**Responses from P158 Draft Report Consultation**

**Consultation Issued 28 May 2004**

**Representations were received from the following parties**

| No | Company | File number | No BSC Parties Represented | No Non-Parties Represented |
|---|---|---|---|---|
| 1. | Powergen | P158_dMR_001 | 14 | 0 |
| 2. | British Energy | P158_dMR_002 | 3 | 0 |
| 3. | RWE Npower | P158_dMR_003 | 10 | 0 |
| 4. | Scottish Power | P158_dMR_004 | 6 | 0 |
| 5. | Central Networks | P158_dMR_005 | 1 | 0 |
| 6. | Scottish and Southern | P158_dMR_006 | 1 | 0 |
| 7. | EDF Energy Networks | P158_dMR_007 | 9 | 0 |
| 8. | British Gas Trading | P158_dMR_008 | 1 | 0 |

# P158 REPORT PHASE CONSULTATION QUESTIONS

BSC Parties ("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:** | *Powergen UK plc* |
| **No. of Parties Represented** | 14 |
| **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 Parties Represented** | N/A |
| **Non Parties represented** | N/A |
| **Role of Respondent** | *Supplier/ Generator/ Trader / Exemptable Generator* |

| Q | Question | Response<br>Error! Bookmark not defined. | Rationale |
|---|---|---|---|

| Q | Question | Response Error! Bookmark not defined. | Rationale |
|---|---|---|---|
| 1. | Do you agree with the Panel's views on P158 and the provisional recommendation to the Authority contained in the draft Modification Report that P158 **should not** be made? Please give rationale. | Yes | We concur with the Panel's view that there is a greater potential for increased risk if an untested LoC methodology is adopted. Given the negligible benefits we do not believe that it is appropriate for any increase in risk.<br><br>We note that one financial institution even casts doubt upon the perceived benefits themselves….<br>"*Whilst it would be possible to issue a standby on behalf of multiple applicants it could potentially cause problems from an operational point of view in that the lender could only record a liability against one name. To record against multiple names, covered by a consolidated LoC, the lender would need to open a separate instrument for each applicant to record their portion of the overall liability. The lender would also need to have a 'base' file which would be the actual instrument that the lender would issue and all of these files would need to be cross referenced. Due to the extra work involved and greater potential for errors the source suggested that it would prefer to steer clear of this type of document" (**74/007 – ELEXON Assessment Report for P158).***<br><br>It is clear that this modification would only benefit large players and that even amongst this category of participant take up of a consolidated LoC would be minimal. We also question the equitability of exposing smaller players to a potential increase in risk despite the fact that they are excluded from the perceived benefits of this modification. |
| 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?<br>Please give rationale. | Yes | |
| 3. | Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P158?<br>Please give rationale. | Yes | |
| 4. | Are there any further comments on P158 that you wish to make? | No | |

 

Please send your responses by **12:00 on Friday 28 May 2004** to modification.consultations@elexon.co.uk and please entitle your email 'P158 **Report Phase 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 Michelle Spurden on 020 7380 4974, email address michelle.spurden@elexon.co.uk

# P158 REPORT PHASE CONSULTATION QUESTIONS

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

| Q | Question | Response [1] | Rationale |
|---|---|---|---|
| 1. | Do you agree with the Panel's views on P158 and the provisional recommendation to the Authority contained in the draft Modification Report that P158 **should not** be made? Please give rationale. | Yes | We support rejection, as while 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 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 | N/A |
| 3. | Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P158? Please give rationale. | Yes / No | N/A |
| 4. | Are there any further comments on P158 that you wish to make? | Yes / No | N/A |

Please send your responses by **12:00 on Friday 28 May 2004** to modification.consultations@elexon.co.uk and please entitle your email 'P158 **Report Phase Consultation**'. Please note that any responses received after the deadline may not receive due consideration by the Panel.

[1] Delete as appropriate – please do not use strikeout, this is to make it easier to analyse the responses

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# P158 REPORT PHASE CONSULTATION QUESTIONS

BSC Parties ("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:** | *Carl Wilkes* |
| **No. of Parties Represented** | Ten |
| **Parties Represented** | RWE Trading Gmbh, RWE Innogy plc, Innogy Co-gen Ltd, Innogy Co-gen Trading Ltd, Npower Direct Ltd, Npower Ltd, Npower Northern Ltd, Npower Northern Supply Ltd, Npower Yorkshire Ltd, Npower Yorkshire Supply Ltd |
| **No. of Non Parties Represented** | |
| **Non Parties represented** | |
| **Role of Respondent** | *Supplier/Generator/ Trader / Consolidator / Exemptable Generator / Party Agent* |

| Q | Question | Response Error! Bookmark not defined. | Rationale |
|---|---|---|---|
| 1. | Do you agree with the Panel's views on P158 and the provisional recommendation to the Authority contained in the draft Modification Report that P158 **should not** be made? Please give rationale. | Yes | We believe the modification as proposed does not better meet the relevant BSC objectives. Our position on this matter has been consistent throughout the modification process i.e. the potential risk posed by the introduction of a Consolidated Letter of Credit is not justified by the small amount of realisable benefits on offer. |
| 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. | Qualified Yes | The legal text probably overcomes the identified defect but this does not overcome the problems identified above in the answer to 1. |
| 3. | Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P158? Please give rationale. | Qualified Yes | However, we do not believe the Modification should be implemented. |
| 4. | Are there any further comments on P158 that you wish to make? | No | |

