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National Grid Electricity Transmission plc,
BSC Signatories and Other Interested Parties

15 December 2005

Dear Colleague,

Modification to the Balancing and Settlement Code (“BSC”) - Decision and direction in relation to Modification Proposal P193 “Improved arrangements for Modification Proposals raised by the BSC Panel”

The Gas and Electricity Markets Authority (the “Authority”)¹ has considered the issues raised in the Modification Report² in respect of Modification Proposal P193, “Improved arrangements for Modification Proposals raised by the BSC Panel”.

The BSC Panel (the “Panel”) recommended to the Authority that the Proposed Modification should be approved.

Having considered the Modification Report and the Panel’s recommendation and having regard to the Applicable BSC Objectives³ and the Authority’s wider statutory duties,⁴ the Authority has decided to direct a modification to the BSC in line with the Proposed Modification.

This letter explains the background and sets out the Authority’s reasons for its decision.

¹ Ofgem is the office of the Authority. The terms “Ofgem” and “the Authority” are used interchangeably in this letter.

² ELEXON document reference P193RR, Version No. 1.0, dated 12 December 2005.

³ The Applicable BSC Objectives, as contained in Standard Condition C3 (3) of NGC’s Transmission Licence, are:

- a) the efficient discharge by the licensee of the obligations imposed upon it by this licence;
- b) the efficient, economic and co-ordinated operation of the GB transmission system;
- 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; and
- d) promoting efficiency in the implementation and administration of the balancing and settlement arrangements.

⁴ Ofgem’s statutory duties are wider than the matters that the Panel must take into consideration and are detailed primarily in the Electricity Act 1989 as amended, including by the Enterprise Act 2002; the Energy Act 2004; the Transitional Provisions; and the Utilities Act 2000.

This letter constitutes notice by the Authority under section 49A of the Electricity Act 1989 in relation to the direction. It also contains a direction to the Transmission Company to update the BSC in accordance with its transmission licence.

Background

The BSC permits the Panel to raise a Modification Proposal in a number of circumstances:

- On the recommendation of BSCCo in order to facilitate the achievement of efficiency in the implementation and administration of the balancing and settlement arrangements (i.e. Applicable BSC Objective (d)), in accordance with paragraph C3.8.8 of the Code;
- On the recommendation of BSCCo in order to reflect the introduction of the Euro currency into the UK (if adopted), in accordance with paragraph H9.8 of the Code;
- On the recommendation of BSCCo in order to progress consequential changes to the Code arising from changes to other Core Industry Documents and/or the System Operator-Transmission Owner Code;
- On the recommendation of BSCCo where BSCCo becomes aware that the implementation of an Approved Modification has become impossible, no longer relevant or significantly more costly than envisaged;
- On the recommendation of BSCCo in order to rectify manifest errors, correct minor inconsistencies, or make other minor inconsequential changes to the Code (commonly referred to as "housekeeping" changes); and
- On the recommendation of the Trading Disputes Committee in consequence of a Trading Dispute.

In addition, paragraph G1.5.3 requires the Panel to propose a modification to the Code:

- Following a recommendation by BSCCo, and after consultation with the Secretary of State and the Authority, in order to reflect or support any changes made by the Secretary of State to the emergency arrangements relating to Sections 34, 35 and 96 of the Electricity Act 1989 and Sections 1-4 of the Energy Act 1976 (including any changes to the Fuel Security Code).

Currently paragraphs F2.1.8 and F2.1.9 of the Code specify that once a Modification Proposal is raised it shall be placed on the agenda of the next Panel meeting, along with its' accompanying initial written assessment (commonly referred to as an "IWA").

A Panel decision to raise a Modification Proposal will itself be made during a Panel meeting. The combination of these requirements means that where the Panel raises a Modification Proposal, it cannot then consider the IWA until its subsequent monthly meeting.

It is contended that this results in an unnecessary one month delay before the Panel can consider how to progress a Modification Proposal that it has raised.

In order to rectify this situation, National Grid Electricity Transmission plc submitted Modification Proposal P193, "Improved arrangements for Modification Proposals raised by the BSC Panel" on 26 August 2005.

The Modification Proposal

Modification Proposal P193 seeks to modify the BSC so that the Panel may raise a Modification Proposal and then consider its IWA at the same meeting. The Proposer considers that this will result in a more expeditious and efficient treatment of Panel raised Modification Proposals and will reduce the timescale for their progression by one month.

The Proposer contended that this streamlined process would better facilitate achievement of the Applicable BSC Objective C3 (3) (d), 'promoting efficiency in the implementation and administration of the balancing and settlement arrangements'.

The Panel considered the IWA at its meeting of 8 September 2005 and agreed to submit Modification Proposal P193 to the Assessment Procedure. The Modification Group (the "Group") considered the appropriateness of the solution; how the new process would work; potential interactions with the urgency process; and potential alternative solutions. The Group issued Transmission Company and BSCCo impact assessments and conducted an industry consultation. The Group reached a unanimous conclusion that P193 should be made as it would better facilitate achievement of Applicable BSC Objective (d), which was affirmed by the Panel at its meeting on 10 November 2005.

Respondents' views

ELEXON published a draft Modification Report on 11 November 2005, which invited respondents' views by 18 November 2005. Seven responses were received (representing 47 Parties and no non-Parties). Respondents expressed unanimous support for the Proposed Modification.

Responses shared a similar theme of concluding that the reduction of one-month in Panel timescales for progressing Modification Proposals that it raised would result in more efficient and timely consideration of those proposals, thereby facilitating the achievement of Applicable BSC Objective (d).

The respondents' views are summarised in the Modification Report, which also includes the complete text of all respondents' replies.

Panel's recommendation

The Panel met on 8 December 2005 and considered the Modification Proposal, the draft Modification Report, the views of the Group and the consultation responses received.

The Panel recommended that the Authority should approve the Proposed Modification and that, if approved, the Proposed Modification should be implemented five Working Days following an Authority decision.

Ofgem's view

Having considered the Modification Report and the Panel's recommendation, Ofgem considers, having regard to the Applicable BSC Objectives and its statutory duties, that the Proposed Modification will better facilitate achievement of Applicable BSC Objective (d).

Ofgem concurs with the Panel, the Group and consultation respondents that allowing the Panel to consider the IWA for a Modification Proposal that it has raised at the same meeting will remove an unnecessary delay of one month in the timescales by which such Modification Proposal will be progressed. This reduction in timescales will not come at the expense of transparency, given that Panel consideration of the matter will be undertaken in public session. In addition, whilst the Panel may consider the IWA at the same meeting, it will retain the ability to defer this consideration to a subsequent meeting if it considers that further information is required before it may amalgamate it with another Modification Proposal; submit it to a Definition or Assessment Procedure; or submit it to the Report Phase.

Ofgem concludes that P193 would promote efficiency in the implementation and administration of the balancing and settlement arrangements.

Direction under Condition C3 (5) (a) of NGET's Transmission Licence

Having regard to the above, the Authority, in accordance with Condition C3 (5) (a) of the licence to transmit electricity granted to NGET under Section 6 of the Electricity Act 1989 (the "Transmission Licence"), hereby directs NGET to modify the BSC.

This modification shall be in accordance with the Proposed Modification as set out in the Modification Report.

The Implementation Date for the Proposed Modification is 22 December 2005.

In accordance with Condition C3 (5) (c) of NGET's Transmission Licence, NGET shall modify the BSC in accordance with this direction of the Authority.

If you have any questions, please contact Richard Hall on 020 7901 7335.

Yours sincerely,

Nick Simpson
Director, Modifications

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