

Responses from P160 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.	British Energy	P160_DR_001	3	0
2.	EDF	P160_DR_002	2	0
3.	British Gas Trading	P160_DR_003	1	0
4.	Powergen	P160_DR_004	14	0
5.	Innogy	P160_DR_005	10	0
6.	Central Networks	P160_DR_006	1	0
7.	EDF Energy Networks	P160_DR_007	9	0

P160 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.

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

Q	Question	Response ¹	Rationale
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¹ Delete as appropriate – please do not use knockout, this is to make it easier to analyse the responses

Q	Question	Response ¹	Rationale
1.	Do you agree with the Panel's views on Proposed Modification P160 and the provisional recommendation to the Authority contained in the draft Modification Report that Proposed Modification P160 should not be made?	<i>Yes</i>	BE Do not support this modification. We do not believe that this modification would increase competition in the market. The issue of PNE claims and the associated ECP payments is a one off event and only effects a limited number of current incumbents. We therefore believe that this will not deter new entrants into the market. Current industry players should have been more careful in the assessments of their claims. As Ofgem say in their decision letter for P84 "the governance process is intended to provide time and opportunity for all Parties, especially those who are likely to be affected, to ensure that the Proposal and any Alternative are a robust solution to address the issue." We therefore believe that this issue should have been dealt with at the time of P84 and that claimants should have taken this into account before putting their claim in. They should not be allowed continuous chances at getting their preferred option.
2.	Do you agree with the Panel's views on Alternative Modification P160 and the provisional recommendation to the Authority contained in the draft Modification Report that Alternative Modification P160 should be made?	<i>No</i>	BE do not support the alternative modification. We do not believe that this modification would increase competition in the market. The issue of PNE claims and the associated ECP payments is a one off event and only effects a limited number of current incumbents. We therefore believe that this will not deter new entrants into the market. Current industry players should have been more careful in the assessments of their claims. As Ofgem say in their decision letter for P84 "the governance process is intended to provide time and opportunity for all Parties, especially those who are likely to be affected, to ensure that the Proposal and any Alternative are a robust solution to address the issue." We therefore believe that this issue should have been dealt with at the time of P84 and that claimants should have taken this into account before putting their claim in. They should not be allowed continuous chances at getting their preferred option.

Q	Question	Response ¹	Rationale
3.	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?	<i>Yes / No</i>	No comment
4.	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P160 (Proposed and Alternative)?	<i>Yes / No</i>	No comment
5.	Do you believe that there are any impacts that have not been highlighted?		No comment

Please send your responses by **17:00 on Wednesday 28 April 2004** to modification.consultations@elexon.co.uk, entitling your email '**P160 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 Tom Bowcutt on 020 7380 4309, email address thomas.bowcutt@elexon.co.uk.

P160 DRAFT MODIFICATION REPORT CONSULTATION QUESTIONS

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

Q	Question	Response	Rationale
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Q	Question	Response Error! Bookmark not defined.	Rationale
1.	Do you agree with the Panel's views on Proposed Modification P160 and the provisional recommendation to the Authority contained in the draft Modification Report that Proposed Modification P160 should not be made?	<i>Yes</i>	But only on the basis that Alternative Modification P160 should be made. Were the Alternative P160 to be rejected, EDFT and EDF (Generation) still believe that P160 has merit above that of P163.
2.	Do you agree with the Panel's views on Alternative Modification P160 and the provisional recommendation to the Authority contained in the draft Modification Report that Alternative Modification P160 should be made?	<i>Yes</i>	EDFT and EDF(Generation) fully support the Panel's provisional recommendation that Alt P160 should be made. It allows fairer treatment for all parties in the calculation of the ECP and it removes completely the unintentional and undesirable impact of the current wording. Furthermore Alt P160 captures the requirements of P163 and so can be regarded as a more complete solution to the problem. It also in our view fully justifies being regarded as an acceptable retrospective modification, as it corrects an error in the original text and in the Central Systems which parties could not have reasonably expected to produce the ECP figures indicated when originally drafted.
3.	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?	<i>Yes</i>	EDFT and EDF(Generation) believe that the proposed legal text will deliver an ECP that is consistent with the original intent and expectation of P37 for all parties.
4.	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P160 (Proposed and Alternative)?	<i>Yes</i>	It could perhaps be implemented in a shorter timescale than 10 days, but the important point is that it is made before the calculation of the ECPs for all parties.
5.	Do you believe that there are any impacts that have not been highlighted?	No	

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Our Ref.
Your Ref.
27 April 2004

Dear Sirs,

Re: Modification Proposal P160 – Removal of the Anomalous Effect of the Error Correction Payment (ECP) for Multiple Claims Affecting the same Settlement Period and Energy Account

Thank you for the opportunity of responding to this draft modification report considering Modification Proposal P160. British Gas Trading (BGT) agrees with the Panel's provisional recommendation that the Alternative Modification should be made.

