

P252 Consultation Responses

Consultation issued on 15 April 2010

We received responses from the following Parties

Company	No BSC Parties / Non-Parties Represented	Role of Parties/non-Parties represented
Gemserv	0/1	MRASCo
RWE npower	10/0	Supplier/Generator/ Trader / Consolidator / Exemptible Generator / Party Agent
International Power	7/0	Generator/Supplier/Trader
Immingham CHP LLP	1/0	Generator
Scottish and Southern Energy	9/0	Supplier / Generator / Trader / Consolidator / Exemptible Generator
Accenture (UK) Ltd. (for and on behalf of ScottishPower)	7/0	Supplier / Generator / Trader / Consolidator / Exemptible Generator / Distributor
E.ON UK	6/0	Supplier / Generator / Trader / Consolidator / Exemptible Generator
EDF Energy	13/0	<i>Supplier/Generator/Trader/Consolidator/Exemptible Generator/Party Agent/Distributors</i>

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 majority view that the Proposed Modification should be rejected?

Summary

Yes	No	Neutral/Other
7	1	0

Responses

Respondent	Response	Rationale
Gemserv	Yes	One voting paper instead of two may result in the stifling of views from a trading party, as holders of one energy account may have to conform to those of another.
RWE npower	Yes	Under current arrangements all parties have the same ability and opportunity to cast two votes, it therefore follows that all voting parties have equal voting rights and capabilities. As there is no reason, that we are aware of, as to why other parties cannot or should not cast their votes as they see fit, we can see no discrimination and hence no need to change the current voting arrangements.
International Power	Yes	Where BSC parties have both generation and supply businesses, it makes sense to have two votes to allow a reflection of perhaps differing views on the best Panel member to represent generation and supply interests. As noted in the Draft Mod Report, without two votes, one of the Energy Accounts one might have to confirm to the wishes of the other which is counter to promoting effective competition (objective c).
Immingham CHP LLP	No	<p>We do not agree with the Panel's majority view that the proposed modification should be rejected. The draft mod report noted that the rationale for parties to have two votes does not reflect the original intention to create a system whereby suppliers received one voting paper and generators a single voting paper to elect a representative to the Panel. This is because all trading parties have both consumption and production accounts regardless of the role of the party.</p> <p>As the original intention at NETA Go-Live to introduce a "one party, one vote" system did not occur the current panel voting process can be viewed as a defect (or an unintended effect) in the BSC.</p> <p>The process is also inefficient at it requires</p>

Respondent	Response	Rationale
		<p>maintenance of accounts for those parties that are one-sided—these being smaller market participants.</p> <p>We have reservations with regard to the Panel’s belief that participants with two active accounts will split their votes resulting in a less representative outcome (as the votes would in effect cancel each other out). On the other hand if allowing one-sided players to vote as if they were active on both sides of the market could lead to distortion of election results.</p> <p>To increase greater participation from all parties, which would benefit the BSC, we advocate the modification be made as: many smaller parties are not aware they have two votes; and “one party, one vote” is a simple and easily understood approach to fair and democratic elections.</p>
Scottish and Southern Energy	Yes	<p>We agree with the Panel recommendation that the Proposed P252 Modification be rejected.</p> <p>We concur with the view of the majority of the Panel that:-</p> <ul style="list-style-type: none"> i) They do not believe any change would be better than the baseline, merely different; ii) The Proposed Modification does not better facilitate any of the BSC Applicable Objectives; and iii) Both the Modification Group and we struggled to see the issue this Modification is trying to address.
Accenture (UK) Ltd. (for and on behalf of ScottishPower)	Yes	<p>It has not been proven that there is an actual defect for the Proposed Modification to address. We do not believe that there is an issue with voting rights. All Parties are treated equitably under the current process and the issue of some Parties either not being aware of their ability to submit two votes, or simply choosing not to submit all possible votes is not one to be addressed by a Modification.</p>
E.ON UK	Yes	<p>As the Group agreed there is no defect and all P252 would do is restrict choice, having a negative impact on BSC Applicable Objective (c).</p> <p>Allowing only one voting paper for all would continue to treat all Trading Party groups the same in having the same number of voting papers available to them, but would limit flexibility for all, especially those who wish to vote differently on their Production and Consumption accounts (whether owing to genuinely different preferences from different parts of their business or a considered move given the peculiarity of the present voting system). This would seem to be the opposite of what was intended when designing NETA.</p> <p>Currently it is also possible for a Party’s votes to influence the election of all 5 industry members; under P252 they could only be engaged with the election of</p>

Respondent	Response	Rationale
		up to 3, potentially disenfranchising and minimising engagement with BSC administration for those who would like to support more than 3 candidates. The more salient point is that as some Parties may wish to do this to reflect differing preferences of their generation and supply businesses this option should be retained; it can be viewed as unfair, discriminatory and anticompetitive to remove it.
EDF Energy	Yes	<p>We support the majority view of the Panel in that the Proposed Modification should be rejected because it does not better meet the BSC applicable objectives. Furthermore, we do not believe a defect has been identified with the current baseline in this respect.</p> <p>As Ofgem/DTI stated in their Oct 1999 NETA conclusions, 'a key concern has been to obtain a Panel that contains a broad range of views'. This would seem best facilitated by maintaining flexibility/choice in the voting process. For example, trading groups with multiple internal interests (i.e. generation and supply) should be provided with the ability to cast two primary votes in a way that reflects those interests. Individual candidates may be distinct in the way their independent professional skills "map" to interest groups. To remove this right by only providing parties with one vote would not better meet BSC objective (c).</p> <p>There is no evidence to suggest that there is explicit organised tactical block voting in the election process. Individual participants are simply incentivised to vote in a manner which best suits their desired preferences for appointed Panel Members. If there were to be any attempts to conduct organised tactical voting in future, then we do not see how this proposed change would prevent it. Although the proposer's representative has claimed that it is harder for smaller participants to create an organised block of votes than it is for the larger integrated Parties, in truth there are more smaller Parties – so it would seem that there would be greater scope for them to influence the elections in this way, although there is no evidence of it. The election process lacks a trade-weighting basis to the voting and so does not advantage any class of participant. Thought should perhaps go into the question of how to encourage more active, more numerous, candidate participation.</p>

Question 2: Do you agree that the legal text delivers the intention of the Proposed Modification?

