

# FINAL MODIFICATION REPORT for Modification Proposal P152

## Reduction of Credit Cover for a Trading Party in Default which has ceased trading and which has paid all accrued Trading Charges

Prepared by: P152 Modification Group

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This document has been distributed in accordance with Section F2.1.10<sup>1</sup> of the Balancing and Settlement Code.

### RECOMMENDATIONS

The Balancing and Settlement Code Panel recommends:

- **Having considered and taken into due account the contents of the P152 Draft Modification Report, that both the Proposed and Alternative Modification P152 should not be made;**
- **the P152 Implementation Date (in the event that the Authority determines that either be made) of 3 November 2004 if an Authority decision is received on or before 16 June 2004, or the 23 February 2005 if the Authority decision is received after 16 June 2004 but on or before 6 October 2004; and**
- **the proposed text for modifying the Code, as set out in the draft Modification Report.**

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<sup>1</sup> The current version of the Balancing and Settlement Code (the 'Code') can be found at [www.elexon.co.uk/ta/bsc/el\\_docs/bsc\\_code.html](http://www.elexon.co.uk/ta/bsc/el_docs/bsc_code.html)

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## SUMMARY OF IMPACTED PARTIES AND DOCUMENTS

The following parties/documents have been identified as being potentially impacted by Modification Proposal P152.

| Parties   | Sections of the BSC                   | Code Subsidiary Documents                                       |
|---|---------------------------------------|---|
| Suppliers <input checked="" type="checkbox"/>                     | A <input type="checkbox"/>            | BSC Procedures <input checked="" type="checkbox"/>              |
| Generators <input checked="" type="checkbox"/>                    | B <input type="checkbox"/>            | Codes of Practice <input type="checkbox"/>                      |
| Licence Exemptable Generators <input checked="" type="checkbox"/> | C <input type="checkbox"/>            | BSC Service Descriptions <input checked="" type="checkbox"/>    |
| Transmission Company <input type="checkbox"/>                     | D <input type="checkbox"/>            | Service Lines <input type="checkbox"/>                          |
| Interconnector <input checked="" type="checkbox"/>                | E <input type="checkbox"/>            | Data Catalogues <input type="checkbox"/>                        |
| Distribution System Operators <input type="checkbox"/>            | F <input type="checkbox"/>            | Communication Requirements Documents <input type="checkbox"/>   |
| <b>Party Agents</b>   |                                       |   |
| Data Aggregators <input type="checkbox"/>                         | G <input type="checkbox"/>            | Reporting Catalogue <input type="checkbox"/>                    |
| Data Collectors <input type="checkbox"/>                          | H <input type="checkbox"/>            | MIDS <input type="checkbox"/>                                   |
| Meter Operator Agents <input type="checkbox"/>                    | J <input type="checkbox"/>            | <b>Core Industry Documents</b>                                  |
| ECVNA <input type="checkbox"/>                                    | K <input type="checkbox"/>            | Grid Code <input type="checkbox"/>                              |
| MVRNA <input type="checkbox"/>                                    | L <input type="checkbox"/>            | Supplemental Agreements <input type="checkbox"/>                |
| <b>BSC Agents</b>   |                                       |   |
| SAA <input type="checkbox"/>                                      | M <input checked="" type="checkbox"/> | Ancillary Services Agreements <input type="checkbox"/>          |
| FAA <input checked="" type="checkbox"/>                           | N <input checked="" type="checkbox"/> | Master Registration Agreement <input type="checkbox"/>          |
| BMRA <input type="checkbox"/>                                     | O <input type="checkbox"/>            | Data Transfer Services Agreement <input type="checkbox"/>       |
| ECVAA <input checked="" type="checkbox"/>                         | P <input type="checkbox"/>            | British Grid Systems Agreement <input type="checkbox"/>         |
| CDCA <input type="checkbox"/>                                     | Q <input type="checkbox"/>            | Use of Interconnector Agreement <input type="checkbox"/>        |
| TAA <input type="checkbox"/>                                      | R <input type="checkbox"/>            | Settlement Agreement for Scotland <input type="checkbox"/>      |
| CRA <input type="checkbox"/>                                      | S <input type="checkbox"/>            | Distribution Codes <input type="checkbox"/>                     |
| Teleswitch Agent <input type="checkbox"/>                         | T <input type="checkbox"/>            | Distribution Use of System Agreements <input type="checkbox"/>  |
| SVAA <input type="checkbox"/>                                     | U <input type="checkbox"/>            | Distribution Connection Agreements <input type="checkbox"/>     |
| BSC Auditor <input type="checkbox"/>                              | V <input type="checkbox"/>            | <b>BSCCo</b>  |
| Profile Administrator <input type="checkbox"/>                    | W <input type="checkbox"/>            | Internal Working Procedures <input checked="" type="checkbox"/> |
| Certification Agent <input type="checkbox"/>                      | X <input type="checkbox"/>            | <b>Other Documents</b>  |
| MIDP <input type="checkbox"/>                                     |                                       | Transmission Licence <input type="checkbox"/>                   |
| TLFA <input type="checkbox"/>                                     |                                       |   |
| <b>Other Agents</b>   |                                       |   |
| SMRA <input type="checkbox"/>                                     |                                       |   |
| Data Transmission Provider <input type="checkbox"/>               |                                       |   |

