

## INTERIM REPORT for Modification Proposal P162: "Changes to the definition of Imports and Exports"

Prepared by: ELEXON<sup>1</sup> Limited on behalf of the Settlement Standing Modification Group (SSMG)

<b>Date of Issue</b>	5 March 2004	<b>Document Reference</b>	P162IR10
<b>Reason for Issue</b>	For Information	<b>Issue/Version</b>	Final/1.0

### Purpose of document

The SSMG invites the Panel to:

- **NOTE the contents of this Interim Report and, in particular, that the SSMG has provisionally concluded that a Modification to the Balancing and Settlement Code would be required to address an ambiguity identified by Modification Proposal P162; and**
- **NOTE the SSMG remain on target to complete the Assessment Procedure to timetable and that an Assessment Report will be prepared and submitted to the Panel meeting of 8 April 2004.**

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<sup>1</sup> ELEXON Ltd currently fulfils the role of the Balancing and Settlement Code Company ('BSCCo'), pursuant to Annex X-1 of the Balancing and Settlement Code (the 'Code').

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## 1. INTRODUCTION

P162 proposes to clarify the definition of Imports and Exports contained within Section K of the Code to ensure that it is consistent with the intention of its original drafting. P162 also seeks to ensure that Section K is consistent with current operational practice and the Codes of Practice.

Section K of the Code prescribes which Parties should be responsible for Imports and Exports to and from the Total System. It describes what Imports and Exports are: that they exist at a Boundary Point; are per Party concepts; and are direction specific. It further qualifies what Imports and Exports may be by relating such flows to particular items of Plant and Apparatus. In particular, references to Plant and Apparatus (from which flows arise) are taken to include customer's premises, third party generation, generating plant or an Interconnector. Furthermore, Section K also indicates that the combined flows from or to an individual Generating Unit and its associated unit transformer load should be netted and regarded as a single flow.

There are obligations in Section L of the Code on the responsible Parties to install metering to measure each of these flows. Subsequent obligations enable BM Units to be constructed applying aggregations where necessary of the resulting metered volumes.

Ambiguity in Section K may give rise to differing interpretations of how these rules address a number of particular situations. It could be argued that many existing Metering Systems may not be compliant with one interpretation of the Code despite following the rules defined in the Codes of Practice (CoPs).

The Proposer contends that if the perceived ambiguities were to remain, a number of participants may be faced with obligations to install significantly more Metering Systems than customarily required to enable BM Units to be adequately defined and quantified in Settlement.

The Proposer states that were the Modification to be made, the Code would better reflect the custom and practice for the identification of Imports and Exports and the consequent Metering System requirements. This would enable all Parties to be treated on an equitable basis and the need for changes to existing Metering System arrangements would be avoided.

It is argued that this would remove any possible discrimination between Parties and reduce potential barriers to entry, thereby facilitating the better achievement of Applicable Objective (c), 'Promoting effective competition in the generation and supply of electricity and (as far as is consistent therewith) promoting such competition in the sale and purchase of electricity.'

It is further contended that if the current Code drafting were to remain then any resultant additional Metering Systems and increases in the number of BM Units associated with certain sites would result in registration and Settlement processes, and aggregation rules, being more complex without commensurate benefit. By removing this potential increase in complexity (and hence cost and risk), Applicable Objective (d), 'Promoting efficiency in the implementation and administration of the balancing and settlement arrangements' may be better facilitated.

The Proposer suggests that the implementation of this Modification would be expected to involve minimal cost, time and effort.

## 2. MODIFICATION GROUP PROGRESS

P162 is currently within the Assessment Procedure phase of the Modification process and an Assessment Report is scheduled to be presented at the April 2004 meeting of the Panel.

The Group is currently working to complete to this timetable through the following steps:

**Three Modification Group meetings.** Two of these have now been held (16 and 25 February 2004 respectively) and the following sections of this document reflect the discussions at those meetings. The third Modification Group meeting is provisionally scheduled for 12 March 2004 and will be used to finalise the Group's assessment of the Proposed Modification in the light of consultation responses.

**A request for Transmission Company analysis and impact assessment of P162.** The Transmission Company is also represented within the Group.

