

## Responses from P161 Draft Report Consultation

Consultation Issued 28 April 2004

Representations were received from the following parties

No	Company	File number	No BSC Parties Represented	No Non-Parties Represented
1.	National Grid Company	P161_DR_001	1	0
2.	British Energy	P161_DR_002	2	0
3.	Innogy	P161_DR_003	10	0
4.	Powergen	P161_DR_004	14	0
5.	Scottish Power	P161_DR_005	6	0
6.	British Gas Trading	P161_DR_006	1	0
7.	EDF Trading Ltd	P161_DR_007	2	0
8.	Central Networks	P161_DR_008	1	0

## P161 DRAFT MODIFICATION REPORT CONSULTATION QUESTIONS

BSC Parties and other interested parties are invited to respond to this consultation expressing their views or provide any further evidence on any of the matters contained within this document. In particular views are sought in respect of the following questions. Parties are invited to supply the rationale for their responses.

<b>Respondent:</b>		<i>NGT</i>	
<b>No. of BSC Parties Represented</b>		1	
<b>BSC Parties Represented</b>		National Grid Company	
<b>No. of Non BSC Parties Represented</b>			
<b>Non BSC Parties represented</b>			
<b>Role of Respondent</b>		Transmission System Operator	
<b>Q</b>	<b>Question</b>	<b>Response</b> Error! Bookmark not defined.	<b>Rationale</b>

<p>1.</p>	<p>Do you agree with the Panel's views on P161 and the provisional recommendation to the Authority contained in the draft Modification Report that P161 <b>should not</b> be made? Please give rationale.</p>	<p>No</p>	<p>National Grid continues to believe that P161 should be implemented. The inclusion of Executive Directors on the BSCCo Board would serve to improve the effective communication and the efficient discharge of BSCCo's obligations, and thus better facilitate the Applicable BSC Objectives.</p> <p>National Grid notes and supports the strength of opinion expressed by the minority of Panel Members that the inclusion of Executive Members on the BSCCo Board is in line with best practice and is clearly the 'right thing to do'.</p> <p>The concerns of the majority of the GSMG and the Panel appear to be based upon the changing balance of views and the perceived potential for conflict of interests by those appointed to Executive Director positions.</p> <p>National Grid continues to believe that the addition of Executive views to the Board's decision-making process can only serve to enhance Board's ability to make decisions that best serve the interests of the company. Adoption of the proposals made by the modification would still retain a majority of Non-Executive Directors on the Board and would not allow any set of views formed along partisan lines to dominate the decisions of the Board.</p> <p>The concern regarding the potential conflict of interests for Executive Directors is an issue that faces all mixed Boards. The legal obligation, faced by all Board Members, to act in the interests of the company, mitigates or at the least minimises the risk of Executives acting in a parochial and self-interested manner. The benefits of Executive involvement in the Board's decision-making process more than outweighs the minimal potential risk of any conflict of interest that could be said to exist.</p>
<p>2.</p>	<p>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? Please give rationale.</p>	<p>Yes</p>	

3.	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P161? Please give rationale.	Yes	
4.	Are there any further comments on P161 that you wish to make?	No	

Please send your responses by **12:00 on Wednesday 28 April 2004** to [modification.consultations@elexon.co.uk](mailto:modification.consultations@elexon.co.uk) and please entitle your email '**P161 Report Consultation**'. Please note that any responses received after the deadline may not receive due consideration by the Panel.

Any queries on the content of the consultation pro-forma should be addressed to Roger Salomone on 020 7380 4369, email address [roger.salomone@elexon.co.uk](mailto:roger.salomone@elexon.co.uk).

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<b>Respondent:</b>	<i>Rachel Lockley</i>
<b>No. of BSC Parties Represented</b>	3
<b>BSC Parties Represented</b>	<i>British Energy Generation; Eggborough Power; British Energy Power and Energy Trading</i>
<b>No. of Non BSC Parties Represented</b>	
<b>Non BSC Parties represented</b>	<i>Please list all non BSC Parties responding on behalf of (including the respondent company if relevant).</i>
<b>Role of Respondent</b>	<i>(Supplier/Generator/ Trader / Consolidator / Exemptable Generator / BSC Agent / Party Agent / other – please state <sup>1</sup>)</i>