The Alternative Modification has the additional benefit over the original Modification in that it addresses all instances of an erroneous ECP being levied. The Alternative also ensures that the ECP is consistent with the intended level of payment when the concept was being developed under Modification Proposal P37. BGT therefore agrees that the Alternative Proposal better facilitates competition in the generation and supply of electricity.

BGT also concurs with the view that approval of the Alternative Modification would reduce the possibility of a legal challenge to the level of the ECP that has been levied against a minority of the successful claimants. The reduced likelihood of a legal challenge can be seen to better promote efficiency in the implementation and administration of the balancing and settlement arrangements. This is due to the requirement for ELEXON to defend any legal challenge and this would need to be funded via BSC signatories.

BGT agrees with the proposed implementation approach, which is 10 working days following the Authority decision.

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

Yours faithfully

Mark Manley
Contract Manager

A *centrica* business

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P160 DRAFT MODIFICATION REPORT CONSULTATION QUESTIONS

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Respondent:	<i>Powergen</i>
No. of BSC Parties Represented	14
BSC Parties Represented	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
No. of Non BSC Parties Represented	N/A
Non BSC Parties represented	N/A
Role of Respondent	<i>Supplier/ Generator/ Trader / Exemptable Generator</i>

Q	Question	Response	Rationale
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Q	Question	Response <small>Error! Bookmark not defined.</small>	Rationale
1.	Do you agree with the Panel's views on Proposed Modification P160 and the provisional recommendation to the Authority contained in the draft Modification Report that Proposed Modification P160 should not be made?	Yes	<p>We concur with the Panel that the proposed modification P160 should not be made.</p> <p>We agree with the proposer that the outcome of the ECP calculation was not expected by the majority of participants. We also have genuine sympathy with the intention of this modification, as it does seemingly deliver an equitable outcome. However, we are firmly of the belief that P160 represents a retrospective modification. Retrospective modifications increase market uncertainty and damage confidence in the current trading arrangements.</p> <p>It seems reasonable to suggest that an affected party should have tested the ECP methodology at an early stage to ensure that it delivered that which was believed to be intended. It is important that participants take an active role in the governance process in order to ensure robust and equitable outcomes. In the decision letter for P84 the Authority stressed this point.... <i>"The governance process is intended to provide the time and opportunity for all Parties, especially those who are likely to be affected, to ensure that the Proposal and any Alternative are a robust solution to address the issue. We are therefore disappointed that this Proposal was not put forward until after the implementation date of Modification Proposal P37. In future, we would expect Parties to adopt a more constructive approach so as to facilitate the efficient administration of the BSC."</i></p> <p>Ofgem 'P84' Decision Letter 28 May 2002</p> <p>Whilst we recognise the desirability of an ECP outcome which reflects the originally perceived intention, we believe that the consequences of grouping claims should have been scrutinized to a higher degree. We consider the potential for long term damage caused by permitting retrospective changes to outweigh the material benefits of this modification.</p>

