

Modification proposal:	<b>Balancing and Settlement Code (BSC) P236: Compensation Claims for MVRN Parties arising from an Outage</b>		
Decision:	The Authority <sup>1</sup> directs that this proposal be made <sup>2</sup>		
Target audience:	National Grid Electricity Transmission Plc (NGET), Parties to the BSC and other interested parties		
Date of publication:	16 September 2009	Implementation Date:	5 working days after Authority Decision

## Background to the modification proposal

### National Grid electronic communications data service failure

The Grid Code requires generators to generate the amount of electricity set out in their Final Physical Notification (FPN)<sup>3</sup> for a given Settlement Period. In addition, the Balancing and Settlement Code (BSC) provides financial incentives (in the form of imbalance costs) for generators to generate the amount of electricity set out in their Final Contractual Position<sup>4</sup> for a given Settlement Period. Generally these two positions will be identical i.e. the amount of electricity generated under the FPN will be the same as the Final Contractual Position at Gate Closure.

However, instances can occur when NGET's electronic communications data services fail or are withdrawn (an 'Outage'). Outages inhibit generators which own Balancing Mechanism Units (BMUs) from updating their Physical Notifications to National Grid (NG). Section Balancing Code (BC) 2.9.7.2(b) of the Grid Code<sup>5</sup> states that in an Outage, a party must generate the amount of electricity set out in the last valid Physical Notification (PN) submitted. In doing so, under the Grid Code, the actual metered volume would be the same as the generators last valid PN. However, under the BSC, a generator's actual metered volume may not match their Final Contractual Position. Since this could ultimately lead to the two positions deviating from each other, the generator of such BMUs will face Trading Charges and/or Imbalance Costs<sup>6</sup> if it does not adhere to that BMU's Final Contractual Position under the BSC. The following chart illustrates this:

<sup>1</sup> The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

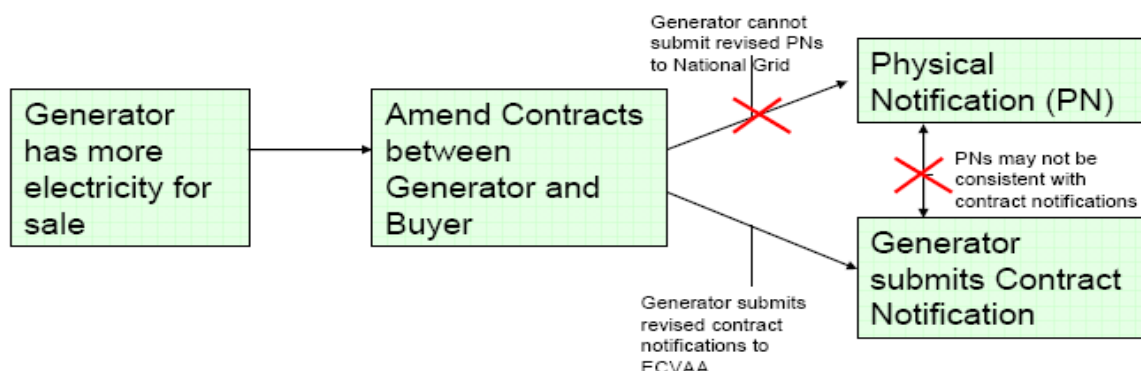
<sup>2</sup> This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

<sup>3</sup> Final Physical Notification (FPN) is the last Physical Notification sent by the generator to National Grid to state how much energy that generator will be generating prior to gate closure.

<sup>4</sup> [Balancing and Settlement Code - Balancing and Settlement Activities](#)

<sup>5</sup> [Grid Code – Paragraph BC 2.9.7.2](#)

<sup>6</sup> Trading Charges and Imbalances costs are deemed to be costs incurred as a result of not being in balance for any given settlement period.



## Q8 Claims Process

Outages occur as the result of failures in NGET's electronic communications data service and so generators are not held responsible for any losses they incur as a result. Therefore, generators of affected BMUs are eligible<sup>7</sup> to claim compensation under Section Q8<sup>8</sup> of the BSC.