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# P158 REPORT PHASE CONSULTATION QUESTIONS

BSC Parties ("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:** | *Man Kwong Liu* |
| **No. of Parties Represented** | *6* |
| **Parties Represented** | *Please list all Parties responding on behalf of (including the respondent company if relevant).*<br>*Scottish Power UK plc; ScottishPower Energy Management Ltd; Scottish Power Generation Ltd; ScottishPower Energy Retail Ltd; SP transmission Ltd; SP Manweb PLC.* |
| **No. of Non Parties Represented** | *0* |
| **Non Parties represented** | *Please list all non Parties responding on behalf of (including the respondent company if relevant).* |
| **Role of Respondent** | *(Supplier/Generator/ Trader / Consolidator / Exemptable Generator / BSC Agent / Party Agent / other – please state [1])*<br>*Supplier/Generator/ Trader / Consolidator / Exemptable Generator / Party Agent* |

| Q | Question | Response [1] | Rationale |
|---|---|---|---|
| 1. | Do you agree with the Panel's views on P158 and the provisional recommendation to the Authority contained in the draft Modification Report that P158 **should not** be made? Please give rationale. | Yes | It is clear from the industry responses that there are operational unknowns and perceptions of higher risk, and as the expected benefit is low, we therefore agree that the mod would not better facilitate the BSC Objective (c) - competition. |
| 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 | If the Mod were to be made, the legal text seems appropriate. |
| 3. | Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P158? Please give rationale. | Yes | With limited benefit, we agree that P158 should be implemented as part of an existing planned release in order to minimise implementation costs. |
| 4. | Are there any further comments on P158 that you wish to make? | No | |

Please send your responses by **12:00 on Friday 28 May 2004** to modification.consultations@elexon.co.uk and please entitle your email 'P158 **Report Phase Consultation**'. Please note that any responses received after the deadline may not receive due consideration by the Panel.

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From: Sue Pritchard
Sent: 28 May 2004 09:23
To: Modification Consultations
Cc: Lees, Helen
Subject: Central Networks Response to P158 consultation on draft Modificat ion Report

Good Morning,

Central Networks would like to return a response of 'No Comment' to P158 consultation on draft Modification Report.

Regards,

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

From: Garth Graham
Sent: 28 May 2004 11:28
To: Modification Consultations
Subject: P158 Report Consultation

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.

Further to your note of 20th May 2004, and the four questions listed in the Modification Report consultation for P158, we have the following comments to make:-

Q1 Do you agree with the Panel's views on P158 and the provisional recommendation to the Authority contained in the draft Modification Report that P158 should not be made? Please give rationale.

Yes, we agree with the proposed BSC Panel recommendation to the Authority that the Proposed Modification Proposal P158 should not be made. 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 'honouring' the Letter of Credit, exposing other market participants to the cost of the Party to whom the Letter of Credit applies.

Q2 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.

It appears to.

Q3 Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P158? Please give rationale.

If the Modification Proposal P158 is approved, we agree with the proposed BSC Panel recommendation on the timing for the Implementation Date, as outlined in the Modification Report.

Q4 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 REPORT PHASE CONSULTATION QUESTIONS

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

| Q | Question | Response | Rationale |
|---|---|---|---|
| 1. | Do you agree with the Panel's views on P158 and the provisional recommendation to the Authority contained in the draft Modification Report that P158 **should not** be made? Please give rationale. | Yes | EDF Energy agrees a consolidated LoC, proposed under P158, was largely based on an untested methodology and would require a new process. We also note the small benefits P158 has to offer which would be limited to only one to two (large) Parties. EDF Energy agrees with the Panel recommendation that P158 should not be made because any minimal benefits would be outweighed by the potential risks to industry, if a consolidated LoC is flawed in some way. |
| 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?<br>Please give rationale. | Yes | |
| 3. | Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P158?<br>Please give rationale. | Yes | |
| 4. | Are there any further comments on P158 that you wish to make? | No | |

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**energy management group**

**ELEXON Limited**
**4th Floor**
**350 Euston Road**
**London**
**NW1 3AW**

28 May 2004

Dear Sirs,

**Re: Modification Proposal P158 – Introducing the Ability to Lodge a Consolidated Letter of Credit**

Thank you for the opportunity of responding to this draft modification report considering Modification Proposal P158. British Gas Trading (BGT) does not agree with the Panel's provisional recommendation that the Modification Proposal should not be made.

BGT continues to believe that this modification proposal better facilitates Applicable BSC Objective (c) as it offers a more efficient mechanism for sourcing credit cover. It also removes a significant amount of administration in terms of lodging and refreshing individual Letters of Credit. BGT believe that the solution developed is robust and points to ELEXON's internal and external legal opinion and that of an expert in the credit field to support this view.

At last months meeting a Panel member raised the possibility of BGT, as proposer, funding the development work required to implement a consolidated Letter of Credit. BGT do not believe there is the vires within the BSC for such an implementation approach to be considered. BGT take this view based on the P91 Ofgem decision letter. The letter states that the Panel can make a charge where ELEXON provides or procures any relevant service for a relevant person. However the definition of a relevant service is a service not provided to Parties or Trading Parties on a routine basis pursuant to the Code. BGT would argue that the provision of credit cover is a service provided on a routine basis pursuant to the Code.

BGT agrees with the proposed implementation dates and the legal text as detailed in the draft modification report.

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

Yours faithfully

Mark Manley
Contract Manager