X = Identified in Report for last Procedure  
N = Newly identified in this Report

# 1 DESCRIPTION OF PROPOSED MODIFICATION AND ASSESSMENT AGAINST THE APPLICABLE BSC OBJECTIVES

## 1.1 Modification Proposal

Modification Proposal P152 "Reduction of Credit Cover for a Trading Party in Default which has ceased trading and which has paid all accrued Trading Charges" ("P152") was raised on 1 December 2003 by Roger Marsh and Michael Horrocks of PricewaterhouseCoopers acting as administrative receivers of Shotton Combined Heat and Power (SCHP) Limited.

P152 seeks to enable a Party that is in Default for reasons of insolvency<sup>2</sup> and which fulfils several criteria, to reduce or reclaim its Credit Cover as would a Party that has ceased trading under regular circumstances. Currently a Trading Party that is in Default is prevented from reducing its Credit Cover under the Balancing and Settlement Code (the Code) section M 2.3, under circumstances where, were it not in Default it would be allowed to do so. This remains the case if the Defaulting Party has stopped trading, paid all invoices and met other contractual obligations in respect of the Code although the Party does not necessarily pose a risk to other Parties.

The Proposer believes that since Credit Cover is intended to cover Energy Indebtedness, if a Party's Energy Indebtedness is zero or less, the Party should be entitled to consequently reduce its Credit Cover if the Party has no other liabilities under the Code.

The Proposer has set out several criteria that a Trading Party in Default for reasons of insolvency would have to fulfil before being able to reduce/claim back Credit Cover. These are that the Party has:

- Ceased all forms of trading pursuant to the Code;
- Paid all Trading Charges due on the Settlement Payment Date for the last Settlement Day on which it traded as well as all previously accrued Trading Charges;
- Transferred or de-registered any Relevant BM Units; and
- Had an Energy Indebtedness of zero or less than zero continuously over the previous 30 days.

Three possible alternative solutions were proposed. One is to treat the Party as any other Party that has ceased trading and allow the existing rules stated in M2.3 to apply to a Party in Default under H3.1.1(g) (option 1). The other suggestions are; reducing the Credit Cover based on a sliding scale at fixed intervals, reductions being based on the probability of further charges being accrued as reconciliation progresses, (option 2) and allowing the Panel to make the decision on whether the Credit Cover should be reduced for each individual case using the criteria listed above (option 3).

The Proposer believes that P152 better facilitates Applicable BSC Objectives (c), promoting effective competition in the generation and supply of electricity and (so far as is consistent therewith) promoting such competition in the sale and purchase of electricity, and (d), efficiency in the implementation and administration of the balancing and Settlement arrangements.

