

P235 Consultation Responses

Consultation issued on 14 May 2009

What stage is this document in the process?

01 Initial Written Assessment

02 Definition Procedure

03 Assessment Procedure

04 Report Phase

Representation were received from the following parties

No	Company	No BSC Parties Represented	No Non-Parties Represented
1.	Centrica	10	0
2.	RWEpower	10	0
3.	EDF Energy	13	0
4.	SAIC Ltd. (for and on behalf of ScottishPower)	7	0
5.	E.ON UK	6	0

Responses

Question 1:

Do you agree with the Panel's view that the Proposed Modification should be **rejected**?

Summary

Yes	No	Neutral/Other
5	0	0

Responses

Respondent	Response	Rationale
Centrica	Yes	The Proposed Modification should only be recommended for rejection if the Alternative is recommended for approval. Centrica remains of the view expressed in the assessment procedure consultation that the Proposed Modification better facilitates the BSC objectives for the reasons given in that response.
RWEpower	Yes	The Proposed Modification allows Parties to submit TDC claims for a previous period of 20 months following

Respondent	Response	Rationale
		<p>implementation of the Modification. This would require:</p> <ul style="list-style-type: none"> • Elexon to recalculate invoice values for all Parties for this period • FAA to issue invoices to all Parties for this period • Elexon would need to determine costs owed by Parties that have exited the code. • Parties to develop systems to validate invoices under both sets of calculation rules for very little (if any) benefit. • Introduces a level of uncertainty for Parties and increases administrative burden. <p>The above will incur costs to Parties and central systems. This is contrary to Objective d.) Promoting efficiency in the implementation and administration of the balancing and settlement arrangements.</p>
EDF Energy	Yes	<p>On the basis that it would retain the risk that trading disputes could be raised and the potential reopening of historical interest calculations or payments. This would increase uncertainty for all parties which would be inefficient in terms of the administration of the BSC. Also, the approach currently described in the BSC would benefit or disadvantage individual parties dependent on the particular reconciliation run in which data is revised, because the value of money is not referenced to a common point. This is less competitive than the approach which has actually been used, which does reference a single point, the time of initial settlement payment.</p>
SAIC Ltd. (for and on behalf of ScottishPower)	Yes	<p>ScottishPower agree that both the Proposed and Alternative Modifications are better than the current baseline, we are of the opinion that the Alternative is better than the Proposed, and therefore agree with the Panel's view.</p>
E.ON UK	Yes	<p>Implementing the Proposed P235 modification would support the BSC objectives, however in this instance the Alternative, retrospective, implementation would better facilitate the objectives compared to the Proposed.</p>

Question 2:

Do you agree with the Panel's view that the Alternative Modification should be **approved**?

Summary

Yes	No	Neutral/Other
5	0	0

Responses

Respondent	Response	Rationale
Centrica	Yes	<p>The Alternative is superior to the Proposed Modification. Centrica believes that, in general, modifications with retrospective effects should be avoided due to the uncertainty and risk they create for Parties, and the detrimental impact on market confidence. However, there can, on very limited occasions, be particular circumstances that may warrant such modifications.</p> <p>In this case it can be argued that a retrospective change to the BSC is required to ensure that there are no retrospective changes to Party cashflows (where such retrospective changes would revert to an obviously flawed interest calculation and unfair cashflows). Centrica believes that, in this instance, the value of certainty in cashflows and market confidence outweighs Parties having the right to raise a Trading Dispute. Such a Trading Dispute is only possible due to apparent poor BSC drafting at Neta Go-Live and would result in the potential for a Party to gain from a flawed interest calculation. The interest calculations that have occurred, been settled on, and never disputed are the more appropriate ones given that they better represent the time value of money. Therefore the Alternative Modification would better facilitate competition (Objective (c) by providing the confidence that the appropriate cashflows are not going to potentially be changed.</p>
RWEnpower	Yes	<p>There is a need to align the BSC with the existing commercially correct practice. Introducing the retrospective implementation of the Modification has a number of benefits:</p> <p>The Modification Group determined that the FAA methodology was correct, fair and reflects the true value of money. Allowing Parties to recalculate interest charges under the BSC methodology by raising trading disputes would appear to be inappropriate.</p> <p>A fairer more accurate calculation of interest fulfils</p>