The owner of the respective BMU is termed the "Lead Party". Currently, Section Q8 of the BSC recognises and recompenses financial loss for Lead Parties of BMUs during an Outage Compensation Period<sup>9</sup> by NGET. However, in instances where those BMUs have Metered Volume Reallocation Notifications (MVRNs)<sup>10</sup> in place, energy volumes are split between Lead Parties and Subsidiary Parties<sup>11</sup>. The current arrangements only allow Lead Parties to make a claim for their losses and do not allow Lead Parties to claim for losses incurred from an Outage by Subsidiary Parties. This is despite Subsidiary Parties being potentially adversely financially affected as a result of an Outage Compensation Period.

## **The modification proposal**

P236 was raised by First Hydro Company (the proposer) to change the wording of Section Q8 of the BSC to allow Lead Parties for BMUs to raise a claim on behalf of all Parties (i.e. including Subsidiary Parties) if they incur Trading Charges and/or Avoidable Costs as a result of not being able to update their Physical Notifications during an Outage Compensation Period. P236 does not propose significant changes to the current Q8 Claims Process. However, it will widen the remit of what the Q8 committee can consider as part of a claim and what a Lead Party can claim for.

The Lead Party will continue to be the only party able to raise a claim, providing relevant evidence in support, including for net losses incurred by MVRNs related to Subsidiary Parties associated with the affected BM Unit. Elexon will contact Subsidiary Parties separately to seek acknowledgment from them that are aware of the claim. However, any contact that Elexon makes does not imply that the contacted Subsidiary Parties have

<sup>7</sup> Only the Lead Party (who is also the owner of the respective BMU) is eligible to make a claim for any losses that it has incurred as a result of the Outage Period.

<sup>8</sup> [Section Q8 of BSC](#)

<sup>9</sup> An Outage Compensation Period occurs where NGET has given less than 12 hours notice prior to the start of an Outage or the Outage lasts longer than 2 hours. Currently the Lead Party has 10 days after the end of an eligible Outage to submit a claim.

<sup>10</sup> MVRNs allow Lead Parties to allocate a percentage of their BM Unit's energy into the Energy Account of another Trading Party. This Trading Party is known as a Subsidiary Party.

<sup>11</sup> Subsidiary Parties do not own respective BMUs but Lead Parties can use MVRNs to deposit energy traded volumes into Subsidiary Parties under their individual bilateral contracts.

to support the claim. Any compensation will be paid directly to the Lead Party and it will be the responsibility of the Lead Party to divide the amount between any affected Subsidiary Parties based on bilateral contractual arrangements<sup>12</sup> between them.

The proposer considers that P236 would better facilitate two of the Applicable BSC Objectives:

- (c) – promoting effective competition in generation and supply – by ensuring the equal treatment of all BSC parties affected by Outage Compensation Periods; and
- (d) – promoting efficient implementation and administration of the trading arrangements – by clarifying and making more transparent the Section Q8 claims and compensation arrangements for all Parties.

### **BSC Panel<sup>13</sup> recommendation**

At the BSC Panel Meeting held on 13 August 2009, the Panel Members recommended to the Authority that P236 be implemented, having unanimously voted in favour of its implementation. The Panel Members also recommended an implementation date of 5 working days following an Authority Decision.

### **The Authority's decision**

The Authority has considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 14 August 2009. The Authority has considered and taken into account the responses to Elexon's<sup>14</sup> consultation which are attached to the FMR<sup>15</sup>. The Authority has concluded that:

1. implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the BSC<sup>16</sup>; and
2. directing that the modification be made is consistent with the Authority's principal objective and statutory duties<sup>17</sup>.

### **Reasons for the Authority's decision**

We agree with the views expressed in the FMR and the associated responses that the remit of the Q8 Claims Process should be increased to allow Lead Parties to claim for losses incurred by Subsidiary Parties during an Outage Compensation Period where there are MVRNs in place.

We also agree with the P236 working group's views that MVRNs are a legitimate way to transact business. Since all Parties that engage in the generation of electricity are obligated by the Grid Code to generate to their FPNs, we agree that it is appropriate that a compensation process should exist for all parties that have suffered losses as a result of an Outage, which by its nature is outside of their control.