The Proposer asserts that applicable BSC Objective (c) is better facilitated for a number of reasons:

- Having to leave funds trapped as security after cessation of trading and reduction of Energy Indebtedness is a barrier to entry. More particularly, insolvency practitioners will be disinclined from running Generating Plants and trade in receivership for this reason;
- Insolvency practitioners and commercial counterparties or creditors may be relying on the funds that are tied up in Credit Cover;

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<sup>2</sup> This refers to being in Default under Section H3.1.1 (g) only.

- Trading Parties in insolvency Default will minimise the Credit Cover they post if they know they cannot reclaim it upon cessation of trading, thus will be more likely to go into Credit Default; and
- P152 ensures consistent treatment of Credit Cover calculations between Parties.

The Proposer also asserts that applicable BSC Objective (d) is better facilitated since Parties will not seek return of Credit Cover outside of the Code and this will save BSCCo time and cost.

The Proposer requested that P152 should be treated as urgent. Whilst BSCCo acknowledged the issues behind the Modification Proposal, it did not consider that these in themselves warranted urgency. Furthermore, BSCCo consider that changes to the Credit Cover arrangements should generally be given full and detailed assessment. Accordingly BSCCo declined to recommend urgency.

The Initial Written Assessment (IWA) was presented to the Panel at its meeting on 11 December 2003. The Panel submitted P152 to a 2 month Assessment Procedure with the Assessment Report scheduled to be presented at the Panel meeting on the 12 February 2004. The P152 Modification Group met three times, on the 18 December 2003, 5 January 2004 and 28 January 2004. It issued one consultation document and one BSC Central System Agent impact assessment during the Assessment Procedure; and developed an Alternative Modification. The Panel considered the Assessment Report and the P152 Modification Group recommendations in respect of P152 at its meeting of 12 February 2004 and unanimously agreed with the recommendations of the P152 Modification Group, namely that neither Proposed Modification nor Alternative Modification P152 should be made. The Panel recommended that P152 be submitted to the Report Phase and a draft Modification Report was presented at its meeting on the 11 March 2004. The Panel unanimously confirmed its previous recommendations to the Authority, namely that neither the Proposed nor the Alternative Modification be made.

## 1.2 Proposed Modification

The Modification Group developed the following solution as part of the Proposed Modification. A Trading Party which is in Default solely by virtue of Section H 3.1.1 (g) i.e. it is insolvent or under administration, and wishes to reduce its Credit Cover can send notice to this effect to BSCCo. BSCCo will then perform the following checks which such a Trading Party has to satisfy. These are that the Party has:

- Ceased all forms of trading pursuant to the Code;
- Paid all Trading Charges due on the Settlement Payment Date for the last Settlement Day on which it traded as well as all previously accrued Trading Charges;
- Transferred or de-registered any Relevant BM Units; and
- Had an Energy Indebtedness of zero or less than zero continuously over the previous 30 days.

Once the Party has fulfilled these criteria they will be able to apply to the Panel in order to receive back a certain amount of their Credit Cover. This amount will be worked out based on the average of the positive Reconciliation Charges over the Reconciliation Timetable that the Party has been liable for over the past year of trading (or amount of time it has been trading, if less than a year). This calculation will be set out in the Code. The Party will then apply to the Panel to receive back the amount of Credit Cover less this calculated amount. The Panel will grant the Party this right unless it believes there are

extenuating circumstances. The remainder of the Credit Cover will be returned to the Party at Final Reconciliation Run (RF)<sup>3</sup>.

### 1.3 Issues raised by the Proposed Modification

The following issues were considered during the Assessment of Proposed Modification P152:

- Assessment against the Applicable BSC Objectives;
- Risk profile to industry of Parties Defaulting under H3.1.1(g);
- Mechanism by which Parties should reduce or reclaim their Credit Cover – a list of three options was included in the Modification Proposal;
- Potential interaction between P152 and P127 “Optional De-registration by Insolvent Party” (P127);
- The requirement for a cost effective and efficient solution;
- Legal text drafting; and
- Implementation Date.