**An industry consultation on the issues raised within the Proposed Modification.** The Group has prepared and issued a consultation document to ascertain the view of market participants on the following issues raised by P162:

- whether or not the current definition of Imports and Exports contained within Section K of the Code is ambiguous;
- if ambiguity is considered to exist, whether the suggested legal drafting appended to this document would rectify it;
- whether P162 better facilitates the Applicable BSC Objectives; and
- whether there are any substantive issues that need to be brought to the attention of the Group.

The consultation document was issued for industry consultation on 2 March 2004. The deadline for industry responses to that document is 11 March 2004.

### 3. MODIFICATION GROUP DISCUSSION THUS FAR

As part of the Assessment Procedure, the Group has met on two occasions to date - 16 February 2004 and 25 February 2004. This document reflects their discussions to date.

#### 3.1 The definition of Imports and Exports within the Code

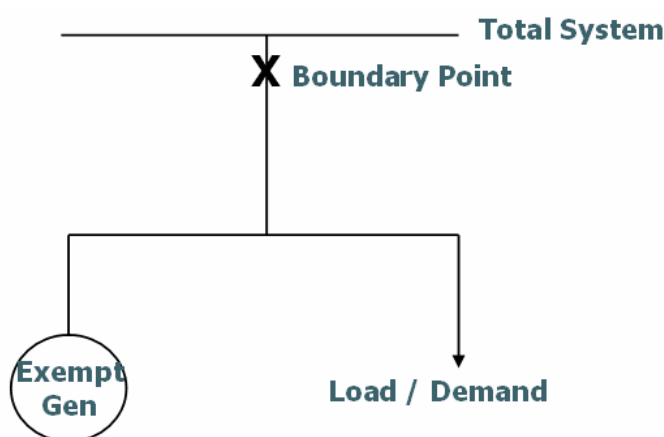
The definition of Imports and Exports within the Code is contained within Section K. The key provisions are sub-sections K1.1 and K1.2 which set out what Imports and Exports are, and who is responsible for them, respectively. An extract of these two sub-sections is contained within Annex 1 of this document.

The complete Section K is available on the BSC Website at the following location: [http://www.elexon.co.uk/docs/ta/bscres/docs/bscode/v13/Section\\_K.pdf](http://www.elexon.co.uk/docs/ta/bscres/docs/bscode/v13/Section_K.pdf).

#### 3.2 The Group's agreed metering principles

The Group discussed the underlying principles that they believed the definition of Imports/Exports within the Code was trying to encapsulate. These may be explained in the context of a typical connection arrangement for a site comprising both demand (load) and an Exemptable Generation Plant Generating Unit. Section 3.3 of this document outlines the Metering Systems required for this arrangement under the contended alternative interpretations of Imports and Exports.

Depending on the circumstance, generation may be consumed by the load and/or 'spilt' onto the Total System. Any spill will be seen as Export energy through Boundary Point Metering Systems. Conversely, where demand exceeds generation this would be seen as Import through Boundary Point Metering Systems.



**Figure 1: Example connection arrangement for a site comprising both demand (load) and generation**

Separate metering is required for the Import and for the Export at the Boundary Point and each flow is attributable to a Party (which may or may not be the same Party for both the Imports and Exports).

### 3.3 Perceived ambiguous clauses (1): K1.1.4

The Group considered that a significant cause of ambiguity is the reference to Exports or Imports being determined 'but for' any opposite flows at the same Boundary Point contained within clause K1.1.4.

It was considered that this reference could be construed as meaning that an Export or Import should be calculated as either that which is visible at the Boundary Point ('Per Party netting below the Boundary Point'); or that which would have been visible at the Boundary Point had there not been any flows in the opposite direction at that Boundary Point ('No per Party netting below the Boundary Point').

This clause additionally implies that single Imports or Exports should be determined for all Generating Units without reference to the scale of this Generating Unit.

The implications of these two definitions are explained further in the next two sub-sections of this document.

#### 3.3.1 Per Party netting below the Boundary Point interpretation of clause K1.1.4

The more common practical interpretation of K1.1.4 is that it requires 'per Party netting below the Boundary Point'.