Q	Question	Response <sup>1</sup>	Rationale
1.	Do you agree with the Panel's views on P161 and the provisional recommendation to the Authority contained in the draft Modification Report that P161 <b>should not</b> be made? Please give rationale.	Yes	BE do not support this modification. We believe that this modification will lead to a "conflict of role" for executive directors who are charged with both presenting the case for a policy and plan and challenging and scrutinising it.
2.	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? Please give rationale.	Yes / No	No comment
3.	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P161? Please give rationale.	Yes / No	No Comment
4.	Are there any further comments on P161 that you wish to make?	Yes / No	No comment

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<sup>1</sup> Delete as appropriate – please do not use strikethrough, this is to make it easier to analyse the responses

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<b>Respondent:</b>	<i>Terry Ballard</i>
<b>No. of BSC Parties Represented</b>	10
<b>BSC Parties Represented</b>	<i>RWE Trading, RWE Innogy, Innogy Cogen, Innogy Cogen Trading, npower, npower direct, npower northern, npower northern supply, npower yorkshire, npower yorkshire supply.</i>
<b>No. of Non BSC Parties Represented</b>	
<b>Non BSC Parties represented</b>	<i>Please list all non BSC Parties responding on behalf of (including the respondent company if relevant).</i>
<b>Role of Respondent</b>	<i>(Supplier/Generator/ Trader / Consolidator / Exemptable Generator / BSC Agent / Party Agent / other – please state <sup>1</sup>)</i>

<b>Q</b>	<b>Question</b>	<b>Response <sup>1</sup></b>	<b>Rationale</b>
1.	Do you agree with the Panel's views on P161 and the provisional recommendation to the Authority contained in the draft Modification Report that P161 <b>should not</b> be made? Please give rationale.	Yes	
2.	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? Please give rationale.	Yes	
3.	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P161? Please give rationale.	Yes	
4.	Are there any further comments on P161 that you wish to make?	No	

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<b>Respondent:</b>	<i>Powergen</i>
<b>No. of BSC Parties Represented</b>	14
<b>BSC Parties Represented</b>	<i>Please list all BSC Parties responding on behalf of (including the respondent company if relevant).</i> Powergen UK plc, Powergen Retail Limited, Cottam Development Centre Limited, TXU Europe Drakelow Limited, TXU Europe Ironbridge Limited, TXU Europe High Marnham Limited, Midlands Gas Limited, Western Gas Limited, TXU Europe (AHG) Limited, TXU Europe (AH Online) Limited, Citigen (London) Limited, Severn Trent Energy Limited (known as TXU Europe (AHST) Limited), TXU Europe (AHGD) Limited and Ownlabel Energy
<b>No. of Non BSC Parties Represented</b>	N/A
<b>Non BSC Parties represented</b>	N/A
<b>Role of Respondent</b>	Supplier, Generator, Trader and Exemptable Generator

Q	Question	Response Error! Bookmark not defined.	Rationale
1.	Do you agree with the Panel's views on P161 and the provisional recommendation to the Authority contained in the draft Modification Report that P161 <b>should not</b> be made? Please give rationale.	Yes	We agree with the Panel decision that P161 does not better facilitate the achievement of the applicable BSC objectives.  We concur with the well documented and logical assertions which indicate that if implemented this modification would introduce; a greater potential for conflict of interest, a dilution of both non-executive and industry perspective and a reduction in Board accountability. We also agree with those Panel members who noted that owing to BSCCO's funding arrangements, independent budgetary control is essential.
2.	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? Please give rationale.	Yes	The suggested legal text appears to address the defect as identified in the modification proposal.

<b>Q</b>	<b>Question</b>	<b>Response</b> Error! Bookmark not defined.	<b>Rationale</b>
3.	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P161? Please give rationale.	Yes	
4.	Are there any further comments on P161 that you wish to make?	No	

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<b>Respondent:</b>	<i>John W Russell (SAIC Ltd)</i>
<b>No. of BSC Parties Represented</b>	<i>6</i>
<b>BSC Parties Represented</b>	<i>Scottish Power UK plc; ScottishPower Energy Management Ltd.; ScottishPower Generation Ltd; ScottishPower Energy Retail Ltd.; SP Transmission Ltd; SP Manweb plc.</i>
<b>No. of Non BSC Parties Represented</b>	<i>0</i>
<b>Non BSC Parties represented</b>	
<b>Role of Respondent</b>	<i>Supplier / Generator / Trader / Consolidator / Exemptable Generator / Party Agent</i>

