

MODIFICATION REPORT for Modification Proposal P170

Amendments to the Balancing and Settlement Code (Code), and to the systems and processes that support it, to allow compliance with the changed application of VAT to Trading Charges

Prepared by: P170 Modification Group

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This document has been distributed in accordance with Section F2.1.10¹ of the Balancing and Settlement Code.

RECOMMENDATIONS

Having considered, and taken into due account, the contents of the draft P170 Modification Report, the Balancing and Settlement Code Panel recommends:

- **that Proposed Modification P170 should be made;**
- **the P170 Implementation Date of 5 Working Days after an Authority decision; and**
- **the proposed text for modifying the Code, as set out in the Modification Report.**

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¹ The current version of the Balancing and Settlement Code (the 'Code') can be found at <http://www.elexon.co.uk/bscrelateddocs/BSC/default.aspx>

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SUMMARY OF IMPACTED PARTIES AND DOCUMENTS

The following parties/documents have been identified as being potentially impacted by Modification Proposal P170.

Parties	Sections of the BSC	Code Subsidiary Documents
Suppliers <input checked="" type="checkbox"/>	A <input type="checkbox"/>	BSC Procedures <input type="checkbox"/>
Generators <input checked="" type="checkbox"/>	B <input type="checkbox"/>	Codes of Practice <input type="checkbox"/>
Licence Exemptable Generators <input checked="" type="checkbox"/>	C <input type="checkbox"/>	BSC Service Descriptions <input type="checkbox"/>
Transmission Company <input type="checkbox"/>	D <input checked="" type="checkbox"/>	Service Lines <input type="checkbox"/>
Interconnector <input checked="" type="checkbox"/>	E <input type="checkbox"/>	Data Catalogues <input type="checkbox"/>
Distribution System Operators <input type="checkbox"/>	F <input type="checkbox"/>	Communication Requirements Documents <input type="checkbox"/>
Non-Physical Traders <input checked="" type="checkbox"/>	G <input type="checkbox"/>	Reporting Catalogue <input type="checkbox"/>
Party Agents		
	H <input type="checkbox"/>	MIDS <input type="checkbox"/>
Data Aggregators <input type="checkbox"/>	I <input type="checkbox"/>	Core Industry Documents
Data Collectors <input type="checkbox"/>	J <input type="checkbox"/>	Grid Code <input type="checkbox"/>
Meter Operator Agents <input type="checkbox"/>	K <input type="checkbox"/>	Supplemental Agreements <input type="checkbox"/>
ECVNA <input type="checkbox"/>	L <input type="checkbox"/>	Ancillary Services Agreements <input type="checkbox"/>
MVRNA <input type="checkbox"/>	M <input type="checkbox"/>	Master Registration Agreement <input type="checkbox"/>
BSC Agents		
SAA <input type="checkbox"/>	N <input checked="" type="checkbox"/>	Data Transfer Services Agreement <input type="checkbox"/>
FAA <input type="checkbox"/>	O <input type="checkbox"/>	British Grid Systems Agreement <input type="checkbox"/>
BMRA <input type="checkbox"/>	P <input type="checkbox"/>	Use of Interconnector Agreement <input type="checkbox"/>
ECVAA <input type="checkbox"/>	Q <input type="checkbox"/>	Settlement Agreement for Scotland <input type="checkbox"/>
CDCA <input type="checkbox"/>	R <input type="checkbox"/>	Distribution Codes <input type="checkbox"/>
TAA <input type="checkbox"/>	S <input type="checkbox"/>	Distribution Use of System Agreements <input type="checkbox"/>
CRA <input type="checkbox"/>	T <input type="checkbox"/>	Distribution Connection Agreements <input type="checkbox"/>
Teleswitch Agent <input type="checkbox"/>	U <input type="checkbox"/>	BSCCo
SVAA <input type="checkbox"/>	V <input type="checkbox"/>	Internal Working Procedures <input type="checkbox"/>
BSC Auditor <input type="checkbox"/>	W <input type="checkbox"/>	Other Documents
Profile Administrator <input type="checkbox"/>	X <input type="checkbox"/>	Transmission Licence <input type="checkbox"/>
Certification Agent <input type="checkbox"/>		System Operator-Transmission Owner Code <input type="checkbox"/>
MIDP <input type="checkbox"/>		
Other Agents		
SMRA <input type="checkbox"/>		
Data Transmission Provider <input type="checkbox"/>		

X = Identified in Report for last Procedure
N = Newly identified in this Report

1 DESCRIPTION OF PROPOSED MODIFICATION AND ASSESSMENT AGAINST THE APPLICABLE BSC OBJECTIVES

1.1 Modification Proposal

1.1.1 Aim of Modification Proposal

Modification Proposal P170 'Amendments to the Balancing and Settlement Code (Code), and to the systems and processes that support it, to allow compliance with the changed application of VAT to Trading Charges' ('P170') was raised by the BSC Panel on 12 August 2004.

