

Responses from P158 Assessment Consultation

Consultation issued 16 March 2004

Representations were received from the following parties:

No	Company	File Number	No. BSC Parties Represented	No. Non-Parties Represented
1.	EDF Energy	P158_AR_001	9	0
2.	Aquila Networks	P158_AR_002	1	0
3.	Scottish Power	P158_AR_003	6	0
4.	Scottish and Southern	P158_AR_004	5	0
5.	Powergen	P158_AR_005	14	0
6.	EDF Trading and EDF Generation	P158_AR_006	2	0
7.	British Gas Trading	P158_AR_007	1	0
8.	British Energy	P158_AR_008	3	0
9.		P158_AR_00		
10.		P158_AR_00		

P158_AR_001 – EDF Energy

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	Supplier/Generator/ Trader / Party Agent

Q	Question	Response	Rationale
1.	Do you believe Proposed Modification P158 better facilitates the achievement of the Applicable BSC Objectives ? Please give rationale and state objective(s)	Yes	This proposal could be used by Parties to help reduce their administration costs required to maintain many different Letters of Credit. It could also decrease ELEXON's administrative costs and therefore better facilitate Applicable BSC Objective (d).
2.	Do you believe there are any alternative solutions that the Modification Group has not identified and that should be considered? Please give rationale	No	
3.	Do you believe that only affiliated BSC Parties should be able to apply for a consolidated Letter of Credit? Please give rationale	Yes	It is unlikely that unaffiliated Parties would wish to enter into such an arrangement.
4.	Do you agree that an affiliation checking process is necessary? Please give rationale	Yes	The process used to determine voting rights could be appropriate.
5.	Would your company utilise a consolidated Letter of Credit? If yes, Do you believe the opportunity to post a consolidated Letter of Credit would provide a cost benefit to your company? Please give rationale	Possibly	The cost savings may be small but we welcome the ability to be able to lodge a consolidated Letter of Credit.

Q	Question	Response	Rationale
6.	Do you consider the consolidated Letter of Credit arrangements proposed under P158 would provide a level of protection equivalent to the current requirement for a single Letter of Credit? Please give rationale	Yes	We believe that there is no increased risk on Parties.
7.	Does P158 raise any issues that you believe have not been identified so far and that should be progressed as part of the Assessment Procedure? 1.1 Please give rationale	No	
8.	Are there any further comments on P158 that you wish to make?	No	

P158_AR_002 – Aquila Networks

Good Morning,

Midlands Electricity (formally Aquila Networks PLC) would like to return a response of 'No Comment' to P158 - P158 Assessment Consultations.

Regards,

Deborah Hayward
Distribution Support Office &
Deregulation Control Group
Midlands Electricity

P158_AR_003

Respondent:	<i>Man Kwong Liu</i>
No. of BSC Parties Represented	<i>6</i>
BSC Parties Represented	<i>Please list all BSC Parties responding on behalf of (including the respondent company if relevant). Scottish Power UK plc; ScottishPower Energy Management Ltd; Scottish Power Generation Ltd; ScottishPower Energy Retail Ltd; SP transmission Ltd; SP Manweb PLC.</i>
No. of Non BSC Parties Represented	<i>0</i>
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 state¹) Supplier/Generator/ Trader / Consolidator / Exemptable Generator / Party Agent</i>
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Q	Question	Response	Rationale
1.	Do you believe Proposed Modification P158 better facilitates the achievement of the Applicable BSC Objectives ? Please give rationale and state objective(s)	Yes	We believe that if the cost of administration is minimal and there is no additional risk, and it is to be beneficial to potential parties entering the market, it would better facilitate the BSC Objective (c).
2.	Do you believe there are any alternative solutions that the Modification Group has not identified and that should be considered? Please give rationale	No	We are not aware of any, that have not already been discussed.
3.	Do you believe that only affiliated BSC Parties should be able to apply for a consolidated Letter of Credit? Please give rationale	Yes	While legally and technical there would not be any difference between consolidated LC for non-affiliated and affiliated, we believe that the fact the parties are affiliated gives more comfort in security to the industry as the umbrella company will have its reputation to consider if any of the affiliates default.
4.	Do you agree that an affiliation checking process is necessary? Please give rationale	Yes	But this should be at a minimum cost.
5.	Would your company utilise a consolidated Letter of Credit? If yes, Do you believe the opportunity to post a consolidated Letter of Credit would provide a cost benefit to your company? Please give rationale	No	
6.	Do you consider the consolidated Letter of Credit arrangements proposed under P158 would provide a level of protection equivalent to the current requirement for a single Letter of Credit? Please give rationale	Yes	As mentioned in the document, it could be legally and technically enforced. We are not aware of any other risk which would indicate otherwise.