<b>Q</b>	<b>Question</b>	<b>Response</b>	<b>Rationale</b>
1.	Do you agree with the Panel's views on P161 and the provisional recommendation to the Authority contained in the draft Modification Report that P161 <b>should not</b> be made? Please give rationale.	<b>Yes</b>	<i>Given that the present Board's size and structure was believed to represent the most efficient model for this type of organisation; the argument that increasing its size now would further "objective D" has not, in our view, been proven. Neither, in our view, has the claim that appointing executive directors to the BSCCo Board would further "objective C" by increasing competition in the generation, supply, sale or purchase of electricity been adequately demonstrated.</i>
2.	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? Please give rationale.	Yes / No	<i>No Comment</i>
3.	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P161? Please give rationale.	<b>Yes</b>	<i>Notwithstanding the fact that we disagree with this modification, we accept that the provisional date of implementation of 30 working days after an Authority Decision would appear to be appropriate.</i>
4.	Are there any further comments on P161 that you wish to make?	<b>Yes</b>	<i>ScottishPower does not believe that, within the cost recovery structure of the current funding arrangements, the devolution of greater financial control to BSCCo employees would serve the best interests of the code.</i>

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Our Ref.  
Your Ref.  
27 April 2004

Dear Sirs,

**Re: Modification Proposal P161 – Enhancement of BSCCo Board Structure**

Thank you for the opportunity of responding to this draft modification report considering Modification Proposal P161. British Gas Trading (BGT) agrees with the Panel's provisional recommendation that the Modification should not be made.

BGT believe the Board is performing satisfactorily and do not understand why the defects identified by Saxton Bamfylde Hever cannot be resolved within the current structure. BGT do not believe a change to the existing structure is necessary and therefore BGT do not believe this Modification Proposal better facilitates Applicable BSC Objective (d), improving efficiency in the implementation and administration of the balancing and settlement arrangements. Furthermore BGT agrees with the rationale of the DTI and Ofgem when the original non-executive structure was put in place. The non-executive structure was implemented to ensure there was appropriate checks and balances in place to control costs. This is still an important requirement and the need for an appropriate level of scrutiny remains and BGT believe that a non-executive Board best provides that level of assurance. If it was felt that the current Board structure was not appropriate then BGT believe a full review of the structure in terms of the controls and accountability that are in place should be undertaken before any changes are made.

BGT agrees with the proposed implementation date of 30 Working Days following an Authority decision.

If you have any questions regarding this response please contact me 01753 431137.

Yours faithfully

Mark Manley  
Contract Manager

**A *centrica* business**

British Gas Trading Limited Registered in England No.3078711. Registered Office: Millstream, Maidenhead Road, Windsor, Berkshire SL4 5GD  
www.gas.co.uk

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<b>Respondent:</b>	<i>Steve Drummond</i>
<b>No. of BSC Parties Represented</b>	2
<b>BSC Parties Represented</b>	<i>EDF Trading Ltd and EDF (Generation)</i>
<b>No. of Non BSC Parties Represented</b>	None
<b>Non BSC Parties represented</b>	<i>N/A</i>
<b>Role of Respondent</b>	<i>Trader / Generator</i>

Q	Question	Response Error! Bookmark not defined.	Rationale
1.	Do you agree with the Panel's views on P161 and the provisional recommendation to the Authority contained in the draft Modification Report that P161 <b>should not</b> be made? Please give rationale.	Yes	EDFT and EDF (Generation) still believe that a case has not been made for the inclusion of the two Executive Directors to the Board, when those same people already attend the meeting and provide the necessary scrutiny, guidance and advise. Changing their title, but effectively keeping their roles the same, is unlikely to better the BSC Objectives (c) or (d). As this is the fundamental criteria against which mods should be judged, we agree with the BSC Panel that the recommendation should be to reject the proposal.
2.	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? Please give rationale.	Yes	
3.	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P161? Please give rationale.	Yes	
4.	Are there any further comments on P161 that you wish to make?	No	

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P161\_dMR\_008.txt

From: Sue Pritchard  
Sent: 28 April 2004 10:07  
To: Modification Consultations  
Subject: Central Networks Response to P161 Consultation on draft  
Modification Report

Good Morning,

Central Networks would like to return a response of 'No Comment' to P161 Consultation on draft Modification Report.

Regards,

Deborah Hayward  
Distribution Support Office &  
Deregulation Control Group  
Central Networks West PLC