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The National Grid Company, BSC Signatories and
Other Interested Parties

09 February 2005

Our Ref: MP No P179

Dear Colleague,

Modification to the Balancing and Settlement Code (“BSC”) – Decision and notice in relation to Modification Proposal P179 “Housekeeping Modification”

The Gas and Electricity Markets Authority (the “Authority”)¹ has carefully considered the issues raised in the Modification Report² in respect of Modification Proposal P179, “Housekeeping Modification”.

The BSC Panel (the “Panel”) recommended to the Authority that

- Proposed Modification P179 should be made;
- P179 should have an Implementation Date of 23 February 2005 if an Authority decision is made by 8 February 2005 or, 10 Working Days after an Authority decision where an Authority decision is received after that date; and
- the proposed text should be used for modifying the Code, as set out in the draft Modification Report.

Having carefully 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

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

² ELEXON document reference P179MR, Version No. Final/1.0, dated 20 December 2004.

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 by the licensee of the licensee’s 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;
- d) promoting efficiency in the implementation and administration of the balancing and settlement arrangements
- e) the undertaking of work by BSCCo (as defined in the BSC) which is:
 - (i) necessary for the timely and effective implementation of the proposed British Electricity Trading and Transmission Arrangements (BETTA); and
 - (ii) relevant to the proposed GB wide balancing and settlement code;

Authority has decided to direct a Modification to the BSC in line with the Modification Proposal P179.

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

This letter constitutes notice by the Authority under section 49A Electricity Act 1989 in relation to the direction.

Background

Modification Proposal P179 identified a number of errors, reference adjustments, typographical errors, Code defined term corrections, redundant clauses and inconsistencies in the BSC. It was recognised that these defects could be corrected by way of a consolidation of various 'Housekeeping' changes.

In order to rectify this situation, the Panel on the recommendation of ELEXON submitted Modification Proposal P179, "Housekeeping Modification" on 15 October 2004.

The Modification Proposal

Modification Proposal P179 seeks to modify the BSC so as to rectify twenty six errors and inconsistencies. It was suggested that these changes would promote efficiency in the implementation and administration of the balancing and settlement arrangements and remove a number of potential sources for error within the Code.

P179 originally contained twenty eight changes to the Code. However, two of the suggested changes were subsequently removed as they were considered not to fall within the scope of a Housekeeping Modification.

The Modification Proposal includes three amendments to section K of the Code to reference new BSCP25 "Registration of Transmission Boundary Points, Grid Supply Points, GSP Groups and Distribution System Connection Points". The BSCP will be implemented for the CVA February 2005 release.

Two of the changes put forward interact with Section I "Transitional Arrangements for the implementation of BETTA" of the Code.

The justification for addressing all twenty six defects by way of a consolidated Housekeeping Modification Proposal such as Modification Proposal P179 was on the grounds that it offers a more robust and efficient way of administering the arrangements than addressing each defect individually once identified, or awaiting individual disputes and issues to arise.

The Modification Proposal would therefore better facilitate achievement of the Applicable BSC Objective C3 (3) (d).

and does not prevent BSCCo performing its other functions under the BSC in accordance with its objectives.

⁴ Ofgem's statutory duties are wider than the matters that the Panel must take into consideration and include amongst other things a duty to have regard to social and environmental guidance provided to Ofgem by the government.

The Panel considered the Initial Written Assessment at its meeting of 11 November 2004 and agreed to submit Modification Proposal P179 directly to the Report Phase.

Respondents' views

ELEXON published a draft Modification Report on 17 November 2004, which invited respondents' views by 26 November 2004. Five responses were received. Three responses (representing 21 Parties) expressed support for the Proposed Modification, 1 respondent (representing 10 Parties) did not support the Proposed Modification and 1 respondent provided a "no comment" response.

One respondent disagreed with the decision to remove one of two changes that were removed as they considered the rationale for the change to be within the scope of a Housekeeping Modification.

Two respondents expressed concern over the proposed change to section W4.2.1 of the code, questioning whether such a change fell within the scope of a Housekeeping Modification since the change appeared to be changing the options available to the TDC rather than amending any inconsistency or error.

The respondents' views are summarised in the Modification Report for Modification Proposal P179, which also includes the complete text of all respondents' replies.

Panel's recommendation

The Panel met on 9 December 2004 and considered Modification Proposal P179, the draft Modification Report and the consultation responses received.

On consideration of the two changes that were removed, the Panel felt that the changes did not fall within the scope of a Housekeeping Modification and maintained that they were changes that would have altered the meaning of the Code.

In relation to the concerns raised with regard to the change to section W4.2.1, one Panel member considered that the change did not comply with what is permitted under section F2.1.1(d)(iv) of the Code. The Panel was advised by ELEXON that the word "shall" was incorrectly introduced during the Modification process of P131 in place of "may" and this was identified as an error during implementation of P131.

Noting ELEXON's advice on this change, the Panel agreed that this change should remain within the scope of the Proposed Modification and recommended that the Authority should approve the Proposed Modification and that, if approved, the Proposed Modification should be implemented on 23 February 2005 if an Authority decision is made by the 8 February 2005, or 10 Working Days after an Authority decision where an Authority decision is received after that date.

Ofgem's view

Having carefully considered the Modification Report and the Panel's recommendation, Ofgem considers, having regard to the Applicable BSC Objectives and its statutory duties, that the changes removed from the original Modification Proposal ought not to have been considered in a Housekeeping Modification, on the grounds that they were not changes introduced in error or that corrected any other obvious errors or inconsistencies.

With regard to the proposed amendment to section W4.2.1, Ofgem considers that the word "shall" was an unintended change to the legal text brought in during the P131 Amendment Proposal and consequently considers that changing it back to "may" would on this occasion fall within the scope of a Housekeeping Modification.

Ofgem agrees it is desirable to implement some of the changes introduced by P179 contemporaneously with the implementation of BSCP25 as this maintains the operational efficiency of the BSC.

As to the interactions with Section I of the Code, Ofgem notes that section I8.1.1 of the Code requires Scottish Parties to comply with BDTP 25 and notes as a result that when reading section K1.3.3 Scottish Parties will not be bound by the newly introduced BSCP 25.

Also that BDTP20 requires proving tests to be carried out in accordance with BDTP02 and consequently Scottish Metering System proving tests will not be bound by BSCP02.

Ofgem considers that Proposed Modification P179 will better facilitate achievement of Applicable BSC Objective (d).

Having considered the proposed changes, Ofgem's view is that uncorrected the errors and minor inconsistencies described may lead to misunderstandings and confusion within the industry which could potentially impact a Party's understanding of the operation of the BSC. It is Ofgem's view that reading and understanding of the BSC ought to be as clear and unambiguous as possible at all times. The approval of Modification Proposal P179 will help achieve this.

If you have any questions, please contact me on the above number.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Simpson', written over a horizontal line.

Nick Simpson
Director, Modifications

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