The Group considered that an interpretation allowing per Party netting below the Boundary Point would regard K1.1.4 as concerned with establishing Imports and Exports at the Boundary Point and should not require any demand satisfied by generation below the Boundary Point to be separately identified.

Under this interpretation, Metering Systems would only be required at the Boundary Point and not for separate Exemptable Generating Plant Generating Units and demand items below the Boundary Point. This is illustrated in Figure 2.

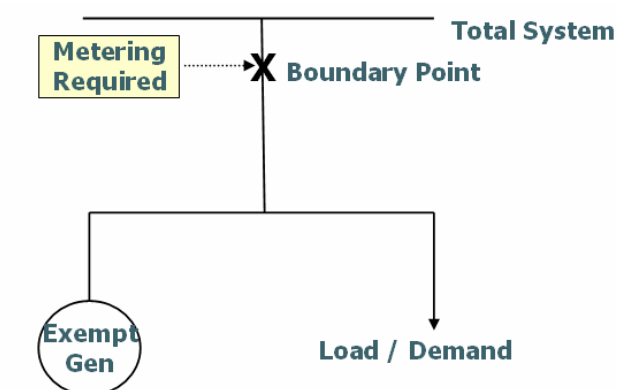


Figure 2: Per Party netting below the Boundary Point interpretation of K1.1.4

The Group considers that the Metering Systems would register Exports and Imports independently at the Boundary Point. This would mean that net Export or Import over a period of time would be determined through aggregation rules rather than through the Metering System deducting the Import from the Export.

For the avoidance of doubt, P162 does not propose to modify the existing Code obligation for Exemptable Generating Plant to be metered where a Party is elected as responsible for its Exports (pursuant to K1.2.2(a)(ii)).

This interpretation of K1.1.4 reflects conventional metering practices and is compliant with the CoPs.

#### 3.3.2 No per Party netting below the Boundary Point interpretation of clause K1.1.4

The Group considers that an alternative interpretation of K1.1.4c) would mean that the flow to be determined at a Boundary Point is that which would have occurred had there been no flows in the opposite direction.

This interpretation would mean that a flow from an Exemptable Generating Plant Generating Unit would have reached the Boundary Point in its entirety only when no demand is to be considered.

This could only be achieved through measuring both the Generating Unit (production) and the demand

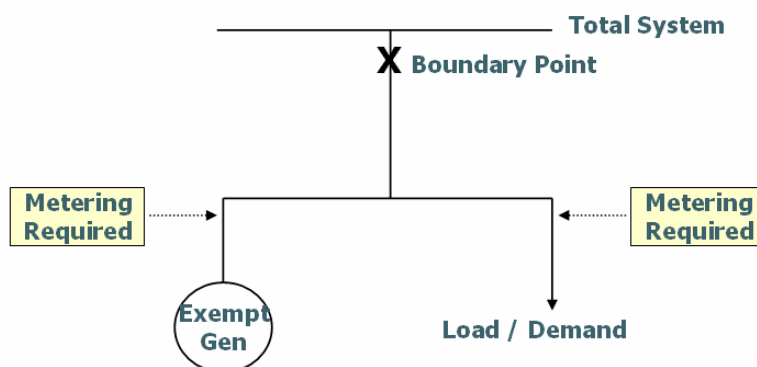


Figure 3: No per Party netting below the Boundary Point interpretation of K1.1.4

(consumption) below the Boundary Point.

The separate measurement of both Generating Unit and demand below the Boundary Point would require separate metering for both flows, as shown in Figure 3.

Each Metering System would be associated with Current and Voltage Transformers (CT/VTs), which will add significant costs to any additional metering.

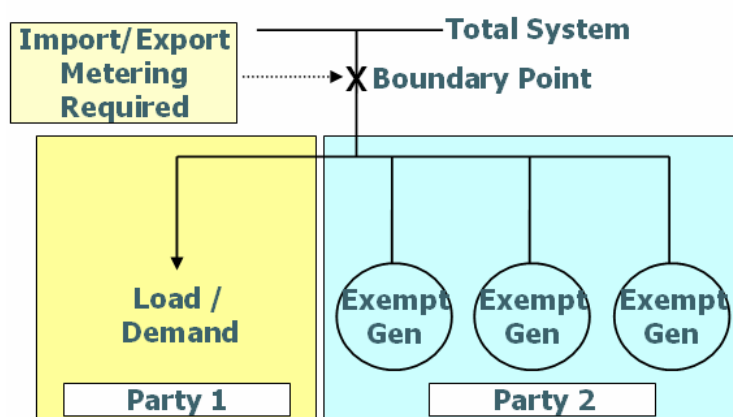
The costs associated with CT/VTs can significantly exceed the cost of the metering, and are greatest where the voltage of the flow measured is largest.