P170 proposes that the Code be modified to cater for a change in Value Added Tax (VAT) law. The Council of the European Union has directed an amendment to the rules on the place of supply of gas and electricity, for the purposes of turnover taxes² (hereafter referred to as 'the Directive'). This amendment takes effect from 1 January 2005 and impacts the application of VAT to the supply of electricity.

P170 was raised by the Panel on the recommendation of ELEXON in accordance with section F2.1.1(d)(i) of the Code.

The proposal suggests that the Code currently lacks appropriate obligations for Parties to provide relevant VAT information and indemnification against costs or penalties that might result from erroneous declarations. It is contended that the absence of such obligations may prevent ELEXON and Parties from complying with the legislation and therefore detrimentally impact upon the efficiency of the implementation and administration of the balancing and settlement arrangements.

The Panel has reached a provisional view that P170 would better facilitate Applicable BSC Objective (d):

'promoting efficiency in the implementation and administration of the balancing and settlement arrangements'.

The basis for this provisional view is that efficiency would be better achieved by:

- Obliging Parties to provide relevant VAT information to allow the BSCCo and BSC Clearer to correctly invoice and account for payments receivable or payable under the Code;
- Providing that Parties should indemnify BSCCo and BSC Clearer against VAT liabilities or penalties that might arise from an incorrect declaration of the Party's liability to UK VAT;
- Clarifying how VAT imbalances should be addressed by the BSCCo and BSC Clearer.

1.1.2 Process followed for P170

The following deliverables resulted from the Assessment Procedure for P170:

- A new Modification Group was formed (hereafter referred to as 'the Group'), comprising existing members of standing Modification Groups supplemented by additional industry volunteers with VAT expertise;
- This Group met twice, on 6 September and 29 September 2004, to consider P170 against its Terms of Reference set down by the Panel;
- One industry consultation was issued;
- One impact assessment from the Transmission Company was requested;

² The amendment is contained within Council Directive 2003/92/EC, which amends Directive 77/388/EEC as regards the rules on the place of supply of gas and electricity. A hyperlink to this document is contained within Reference 1 of this document.

- Legal text was commissioned; and
- The content of the Assessment Report was agreed.

The Assessment Report (reference 6) was considered by the Panel at its 14 October 2004 meeting and forms the basis for this Modification Report.

1.1.3 Amendments to underlying systems and processes

Subsequent to P170 being raised, ELEXON separately raised Change Proposal 1078 'System and process changes required to allow compliance with the changed application of VAT to Trading Charges' ('CP1078') on 19 August 2004. The decision to raise a Change Proposal was taken because impact assessments suggested that ELEXON and the Funds Administration Agent (FAA) needed to start the development of the system and process changes required during September 2004 in order to comply with the change in VAT law by its effective date.

The Imbalance Settlement Group (ISG), acting under delegated authority from the Panel, approved CP1078 on 8 September 2004.

It should be stressed that CP1078 is not an alternative or substitute to P170. P170 proposes putting in place obligations on Parties (further detailed in sections 1.4 and 5 of this document) that cannot be achieved through a Change Proposal. The simplest way to explain the distinction between P170 and CP1078 is that the former seeks to deliver Code obligations to enforce compliance with the changed application of VAT and protect other Parties from incurring costs relating to erroneous VAT declarations, whilst the latter will put in place delivery mechanisms to allow the correct application of VAT in payment processes (but without any obligations to enforce the provision of relevant information or mitigate against any cost consequences of erroneous VAT declarations if implemented in isolation).

The separation of system and process changes into CP1078 means that these are not required under P170. The Business Requirement Solution for CP1078 is available on the BSC Website (reference 7).

1.2 Proposed Modification

The Group developed P170 as a Code only change, noting that system and process changes will be catered for under CP1078.

The issues considered by the Group in developing the legal text are reflected in section 1.3 of this document. The legal text is appended to this document.

1.3 Issues raised by the Proposed Modification

The following issues were considered during the Assessment of Proposed Modification P170:

- Obligations for a Party to declare its VAT status;
- Party responsibility for erroneous VAT declarations;
- Definition of VAT within the Code;
- Accounting for deficit or surplus of VAT between ELEXON Clear and ELEXON Limited;
- Interrelation with CP1078;
- Section D Charges;
- Implementation Date;
- Credit Assessment Price;
- Payment Default; and

- Draft legal text.

