

## P250 Consultation Responses

Consultation issued on 12 March 2010

We received responses from the following Parties

Company	No BSC Parties / Non-Parties Represented	Role of Parties/non-Parties represented
Centrica	10/0	Supplier / Generator / Trader
SAIC Ltd. (for and on behalf of ScottishPower)	7/10	Supplier / Generator / Trader / Consolidator / Exemptible Generator / Distributor
RWE npower	10/0	Supplier/Generator/ Trader / Consolidator / Exemptible Generator / Party Agent
EDF Energy	13/0	Supplier/Generator/Trader/Consolidator/Exemptible Generator/Party Agent/Distributors
Scottish and Southern Energy	9/0	Supplier / Generator

What stage is this document in the process?

01 Initial Written Assessment

02 Definition Procedure

03 Assessment Procedure

04 Report Phase

## 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	<p>P250 would increase regulatory uncertainty by mandating that a modification can never time out. This would be detrimental to competition (objective (c)) and the efficient administration of the balancing and settlement arrangements (objective (d)).</p> <p>Open-ended implementation dates present significant uncertainty as it is difficult for a Party to plan for potentially open ended risks. Such uncertainty does not facilitate investment. Additionally, the validity of impact assessments, analysis and recommendations can be expected to decay over time and would be questionable for the Authority to make robust decisions based on these.</p> <p>P250 would require additional party resource, potentially duplicating previous work undertaken, to be able to track modifications and be ready to implement as required.</p> <p>Additionally, it is not clear that there would be any efficiency gain by including a formal process by which the Panel can communicate with the Authority. The Assessment Report makes it clear that the Panel can already write to the Authority for any purpose.</p>
SAIC Ltd. (for and on behalf of ScottishPower)	Yes	<p>The Panel indicate that their preference is to reject the proposed Modification for reasons aligned to those raised at the Modification Group. ScottishPower agrees with the main points raised that if the Modifications were written so that "Timing Out" of Authority decisions on Modification Proposals could not occur then:</p> <ul style="list-style-type: none"> <li>• there would be an increased uncertainty as to when changes would be implemented;</li> <li>• participants could not accurately assess the costs, impacts and required implementation lead times;</li> <li>• there would be increased costs in assessing and implementing Modification Proposals; and</li> <li>• smaller Parties and new entrants would be impacted significantly as they would be less able to deal with uncertain Implementation Dates. This would be detrimental to smaller Parties and act as a barrier to entry;</li> </ul>

Respondent	Response	Rationale
RWE npower	Yes	<p>In most cases there will be little or no need to use the arrangements to prevent "timing out " that are set out in the Proposed Modification. It would be appropriate to use them only when the need arises, that is these powers should be optional</p>
EDF Energy	Yes	<p>We consider the proposed modification does not better facilitate the applicable BSC objectives (c) or (d). The current construct used by the BSC Panel strikes the right balance between providing some regulatory certainty to the market as to when decisions on modifications will be made and providing the Authority with a flexible and reasonable time period in which to assess and ultimately determine on each proposal. A case has not been made to remove incentives on the Authority to make timely decisions by obliging the Panel to set "open ended" implementation dates. By increasing uncertainty about future arrangements, we consider that efficient market operation would be hindered.</p> <p>We do not consider a case for change has been demonstrated and that a real defect in current baseline has been identified. The current processes allow the Panel flexibility in setting implementation dates and the Panel is free to take account of an appropriate amount of time required by the Authority to make a decision. The current construct within the BSC and the other industry codes has to date been extremely successful and the Authority generally makes decisions well in advance of the 'decision by' dates. Timing-out has only ever occurred once under the BSC in respect of the zonal transmission losses proposals in 2007. However, these modifications timed out as a result of the Authority's assumption with respect to its powers rather than an inappropriate timetable or any unforeseen circumstances.</p> <p>We note that the judge in the JR proceedings in respect of the 2007 zonal losses proposals expressed concerns about long consideration times that could potentially arise if existing BSC processes were changed, particularly in cases where the analysis of the costs and benefits is very time sensitive. In such cases the judge questioned whether the Authority was in substance and reality actually considering the same modification that has been submitted by the Panel when there is a long delay in the Authority making a decision. We consider the current BSC Panel construct appropriately addresses the above risks. Whilst the modification proposal seeks to provide a formal mechanism for the Panel to ask the Authority for likely decision dates and advise the Authority of issues around the validity of the analysis, we note that the Panel is free to do this now and the proposal provides no additional benefits or certainty to BSC parties.</p>
Scottish and Southern Energy	Yes	<p>We set out our detailed arguments in our response to the Assessment Consultation as to why we believe that P250 Original does not better achieve the Applicable BSC Objectives.</p> <p>For the sake of brevity we do not repeat these detailed</p>