This interpretation is not in accordance with current practices or the CoPs and would have serious commercial consequences for Parties due to the necessity to install additional Metering Systems.

### 3.3.3 Multiple Parties below the Boundary Point

The Group does not consider that flows from Exemptable Generating Plant Generating Units need be individually metered but that flows from sizeable Generating Units – Licensable Generating Plant – should be in order that they continue to form the basis for BM Units constituting a significant flow to the Total System.

To illustrate how this would flow through to metering requirements, Figure 4 shows a combination of Exemptable Generating Plant belonging to one Party and Load/Demand attributable to another. The metering required would be to separately measure the flows at the Boundary Point attributable to Party 1 from those attributable to Party 2, facilitated by a Metering System on the Boundary Point.



**Figure 4: Example of metering arrangement where multiple Parties below the Boundary Point including Exemptable Generating Plant**

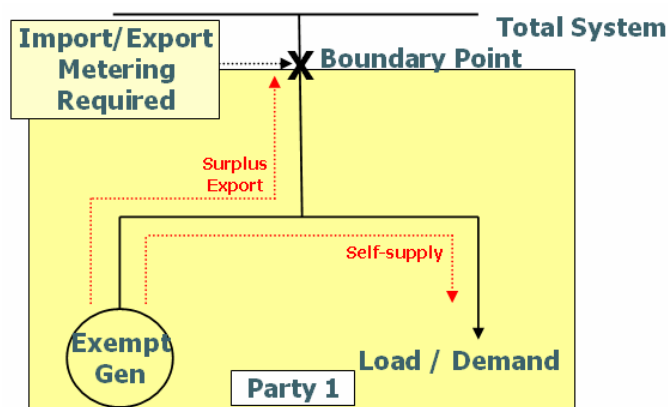
Figure 4 is reflective of current practices and the CoPs.

### 3.3.4 Facilitation of competitive supply below the Boundary Point

ELEXON advised the Group that it had received conflicting interpretations of whether the Code was intended to facilitate or prohibit per Party netting below the Boundary Point. A rationale that had been put forward in support of the latter interpretation was that such an approach might be intended to allow competitive supply below the Boundary Point.

The Group considered at length whether the Code may have been intentionally drafted so as to promote competition of supply below the commercial boundary by necessitating separate metering for both generation and demand even where the same Party is responsible for both Imports and Exports. Thus enabling the total demand to be eligible to competitive supply.

The Group considers that such metering is unnecessary for Settlement purposes. The Group further considered that the principle of netting of flows below the commercial boundary exists for demand circuits and should prevail in situation where



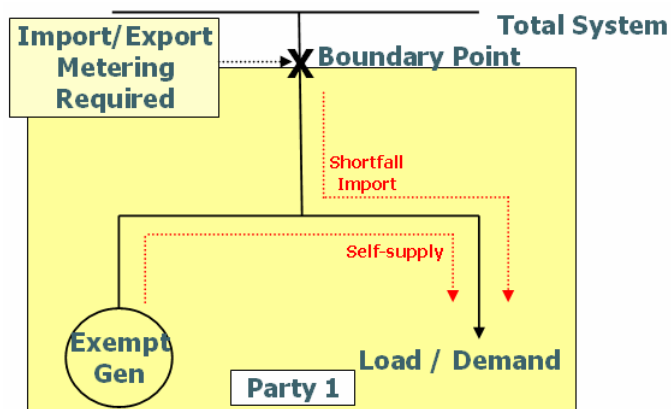
**Figure 5: Self-supply below Boundary Point, with surplus Exported**

generation exists.

The Group did not consider that it would be appropriate to obligate a Party to put in additional metering to break down the individual components of its flows below the Boundary Point where such metering would not add value to Settlement.