These issues are discussed in the Assessment Report and are not covered further here.

1.4 Assessment of whether P170 will better facilitate the Applicable BSC Objectives

The Group believed that the principal benefit of P170 was that it would require each Party to indemnify the BSCCo and BSC Clearer against VAT liabilities or financial penalties that might arise from incorrect invoicing and VAT payments had it erroneously declared, or failed to declare, information that the BSCCo and BSC Clearer needed to determine whether UK prevalent rate VAT should be applied to its charges under the Code. The Group believed it would not be appropriate for this risk to be borne across all Parties through the funding share mechanism as this would result in Parties incurring costs to rectify errors for which they were blameless.

The Group further believed that the Code should clarify the treatment of VAT imbalances that will now be realised by the BSC Clearer. From 1 January 2005, any VAT imbalances experienced by the BSC Clearer will be accounted for to Customs and Excise by BSCCo. This necessitates ongoing processes to transfer shortfalls or surpluses between the BSC Clearer and BSCCo in both day-to-day operational and Payment Default situations, as well as processes for the BSC Clearer to notify BSCCo in advance of each Payment Date of the shortfall or surplus expected to arrive. The Group believed that it was appropriate that the Code should stipulate the obligations of both BSCCo and the BSC Clearer in this regard, in order that Parties had visibility on how these cashflows would operate and to confirm that the liability for operational BSC Clearer VAT balancing rests with the BSCCo.

The Group further believed that the Code currently lacks robust obligations for Parties to provide sufficient relevant information to allow the correct application of VAT after 1 January 2005. The Code currently only mandates the provision of VAT details once, upon accession to the Code. Furthermore, Parties are not under any Code obligation to confirm whether they are liable to UK VAT or not, either before or after accession. The lack of relevant obligations, if not addressed, would mean that the provision of such information by Parties to BSCCo would have to be upon a purely voluntary basis. The Group considered that the provision of relevant data to BSCCo to allow the correct invoicing of charges accrued under the Code should be mandatory rather than voluntary, and that mandatory data provision would be easier to enforce, and therefore more efficient for BSCCo and FAA to administer, than attempting an approach based upon voluntary compliance.

For the reasons outlined above, the Group reached a consensus view that the Proposed Modification will better facilitate Applicable BSC Objective (d), 'Promoting efficiency in the implementation and administration of the balancing and settlement arrangements'.

The Group also gave consideration to whether P170 would better facilitate Applicable BSC Objective (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', in view of the opinion expressed by one consultation respondent that it would be better achieved.

It was noted that the reason put forward in support of the facilitation of (c) by a consultation respondent was that it would remove the risk of all Parties picking up costs relating to one Party erroneously declaring its liability to UK VAT, a rationale put forward by the Group and other consultation respondents as supporting the facilitation of (d). Whilst the Group agreed that the rationale given in support of P170 is a valid benefit, it believed that this suggested better facilitation of (d) rather than (c) as this perceived benefit relates to the promotion of efficiency in the implementation and administration of the balancing and settlement arrangements rather than the promotion of market competition. The Group believed that P170 would have neither a positive nor a negative effect on the facilitation of Applicable BSC Objective (c).

1.5 Modification Group's cost benefit analysis of Proposed Modification

The Panel has concurred with the Group's view that P170 is a Code only change and that costs are therefore restricted to those required to implement revised legal text. These costs have been estimated by ELEXON as £600 (equating to two man days).

For the reasons outlined in section 1.4 of this document, the Group believed that P170 would better facilitate the achievement of Applicable BSC Objective (d) by promoting efficiency in the implementation and administration of the balancing and settlement arrangements. Putting a precise cash figure to such benefit has not been attempted. This is because there is no obvious model that could be used to determine the likelihood, and financial costs and penalties, of BSCCo and/or BSC Clearer failing to comply with VAT law based upon a purely voluntary provision of relevant VAT information by Parties (the approach that would have to be adopted were Code obligations left unchanged).

Although a precise cash benefit to P170 could not be calculated, the Group believed it is reasonable to expect that its benefits would exceed the costs of implementing revised legal text. The Panel is in agreement with the Group's cost benefit analysis of the Proposed Modification.

1.6 Alternative Modification

The Panel noted that in the course of its considerations, the Group did not identify any alternative Modification Proposal that would better facilitate the Applicable BSC Objectives.

1.7 Governance and regulatory framework assessment

No impact upon the Governance and Regulatory Framework was identified by the Panel, the Group or any of the respondents to the Assessment Procedure consultation.