Q	Question	Response	Rationale
7.	Does P158 raise any issues that you believe have not been identified so far and that should be progressed as part of the Assessment Procedure? Please give rationale	No	
8.	Are there any further comments on P158 that you wish to make?	No	

P158_AR_004 - Scottish and Southern

Dear Sirs,

This response is sent on behalf of Scottish and Southern Energy, Southern Electric, Keadby Generation Ltd., Medway Power Ltd., and SSE Energy Supply Ltd.

In relation to the eight questions contained within your note of 9th March 2004, and the associated Assessment Consultation for P158, we have the following comments to make:-

Q1 Do you believe Proposed Modification P158 better facilitates the achievement of the Applicable BSC Objectives ? Please give rationale and state objective(s)

No. We believe that the legal status of the proposed Consolidated Letter of Credit is such that the providers of the Letters (i.e. the banks) will exploit any potential loop-hole/legal uncertainty etc., to avoid 'honoring' the Letter of Credit, exposing other market participants to the cost of the Party to whom the Letter of Credit applies.

Please note our response to any of the following questions should not be construed to lend support whatsoever to this Modification.

Q2 Do you believe there are any alternative solutions that the Modification Group has not identified and that should be considered? Please give rationale

No

Q3 Do you believe that only affiliated BSC Parties should be able to apply for a consolidated Letter of Credit? Please give rationale

No Comment.

Q4 Do you agree that an affiliation checking process is necessary? Please give rationale

Yes.

Q5 Would your company utilise a consolidated Letter of Credit? If yes, Do you believe the opportunity to post a consolidated Letter of Credit would provide a cost benefit to your company? Please give rationale

No Comment.

Q6 Do you consider the consolidated Letter of Credit arrangements

proposed under P158 would provide a level of protection equivalent to the current requirement for a single Letter of Credit? Please give rationale

No. For the reasons outlined in our answer to Q1 above; i.e. that banks will seek to avoid paying out where they can, and if there is any uncertainty surrounding a Letter of Credit they will seek to exploit this to circumvent payment. In addition the suggested administration benefits from the P158 Modification are marginal.

Q7 Does P158 raise any issues that you believe have not been identified so far and that should be progressed as part of the Assessment Procedure? Please give rationale

Yes, the issues outlined in our answer to Q1 above; i.e. that banks will seek to avoid paying out where they can, and if there is any uncertainty surrounding a Letter of Credit they will seek to exploit this to circumvent payment . This should be examined in detail and a Legal Opinion obtained.

Q8 Are there any further comments on P158 that you wish to make?

Nothing further at this time.

Regards

Garth Graham
Scottish and Southern Energy plc

P158_AR_005 – Powergen

Respondent:	<i>Powergen</i>
No. of BSC Parties Represented	<i>14</i>
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	0
Non BSC Parties represented	0
Role of Respondent	<i>Supplier/ Generator/ Trader / Exemptable</i>

Q	Question	Response	Rationale
1.	Do you believe Proposed Modification P158 better facilitates the achievement of the Applicable BSC Objectives ? Please give rationale and state objective(s)	No	<p>Powergen concur with the modification group that a consolidated letter of credit may allow some parties to source credit cover more efficiently by combining several LoC in to a single LoC. However we consider these potential benefits to be relatively small and somewhat offset by a reduction in flexibility caused by the necessity for all amendments to the consolidated LoC to be conducted purely by the 'umbrella' company. Our overriding concern is due to the relatively untested methodology of consolidation. Currently the market has confidence based on historical proof that the single LoC is robust. Although we believe the proposed consolidated LoC to appear a logical extension to the existing credit cover arrangements, we are cautious about the prospect of potentially weakening the current process. Unfortunately it is difficult to guarantee the robustness of a brand new process. It is therefore equally difficult to quantify the potential for increased risk. Historical perspective often offers the necessary assurance and as such we believe that the proven single LoC provides a greater level of confidence when compared to the proposed consolidated LoC.</p> <p>Ultimately, we feel that the likely benefits (albeit small) to be gained from efficient sourcing would be outweighed by the potential risk of a party going in to default with an inadequate LoC. As such this modification could have a negative impact on applicable BSC objective 'C'.</p>

