

## P236 – PROPOSED DRAFT LEGAL TEXT

### SECTION Q: BALANCING MECHANISM ACTIVITIES (Version 18)

*Amend paragraph 8.2.1 to read as follows:*

8.2.1 Subject to the provisions of the Code, following an outage compensation period, a Party which:

(a) is the Lead Party of any BM Unit(s); and

(b) considers:

(i) ~~that~~ it suffered (consistent with the matters set out in paragraph 8.2.5) a material loss, which it could not reasonably have avoided, as a result of its inability to submit Physical Notifications during an outage compensation period; or

(ii) where a Metered Volume Reallocation Notification(s) is in force for any BM Unit(s), that collectively it and all Subsidiary Parties in relation to any BM Unit (“relevant” Subsidiary Parties for the purposes of this paragraph 8) suffered (consistent with the matters set out in paragraph 8.2.5) a net material loss, which could not reasonably have been avoided, as a result of its inability to submit Physical Notifications during an outage compensation period,

may, within the period of 10 Business Days after the end of the compensation outage period, submit to BSCCo a claim for payment of compensation to be determined in accordance with this paragraph 8.2.

*Insert new paragraph 8.2.1A to read as follows:*

8.2.1A The Party shall, at the time at which it submits a claim under paragraph 8.2.1:

(a) provide a statement and explanation of the basis on which it considers that it has or it and all relevant Subsidiary Parties have suffered such a loss as is referred to in paragraph 8.2.1; and

(b) for each Metered Volume Reallocation Notification(s) in force for any relevant BM Unit(s) provide:

(i) the MVRNA Authorisation under which it is given (thereby identifying the BM Unit, the Lead Party and relevant Subsidiary Party and the Subsidiary Energy Account to which it relates); and

(ii) for each relevant Settlement Period, the quantity of Active Energy and the percentage (either of which may be zero) of BM Unit Metered Volume allocated to each Subsidiary Energy Account in accordance with Section P3.3.

*Amend paragraph 8.2.2 to read as follows:*

8.2.2 The Panel will not consider a claim by a Party for compensation under this paragraph 8.2 unless the Party's submission under paragraph 8.2.1 demonstrates (but without prejudice to what the Panel determines under paragraph 8.2.4), to the reasonable satisfaction of the

Panel, that it or it and all relevant Subsidiary Parties suffered such a loss as is referred to in paragraph 8.2.1(b).

*Amend paragraph 8.2.3 to read as follows:*

8.2.3 For the purposes of this paragraph 8.2:

- (a) the Party shall, ~~at the time at which it submits a claim under paragraph 8.2.1, provide a statement and explanation to the Panel of the basis on which it considers that it has suffered such a loss as is referred to in paragraph 8.2.1(b), and shall~~ provide such other information as the Panel may reasonably request by way of justification of what is claimed in the Party's statement or otherwise for the purposes of the Panel's determination of such matters;
- (b) a relevant Subsidiary Party shall provide such other information as the Panel may reasonably request by way of justification of what is claimed in the Party's statement or otherwise for the purposes of the Panel's determination of such matters;
- (~~bc~~) to the extent required by the Panel, the Party shall comply with the requirements of Section G2.2.1 in relation to determination of Avoidable Costs for its BM Units; and
- (~~ed~~) the Transmission Company and each Distribution Company shall provide such information as the Panel may reasonably request for the purposes of determining the matters in paragraph 8.2.~~3~~.

*Amend paragraph 8.2.4 to read as follows:*

8.2.4 Where the Panel determines (in accordance with paragraph 8.2.2) to consider the Party's claim, the Panel shall determine, in its opinion, the amount of the loss:

- (a) which was suffered by the Party or by it and all relevant Subsidiary Parties; and
- (b) which the Party or it and all relevant Subsidiary Parties could not reasonably have avoided.

as a result of the Party's inability to submit or resubmit Physical Notifications during the outage compensation period.

*Amend paragraph 8.2.5 to read as follows:*

8.2.5 In determining the amount (if any) of the loss suffered by a Party or by it and all relevant Subsidiary Parties, and whether and the extent to which the Party and any relevant Subsidiary Party could reasonably have avoided such loss, the Panel shall have regard to the following:

- (a) whether and the extent to which, in the opinion of the Panel, the net financial position of the Party together with all relevant Subsidiary Parties, in respect of Trading Charges, was worse than the net financial position of the Party together with all relevant Subsidiary Parties, in respect of Trading Charges and Avoidable Costs, would have been if the Party had been able to submit or resubmit Physical Notifications during the outage compensation period; where Avoidable Costs refers to Avoidable Costs which would have been incurred in respect of changes which would (if the Party had so been able) have occurred in Exports and/or Imports of the BM Units of which the Party is Lead Party; and

- (b) whether and the extent to which, in the opinion of the Panel, the Party acted reasonably and prudently in making commitments which resulted in notification of Energy Contract Volumes relating to relevant Settlement Periods, and otherwise in its operations under the Grid Code and the Code;

and the Panel shall disregard costs and losses (including in respect of amounts payable in respect of such commitments as are referred to in paragraph (b)) other than those referred to in paragraph (a).

### 8.3 Compensation entitlements

*Amend paragraph 8.3.1 to read as follows:*

8.3.1 Where a Party has submitted a claim for compensation in accordance with paragraph 8.2:

- (a) that Party and any relevant Subsidiary Party shall be informed of the Panel's determination under paragraph 8.2.4;
- (b) that Party shall be entitled to be paid by the BSC Clearer the amount (if any) determined in accordance with paragraph 8.2.4, together with interest at the Base Rate on such amount from the Initial Payment Date for the Settlement Period in which the outage compensation period ended to (but not including) the date (if later) when such payment is made;
- (~~bc~~) the Transmission Company shall be liable to pay to the BSC Clearer an amount equal to the amount payable under paragraph (a);
- (~~ed~~) such entitlements and liabilities shall be Ad-hoc Trading Charges for the purposes of Section N6.9; and
- (~~de~~) BSCCo shall give such instructions to the FAA as are necessary to give effect to the payment of such Ad-hoc Trading Charges.