Respondent	Response	Rationale
		<p>arguments here, rather the reader should refer to them as they form part of the P250 documentation.</p> <p>We therefore agree with the Panel's view that the P250 Original Modification should be rejected as it fails to better achieve the Applicable BSC Objectives.</p>

## Question 2: Do you agree with the Panel's view that the Alternative Modification should be rejected?

### Summary

Yes	No	Neutral/Other
2	3	0

### Responses

Respondent	Response	Rationale
Centrica	Yes	Centrica supports the view of the Panel for the reasons outlined in the report.
SAIC Ltd. (for and on behalf of ScottishPower)	Yes	The reasons to reject are the same as those above, although the Alternative Modification does give some more flexibility as to the construction of the Implementation Date. Overall there is still no benefit and there is no improvement in the Applicable BSC Objectives.
RWE npower	No	<p>From time to time unforeseen or unavoidable events may delay the Authority's ability to make a decision on a Proposed Modification. In these cases the Panel needs to ability to set implementation dates that take account of such delays. Whilst open ended implementation dates may create more uncertainty they can balance this with the need to implement change that would otherwise be lost.</p> <p>The BSC already provides the Panel with an ability to set open ended implementation dates, but this does not allow for times when system changes are required. In such cases parties still need to have an appropriate lead time to develop and implement changes.</p> <p>Ideally, the Authority can make its decisions quickly, as in most cases Parties benefit from having timely decisions. Taking part in the Modification Process is often time-consuming and done to tight timescales set out in the BSC. In those cases where the Authority does not make a decision quickly, the Alternative Proposed Modification should be adequate.</p>
EDF Energy	No	We consider that the alternative modification helps achieve the applicable BSC objectives compared to the baseline in respect of objective (d). The alternative proposal will promote efficiency in the implementation and administration of the BSC arrangements as it seeks to primarily extend the arrangements put in place by P180 in circumstances

Respondent	Response	Rationale
		<p>whereby a modification has timed out due to a legal challenge. A consistent approach makes for a clearer and easily understood governance process for all parties. In addition, this approach also formalises the approach to be adopted by the Panel when determining additional implementation dates i.e. parties will be consulted on the appropriate dates and provided an opportunity to raise issues regarding the validity of the analysis set out in the final modification report. We maintain the view that the risk of a modification timing-out is so small that substantial changes to the baseline are not warranted and as such the Panel should remain free to construct implementation dates as it sees fit based on the information made available to it. However, if following unforeseen circumstances the Authority consider there to be a risk of a modification proposal timing out it seems appropriate that a process based on one that is already in place within the BSC (as implemented by P180) should be used.</p>
<p>Scottish and Southern Energy</p>	<p>No</p>	<p>We believe that P250 Alternative is, intrinsically, a better Modification than the Original.</p> <p>The Alternative is summarised on page 9 of the Assessment Consultation. It appears a pragmatic solution to the issue of timing out.</p> <p>It requires the Authority to set out why it is unable to meet the decide by date(s) set out in the Final Modification Report. This is an important element in the 'checks &amp; balances' by which good regulatory practice operates.</p> <p>The Alternative allows the Panel to consult BSC Parties on any revised decide by and implementation dates and it also permits those Parties to comment with respect to the validity, or otherwise, of the analysis undertaken as part of the Final Modification Report</p> <p>We therefore believe that P250 Alternative would better facilitate achievement of the Applicable BSC Objectives.</p>

Question 3: Do you agree with the Panel's view that the Alternative Modification is better than the Proposed Modification?