The metering required to establish Imports or Exports at the Boundary Point where generation outweighed demand, or where demand outweighed generation, is shown in Figures 5 and 6 respectively.

The Group noted that the absence of such metering does not prohibit the entry of an additional Party below the Boundary Point. In such a circumstance, obligations exist under Section L of the Code for quantities of Active Energy and, where relevant, Reactive Energy Exported or Imported by any Party at a Boundary Point to be measured and recorded. Any additional Party would be able to provide generation or demand below the Boundary Point provided they met the requirement to ensure appropriate metering is in place to independently measure their Imports and Exports.



**Figure 6: Self-supply below Boundary Point, with shortfall Imported**

The Group is not therefore minded that competitive supply below the Boundary Point would be constrained or adversely impacted by P162.

### 3.3.5 Group consensus of intention of clause K1.1.4

The Group considers that the intention of sub-clause K1.1.4(c) was to prohibit the netting of Boundary Point flows - not to prohibit the netting of flows below it where these are attributable to the same Party and do not relate to a Generating Unit that individually constitutes, or is capable of constituting a Licensable Generating Plant.

The Group agreed that the intention of sub-clause K1.1.4(d) was to provide for the flow associated with a Generating Unit that individually constitutes, or is capable of constituting a Licensable Generating Plant to be separately identified.

### 3.3.6 Suggested changes to Section K1.1.4

The Group believes Section K1.1.4 should be amended such that separate flows relating to the same Party below the Boundary Point need not be separately measured where they relate to Customer premises and Exemptable Generating Plant. Where Licensable Generating Plant is present, the flows from each Generating Unit would need to be identified in order to allow these to form BM Units, pursuant to Section K3.1 of the Code.

The Group believes the draft legal text contained within Appendix 2 of this document will fulfil this purpose.

## 3.4 Perceived ambiguous clauses (2): K1.2.2

The Group has considered the suggestion within the Modification Proposal that K1.2.2 would also require amendments.

The Group considers that this suggestion was intended to ensure that where there is Exemptable Generating Plant within a Supplier premises that any given Export or Import can be correctly attributed to the Party responsible. The suggestion was that this would be achieved by building into the defined categories of Parties responsible for Exports or Imports additional definitions that covered sites containing a mixture of Supply and Exemptable Generating Plant.

The Group has determined that no changes are required to K1.2.2, as the existing definitions already catered for such circumstances in a clear fashion through the separate definitions of responsibility for Exports from Exemptable Generating Plant (K1.2.2(a)(ii)) and of responsibility for Imports to supply premises connected to the Total System (K1.2.2(b)(i)).

### **3.5 Interaction with P81**

Pursuant to a Panel request, the Group has considered whether there is any interaction between P162 and Approved Modification P81, 'Removal of the requirement for Half Hourly Metering on Third Party Generators at Domestic Premises', with specific regard to identifying responsibility for establishing an Export MPAN where an Import MPAN has been established.

The Group understands this request results from a specific exemption in the current Code baseline that allows for no Party to be responsible for the Export from Exemptable Generating Plant, unless the person responsible for generation at such site elects for a Party to be responsible<sup>2</sup>. In the absence of such an election, no Party would be considered responsible for any Export from such site. This means that not all Exports are metered.

The Group does not believe there is a direct interaction between P162 and Approved Modification P81 as P162 seeks to clarify current responsibilities rather than add additional ones. Furthermore, P162 does not suggest changes to the responsibilities for Exports attributable to Exemptable Generating Plant. The Group does not therefore consider it is within its remit to consider such changes in its deliberations on P162.

It should be noted that this conclusion in no way pre-judges whether or not a defect exists relating to the responsibility for Exports from Exemptable Generating Plant.

## **4. INITIAL ASSESSMENT AGAINST THE APPLICABLE BSC OBJECTIVES**

The Proposer contends that P162 will better facilitate the following Applicable BSC Objectives:

- (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.

The Group has considered whether P162 better facilitates the above, and has reached the following initial conclusions:

### **4.1 Applicable BSC Objective (c)**

The Group agrees that the current definition of Imports and Exports is unclear and that this may result in it being interpreted in several different fashions. The Group further agrees that different interpretations of the definition of Imports and Exports would require different levels of Metering Systems to be installed, with associated costs.

