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The National Grid Company, BSC Signatories and
Other Interested Parties

04 August 2004

Our Ref: MP No P154

Dear Colleague,

Modification to the Balancing and Settlement Code (“BSC”) - Decision and notice in relation to Modification Proposal P154 “Rectification of Insistencies the Application of BSC Change Management Processes”

The Gas and Electricity Markets Authority (the “Authority”)¹ has carefully considered the issues raised in the Modification Report² in respect of Modification Proposal P154, “Rectification of Insistencies the Application of BSC Change Management Processes”.

The BSC Panel (the “Panel”) recommended to the Authority:

- that Proposed Modification P154 should be made;
- that the P154 Implementation Date of 5 Working Days after an Authority decision;

Having carefully considered the Modification Report and the Panel’s recommendation and having regard to the Applicable BSC Objectives³ and the Authority’s wider statutory duties,⁴ the Authority has decided to direct a Modification to the BSC in line with Modification Proposal P154.

This letter explains the background and sets out the Authority’s reasons for its decision.

¹ Ofgem is the office of the Authority. The terms “Ofgem” and “the Authority” are used interchangeably in this letter.

² ELEXON document reference P154MR, Version No. Final/1.0, dated 15/03/2004

³ ³ The Applicable BSC Objectives, as contained in Standard Condition C3 (3) of NGC’s Transmission Licence, are:

- a) the efficient discharge by the licensee of the obligations imposed upon it by this licence;
- b) the efficient, economic and co-ordinated operation by the licensee of the licensee’s transmission system;
- 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;
- d) promoting efficiency in the implementation and administration of the balancing and settlement arrangements
- e) the undertaking of work by BSCCo (as defined in the BSC) which is:
 - (i) necessary for the timely and effective implementation of the proposed British Electricity Trading and Transmission Arrangements (BETTA); and
 - (ii) relevant to the proposed GB wide balancing and settlement code;and does not prevent BSCCo performing its other functions under the BSC in accordance with its objectives.

⁴ Ofgem’s statutory duties are wider than the matters that the Panel must take into consideration and include amongst other things a duty to have regard to social and environmental guidance provided to Ofgem by the government.

This letter constitutes notice by the Authority under section 49A Electricity Act 1989 in relation to the direction.

Background

It is the Proposer's view that changes made to Code Subsidiary Documents⁵ as a consequence of a Modification Proposal may often have a more significant impact on Parties than changes to the BSC itself because they relate to the detailed systems and business processes which Parties and Party Agents are required to operate. Moreover, the Proposer believes that ELEXON appears to have been interpreting Section F3 of BSC in an inconsistent manner. The Proposer states that changes to Code Subsidiary Documents which have been made as a consequence of a Modification Proposal do not appear to always have been subjected to the full change management procedures, or have been made the subject of a new Modification Proposal when identified after the approval of the Modification Proposal in question. In addition the Proposer's view is that changes to Code Subsidiary Document related documents, imposing rights and obligations on Parties, do not appear to require any formal and transparent change management procedures or approval by the Panel or a Panel Committee in all instances.

In order to rectify this situation, Npower Limited submitted Modification Proposal P154, "Rectification of Insistencies the Application of BSC Change Management Processes" on 1 December 2003.

The Modification Proposal

Modification Proposal P154 seeks to modify the BSC so as to clarify that the procedures within the BSC apply in full to all changes to Code Subsidiary Documents, including those related to Modification Proposals, and that the scope of those procedures should be expanded to cover documents related to Code Subsidiary Documents which impose rights or obligations.

The justification for the Modification Proposal was that it would better facilitate achievement of the Applicable BSC Objectives C3 (3) (c) and (d). It is the Proposer's view that the Modification Proposal would, better facilitate Applicable BSC Objective (c) by reducing the risk of onerous new obligations being imposed which are likely to have a larger impact (in relative terms) on smaller Suppliers. It is also the Proposer view that with regard to Applicable BSC Objective (d) the Modification Proposal would ensure that all proposed changes to Code Subsidiary Documents, and related documents are subject to proper scrutiny and that the need for costly revisions and unjustified BSCCo operational costs are avoided.

The Panel considered the Initial Written Assessment at its meeting of 11 December 2003 and agreed to submit Modification Proposal P154 to the Assessment Procedure for 3 months with an Assessment Report to be presented to them at the Panel meeting in March 2004. At this meeting the Panel noted the ELEXON's observation that a Modification Proposal might not be required to address the perceived defect. Following this observation the Panel requested that an Interim Report be provided to its February 2004 meeting to indicate whether or not a Modification Proposal was required. The Governance Standing Modification Group (the "Group") considered the Modification Proposal during two Modification Group meetings.

During the formulation of Interim Report the Group identified two main issues relating to Modification Proposal P154. Firstly there was concern that the full Section F3 change

⁵ Code Subsidiary Documents are BSC Procedures, Codes of Practice, BSC Service Descriptions, Party Service Lines, Data Catalogues, Communication Requirements Documents and the Reporting Catalogue.

management procedure need not apply to Code Subsidiary Document changes made pursuant to an Approved Modification and secondly the need to provide robust and transparent change management to other documents imposing obligations on Parties.

