do you agree with the Panel's provisional recommendation to the Authority contained in the draft Modification Report that Proposed Modification P221 should be made? Please give rationale.	Yes	ScottishPower agree with the view that the change is an obligation in the BSC and would align and give clarity to BSC parties potentially affected by the FSC directions. Such alignment and clarity would promote competition and give administrative efficiency.
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.	Yes	Alignment should be done as soon as possible.

¹ Delete as appropriate – please do not use strikethrough, this is to make it easier to analyse the responses

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Q	Question	Response ¹	Rationale
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.	Yes	The Legal text appears appropriate.
4.	Are there any further comments on P221 that you wish to make?	No	

Please send your responses by **12:00 on Friday 4 January 2007** to modification.consultations@elexon.co.uk and please entitle your email '**P221 Report Phase Consultation**'. Please note that any responses received after the deadline may not receive due consideration by the Panel.

Any queries on the content of the consultation pro-forma should be addressed to David Jones on 020 7380 4213, email address david.jones@elexon.co.uk.

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Respondent:	Ben Sheehy
Company Name:	E.ON UK plc
No. of BSC Parties Represented	5
Parties Represented	E.ON UK plc, Powergen Retail Limited, Citigen London Limited, Economy Power, Enfield Energy Centre
No. of Non BSC Parties Represented	0
Non Parties represented	-
Role of Respondent	Supplier, Generator, Trader, Consolidator, Exemptible Generator
Does this response contain confidential information?	No

Q	Question	Response ¹	Rationale
1.	Do you agree with the Panel's provisional recommendation to the Authority contained in the draft Modification Report that Proposed Modification P221 should be made? Please give rationale.	Yes	The modification is clearly essential.
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.	Yes	
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.	Yes	The text concisely captures the requirements of the new process for recovering exceptional costs.

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Q	Question	Response ¹	Rationale
4.	Are there any further comments on P221 that you wish to make?	No	

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Respondent:	Name: Bill Reed
Company Name:	RWE Trading
No. of BSC Parties Represented	10
Parties Represented	<i>Please list all BSC Party names of Parties responding on behalf of (including the respondent company if relevant).</i> RWE Trading GmbH, RWE Npower plc, Great Yarmouth Power Ltd, Npower Cogen Trading Ltd, Npower Direct Ltd, Npower Ltd, Npower Northern Ltd, Npower Northern Supply Ltd, Npower Yorkshire Ltd, Npower Yorkshire Supply Ltd
No. of Non BSC Parties Represented	None
Non Parties represented	Please list all non Parties responding on behalf of (including the respondent company if relevant).
Role of Respondent	(Supplier/Generator/ Trader / Consolidator / Exemptable Generator / BSC Agent / Party Agent / Distributors / other – please state): Supplier/Generator/ Trader / Consolidator / Exemptable Generator / Party Agent
Does this response contain confidential information?	No

Q	Question	Response ¹	Rationale
1.	Do you agree with the Panel's provisional recommendation to the Authority contained in the draft Modification Report that Proposed Modification P221 should be made? Please give rationale.	Yes	We support the proposed change to the BSC to ensue that Section G conforms to the new Fuel Security Code.
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.	Yes	

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Q	Question	Response ¹	Rationale
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.	Yes	
4.	Are there any further comments on P221 that you wish to make?	Yes	We would urge further consideration, possibly in an Issue Group, of the process for cost recovery introduced under the BSC to ensure that there is a robust mechanism for the recovery of exceptional cost. This should address, amongst other things, the claims process, the verification of claims and the nature of the charge for suppliers envisaged under the Fuel Security Code. In this context it may be appropriate for some form of guidance note to be produced by both Elexon and Ofgem.

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Respondent:	Merel van der Neut Kolfshoten
Company Name:	Centrica
No. of BSC Parties Represented	9
Parties Represented	Accord Energy Ltd; British Gas Trading Ltd; Centrica Barry Ltd; Centrica Brigg Ltd; Centrica KL Ltd; Centrica KPS Ltd; Centrica PB Ltd; Centrica RPS Ltd; Centrica SHB Ltd
No. of Non BSC Parties Represented	n/a
Non Parties represented	n/a
Role of Respondent	Supplier/Generator/Trader
Does this response contain confidential information?	No

Q	Question	Response ¹	Rationale
1.	Do you agree with the Panel's provisional recommendation to the Authority contained in the draft Modification Report that Proposed Modification P221 should be made? Please give rationale.	Yes	We believe that the BSC should be revised to ensure consistency with the recently amended Fuel Security Code (FSC). In that respect P221 will facilitate the achievement of the applicable BSC objectives, in particular BSC objective D: promotion of efficient implementation and administration of the BSC.
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.	Yes	As P221 does not require any changes to systems or processes, we are happy with an implementation date of 1 working day after the Authority decision.