These issues are discussed in the Assessment Report and are not covered further here.

### 1.4 Assessment of how the Proposed Modification will better facilitate the Applicable BSC Objectives

The Modification Group members were unanimous in concluding that the Proposed Modification would not better facilitate the achievement of Applicable BSC Objectives (c) and (d). However the Proposer, who was a Modification Group attendee, considered that P152 did better facilitate the achievement of Applicable BSC Objectives (c) and (d). The Modification Group during its discussions considered the arguments for and against the Proposed Modification:

- Whether there is a requirement for P152 after the Implementation of the P127 Alternative Modification;

One member of the Group suggested that since a Party such as that described in P152 can receive their Credit Cover back at RF (since P127 was approved) there is no longer a requirement for P152 as the defect P152 was trying to address is no longer evident. The Proposer countered this by pointing out that P127 was not raised to solve the same problem as P152 and as such did not consider all the issues and whilst it may be considered to go some of the way towards solving the defect outlined in P152 it does not go far enough.

- Whether reducing Credit Cover poses a risk to the market thus having a detrimental effect on promoting competition and the facilitation of Applicable BSC Objective (c);

Several members of the Group considered that giving an insolvent Party any of their Credit Cover back before RF was a risk to the market and was not one it considered the industry would be willing to underwrite. These members believed that there was a greater risk that insolvent Parties would be unable to meet any liabilities which they may accrue in the future. The Proposer acknowledged that there was some risk but considered that not giving a Party any of their Credit Cover back before RF was inequitable and unreasonable. Some members of the Group acknowledged that it seemed reasonable to give a proportion of the Credit Cover back prior to RF, but that it was difficult to justify what this proportion should be as there did

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<sup>3</sup> For the avoidance of doubt, the P152 Modification Group considered that although it, in agreement with a majority of the consultation responses, considered PF (Post Final Settlement Run) a suitable end point, the implementation of P127 which suggested an RF end point, means for practical reasons an RF end point was more appropriate.

not seem to be a methodology that could accurately reflect a Party's future Trading Charges. Therefore some Credit Cover ought to be retained.

- Whether the ability to reduce Credit Cover encourages insolvent Parties to trade thus promoting competition and the facilitation of Applicable BSC Objective (c);

The Proposer commented that the fact that funds would remain trapped as security for a significant period of time would act as a material disincentive to continue or restart generation and would therefore enhance the economic argument for plant mothballing. However, the Group commented that the risk of being liable for a bad debt may constitute more of a barrier to entry than the Credit Cover requirements of an insolvent Party.

- Whether P152 better facilitates the achievement of Applicable BSC Objective (d);

The Proposer considered that P152 would reduce the risk that Parties will seek the return of their Credit Cover through litigation. However it was commented that the likelihood of a Party instigating legal proceedings has been reduced by the approval of P127. In addition, were an insolvent Party to withdraw their funds and then not pay future Trading Charges, other Parties may decide to make claims against this Party outside the Code and the status of BSCCo would have changed from being a secured to an unsecured creditor hence having a lower likelihood of receiving monies due.

The Panel at its meeting on the 12 February 2004 considered the P152 Assessment Report. One Panel Member questioned how the Group had responded to the Proposer's assertion that funds remaining trapped for some time would act as material disincentive to continue/restart generation. The Group considered that this was not the case because, since the approval of P127, a Party (after it has withdrawn) can reclaim its Credit Cover at RF. The Group felt that this is a reasonable amount of time to have to wait and thus would not be a material disincentive. In addition, the Group considered that for a Party to receive its Credit Cover back before RF would be a risk to the industry and hence a barrier to entry. The Panel asked if NGC had any comments to make on the issue of reduced incentive to continuing/restarting generation. NGC did not have any comments to add.

The Panel was unanimous in its agreement with the P152 Modification Group that P152 Proposed Modification did not better facilitate the achievement of the Applicable BSC Objectives and hence should not be made.

