

Modification Proposal – F76/01

MP No: 180

(mandatory by BSCCo)

Title of Modification Proposal *(mandatory by originator):*

Revision to BSC Modification implementation dates, where an Authority decision is referred to Appeal or Judicial Review.

Submission Date *(mandatory by originator):*

1st November 2004

Description of Proposed Modification *(mandatory by originator)*

This proposal aims to introduce the ability for BSC Implementation dates to be revised, where an Authority BSC Modification decision is referred to Appeal or Judicial review.

(NB The DTI are currently consulting as to whether Modifications that are subject to an Appeal might be capable of being implemented whilst the Modifications process is ongoing. Were the DTI ultimately to conclude that any Modifications could be implemented in these circumstances, they would fall outside the scope of this Modification proposal.)

NGC believes that the precise mechanisms for giving effect to this proposal could be further explored by a Modification Group. However, our initial proposal is for Elexon to write to Ofgem and BSC Parties (electronically) at the time that the Authority BSC Modification decision has been formally referred. This communication will advise that the Appeal/ Judicial Review means that the original implementation date may no longer be valid and the BSC Panel will propose a revised provisional implementation date. This will be based on an estimation of the likely timescales that the Appeal/ Judicial Review is expected to take, and the amount of time that will be needed following this for the Modification to be implemented. If the Appeal or Judicial Review action takes longer than the BSC Panel had originally anticipated, Elexon/ BSC Panel will be entitled to follow this procedure again during the course of a Judicial Review or Appeal as appropriate, to further revise the provisional implementation date.

These provisions will apply equally irrespective of whether or not an original Authority decision is ultimately fully upheld or partially upheld but the Authority have given a direction to implement a revised Amendment in some form.

This proposal does not cover any other scenarios beyond those relating to Appeals and Judicial Review.

Description of Issue or Defect that Modification Proposal Seeks to Address *(mandatory by originator)*

A concern has been expressed that the existing BSC and Licence based provisions in relation to implementation dates are not sufficient in circumstances that relate to Authority BSC Modification decisions that are referred to Appeal or Judicial Review.

This defect is a "live" defect today in relation to Judicial Review, and conceptually an identical defect will potentially exist from the time of the introduction of a route to Appeal against Authority BSC Modification decisions.

This proposal addresses this existing and future potential defect, by providing scope for Elexon/ BSC Panel to provide further implementation dates to the Authority when Authority BSC Modification decisions have been referred to Appeal or Judicial Review, and hence are no longer approved Modifications.

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<p>Impact on Code <i>(optional by Originator)</i></p> <p>Changes are likely to be needed to Section F (Modification Procedures) in order to implement this proposal. The precise mechanics of implementation may also potentially require changes to Section B (The Panel) and Section X (Definitions.)</p>	
<p>Impact on Core Industry Documents <i>(optional by Originator)</i></p> <p>This is a stand-alone modification proposal, that does not impact on Core Industry Documents. However, a similar stand alone CUSC Amendment (CAP077) has been raised by NGC.</p>	
<p>Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties <i>(optional by originator)</i></p>	
<p>Impact on other Configurable Items <i>(optional by originator)</i></p>	
<p>Justification for Proposed Modification with Reference to Applicable BSC Objectives <i>(mandatory by originator)</i></p> <ul style="list-style-type: none"> ● Ensuring that Modification Proposals that have been approved or rejected by the Authority and that become subject to a Judicial Review do not potentially “time out” (due to the expiry of an implementation date), better facilitates BSC objective (a) the efficient discharge by the Transmission Company of the obligations placed upon it by the Transmission Licence. ● Additionally, in relation to the work carried out by BSCCo and its agents in the assessment of the Modification Proposals, and any preparation which may have been or may need to be carried out for process or systems changes resulting from Proposals, this Modification Proposal better facilitates BSC objective (d) promoting efficiency in the implementation and administration of the balancing and settlement arrangements. 	

Modification Proposal – F76/01**MP No: 180***(mandatory by BSCCo)***Details of Proposer:****Name:** John Greasley**Organisation:** National Grid Transco**Telephone Number:** 01926 656313**Email Address:** john.greasley@ngtuk.com**Details of Proposer's Representative:****Name:** Ben Graff**Organisation:** National Grid Transco**Telephone Number:** 01926 656312**Email Address:** ben.graff@ngtuk.com**Details of Representative's Alternate:****Name:** Mark Duffield**Organisation:** National Grid Transco**Telephone Number:** 01926 654971**Email Address:** mark.duffield@ngtuk.com**Attachments:** NO**If Yes, Title and No. of Pages of Each Attachment:**