Q	Question	Response ¹	Rationale
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.	Yes/No	Please see comments below.
4.	Are there any further comments on P221 that you wish to make?	Yes	<p>We would like to make the following two points regarding the draft legal text (version 6):</p> <p>1) The FSC (version 22 October 2007) section 5.04 contains further details on <u>how</u> an application should be made. According to the FSC the Lead Party should provide to the Panel (1) a written statement of the circumstances in which the Generator considers that it has incurred Exception Costs (signed by a director of the relevant Generator) and (2) the amount of exceptional costs. In addition, the Lead Party must provide a copy of the application to the Authority.</p> <p>According to the draft legal text (section 5.4) the Panel can <u>ask</u> for information from the Lead Party. However, it would be more efficient and the process would be clearer if the Lead Party has an obligation to provide the information in the first place. We would therefore recommend aligning the BSC with the FSC.</p> <p>2) Section 5.02 (a) of the FSC refers to both section 34 and section 35 of the Act. This section is included in section 5.2.1 (a) of the draft legal text, but without the reference to section 35 of the Act.</p> <p>As a Generator could incur Exceptional Cost as a result of a direction/directions by the Secretary of State under both sections, we would recommend including a reference to section 35 of the Act in the draft legal text (section 5.2).</p>

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P221 REPORT PHASE CONSULTATION QUESTIONS

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Respondent:	<i>Garth Graham</i>
Company Name:	
No. of BSC Parties Represented	6
Parties Represented	Scottish and Southern Energy, Southern Electric, Keadby Generation Ltd., Medway Power Ltd., SSE (Ireland) Ltd. and SSE Energy Supply Ltd.
No. of Non BSC Parties Represented	
Non Parties represented	<i>Please list all non Parties responding on behalf of (including the respondent company if relevant).</i>
Role of Respondent	<i>(Supplier/Generator/ Trader / Consolidator / Exemptable Generator / BSC Agent / Party Agent / Distributor / other – please state¹)</i>
Does this response contain confidential information?	

Q	Question	Response ¹	Rationale
1.	Do you agree with the Panel's provisional recommendation to the Authority contained in the draft Modification Report that Proposed Modification P221 should be made? Please give rationale.	Yes	Now that the Fuel Security Code has been designated the BSC is (understandably) no longer compliant and needs to be updated to reflect the new Fuel Security Code. The proposed modification P221 would achieve this and clearly, therefore, better achieves the applicable BSC Objectives.
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.	Yes	This change should be reflected into the BSC at the earliest practical opportunity and therefore 1 working day is appropriate in this case

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Q	Question	Response ¹	Rationale
3.	<p>Do you agree with the Panel's view that the legal text provided in the draft Modification Report delivers the solution for P221?</p> <p>Please give rationale.</p>		<p>The reference in 5.2.1 (b) (i) to "5.4.1" appears to be incorrect.</p> <p>Firstly, paragraph 5.4.1 refers to the Lead Party providing assistance to the Panel in their assessment of the Lead Party's application which is made under 5.2, as it says in 5.3.1 (or is it "5.2.1" - see below).</p> <p>Secondly, 5.4.1 refers to the assistance which the Panel "may from time to time request". If the Panel did not make such a request then the Lead Party would have no obligation (under 5.4.1) to specify a sum (which is required for 5.2.1 (b) (i) to function). Therefore should 5.2.1 (b) (i) refer to "5.2." (as it does in 5.3.1)? If so should the reference in 5.4.1, 5.5.1.2, 5.6.1 and 5.7.1 to "5.2.1" be changed to "5.2" or should the reference in 5.3.1 to "5.2" be changed to "5.2.1"?</p> <p>Thirdly, if it is correct to refer to the "5.2" (or 5.2.1) application in 5.2/5.2.1 is there a risk of a 'circular' situation arising?</p> <p>As an aside given that the Panel is, according to the Fuel Security Code, to determine the claims by generators should 5.2.1 (b) (ii) say "in such other sum as the Panel determines is appropriate" rather than "deems appropriate"? In addition given that 5.2, 5.4, 5.6 and 5.7 are all single paragraphs is it necessary to show them as 5.2.1, 5.4.1, 5.6.1 and 5.7.1 respectively?</p>
4.	<p>Are there any further comments on P221 that you wish to make?</p>	Yes	<p>We note the comments in paragraphs 3.3 and 3.4 of Panel paper 134/07 (dated 13th December 2007) which relates to the raising of P221. In particular we are mindful of the statements:-</p> <p>a) "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." [paragraph 3.3] and</p> <p>b) "therefore if any Party believes there are any other areas for consideration that they contact ELEXON to discuss how these should be addressed."</p>