2 COSTS³

PROGRESSING MODIFICATION PROPOSAL

Meeting Cost	£ 1,000
Legal/expert Cost	£ 33,750
Impact Assessment Cost	£ 0
ELEXON Resource	40 Man days £ 10,000

IMPLEMENTATION COSTS

³ Clarification of the meanings of the cost terms in this section can be found in annex 7 of this report

		Stand Alone Cost	P170 Incremental Cost	Tolerance
Service Provider⁴ Cost	Change Specific Cost	£ 0	£ 0	+/- 0% (£0)
	Release Cost	£ 0		+/- 0% (£0)
	Incremental Release Cost	£ 0	£ 0	+/- 0% (£0)
	Total Service Provider Cost	£ 0	£ 0	+/- 0% (£0)
Implementation Cost	External Audit	£ 0	£ 0	+/- 0% (£0)
	Design Clarifications	£ 0	£ 0	+/- 0% (£0)
	Additional Resource Costs	£ 0	£ 0	+/- 0% (£0)
	Additional Testing and Audit Support Costs	£ 0		+/- 0% (£0)
Total Demand Led Implementation Cost		£ 0	£ 0	+/- 0% (£0)

ELEXON Implementation Resource Cost		2 Man days £ 600	2 Man days £ 600	+/- 10% +/- £ 60
Total Implementation Cost		£ 600	£ 600	+/- 10% +/- £ 60

ONGOING SUPPORT AND MAINTENANCE COSTS

		Stand Alone Cost	P170 Incremental Cost	Tolerance
Service Provider Operation Cost		£ 0 per annum	£ 0 per annum	+/- 0% (£ 0)
Service Provider Maintenance Cost		£ 0 per annum	£ 0 per annum	+/- 0% (£ 0)
ELEXON Operational Cost		£ 0 per annum	£ 0 per annum	+/- 0% (£ 0)

⁴ BSC Agent and non-BSC Agent Service Provider and software Costs

3 RATIONALE FOR PANEL'S RECOMMENDATIONS

The Panel has considered the Group's assessment of whether P170 would better facilitate the Applicable BSC Objectives, and has agreed with its findings. The Panel has not put forward any further or alternative arguments to be considered. The Group's recommendations to the Panel are reflected in the following paragraphs.

These were that:

- P170 should be approved as it would better facilitate Applicable BSC Objective (d), 'Promoting efficiency in the implementation and administration of the balancing and settlement arrangements', for the reasons set out in section 1.4 of this document.
- It should have an Implementation Date of five Working Days after an Authority determination. It is believed that such a formula would be more appropriate than recommending a specific Implementation Date. The rationale for this is a belief that Code obligations should be introduced as soon as possible, preferably in advance of the changes to BSCP301 and FAA systems and processes that will take effect on 17 December 2004 as a result of the implementation of CP1078. It should be noted that this would be a calendar day not a Settlement Day Implementation.
- Legal text appended to this document correctly addresses the perceived defect. The Panel noted that the consultation comments on the legal text issued during the Assessment Procedure had all been resolved and that the suggested changes to Section D would be valid regardless of the final decision on Section D charging made by Customs and Excise.

4 IMPACT ON BSC SYSTEMS AND PARTIES

An assessment has been undertaken in respect of BSC Systems and Parties and the following areas have been identified as potentially being impacted by the Proposed Modification.

4.1 BSCCo

No changes to BSCCo Systems and processes have been identified as resulting from P170. It should be noted that changes to BSC Systems and processes will be required to allow the correct settlement of charges incurred under the Code, but that these will be implemented by CP1078.

4.2 BSC Systems

No changes to BSC Systems and processes have been identified as resulting from P170. It should be noted that changes to BSC Systems and processes will be required to allow the correct settlement of charges incurred under the Code, but that these will be implemented by CP1078.

4.3 Parties and Party Agents

Parties will be impacted by the introduction of a number of Code obligations. These are summarised in section 5.1 of this document.

Due to the multi-national nature of many BSC signatories and the complexity of VAT law it is not necessarily the case that all Parties with UK signatory addresses will be liable to UK VAT under the Code or that all Parties with signatory addresses outside the UK will not be liable to UK VAT under the Code. However, as a crude estimate, this may give some estimation of the numbers of Parties affected.

At the time of writing, 14 of the 197 BSC signatories (7%) have signatory addresses outside the UK.