Q	Question	Response	Rationale
2.	Do you believe there are any alternative solutions that the Modification Group has not identified and that should be considered? Please give rationale	No	
3.	Do you believe that only affiliated BSC Parties should be able to apply for a consolidated Letter of Credit? Please give rationale	Yes	Affiliation may provide a greater level of assurance for participants.
4.	Do you agree that an affiliation checking process is necessary? Please give rationale	Yes	We believe that an affiliation checking process would be beneficial. We agree with the modification group that the FAA are best placed to provide the affiliation check in the most efficient manner.
5.	Would your company utilise a consolidated Letter of Credit? If yes, Do you believe the opportunity to post a consolidated Letter of Credit would provide a cost benefit to your company? Please give rationale	No	At the present moment we would not wish to utilise a consolidated letter of credit.
6.	Do you consider the consolidated Letter of Credit arrangements proposed under P158 would provide a level of protection equivalent to the current requirement for a single Letter of Credit? Please give rationale	No	We have sympathy with the proposer of this modification as it is very difficult to provide a qualified level of assurance as to the robustness of a new process without reference to historical evidence. In the absence of such assurance, we believe that the potential benefits of this modification do not justify the creation of a new format for credit cover.
7.	Does P158 raise any issues that you believe have not been identified so far and that should be progressed as part of the Assessment Procedure? Please give rationale	No	
8.	Are there any further comments on P158 that you wish to make?	No	

P158_AR_006 EDF Trading

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

Q	Question	Response 1	Rationale
1.	Do you believe Proposed Modification P158 better facilitates the achievement of the Applicable BSC Objectives ? Please give rationale and state objective(s)	Yes	Administratively, it appears to help parties and Elexon and as such it better facilitates BSC Objectives (c) and (d).
2.	Do you believe there are any alternative solutions that the Modification Group has not identified and that should be considered? Please give rationale	No	
3.	Do you believe that only affiliated BSC Parties should be able to apply for a consolidated Letter of Credit? Please give rationale	Yes	It is most unlikely that any other arrangement would be possible and, if it were, then it would be administratively unwieldy such that it would negate whatever benefits the modification offered.
4.	Do you agree that an affiliation checking process is necessary? Please give rationale	Yes	But no more so than Elexon currently does for checking the voting rights of parties.
5.	Would your company utilise a consolidated Letter of Credit? If yes, Do you believe the opportunity to post a consolidated Letter of Credit would provide a cost benefit to your company? Please give rationale	Possibly	Although the administrative effort and cost savings would be small in our case.

Q	Question	Response 1	Rationale
6.	Do you consider the consolidated Letter of Credit arrangements proposed under P158 would provide a level of protection equivalent to the current requirement for a single Letter of Credit? Please give rationale	Yes	We believe the level of risk to parties as being no different in either case. Monies can still be called upon against individual BSC Parties and the default arrangements are all the same.
7.	Does P158 raise any issues that you believe have not been identified so far and that should be progressed as part of the Assessment Procedure? Please give rationale	No	
8.	Are there any further comments on P158 that you wish to make?	No	

P158_AR_007 British Gas Trading

Respondent:	Mark Manley
No. of BSC Parties Represented	
BSC Parties Represented	British Gas Trading (BGT)
No. of Non BSC Parties Represented	
Non BSC Parties represented	
Role of Respondent	

Q	Question	Response	Rationale
1.	Do you believe Proposed Modification P158 better facilitates the achievement of the Applicable BSC Objectives ? Please give rationale and state objective(s)	Yes	<p>BGT do believe this modification better facilitates Applicable BSC Objective (d) and to a lesser extent Objective (c). In specific circumstances BGT believes the process for lodging credit cover is inefficient.</p> <p>Companies that own more than 1 BSC Party must lodge individual letters of credit for each entity. Using Centrica plc as an example (the group), the group owns 7 BSC Parties and is</p>