## **1.5 Modification Group's cost benefit analysis of Proposed Modification**

The Modification Group sought to ensure that P152 be inexpensive to implement, given that the occurrence of the type of event that P152 covers is likely to be rare. The original costs received from the BSC Central Service Agent, included the development of a new script within the Energy Contract Volume Aggregation Agent (ECVAA) system to make the checks as to whether a Trading Party had fulfilled the criteria or not. This was considered excessive by the Group and in the limited time available an impact assessment on another more manual solution based on current working practices was sought. This resulted in a much lower cost estimate. However the Group, in rejecting the Proposed Modification considered that the benefits of the Modification were not such that it warranted approval, and hence P152 did not justify the implementation costs however minimal.

## **1.6 Alternative Modification**

The Modification Proposal for P152 made specific reference to the generic entity Trading Party<sup>4</sup>. The Group considered the differences between generators, Interconnector Users and other types of Trading Party. Other types of Trading Party have greater and more unpredictable variation in Reconciliation

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<sup>4</sup> Trading Party covers a number of different types of Party, generators, Suppliers, Interconnector Users etc

payments than generators and Interconnector Users. So the Group felt that for the latter two Party types it would be easier to predict Reconciliation Charges up to RF and hence use a sliding scale type mechanism for reclaiming Credit Cover whilst also limiting the risk of high Reconciliation payments falling due. One member of the Group had difficulty with this statement since it does not cater for potential charges arising from Disputes that would cause greater variety in a generator's Reconciliation payments. However, the Group considered that including only generators in the P152 solution would enable a less arbitrary sliding scale to be used and would diminish the risk to the market of reducing Credit Cover.

The Group then considered how to define the types of Trading Party that would be encompassed by the Alternative Modification. There are many vertically integrated Parties and these Parties put up a single sum to serve as Credit Cover for a range of activities, hence singling out different types of activities for which Credit Cover can be returned is complicated and perhaps impractical. The Group thus concluded that it would have to include only pure generators or Interconnector Users with no supply side to their business.

The Group also considered charges a Party is liable for, that do not come under the category of Trading Charges. Several members of the Group were concerned that a Party that had not paid its BSCCo Charges could receive its Credit Cover back under P152. It was suggested that as part of the Alternative Modification a further criteria should be created to ensure that this could not be the case, "paid all BSCCo Charges up to the date of application to BSCCo". The Group recognised that the intent of Credit Cover was not to deal with BSCCo Charges but thought this criterion was a sensible additional one to use.

The Alternative Modification developed by the Group is as follows:

A pure generator or Interconnector User (i.e. a Party that has no Supply business at all); which has no Metered Volume Reallocation Notifications (MVRNs) with a Supplier; which is in Default solely by virtue of Section H 3.1.1 (g); and which wishes to reduce the amount of its Credit Cover can send notice to this effect to BSCCo. BSCCo will then perform the following checks which such a Party has to pass. These are that the Party has:

- Ceased all forms of trading pursuant to the Code;
- Paid all Trading Charges due on the Settlement Payment Date for the last Settlement Day on which it traded as well as all previously accrued Trading Charges;
- Paid all BSCCo Charges up to the date of application to BSCCo;
- Transferred or de-registered any Relevant BM Units; and
- Had an Energy Indebtedness of zero or less than zero continuously over the previous 30 days

Once the Party has fulfilled these criteria they will be able to apply to the Panel in order to receive back a certain amount of their Credit Cover. This amount will be worked out based on the average of the positive Reconciliation Charges over the Reconciliation Timetable that a Party has been liable for over the past year of trading (or amount of time it has been trading, if less than a year). This calculation will be set out in the Code. The Party will then apply to the Panel to receive back the amount of Credit Cover less this calculated amount. The Panel will grant the Party this right unless it believes there are extenuating circumstances. The remainder of the Credit Cover will be returned to the Party following the Final Reconciliation Run (RF).

## **1.7 Issues raised by the Alternative Modification**

The issues raised by the Alternative Modification were similar to those raised by the Proposed Modification. Modification Group members were concerned about the risk to industry of generating



Parties Defaulting under H3.1.1 (g). A majority of the Group considered that any Defaulting Party was more of a risk to the industry than non Defaulting Parties who cease trading. In addition the Group desired a cost effective solution.