This tallies reasonably closely with Customs and Excise estimates of numbers of businesses impacted by the VAT law change. Customs and Excise issued a Regulatory Impact Assessment in respect of the impact of the VAT law changes to the place of supply of gas and electricity in March 2004 (reference 4). This suggested that 15 non-UK businesses trading in UK power markets will no longer require UK VAT registration. It should be noted that this estimate was based upon a combined assessment of gas and electricity markets, although in general there is significant cross-over between electricity and gas market participants.

5 IMPACT ON CODE AND DOCUMENTATION

5.1 Balancing and Settlement Code

Parties should consult the legal text appended to this document for definitive changes in obligations under the Code, but in brief these may be summarised as:

- Each Party must notify BSCCo of relevant VAT information in accordance with BSCP301 to enable the BSCCo and BSC Clearer to charge and pay correct amounts in respect of VAT;
- Each Party must notify BSCCo as soon as it has actual knowledge that any such information may, will or has changed;
- BSCCo and the BSC Clearer would be given the entitlement, but not the obligation, to charge amounts in respect of VAT were they to reasonably believe that any assumption as to the VAT status declared by a Party is incorrect;
- FAA would notify the BSCCo on each Notification Date of expected VAT imbalances on the relevant Payment Date;
- Section N prescribes how the BSC Clearer and BSCCo should resolve any VAT imbalances, whether surplus or deficit, incurred by the BSC Clearer both in carrying out its day-to-day transactions and where Amounts in Default occur. BSCCo will fund shortfall and receive surplus VAT imbalances;
- The FAA will retain and on request grant BSCCo access to relevant information to allow it to comply with applicable VAT legislation, and provide information required by Customs and Excise for such period as may be required by law;
- Each Party would indemnify BSCCo and the BSC Clearer in respect of any VAT (including interest and penalties) which BSCCo or the BSC Clearer becomes liable to pay, and any reduction in the amount of VAT which BSCCo or the BSC Clearer is entitled to recover, where a payment has not been increased in respect of VAT but should have been; and
- Each Party to indemnify BSCCo and the BSC Clearer to the extent that BSCCo and the BSC Clearer are not entitled to a credit for input tax in relation to a payment increased on account of VAT because it did not constitute the consideration for a taxable or deemed taxable supply.

5.2 Code Subsidiary Documents

No changes to Code Subsidiary Documents have been identified⁵.

5.3 BSCCo Memorandum and Articles of Association

No changes to the BSCCo Memorandum and Articles of Association have been identified.

⁵ It should be noted that the draft legal text contains an obligation on Parties to notify VAT information to BSCCo in accordance with BSCP301, 'Clearing, Invoicing and Payment'. Changes to BSCP301 are not necessitated by P170 as this document will be appropriately amended during the implementation of approved Change Proposal 1078.

5.4 Impact on Core Industry Documents and supporting arrangements

No impacts upon Core Industry Documents and supporting arrangements have been identified.

6 SUMMARY OF CONSULTATIONS

Consultation question	Respondent agrees	Respondent disagrees	Opinion unexpressed
Do you agree with the Panel's views on P170 and the provisional recommendation to the Authority contained in the draft Modification Report that P170 should be made?	3 (26)	0	0
Do you agree with the Panel's view that the legal text provided in the draft Modification Report correctly addresses the defect or issue identified in the Modification Proposal?	2 (17)	0	1 (9)
Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P170?	3 (26)	0	0

6.1 Panel's Provisional Recommendation

There was unanimous agreement with the Panel's provisional recommendation that P170 be approved. Those respondents who referred to the Applicable BSC Objectives suggested that (d), 'Promoting efficiency in the implementation and administration of the balancing and settlement arrangements'⁶, would be better facilitated by allowing ELEXON to receive the information it requires to more effectively administer elements of the balancing and settlement arrangements relating to VAT.

6.2 Draft Legal Text

The majority of respondents agreed that the draft legal text correctly addresses the perceived defect. The remaining respondent neither agreed nor disagreed, reflecting that they are content to accept ELEXON guidance on this issue.

6.3 Recommended Implementation Date

There was unanimous agreement with the Panel's provisional recommendation that P170 should be implemented 5 Working Days after an Authority decision. Those respondents who provided comments considered this to be an achievable recommendation and highlighted the need for a rapid implementation, given that the VAT law change takes effect on 1 January 2005.

6.4 Further Comments

No further comments were provided by any respondent.

6.5 Comments and views of the Panel

The Panel made no comment with regard to the responses received during the Report Phase consultation.

⁶ A full list of Applicable BSC Objectives is contained within Annex 7 of this document.

7 SUMMARY OF TRANSMISSION COMPANY ANALYSIS

7.1 Analysis

P170 does not impact on the ability of the Transmission Company to discharge its obligations under the Transmission Licence, and has no impacts upon its computer systems and processes, Core Industry Documents or development, capital and operating costs.