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<sup>12</sup> The bilateral arrangements between Lead and Subsidiary Parties are outside of the remit of the Q8 Claims Process.

<sup>13</sup> The BSC Panel is established and constituted pursuant to and in accordance with Section B of the BSC.

<sup>14</sup> The role and powers, functions and responsibilities of Elexon are set out in Section C of the BSC.

<sup>15</sup> BSC modification proposals, modification reports and representations can be viewed on the Elexon website at [www.elexon.com](http://www.elexon.com)

<sup>16</sup> As set out in Standard Condition C3(3) of NGET's Transmission Licence, see: [http://epr.ofgem.gov.uk/document\\_fetch.php?documentid=4151](http://epr.ofgem.gov.uk/document_fetch.php?documentid=4151)

<sup>17</sup> The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989.

We set out detailed reasoning for our views below:

*Objective (c) - promoting 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*

### Non-Discrimination

Ofgem considers that P236 deals directly with an existing defect in the BSC. We note the views of respondents that this defect may have resulted from MVRNs not existing under the previous Electricity Pool arrangements<sup>18</sup>, and following its introduction, the arrangements not having been sufficiently updated to address the impact of an Outage on Subsidiary Parties.

Ofgem agrees with the view of the workgroup that there is no reason why losses incurred by Subsidiary Parties should not be considered as part of the Q8 Claims Process. As with Lead Parties, Subsidiary Parties are not responsible for Outages and therefore their losses should also be similarly considered under the Q8 Claims process.

We agree with the workgroup's and respondents' views that by not allowing Subsidiary Parties' losses to be included as part of the Lead Party's claim, risk is disproportionately placed on the Subsidiary Party should an Outage occur. By allowing the losses incurred by Subsidiary Parties to be included in the Lead Party's claim under the Q8 Claims Process, the impacted of an Outage should be considered on all parties. This would help to ensure that parties are not discriminated against in the event of an Outage and helps to promote competition on even terms between parties that engage in the generation and supply of electricity.

### Transparency and Gaming

We agree with respondents' views that P236 promotes a clearer and more transparent Q8 Claims Process where all parties affected by an Outage are aware of what can be claimed for and which more accurately provides for compensation to the parties affected by an Outage. In particular, we agree that the claim should be raised on the basis of "net financial loss" for all affected parties. This ensures that Lead Parties cannot hide positive cashflows made by any Party thereby reducing any opportunity to allow the Lead Party to claim more than the net financial loss across all parties.

*Objective (d) - promoting efficiency in the implementation and administration of the balancing and settlement arrangements*

### An improved Claims Process

The analysis presented in the FMR indicates that there have been 90 Outage periods since NETA Go-Live but only one claim has been made (by the proposer) where there have been costs incurred by Subsidiary Parties. Although the workgroup considered that compensation amounts are generally fairly minimal, we note that the use of MVRNs now constitutes a significant amount of energy traded and this suggests that MVRNs are widely used by industry participants. Therefore, it is likely that the number and materiality of Outage claims involving Subsidiary Parties may increase if the use of MVRNs also increases. Ofgem considers that the implementation of the proposal helps to improve efficiency in the Q8 Claims Process by ensuring that all parties' losses can be taken into account during a claim and therefore better facilitates objective (d).

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<sup>18</sup> The Electricity Pool arrangements existed prior to the introduction of NETA and BETTA and formed the rules that market participants had to adhere to in the generation and supply of electricity.

Finally, Ofgem notes respondents' views that there are benefits in keeping the Q8 Claims Process as simple and streamlined as possible. The workgroup has indicated that implementation of this proposal would not result in any significant changes to the current Q8 Claims Process, other than allowing the Lead Party to make a claim on behalf of itself and Subsidiary Parties. We agree that this should help to retain an efficient process for dealing with compensation claims in line with objective (d).

### **Decision notice**

In accordance with Standard Condition C3 of NGET's Transmission Licence, the Authority, hereby directs that modification proposal BSC P236: "Compensation Claims for MVRN parties arising from an Outage" be made.

**Andrew Wright**  
**Senior Partner, Markets**

Signed on behalf of the Authority and authorised for that purpose.