Whilst discussing the issue of whether the Section F3 change management procedure ought to apply to Code Subsidiary Document changes made pursuant to an Approved Modification, the Group noted the Proposer's concern that there had been instances in which the full change management procedure as set out in Section F3 of the Code had not been applied to changes made to Code Subsidiary Documents, especially when Code Subsidiary Document changes were made pursuant to an Approved Modification. However, the Group also noted ELEXON's indication that it interpreted the BSC so that the full change management procedures prescribed in Section F3 applied to all Code Subsidiary Document changes and that this was its operational policy.

After discussion the Group concluded that the Section F3 requirements clearly applied to Code Subsidiary Document changes however it also noted that there was an ambiguity in the consultation requirements for that section where consultation had already taken place as part of the Modification Procedures. The Group felt it was unclear whether or not Code Subsidiary document changes had to be consulted upon as part of the Definition and/or the Assessment Procedures and, if so, in how much detail as the consultation requirements of the Modification Procedures were general requirements. The Group therefore concluded that Modification Proposal P154 ought to provide the requisite amendment to Section F3 so as to clarify that all Code Subsidiary Document changes must always to be consulted on to an appropriate level of detail. The appropriate level of detail would be that which was deemed appropriate by the Panel.

The Group also concluded that, in recognition of the Proposer's concern's as to the alleged failures by BSCCo to comply with the full requirements of the change management procedure, a review of Balancing and Settlement Code Procedure (BSCP) 40⁶ should be undertaken to identify any changes that could be made to enhance the efficiency and transparency of the Change Management procedures.

When considering the need to provide robust and transparent change management to other documents imposing obligations on Parties, the Group also noted the Proposer's opinion that the scope of the Code Subsidiary Document change management procedure ought to be expanded so as to include other important BSC related documents that imposed rights and obligations on Parties. After discussion the Group did not consider it necessary to expand the scope of the Code Subsidiary Document change management procedure. However, the Group noted that, at present, there was no formal mechanism for Parties to propose that documents be included in the Baseline Statement. Therefore, they recommended that the proposed review of BSCP 40 should include a review of the Baseline Statement, the principles behind its composition and the mechanism through which it is established.

An Interim Report was presented at the Panel meeting held on 12 February 2004. In the report, the Group recommended that the Assessment Procedure should be terminated and that the Proposed Modification should be submitted to the Report Phase, with a recommendation that it should be made. The Group believed that the Assessment Procedure could be completed ahead of schedule because there were no outstanding issues requiring assessment. The Panel agreed with the Group's recommendations and submitted Modification Proposal P154 to the Report

⁶ The purpose of BSCP 40 is to maintain the integrity and robustness of the BSC, subsidiary Configurable Items and supporting products and to ensure that all changes are introduced to the BSC in a controlled and auditable manner.

Phase. A draft Modification Report was produced and issued for consultation on 17 February 2004, with a response deadline of 1 March 2004

Responses to ELEXON Consultation

Ten responses were received. Nine responses (representing 38 Parties) expressed support for the Proposed Modification. No responses opposed the Proposed Modification and the remaining respondent (representing 1 Party) provided a “no comment” response.

These respondents who supported the Modification Proposal felt that the implementation of Modification Proposal P154 would ensure that change management is applied consistently to all Code Subsidiary Document changes, would provide Parties with the confidence that full consultation on changes to Code Subsidiary Documents has taken place prior to those changes being made and clarify the consultation requirements for changes to Code Subsidiary Documents.

The respondents’ views are summarised in the Modification Report for Modification Proposal P154, which also includes the complete text of all respondents’ replies.

Panel’s recommendation

The Panel met on 11 March 2004 and considered Modification Proposal P154, the draft Modification Report, the views of the Modification Group and the consultation responses received.

The Panel recommended that the Authority should approve the Proposed Modification and that, if approved, the Proposed Modification should be implemented 5 Working Days after an Authority decision.

Responses to Ofgem GB Consultation

On 5 December 2003 Ofgem undertook to invite responses on additional implications that a Proposed Modification may have, were it to be applied on a GB wide basis, as opposed to being limited to England and Wales. In order to discharge this undertaking Ofgem published a GB Consultation Paper on 25 February 2004 which invited respondents’ views by 16 March 2004. Ofgem received no responses to the Consultation Paper.

The Consultation Paper, the responses to it and other related documents can be found on the *BETTA GB Consultation* section of the Ofgem website.⁷

Ofgem’s view

Having carefully considered the Modification Report and the Panel’s recommendation, Ofgem considers, having regard to the Applicable BSC Objectives and its statutory duties, that Proposed Modification P154 will better facilitate achievement of Applicable BSC Objectives (c) and (d).

It is Ofgem’s view that the Proposed Modification will better facilitate achievement of Applicable BSC Objective (d) by ensuring that all changes to Code Subsidiary Documents receive appropriate scrutiny. This will help to ensure Parties have visibility of new or amended

⁷ <http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/bettagbcons>

obligations that have taken place during the course of the Code Subsidiary Document change procedures, improving the efficiency of the BSC Change Management Processes.

Consequently, it is Ofgem's view that Modification Proposal P154 will to a lesser extent also better facilitate Applicable BSC Objective (c). It is Ofgem's view that an obligation ensuring that consultation is undertaken during the course of the Code Subsidiary Document change procedures will reduce the likelihood of new obligations being imposed during implementation. The absence of such consultation could disproportionately affect smaller Parties where such obligations are onerous.

If you have any questions, please contact me on the above number.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Simpson', written over a horizontal line.

Nick Simpson

Director of Industry Code Development

Signed on behalf of the Authority and authorised for that purpose by the Authority