The Transmission Company is supportive of P170 meeting Applicable BSC Objective (d) as it would provide for a framework to ensure that both ELEXON and market participants are able to meet the obligations of the new European taxation legislation.

Full text of the Transmission Company response is contained within Annex 6 of this document.

7.2 Comments and views of the Panel

The Panel noted the Transmission Company analysis but made no comment upon it.

8 DOCUMENT CONTROL

8.1 Authorities

Version	Date	Author	Reviewer	Change Reference
0.1	18/10/04	Change Delivery	Sarah Parsons	P170 MG Chair review
0.2	20/10/04	Change Delivery	Industry	Consultation
0.3	05/11/04	Change Delivery	Panel	Panel decision
1.0	12/11/04	Change Delivery	Authority	Authority decision

8.2 References

Ref No.	Document Title	Owner	Issue Date	Version
1	COUNCIL DIRECTIVE 2003/92/EC of 7 October 2003 amending Directive 77/388/EEC as regards the rules on the place of supply of gas and electricity. Http link: http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_260/l_26020031011en00080009.pdf	The Council of the European Union	11 October 2003	N/A
2	Initial Written Assessment for P170. Http link: http://www.elexon.co.uk/documents/modifications/170/81_004a_P170_IWA.pdf	ELEXON	27 August 2004	1.0
3	Assessment Consultation for P170. Http link: http://www.elexon.co.uk/documents/Consultations/P170_Assessment_Consultation/P170AC10.pdf Also appended to this document as Annex 3.	ELEXON	10 September 2004	1.0

Ref No.	Document Title	Owner	Issue Date	Version
4	Regulatory impact assessment for changes to the VAT rules on the place of supply of gas and electricity Http link: http://www2.hmce.gov.uk/forms/graphics/ria-gas-electricity.pdf	Customs and Excise	March 2004	N/A
5	Finance Act 2004, Part 2, Section 21: 'Reverse charge on gas and electricity supplied by persons outside UK' Http link: http://www.legislation.hmso.gov.uk/acts/acts2004/40012--c.htm#21	Act of Parliament (Crown Copyright)	2004	N/A
6	P170 Assessment Report, plus annexes http://www.elexon.co.uk/changeimplementation/ModificationProcess/ModificationDocumentation/modProposalView.aspx?propID=181	ELEXON	8 October 2004	1.0
7	Business Requirements Solution for Change Proposal 1078 http://www.elexon.co.uk/documents/Change_and_Implementation/CVA_-_February_2005_Release_-_Change_Proposals/BRS_CP1078.pdf	ELEXON	8 September 2004	1.0

ANNEX 1 LEGAL TEXT

Legal text is appended to this document as two separate attachments: Annex 1a sets out redlined changes to Section N; and Annex 1b sets out redlined changes to Section D.

ANNEX 2 MODIFICATION GROUP DETAILS

NAME	POSITION	MEMBER	MEETING ATTENDANCE	
			06/09/2004	29/09/2004
Sarah Parsons	Chairman	Y	Y	Y
Richard Hall	Lead Analyst	Y	Y	Y
Shelagh Spurway	Centrica plc	Y	Y	Y
Richard Pretlove	EDF Trading Ltd	Y	Y	Y
Rekha Patel	ConocoPhillips (U.K.) Limited	Y	Y	Y
Geoff Allen	E.ON UK plc	Y	Y	Y
Andrew Colley	Scottish and Southern Energy plc	Y	Y	Y
Barbara Vest	Gaz de France Energy Supply Solutions	N	Y	N
Steve Mackay	Ofgem	N	Y	Y
Charles Yorke	External legal advice (Denton Wilde Sapte)	N	Y	N
Jane Douglas	External legal advice (Denton Wilde Sapte)	N	N	Y
David Ahmad	Internal legal advice (ELEXON)	N	Y	N
James Pettit	Internal advice (ELEXON)	N	Y	N
Mike Jones	Internal advice (ELEXON)	N	N	Y

The Group had the following issues to be considered under its Terms of Reference:

- Obligations for a Party to declare its VAT status;
- Party responsibility for erroneous VAT declarations;
- Definition of VAT within the Code;

- Accounting for deficit or surplus of VAT between ELEXON Clear and ELEXON Limited;
- Interrelation with CP1078; and
- Section D Charges.

ANNEX 3 ASSESSMENT REPORT

The Assessment Report for P170 is appended to this document as a separate attachment.

Annex 3 to the Assessment Report, which contains responses to the industry consultation during the Assessment Procedure, is also appended.