Q	Question	Response	Rationale
			<p>obligated to lodge 7 individual Letters of Credit (LoC). This is a resource intensive process that involves numerous different departments within the process. Being able to lodge 1 consolidated LoC would significantly reduce the workload and thereby improve the efficiency of the process.</p> <p>Also sourcing the credit cover for 7 individual BSC parties means that the company incurs costs that could be avoided if the Code allowed affiliated groups to lodge a consolidated LoC. BGT believe introducing the ability to lodge a consolidated LoC will improve the overall efficiency by reducing the time and costs associated with the process. This will better facilitate Applicable BSC Objective (d) by increasing efficiency in lodging credit. To a lesser extent it will also reduce the cost of lodging credit and thereby better facilitate Applicable BSC Objective (c).</p> <p>BGT also believe there will be reduction in the administrative effort that is required by the FAA to manage the credit process. This is due to the reduced number of LoC that will be lodged with the FAA and the reduced requirement to notify Parties of the imminent expiry of their Loc. This will also better facilitate Applicable BSC Objective (d).</p>
2.	Do you believe there are any alternative solutions that the Modification Group has not identified and that should be considered?	No	

Q	Question	Response	Rationale
3.	<p>Do you believe that only affiliated BSC Parties should be able to apply for a consolidated Letter of Credit? Please give rationale</p>	Yes	<p>The original intent when raising this proposal was to allow only affiliated BSC Parties to lodge a consolidated LoC. As the proposer of this modification BGT still believes only affiliated BSC Parties should be able to lodge a consolidated LoC. BGT believe it would be impractical and unworkable for an arbitrary group of Parties to be able to lodge a consolidated LoC. This is due to the potential requirement to increase or decrease the value of an individual Party listed on the LoC.</p> <p>BGT also note this view is consistent with that of the modification group. The modification group state in the assessment consultation that they do not believe a financial institution would provide a combined LoC for an arbitrary group of BSC Parties. The FAA as custodians of the credit process in the BSC also supported this view. As a consequence BGT see little value in introducing a process that is unlikely to be utilised.</p>
4.	<p>Do you agree that an affiliation checking process is necessary? Please give rationale</p>	Yes	<p>Due to the anticipated difficulties of an arbitrary group of BSC Parties being able to source a consolidated LoC BGT are unsure of the value of further checks. However in light of the FAA response to the Impact Assessment and their statement that this process could be undertaken at zero cost (subject to the approval of other modifications) BGT would support the implementation of an affiliation checking process.</p>

Q	Question	Response	Rationale
5.	<p>Would your company utilise a consolidated Letter of Credit? If yes, Do you believe the opportunity to post a consolidated Letter of Credit would provide a cost benefit to your company? Please give rationale</p>	Yes	<p>The group would take advantage of this proposed added functionality and would lodge a consolidated LoC for the BSC Parties it owns. This would be an improvement on the existing process of lodging credit, which is inefficient and resource intensive. Utilising a consolidated LoC would be a much more efficient process.</p> <p>BGT believe there would be a cost saving from lodging a consolidated LoC due to the reduction in renewal costs and time spent on sourcing the credit cover. The group currently lodges 14 individual LoC each year this would reduce to a maximum of 2 renewals per year if this modification were to be implemented. This would provide a cost saving. The other cost saving BGT would benefit from is the significant reduction in man-hours required to refresh 1 consolidate LoC.</p>

Q	Question	Response	Rationale
6.	<p>Do you consider the consolidated Letter of Credit arrangements proposed under P158 would provide a level of protection equivalent to the current requirement for a single Letter of Credit? Please give rationale</p>	Yes	<p>BGT do not believe a consolidated LoC provides less protection for BSC parties than is currently provided under the current baseline. In raising the proposal it was certainly not the intent to increase the risks faced by the BSC community. BGT would not have raised this proposal if we believed the proposed solution was less robust than the current baseline.</p> <p>Furthermore during the assessment phase the group has received confirmation from ELEXON's internal legal team and external legal advisers that the proposed solution is robust. The BSC Agent that would be required to manage this new functionality, the FAA, has similarly provided this view.</p> <p>BGT are unsure of the validity of the argument that suggests just because this is a new process it poses a bigger risk than the current baseline. Once the LoC has been lodged with the FAA the risk profile is exactly the same as that under the current baseline. The FAA has been able to draw on single LoC and there is no reason to believe that they wouldn't equally be able to draw on a consolidated LoC.</p> <p>Furthermore the proposed solution is risk averse in that it only allows Parties to amend their credit cover in a very controlled manner using the Minimum Eligible Amount (MEA) calculation. Parties when lodging the consolidated LoC would be required to specify an</p>