Summary

Yes	No	Neutral/Other
8	0	0

Responses

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Respondent	Response	Rationale
Gemserv	Yes	The legal text states that there will be the removal Trading Parties" ability to submit two votes at elections of BSC Panel industry members.
RWE npower	Yes	The legal text, as it stands, facilitates the intent the proposed modification.
International Power	Yes	-
Immingham CHP LLP	Yes	-
Scottish and Southern Energy	Yes	It appears to.
Accenture (UK) Ltd. (for and on behalf of ScottishPower)	Yes	-
E.ON UK	Yes	Presuming that any confusion from Parties trying to submit 2 voting papers as per the present arrangements would be resolved informally.
EDF Energy	Yes	It does deliver the intention of the proposed modification

Question 3: Do you agree with the Panel's suggested Implementation Date:

- On 24 June 2010 if an Authority decision is received on or before 16 June 2010; or
- 5 Working Days following an Authority decision?

Summary

Yes	No	Neutral/Other
7	1	0

Responses

Respondent	Response	Rationale
Gemserv	Yes	5 Working Days after decision seems in line with most changes of this ilk.

Respondent	Response	Rationale
RWE npower	Yes	If the proposed modification were accepted its implementation would not impact RWE npower systems and processes and as such we can agree with the suggested date.
International Power	Yes	Changes to simplify the BSC Panel voting process should be implemented as soon as practically possible to ensure parties are aware of the alterations and to create a more easily understood voting process.
Immingham CHP LLP	Yes	To encourage greater participation in elections and provide the Panel with a wider mandate the sooner the changes contained in this mod proposals are implemented the sooner the benefit will flow.
Scottish and Southern Energy	No	With respect to implementation occurring, generically, five Working Days after an Authority decision we note that the CUSC allows for ten Business Days between Authority decision and implementation. We are mindful, especially at times of holidays (such as the summer holidays which start, in Scotland, in June) that if approved around the holiday period that a Code change might be approved and implemented whilst many parties are absent from work. For that reason we believe if Elexon are to go down the CUSC route of determining implementation X days after an Authority decision that X is set at ten, rather than five Working Days
Accenture (UK) Ltd. (for and on behalf of ScottishPower)	Yes	-
E.ON UK	Yes	-
EDF Energy	Yes	However, we do not consider that 5 WDs proposed for this modification proposal should in anyway set a precedent for future modification proposal implementation dates.

Question 4: Do you have any further comments on P252?

Responses

Respondent	Comments
Gemserv	No

Respondent	Comments
RWE npower	No
International Power	<p>Elxon should better publicise the election process to encourage greater engagement from all parties and ensure they are aware that they are entitled to cast two votes. Hopefully in raising this modification, the ability to cast two votes will be better publicised.</p>
Immingham CHP LLP	<p>Without sufficient publicly available information on how parties voted in previous elections it has not been possible to make an informed judgement on whether the block or tactical voting has taken place and as such this issue should not be dismissed as a 'red herring'.</p> <p>As Elxon is the only body which can comment on this we would like to see previous elections reviewed to ensure that smaller, disenfranchised parties are not unduly disadvantaged.</p> <p>Elxon should better publicise the election process to encourage greater engagement from smaller parties.</p>
Scottish and Southern Energy	<p>We fail to see how reducing the number of votes that a BSC Party can exercise (from two to one) will increase participation in BSC Elections. If there were a BSC Party who did not want to 'participate' in exercising their two votes all they need to do is exercise one of their votes.</p> <p>Furthermore, we fail to see how effectively halving the number of votes cast which in overall numbers terms is already small (a figure of 59 is quoted on page 4 of the consultation document) could result in 'more reflective voting'.</p> <p>Whilst we recognise that P251 is a separate Modification, we believe that P252 (when combined with P251) will lead to a far less reflective election process. The interaction with P251 (with its "+1" concept) would, in our view, be fatally flawed if the total number of votes cast were just 31.</p> <p>With respect to the comments attributed; on page 4 of the consultation document; to the Proposer that "the current process does not reflect the principle of one party, one vote" we note that this will not be resolved with P252 as we, representing nine BSC Parties, only get one vote (or two with the Baseline) under P252 (rather than the nine the Proposer of P252 seems to desire with 'one party, one vote').</p>
Accenture (UK) Ltd. (for and on behalf of ScottishPower)	No
E.ON UK	<p>Removing two voting papers from all Parties is a flawed idea that would unfairly restrict choice while having no impact on any opportunity for 'organised tactical voting', a red herring anyway. There might however be merit in changing the system as the Group raised in the potential Alternative to allow one paper per active</p>

Respondent	Comments
	Energy Account, reflecting the apparent intention at NETA go-live of a system whereby Suppliers receive one vote, Generators receive one vote, and those with both aspects to their business two votes. Group members involved with NETA design confirmed that this was the original intention and this was only not put forward as a Mod Group alternative as it was thought difficult to put into practice; perhaps this deserves more consideration.
EDF Energy	No