Respondent	Response	Rationale
		<p>Objective c.) The promotion of 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;</p> <p>The Alternative Modification: Removes uncertainty Removes the associated central system and Supplier costs Parties have already settled their positions under the FAA rules. For these reasons we believe that the Alternative Modification proposal fulfils objective d.) Promoting efficiency in the implementation and administration of the balancing and settlement arrangements.</p>
EDF Energy	Yes	<p>We agree that P235 is an unusual and exceptional case where the Alternative proposal of retrospective implementation is justified, on the basis that it would actually reduce uncertainty and costs, and confirm that the status quo has been deemed the intended and correct calculation since NETA Go-Live. We therefore support that the greater benefits to competition through increased certainty would outweigh the removal of a parties ability to re-open past interest calculation or payments.</p>
SAIC Ltd. (for and on behalf of ScottishPower)	Yes	<p>ScottishPower agrees with the premise of this Modification. We believe that the BSC should be aligned to the current practices of the FAA, recognising that the FAA calculation is fairer than the one detailed in the BSC. It is the calculation, which has been used (without challenge), since NETA go live.</p> <p>ScottishPower believes that the Alternative Modification will better facilitate the BSC Objectives:</p> <p>Objective c) Making the change to the BSC retrospective effectively removes the ability for Parties to raise Trading Disputes for differences they may (or may not) have incurred had the interest calculation been run using the BSC methodology. Disputes in this area are likely to be far reaching in their scope, and time consuming and expensive in their execution. The initial ELEXON analysis has shown that there is very little in the way of financial movement as a result of calculating interest payments using the BSC methodology over the FAA methodology, and in our opinion there is little likelihood of a Party receiving more back as a result of a successful dispute than the industry will spend in re-calculating. Additionally there is the possibility of Parties who have left the arrangements being owed / owing monies. Providing the certainty that a retrospective change brings will surely aid Parties in achieving Objective (c). Conversely,</p>

Respondent	Response	Rationale
		allowing disputes (Proposed) will have a detrimental effect on Objective (c)
E.ON UK	Yes	Although generally retrospective changes are undesirable, increasing risk and uncertainty, in this particular case the opposite is true. Retrospective implementation to NETA Go-Live 27/03/01 would reduce uncertainty by confirming that the more appropriate interest calculations as used by the FAA will not be changed and that Parties cannot seek to benefit by disputing the difference between the actual calculation and erroneous original BSC drafting. Thus best supporting BSC objectives c) and d).

Question 3:

Do you agree with the Panel's suggested **prospective Calendar Day** Implementation Date for the Proposed Modification of 2 Working Days after an Authority decision?

Summary

Yes	No	Neutral/Other
5	0	0

Responses

Respondent	Response	Rationale
Centrica	Yes	Centrica's view has not changed from our response to the Assessment Procedure consultation.
RWEnpower	Yes	Npower acknowledges that the Settlement day will increase the number of claims that a Party can make, however we believe it also increases the central system costs and complexity for Parties. This will result in disproportional costs compared to benefit derived.
EDF Energy	Yes	For the reasons already agreed by the group, and that overall the prospective Calendar Day approach offers greater benefits for competition and efficiency when compared to the Settlement day alternative.
SAIC Ltd. (for and on behalf of ScottishPower)	Yes	Implementing on a calendar date basis will provide the quickest prospective implementation approach, reducing regulatory risk for Parties.
E.ON UK	Yes	Calendar day implementation would be clearer and help minimise rather than maintain the inconsistencies. Prompt implementation would also minimise the duration of the discrepancy.

Question 4:

Do you agree with the Panel's suggested **retrospective** Implementation Date for the Alternative Modification of 27 March 2001 (NETA Go-Live?)

Summary

Yes	No	Neutral/Other
5	0	0

Responses

Respondent	Response	Rationale
Centrica	Yes	For the same reasons as supporting the Alternative over the Proposed in Q2.
RWEnpower	Yes	The BSC should be aligned with the correct current practice at the earliest opportunity which in this case we believe should be the start of NETA. The retrospective implementation of the modification is the most efficient and fulfils BSC Objectives c.) and d.).
EDF Energy	Yes	We support retrospective implementation for the exceptional reasons stated in question 2. The Alternative proposal in conjunction with implementation with effect from NETA Go-Live implementation would completely remove the possibility of trading disputes against eligible historic interest calculations, both going forwards and back to when the inconsistencies first occurred. The date of NETA Go-live is therefore appropriate.
SAIC Ltd. (for and on behalf of ScottishPower)	Yes	The deviation between the BSC and the FAA occurred at NETA go live, and therefore it makes most sense to make the change at the point of deviation.
E.ON UK	Yes	As per answer to question 2.

Question 5:

Do you agree that the legal text for the Proposed Modification and the Alternative Modification delivers the solutions agreed by the Modification Group?

Summary

Yes	No	Neutral/Other
5	0	0

Responses

Respondent	Response	Rationale
Centrica	Yes	-
RWEpower	Yes	The legal text aligns the BSC with current commercially correct practice.
EDF Energy	Yes	-
SAIC Ltd. (for and on behalf of ScottishPower)	Yes	-
E.ON UK	Yes	They appear appropriate.

Question 6:

Do you have any further comments on P235?

Responses

Respondent	Comments
Centrica	<p>The Panel stated that the arguments in relation to Objective (c) to be second order effects due to these relating to implications and costs which would arise if P235 is rejected.</p> <p>Centrica notes that the status quo is not an option. Post Authority decision, either the BSC rules change or the FAA systems change to accommodate the current drafting. It would therefore seem sensible to be comparing a world where the Modification is approved to one in which it is rejected.</p> <p>Centrica also notes that the arguments under Objective (d) relate to costs and implications which would arise if P235 is rejected. One argument being that P235 would avoid costs to align the FAA systems with the code.</p>
EDF Energy	<p>For the avoidance of any doubt we do not normally support retrospective changes, because of their potential in most cases to undermine investment decisions, business processes and financial reporting.. In this particular case we support retrospection only on the basis of the exceptional circumstances which apply as identified in the assessment report.</p>