Please note that Annex 1 to the Assessment Report, which contains the legal text consulted on during the Assessment Procedure, has not been appended to this document. This is in order to avoid any potential for confusion on what legal text is being put forward for Authority decision.

ANNEX 4 DRAFT MODIFICATION CONSULTATION RESPONSES

Responses to the industry consultation on the draft Modification Report are appended to this document as a separate attachment.

ANNEX 5 CLARIFICATION OF COSTS

There are several different types of costs relating to the implementation of Modification Proposals. ELEXON implements the majority of Approved Modifications under its CVA or SVA Release Programmes. These Programmes incur a base overhead which is broadly stable whatever the content of the Release. On top of this each Approved Modification incurs an incremental implementation cost. The table of estimated costs of implementing the Proposed/Alternative Modification given in section 2 of this report has three columns:

- **Stand Alone Cost** – the cost of delivering the Modification as a stand alone project outside of a CVA or SVA Release, or the cost of a CVA or SVA Release with no other changes included in the Release scope. This is the estimated maximum cost that could be attributed to any one Modification implementation.
- **Incremental Cost** - the cost of adding that Modification Proposal to the scope of an existing release. This cost would also represent the potential saving if the Modification Proposal was to be removed from the scope of a release before development had started.
- **Tolerance** – the predicted limits of how certain the cost estimates included in the template are. The tolerance will be dependent on the complexity and certainty of the solution and the time allowed for the provision of an impact assessment by the Service Provider(s).

The cost breakdowns are shown below:

PROGRESSING MODIFICATION PROPOSAL	
Meeting Cost	This is the cost associated with holding Modification Group meetings and is based on an estimate of the travel expenses claimed by Modification Group members.
Legal/expert Cost	This is the cost associated with obtaining external expert advice, usually

	legal advice.
Impact Assessment Cost	Service Provider Impact Assessments are covered by a pre-determined monthly contractual charge. Therefore the cost included in this report is an estimate based on the level of impact assessment that the modification is expected to require and may not reflect the actual cost attributed to the modification, which will be based on a percentage of the contractual impact assessment costs for each month that it is assessed.
ELEXON Resource	This is the ELEXON Resource requirement to progress the Modification Proposal through the Modification Procedures. This is estimated using a standard formula based on the length of the Modification Procedure.

SERVICE PROVIDER⁷ COSTS	
Change Specific Cost	Cost of the Service Provider(s) Systems development and other activities relating specifically to the Modification Proposal.
Release Cost	Fixed cost associated with the development of the Service Provider(s) Systems as part of a release. This cost encompasses all the activities that would be undertaken regardless of the number or complexity of changes in the scope of a release. These activities include Project Management, the production of testing and deployment specifications and reports and various other standard release activities.
Incremental Release Cost	Additional costs on top of base Release Costs for delivering the specific Modification Proposal. For instance, the production of a Test Strategy and Test Report requires a certain amount of effort regardless of the number of changes to be tested, but the addition of a specific Modification Proposal may increase the scope of the Test Strategy and Test Report and hence incur additional costs.

IMPLEMENTATION COSTS	
External Audit	Allowance for the cost of external audit of the delivery of the release. For CVA BSC Systems Releases this is typically estimated as 10% of the total Service Provider Costs, with a tolerance of +/- 20%. At present the SVA Programme does not use an external auditor, so there is no External Audit cost associated with an SVA BSC Systems Release.
Design Clarifications	Allowance to cover the potential cost of making any amendments to the proposed solution to clarify any ambiguities identified during implementation. This is typically estimated as 5% of the total Service Provider Costs, with a tolerance of +/- 100%.
Additional Resource Costs	Any short-term resource requirements in addition to the ELEXON resource available. For CVA BSC Systems Releases, this is typically only necessary if the proposed solution for a Modification Proposal would require more

⁷ A Service Provider can be a BSC Agent or a non-BSC Agent, which provides a service or software as part of the BSC and BSC Agent Systems. The Service Provider cost will be the sum of the costs for all Service Providers who are impacted by the release.

	<p>extensive testing than normal, procurements or 'in-house' development.</p> <p>For SVA BSC Systems Releases, this will include the management and operation of the Acceptance Testing and the associated testing environment.</p> <p>This cost relates solely to the short-term employment of contract staff to assist in the implementation of the release.</p>
Additional Testing and Audit Support Costs	<p>Allowance for external assistance from the Service Provider(s) with testing, test environment and audit activities. Includes such activities as the creation of test environments and the operation of the Participant Test Service (PTS). For CVA BSC Systems Releases, this is typically estimated as £40k per release with a tolerance of +/-25%. For SVA BSC Systems Releases this is estimated on a Modification Proposal basis.</p>

TOTAL DEMAND LED IMPLEMENTATION COSTS

This is calculated as the sum of the total Service Provider(s) Cost and the total Implementation Cost. The tolerance associated with the Total Demand Led Implementation Cost is calculated as the weighted average of the individual Service Provider(s) Costs and Implementation Costs tolerances. This tolerance will be rounded to the nearest 5%.