Q	Question	Response	Rationale
			<p>amount that was attributable to each individual Party. This would then be ring-fenced and could not be changed without renewing the LoC and or requesting that an MEA calculation is undertaken by a BSC Agent.</p>
7.	<p>Does P158 raise any issues that you believe have not been identified so far and that should be progressed as part of the Assessment Procedure? Please give rationale</p>	No	
8.	<p>Are there any further comments on P158 that you wish to make?</p>	Yes	<p>BGT believes there is a defect within the BSC that fails to provide a route, which would allow BSC Parties to lodge a consolidated LoC. The existing</p>

Q	Question	Response	Rationale
			<p>process is inefficient. P158 provides a more efficient process for companies that own more than 1 BSC Party to lodge credit. It does so in a risk averse manner with a relatively low implementation cost if delivered as part of a batched release. BGT would expect that if P158 were approved then it would be implemented via a batched release.</p> <p>BGT have contacted a financial institution that has confirmed that they would be happy to provide a consolidated LoC based upon the draft document that was circulated as part of the consultation. This is further proof of the workability and robustness of the proposed solution.</p>

P158_AR_008 – British Energy

Respondent:	<i>Martin Mate</i>
No. of BSC Parties Represented	<i>3</i>
BSC Parties Represented	<i>British Energy Power & Energy Trading Ltd, British Energy Generation Ltd, Eggborough Power Ltd.</i>
No. of Non BSC Parties Represented	<i>-</i>
Non BSC Parties represented	<i>-</i>
Role of Respondent	<i>Supplier/Generator/Trader/Consolidator/Exemptable Generator/Party Agent</i>

Q	Question	Response	Rationale
1.	Do you believe Proposed Modification P158 better facilitates the achievement of the Applicable BSC Objectives ? Please give rationale and state objective(s)	No	Although some parties may obtain efficiency gains from the proposal, these benefits have not been quantified in any detail. On balance we are unconvinced that the efficiency gains for the industry as a whole merit the cost (BSC Objective (d) not met), and have some concerns that competition may be diminished by allowing efficiencies to parties which are part of larger groups (BSC Objective (c) not met).
2.	Do you believe there are any alternative solutions that the Modification Group has not identified and that should be considered? Please give rationale	Yes	If credit were permitted in consolidated form, then all forms of credit should be capable of consolidation, ie cash and letters of credit. We see no reason to discriminate between providers of cash and Letters of Credit, and indeed such discrimination could act against BSC Objective (c) (competition).
3.	Do you believe that only affiliated BSC Parties should be able to apply for a consolidated Letter of Credit? Please give rationale	No	Provided the terms of the consolidated credit are robust between the provider and the BSC Clearer, we see affiliation as a matter between the provider of Credit and the relevant BSC Parties, which need not concern the BSC.
4.	Do you agree that an affiliation checking process is necessary? Please give rationale	No	See answer to 3.

Q	Question	Response	Rationale
5.	<p>Would your company utilise a consolidated Letter of Credit? If yes, Do you believe the opportunity to post a consolidated Letter of Credit would provide a cost benefit to your company? Please give rationale</p>		<p>Unlikely. The benefits of the proposal indicated in the consultation document appear to be limited. BE currently provides most of its credit through one party, the party undertaking group external trading and to which most physical energy is credited. In any case, all the normal processes for increasing or reducing levels of credit for individual parties would apply. The main saving in internal effort would be the ability to undertake changes for more than one party at the same time, but these savings are probably not large. There may be some benefits where credit can be swapped from one party to another without changing the overall level, but in practice these would still require similar effort at a party level as at present. Negotiation for provision of consolidated credit from a provider would probably incur up-front costs, and provision for the service may incur an explicit or implicit operating cost.</p>
6.	<p>Do you consider the consolidated Letter of Credit arrangements proposed under P158 would provide a level of protection equivalent to the current requirement for a single Letter of Credit? Please give rationale</p>	Yes	<p>Subject to written legal confirmation, the proposal as currently constituted appears to provide a level of protection equivalent to the current requirement.</p>
7.	<p>Does P158 raise any issues that you believe have not been identified so far and that should be progressed as part of the Assessment Procedure? Please give rationale</p>	Yes / No	

Q	Question	Response	Rationale
8.	Are there any further comments on P158 that you wish to make?	Yes	Companies weigh up the advantages and disadvantages of operating as a larger consolidated company or smaller affiliations of individual companies. The BSC credit requirements are only one of the factors a company must take into consideration in choosing its corporate structure and trading methods. The BSC currently treats parties as individual entities for financial and legal purposes (with the exception of voting), and this avoids any charge that the BSC favours larger groups of companies or discriminates against smaller or single company parties.