The Group considers that the potential that different Parties could incur different costs resulting from different perceptions of Code obligations could not be considered to be in the interests of promoting effective competition in the market.

The Group does not perceive any benefits to Settlement integrity from the additional Metering Systems required under the more onerous interpretation of the Code, and that the accrual of costs without benefits was also inconsistent with promoting an efficient market.

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<sup>2</sup> Pursuant to Code sub-clause K1.2.2(a)(ii)



The Group therefore considers that a clear legal baseline that obviated the risk of unnecessary costs being incurred by the market may result in the better facilitation of Applicable BSC Objective (c).

## **4.2 Applicable BSC Objective (d)**

The Group notes that additional Metering System requirements would result in excessive Metering System registrations, BM Unit registrations and more complex aggregation rules.

The Group also notes that lack of clarity in Code obligations may result in BSCCo inefficiencies resulting from a greater provision of support to Parties seeking advice on what their obligations are.

The Group therefore considers that P162 would result in the better facilitation of Applicable BSC Objective (d).

## **4.3 SSMG view of basis for cost/benefit assessment**

The Group considers that P162 is not intended to result in a change to fundamental principles governing the definition of Imports and Exports – merely to clarify what they are. The Group therefore considers that the scope of costs associated with P162 is likely to be restricted to implementing modified legal drafting of the Code.

The Group is therefore minded that the threshold by which a cost/benefit assessment determines whether P162 better facilitates the Applicable BSC Objectives is likely to be whether the costs of failing to address the perceived defect exceed the cost of implementing modified legal drafting.

The Group notes that the separate measurement of both Generation Units and demand below the Boundary Point would require separate metering for both flows, as shown in figure 2. Each Metering System would be associated with Current and Voltage Transformers (CT/VTs), which will add significant costs to any additional metering. The costs associated with CT/VTs can significantly exceed the cost of the metering, and are greatest where the scale of the voltage change is largest.

## **5. SUMMARY OF INITIAL CONCLUSIONS**

The Group has therefore reached the following provisional conclusions:

- the definition of Imports and Exports contained within Section K of the Code is open to several interpretations;
- one such interpretation would require the installation of significantly greater levels of Metering Systems than current practice. Such additional Metering Systems would not improve the integrity of Settlement, but would impose unnecessary costs both on Parties and in the administration of the balancing and settlement arrangements;
- amendments to Section K of the Code would resolve this ambiguity; and
- P162 would therefore better facilitate both Applicable BSC Objectives (c) and (d).

## **6. TIMETABLE FOR FURTHER WORK**

The SSMG's provisional timetable for progressing P162 through the Assessment Procedure is detailed within the Gantt chart shown in Appendix 3 of this document.

## **7. RECOMMENDATIONS**

The SSMG invites the Panel to:

- **NOTE the contents of this Interim Report and, in particular, that the SSMG has provisionally concluded that a Modification to the Balancing and Settlement Code would be required to address an ambiguity identified by Modification Proposal P162; and**
- **NOTE the SSMG remain on target to complete the Assessment Procedure to timetable and that an Assessment Report will be prepared and submitted to the Panel meeting of 8 April 2004.**

## 8. GLOSSARY OF TERMS

Term	Definition
Boundary Point	Means a point at which any Plant or Apparatus not forming part of the Total System is connected to the Total System
Total System	Means the Transmission System and each Distribution System

Any terms not included in the glossary take their meaning from the Balancing and Settlement Code.

## 9. DOCUMENT CONTROL

### a Authorities

Version	Date	Author	Reviewer	Role	Reason for review
0.1	20/02/04	Change Delivery	Change Delivery		Technical review
0.2	25/02/04	Change Delivery	SSMG	P162 Modification Group	Modification Group review
0.3	27/02/04	Change Delivery	SSMG	P162 Modification Group	Modification Group review
0.4	02/03/04	Change Delivery	SSMG	P162 Modification Group	Modification Group review
0.5	03/03/04	Change Delivery	Change Delivery		Pre Panel QA review
1.0	05/03/04	Change Delivery	Panel		Panel review