### Summary

Yes	No	Neutral/Other
5	0	0

### Responses

Respondent	Response	Rationale
Centrica	Yes	Centrica supports the view of the majority of the Panel and Modification Group for the reasons outlined in the report.
SAIC Ltd. (for and on behalf of ScottishPower)	Yes	The Alternative Modification is only marginally better than the Proposed.
RWE npower	Yes	See above
EDF Energy	Yes	See above
Scottish and Southern Energy	Yes	For the reasons set out in Q2 above, we believe that P250 Alternative is better than P250 Original (and the baseline).

Question 4: Do you agree with the Panel's suggested Implementation Date of 10 Working Days after an Authority decision?

- Please consider whether you would prefer a period of: 5 Working Days or 10 Working Days?

### Summary

Yes	No	Neutral/Other
5	0	0

### Responses

Respondent	Response	Rationale
Centrica	Yes	This appears appropriate.
SAIC Ltd. (for and on behalf of ScottishPower)	Yes	10 Working Days allows more time for industry members to plan for implementation of the new Modification.
RWE npower	Yes	There are no system changes associated with the implementation of the Proposed Modification

Respondent	Response	Rationale
EDF Energy	Yes	
Scottish and Southern Energy	Yes	<p>We note the comments on page 14-15 of the Report Phase Consultation Document. As we raised the matter of the ten Working Days (compared to an earlier suggestion of five Working Days) we fully support the proposed implementation for P250 (Original and Alternative) of ten Working Days.</p> <p>With respect to the comments from the Ofgem representative (on page 14-15) we note that they (as the decision maker) are afforded the 'luxury' of being fully aware of when they themselves will make a decision (and therefore have more than, for example, five working days 'notice' on 'implementation'). Those who are directly affected by the implementation of a Code change; namely BSC Parties, National Grid and Elexon etc.; have no such advance warning – a decision from Ofgem could come at anytime. It is not, in our view, wholly unreasonable to afford those directly affected parties some time to put this change into effect within their own organisations.</p> <p>Furthermore, it should be noted that whilst "Elexon Implementation Activities could be completed in 5 working days" this is not necessarily the same as the BSC Implementation Activities – what Elexon does and what BSC Parties etc., do to implement an approved change can be significantly different. Implementation of any BSC change needs to take account of all impacted stakeholders, namely BSC Parties, National Grid and Elexon etc., and not just one stakeholder (Elexon).</p> <p>We note that the CUSC allows for a ten day period between an Authority decision and implementation. We are mindful, especially with Easter due, that if approved around the holiday period that a code change might be approved and implemented whilst many parties are absent from work. We therefore welcome the BSC adopting a similar 'best practice' approach as the CUSC in determining that P250 be implemented, if approved, ten Working Days after an Authority decision.</p> <p>With respect to P250 only applying to Modification Proposals raised after the P250 Implementation Date, we agree with this also. In our view retrospectively applying P250 to Modification Proposals in process would be a wholly retrograde, disproportionate and discriminatory step.</p>



Question 5: Do you agree that the legal text delivers the intention of the Proposed Modification?

**Summary**

Yes	No	Neutral/Other
5	0	0

**Responses**

Respondent	Response	Rationale
Centrica	Yes	-
SAIC Ltd. (for and on behalf of ScottishPower)	Yes	-
RWE npower	Yes	-
EDF Energy	Yes	-
Scottish and Southern Energy	Yes	It appears to.

Question 6: Do you agree that the legal text delivers the intention of the Alternative Modification?

**Summary**

Yes	No	Neutral/Other
5	0	0

**Responses**

Respondent	Response	Rationale
Centrica	Yes	-
SAIC Ltd. (for and on behalf of ScottishPower)	Yes	-
RWE npower	Yes	-
EDF Energy	Yes	-
Scottish and	Yes	It appears to.

Respondent	Response	Rationale
Southern Energy		

## Question 7: Do you have any further comments on P250?

### Responses

Respondent	Comments
Centrica	-
SAIC Ltd. (for and on behalf of ScottishPower)	No
RWE npower	No
EDF Energy	No
Scottish and Southern Energy	-