Q	Question	Response Error! Bookmark not defined.	Rationale
2.	Do you agree with the Panel's views on Alternative Modification P160 and the provisional recommendation to the Authority contained in the draft Modification Report that Alternative Modification P160 should be made?	No	We believe the alternative modification is also retrospective. P160alt would result in the amendment of the ECP calculation which had been approved and agreed by the industry under P37. On this basis P160 should be considered as a retrospective amendment. Although we do have sympathy with the aim of this proposal, we believe that retrospective modifications send the wrong signal to participants with regard to their responsibility to help facilitate robust, efficient and equitable outcomes.
3.	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?	Yes	Although we believe the legal text to constitute a retrospective amendment, it would address the perceived defect.
4.	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P160 (Proposed and Alternative)?	Yes	
5.	Do you believe that there are any impacts that have not been highlighted?	Yes	<p>We are concerned about the assertion that avoiding potential legal challenge better meets the applicable BSC objective (d). There are very few modifications which receive unanimous support from participants. It is therefore hypothetically possible for every decision to be legally challenged. In recognising that the threat of litigation is potentially ever present, we see no value in pre-empting such action when considering applicable BSC objectives against the current baseline. To accept that the potential avoidance of litigation better meets BSC objectives sets an undesirable precedent. If this becomes standard practice it is likely to damage market certainty and create an unnecessary and inefficient 'catch all' criteria for the assessment of modifications.</p> <p>A modification should be judged on its own merits and not on speculation about what the proposer may or may not do if it is not approved by the Authority.</p>

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Respondent:	<i>David Tolley</i>
No. of BSC Parties Represented	<i>10</i>
BSC Parties Represented	<i>RWE Trading GmbH., RWE Innogy, Innogy Cogen Ltd., Innogy Cogen Trading Ltd., Npower Ltd., Npower Direct Ltd., Npower Northern Ltd., Npower Northern Supply Ltd., Npower Yorkshire Ltd., Npower Yorkshire Supply Ltd..</i>
No. of Non BSC Parties Represented	<i>None</i>
Non BSC Parties represented	<i>n/a</i>
Role of Respondent	<i>Supplier/Generator/ Trader / Consolidator / Exemptable Generator / Party Agent</i>

Q	Question	Response Error! Bookmark not defined.	Rationale
1.	Do you agree with the Panel's views on Proposed Modification P160 and the provisional recommendation to the Authority contained in the draft Modification Report that Proposed Modification P160 should not be made?	Yes	P160 Alternative better meets the BSC Objectives than P160.
2.	Do you agree with the Panel's views on Alternative Modification P160 and the provisional recommendation to the Authority contained in the draft Modification Report that Alternative Modification P160 should be made?	Yes	P160 Alternative better meets the BSC Objectives than the Baseline.
3.	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?	Yes	
4.	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P160 (Proposed and Alternative)?	Yes	
5.	Do you believe that there are any impacts that have not been highlighted?	No	

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P160_dMR_006.txt

From: Sue Pritchard
Sent: 28 April 2004 10:10
To: Modification Consultations
Subject: Central Networks Response to P160 and P163 Report Phase
Consultation

Good Morning,

Central Networks would like to return a response of 'No comment' to P160 and P163 Report Phase consultation.

Regards,

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

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Respondent:	Tony Diccico (EDF Energy)
No. of BSC Parties Represented	9
BSC Parties Represented	EDF Energy Networks (EPN) plc; EDF Energy Networks (LPN) plc EDF Energy Networks (SPN) plc; EDF Energy (Sutton Bridge Power) EDF Energy (Cottam Power) Ltd; EDF Energy (West Burton Power) Ltd; EDF Energy plc; London Energy plc; Seeboard Energy Limited
No. of Non BSC Parties Represented	0
Non BSC Parties represented	N/A
Role of Respondent	Generator/ Trader / Supplier / Party Agent

Q	Question	Response	Rationale
1.	Do you agree with the Panel's views on Proposed Modification P160 and the provisional recommendation to the Authority contained in the draft Modification Report that Proposed Modification P160 should not be made?	Yes	EDF Energy believes that the Alternative Modification better facilitates achievement of the Applicable BSC Objectives. Therefore, we agree with the Panel recommendation that the Proposed Modification should not be made. However, EDF Energy would like to point out that the Proposed Modification is better than the current baseline.
2.	Do you agree with the Panel's views on Alternative Modification P160 and the provisional recommendation to the Authority contained in the draft Modification Report that Alternative Modification P160 should be made?	Yes	EDF Energy supports the Panel's provisional recommendation that Alt P160 should be made. The Alternative Modification would ensure that the Error Correction Payment (ECP) is consistent with the solution proposed by the P37 Modification Group.
3.	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?	Yes	EDF Energy believes that the proposed legal text will deliver an ECP that is consistent with the original intent and expectation of P37 for all parties
4.	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P160 (Proposed and Alternative)?	Yes	
5.	Do you believe that there are any impacts that have not been highlighted?	No	

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