ELEXON IMPLEMENTATION RESOURCE COSTS

Cost quoted in man days multiplied by project average daily rate, which represents the resources utilised by ELEXON in supporting the implementation of the release. This cost is typically funded from the "ELEXON Operational" budget using existing staff, but there may be instances where the total resources required to deliver a release exceeds the level of available ELEXON resources, in which case additional Demand Led Resources will be required.

The ELEXON Implementation Resource Cost will typically have a tolerance of +/- 5% associated with it.

ONGOING SUPPORT AND MAINTENANCE COSTS

ELEXON Operational Cost	Cost, in man days per annum multiplied by project average daily rate, of operating the revised systems and processes post implementation.
Service Provider Operation Cost	Cost in £ per annum payable to the Service Provider(s) to cover staffing requirements, software or hardware licensing fees, communications charges or any hardware storage fees associated with the ongoing operation of the revised systems and processes.
Service Provider Maintenance Cost	Cost quoted in £ per annum payable to the Service Provider(s) to cover the maintenance of the amended BSC Systems.

ANNEX 6 TRANSMISSION COMPANY ANALYSIS

Q	Question	Response
1	Please outline any impact of the Proposed Modification (and, if applicable, any Alternative Modification) on the ability of the Transmission Company to discharge its obligations efficiently under the Transmission Licence and on its ability to operate an efficient, economical and co-ordinated transmission system.	The proposed modification does not impact on the ability of the Transmission Company to discharge its obligations under the Transmission Licence.
2	Please outline the views and rationale of the Transmission Company as to whether the Proposed Modification (and, if applicable, any Alternative Modification) would better facilitate achievement of the Applicable BSC Objectives.	We believe that the proposed modification meets BSC Applicable Objective d) in promoting efficiency in the implementation and administration of the balancing and settlement arrangements. We would support the actions being taken by Elexon in raising this modification proposal to provide for a framework to ensure that both Elexon and participants are able to meet the obligations of the new European taxation legislation.
3	Please outline the impact of the Proposed Modification (and, if applicable, any Alternative Modification) on the computer systems and processes of the Transmission Company, including details of any changes to such systems and processes that would be required as a result of the implementation of the Proposed Modification (and, if applicable, any Alternative Modification)	No impact has been identified on the computer systems and processes of the Transmission Company.
4	Please provide an estimate of the development, capital and operating costs (broken down in reasonable detail) which the Transmission Company anticipates that it would incur in, and as a result of, implementing the Proposed Modification (and, if applicable, any Alternative Modification).	No costs have been identified.
5	Please provide details of any consequential changes to Core Industry Documents that would be required as a result of the implementation of the Proposed Modification (and, if applicable, any Alternative Modification).	No changes have been identified.
6	Any other comments on the Proposed Modification (and Alternative Modification if applicable).	None.

ANNEX 7 APPLICABLE BSC OBJECTIVES

For reference the GB Applicable BSC Objectives, as contained in the Transmission Licence, are;

- (a) The efficient discharge by the licensee of the obligations imposed upon it by this licence and, during the transition period, shall include the efficient discharge by the licensee of those obligations which it is known (or reasonably anticipated) during the transition period are to be imposed on the licensee by this licence after the expiry of the transition period;

- (b) The efficient, economic and co-ordinated operation of the licensee's transmission system and 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;
- (d) Promoting efficiency in the implementation and administration of the balancing and settlement arrangements;
- (e) Without prejudice to the foregoing objectives and subject to paragraph 3A, the undertaking of work by BSCCo (as defined in the BSC) which is:
 - (i) necessary for the timely and effective implementation of BETTA; and
 - (ii) relevant to the proposed GB wide balancing and settlement code;

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

- 3A For the purpose of, and without prejudice to, paragraph 5(a), in order to better achieve the objective referred to in 3(e), any modification to the BSC providing for the undertaking of work by the BSCCo pursuant to paragraph 3(e) must include express provision that:
- (i) such work is proposed by BSCCo and approved by the Authority prior to its commencement; and
 - (ii) the costs of such work as may be carried out by BSCCo shall be identified and recorded separately by BSCCo.