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Q	Question	Response ¹	Rationale
			<p>[paragraph 3.4]</p> <p>We wish to formally respond to these two statements by saying that we believe there is a need for a new BSC Issues Group be established to specifically take forward the incorporation of matters contained in (i) the Fuel Security Code Guidance Note and (ii) the BERR letter to Elexon as they relate to the BSC. Without the incorporation of these matters into the BSC in due course then the task of reflecting the revised Fuel Security Code into the BSC will only be 'half-done'.</p> <p>For the avoidance of doubt, we are satisfied that P221 goes as far as the Fuel Security Code requires the BSC to go at this time. However, it leaves a host of issues (detailed in (i) the Fuel Security Code Guidance Note and (ii) the BERR letter to Elexon) which will need to be addressed if the Fuel Security Code is ever enacted for real. Undertaking this work now, in the cold light of day, rather than rushing it through (potentially as an Urgent modification proposal) if ever the FSC were invoked is, in our view, a sensible and pragmatic way forward which we would strongly urge the BSC Panel to adopt.</p>

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Respondent:	<i>Martin Mate</i>
Company Name:	British Energy
No. of BSC Parties Represented	5
Parties Represented	<i>British Energy Power & Energy Trading Ltd, British Energy Generation Ltd, Eggborough Power Ltd, British Energy Generation (UK) Ltd, British Energy Direct Ltd</i>
No. of Non BSC Parties Represented	-
Non Parties represented	-
Role of Respondent	<i>Supplier/Generator/Trader/Consolidator/Exemptable Generator/Party Agent</i>
Does this response contain confidential information?	<i>No</i>

Q	Question	Response	Rationale
1.	Do you agree with the Panel's provisional recommendation to the Authority contained in the draft Modification Report that Proposed Modification P221 should be made? Please give rationale.	Yes	P221 will align the BSC with the FSC, and in doing so promote efficiency of the BSC by avoiding uncertainty in the event of a fuel security period.
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.	Yes	The FSC has already been revised. Prompt implementation of corresponding BSC changes carries no additional cost for Elexon, Agents or Parties. In these circumstances, prompt implementation seems sensible.
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.	Yes	The proposed legal text is a practical change for consistency with the revised Fuel Security Code. Sections G5.5.1.1 & 5.5.1.2 would be clearer if indented.

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Q	Question	Response	Rationale
4.	Are there any further comments on P221 that you wish to make?	Yes	See below minor comments on the modification report.

Comments on Modification Report

Summary of impacted parties: According to introductory note A.1(a) & 6 to the Fuel Security Code, Section 34 fuel security directions from the Secretary of State are not restricted to licence holders, even though the Fuel Security Code itself does not apply to licence exempt generators. It suggests that licence exempt generators should consider the impact of instructions given to them in contracts with others. Therefore it could be said that licence exemptable generators are impacted by virtue of being explicitly excluded from the Fuel Security Code provisions within the BSC. (The FSC only applies to a Generator who generates under a generation licence.)

1.1 2nd bullet: '... applications For [capitalised?] recovery ...'

2.1 says 'As P221 is merely revising the BSC to reflect the FSC there are no costs associated with the change other than BSCCo costs for progressing the Modification and revising the legal text.'. It is not necessarily the case that externally imposed change has no cost under the BSC. It would be correct simply to say 'The only identified costs associated with the change are those of Elexon in administering the Modification process and revising the legal text.'

3.1 1st para: '... this Modification will align the provisions of the FSC within the BSC.' would be clearer as '... this Modification will align the BSC with the provisions of the FSC'.

We note that BM Units which might be affected by possible directions given by the Secretary of State to the BSC Panel to limit bid-offer prices to historical values may not have been given fuel security directions, and under the FSC and the BSC would not be entitled to claim compensation for resulting exceptional costs.

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