### b Distribution

Name	Organisation
Each BSC Party	Various
Each BSC Agent	Various
The Gas and Electricity Markets Authority	Ofgem
Each BSC Panel Member	Various
energywatch	energywatch
Core Industry Document Owners	Various

**c      Related Documents**

Ref.	Title	Owner	Issue date	Version
1	<p>Modification Proposal P162</p> <p>Main Document:  <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/P162/p162.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/P162/p162.pdf</a></p> <p>Appendix 1:  <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/P162/P162Att1.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/P162/P162Att1.pdf</a></p>	SSE Energy Supply Ltd	30/01/04	-
2	<p>Issues associated with the definition of Imports and Exports  <a href="ftp://www.elexon.co.uk/ta/panel/isg/papers/035_0393.pdf">ftp://www.elexon.co.uk/ta/panel/isg/papers/035_0393.pdf</a></p>	ISG	16/12/03	-
3	<p>Initial Written Assessment for Modification Proposal P162  <a href="http://www.elexon.co.uk/docs/ta/panel/papers/72_015a.pdf">http://www.elexon.co.uk/docs/ta/panel/papers/72_015a.pdf</a></p>	ELEXON	06/02/04	1.0

## 10. APPENDIX 1 – EXTRACT FROM SECTION K OF THE CODE CONTAINING SUB-SECTIONS 1.1 AND 1.2

### 1. GENERAL

#### 1.1 Introduction

1.1.1 This Section K sets out the basis for:

- (a) identifying the Parties which are responsible (for the purposes of the Code) for Exports and Imports of electricity at Boundary Points;
- (b) the registration in the names of such Parties of the Metering Systems installed (in accordance with Section L) for the purposes of measuring separately such Exports and Imports;
- (c) such Parties to establish and register BM Units comprising the Plant and Apparatus for whose Exports and Imports they are responsible, and to assign those BM Units to Trading Units;
- (d) the approval of Line Loss Factors by the Panel.

1.1.2 This Section K also sets out the requirements for Parties to register Metering Systems at Systems Connection Points for which they are responsible.

1.1.3 In relation to an Interconnector, in the case of any inconsistency between the provisions of paragraph 5 and the other provisions of this Section K, the provisions of paragraph 5 shall prevail.

1.1.4 For the purposes of the Code:

- (a) in relation to the terms Export and Import, references to the Plant or Apparatus of a Party shall be treated as including:
  - (i) the premises of a Customer supplied by that Party;
  - (ii) Plant and Apparatus of a Third Party Generator for whose Exports that Party has elected to be responsible in accordance with paragraph 1.2.2(a)(ii)(2);
  - (iii) Plant or Apparatus (whether or not owned or operated by that Party), not forming part of the Total System, by which electricity is transported from the Total System to premises supplied by the Total System or (as the case may be) to the Total System from Generating Plant providing electricity to the Total System;
  - (iv) an Interconnector in relation to which that Party is an Interconnector User.
- (b) subject to paragraphs (c) and (d), unless otherwise provided:
  - (i) **"Export"** means, in relation to a Party, a flow of electricity from any Plant or Apparatus (not comprising part of the Total System) of that

Party to the Plant or Apparatus (comprising part of the Total System) of a Party;

- (ii) **"Import"** means, in relation to a Party, a flow of electricity to any Plant or Apparatus (not comprising part of the Total System) of that Party from the Plant or Apparatus (comprising part of the Total System) of a Party;

and Export and Import, as verbs, shall be construed accordingly;

- (c) any Export or Import is to be determined at a single Boundary Point; and in relation to a Party, the Export or Import at a Boundary Point is the flow (under paragraph (b)(i) or (b)(ii) respectively) which would occur at the Boundary Point, but for:
  - (i) any opposite flow (at the same Boundary Point) to or from other Plant or Apparatus (not comprising part of the Total System) of that Party, and
  - (ii) any other flow (at the same Boundary Point) to or from any other Party's Plant or Apparatus (not comprising part of the Total System);
- (d) notwithstanding paragraph (c), the combined flows from or to a Generating Unit and to or from the associated unit transformer in a Settlement Period shall be netted and considered to be a single Export or Import, and separate from any Export or Import of any other Plant or Apparatus;

## 1.2 Obligations of Parties in relation to Exports and Imports

1.2.1 Subject to the further provisions of this Section K, the Party responsible (in accordance with paragraph 1.2.2 below) for any Exports or Imports of electricity at a Boundary Point shall:

- (a) install, maintain and operate or secure that there is installed, maintained and operated, subject to and in accordance with Section L, Metering Equipment by which (over periods and otherwise in accordance with the further requirements of the Code) the quantities of such Exports and Imports separately can be measured, but subject to the provisions of Section S8 as to Unmetered Supplies;
- (b) register the Metering System(s) which result or will result from installation of such Metering Equipment, in accordance with paragraph 2;
- (c) establish and register BM Unit(s) comprising the relevant Plant and Apparatus in accordance with paragraph 3;
- (d) assign each BM Unit to a Trading Unit established and registered in accordance with paragraph 4.

1.2.2 For the purposes of the Code:

- (a) the Party **"responsible"** for an Export:

- (i) in the case of an Export from a Generating Plant, subject to paragraph (ii), shall be the Party which generates electricity at that Generating Plant;
- (ii) in the case of an Export from Exemptable Generating Plant:
  - (1) where the person which generates electricity at that Generating Plant is a Party and has elected (by applying to register Metering System(s) for that Generating Plant in accordance with paragraph 2) to be responsible for such Export, shall be that Party;
  - (2) subject to paragraph 2.5, where the person (whether or not a Party) which generates electricity at that Generating Plant has for the time being authorised a Party to accept responsibility for that Export, and that Party has elected (by applying to register Metering System(s) for that Generating Plant in accordance with paragraph 2) to be so responsible, shall be that Party;

provided that no Party shall be so responsible unless it has so elected;
- (iii) in the case of an Export from an Interconnector, shall be determined in accordance with paragraph 5;
- (iv) in any other case, shall be determined by the Panel after consultation with the Authority, on application of any Party;
- (b) the Party "**responsible**" for an Import:
  - (i) in the case of an Import constituting the supply of electricity to premises connected to the Total System, whether or not for consumption at those premises, shall be the person who supplies electricity to those premises;
  - (ii) in the case of an Import to any Generating Plant at which electricity is generated by a Party holding a Generation Licence, shall be that Party;
  - (iii) in the case of an Import to an Interconnector, shall be determined in accordance with paragraph 5;
  - (iv) in the case of an Import (not constituting the supply of electricity to premises) to a distribution system connected to a Distribution System, shall be the person recognised under the MRA as responsible for such Import;
  - (v) in any other case, shall be determined by the Panel after consultation with the Authority, on application of any Party;
- (c) Generating Plant is "**Exemptable**" Generating Plant where the person generating electricity at that Generating Plant is, or would (if it generated

electricity at no other Generating Plant and/or did not hold a Generation Licence) be, exempt from the requirement to hold a Generation Licence;

(d) Generating Plant which is not Exemptable is "**Licensable**" Generating Plant;

(e) in paragraph (b)(i), references to the supply of electricity includes the provision of electricity to a person (whether or not the same as the person providing the electricity) at premises connected to the Transmission System.

1.2.3 A Party shall not commence or permit to be commenced any Exports or Imports for which that Party is to be responsible until that Party has complied with the requirements in paragraph 1.2.1 and the registrations under paragraphs (b) and (c) thereof have become effective.

1.2.4 Where a Party has failed for any period to comply with any requirements in paragraph 1.2 in relation to any Plant or Apparatus for which he is responsible, nothing in the Code shall prevent such Party from being held liable for payment of any amount by way of Trading Charges in such period, where (on the basis of retrospective application of steps taken to comply or otherwise) the Code provides for the amount for which the Party is or would have been so liable to be established or determined for the purposes of Settlement.

1.2.5 The Party responsible for any Exports or Imports at a Boundary Point shall ensure that it (or the person otherwise required to do so) has entered into and has in full force and effect all appropriate Connection Agreements with respect to its Exports or Imports at that Boundary Point.

## **11. APPENDIX 2 – SUGGESTED MODIFIED LEGAL TEXT**

Please see the attached document.

## 12. APPENDIX 3 – GANTT CHART SHOWING PROGRESSION TIMETABLE FOR P162