These issues are discussed in the Assessment Report and are not covered further here.

## **1.8 Assessment of how the Alternative Modification will better facilitate the Applicable BSC Objectives**

The Modification Group considered that the Alternative Modification better facilitated the Applicable BSC Objectives relative to the Proposed Modification, the criterion for a valid Alternative Modification, but not when compared to the current baseline.

Limiting the solution to pure generators and Interconnector Users would ensure that only those Parties with lower likelihood of variable Reconciliation Charges would be able to reduce their Credit Cover and in fact a two stage process based on historical average positive Reconciliation Charges is easier to implement for generators and Interconnector Users.

The Group felt that in addition the same arguments for and against the Proposed Modification applied to the Alternative with regards to the Applicable BSC Objectives (section 1.4 above).

Note: Subsequent to the final Modification Group meeting, the Proposer indicated support for the Alternative Modification. The restriction of scope better meets the Proposer's concerns in remedying the existing defect in the Code. The Proposer suggests that the average positive Reconciliation Charge is an equitable and prudent level of Credit Cover to cover the future risk to BSC Parties as this is an objective measure that properly assesses the correct magnitude of this number. The Proposer wished to re-iterate that the Alternative Modification better facilitates the achievement of Applicable BSC Objectives (c) and (d). It considered that the focus of P152 was to further lower entry barriers to technically excellent insolvent Parties in the generation market, whilst keeping an equitable level of Credit Cover in place following the cessation of Trading in order to manage the industry risk. It will also lessen the need to resort to alternative means for the recovery of excess Credit Cover in an acceptable time frame for a distressed company.

The Panel was unanimous in its agreement with the P152 Modification Group that P152 Alternative Modification did not better facilitate the achievement of the Applicable BSC Objectives and hence should not be made.

## **1.9 Modification Group's cost benefit analysis of Alternative Modification**

As with the Proposed Modification, the Modification Group sought a solution that would be inexpensive to implement, given that the occurrence of the event the Alternative Modification is seeking to cover is likely to be rare. The original costs received from ECVAA included the development of a new script in the ECVAA system, to make the checks as to whether a Trading Party had fulfilled the criteria or not. This was considered excessive by the Group and in the limited time available an impact assessment on another more manual solution based on current working practices was sought. This resulted in a much smaller cost estimate. However the Group, in recommending rejection of the Alternative Modification considered that the benefits of the Alternative Modification were not such that it warranted approval, and hence did not justify the costs however minimal.

## **1.10 Governance and regulatory framework assessment**

During the assessment of the Proposed and Alternative Modification, the P152 Modification Group considered the wider implications of P152 in the context of the statutory, regulatory and contractual framework within which the Code sits, as is required by the Code (Annex F-1, paragraph 1(g)). The

P152 Modification Group was of the opinion that, were P152 to be implemented, there would be no such wider implications.

## 2 COSTS<sup>5</sup>

The costs for P152 are dependent on the outcome of other Modification Proposals and Change Proposals. Below is a short note to explain how. The table contains the costs based on the assumption that neither Modification Proposal P142 "Minor Refinement to allow a Level 2 Default Cure period in Defined Circumstances" nor Change Proposal CP974 "Full review of BSCP65" are approved or implemented. It therefore contains the summed costs of the ECVAA and the FAA worst case scenarios with regards to cost.

### Energy Contract Volume Aggregation Agent (ECVAA)

The cost is £6k to implement P152 with a £7k charge every time the request is made. This is unless CP974 is approved in which case, instead, there will be a one off cost of £1k to update Local Working instructions (LWIs).

"Given that ELEXON are able to make the 3<sup>rd</sup> and 4<sup>th</sup> checks, then the price to set up the manual process for the 1<sup>st</sup> and 2<sup>nd</sup> checks under P152 will be around £6K. Every time there is a request to carry out these checks for a Party, the price will be about £7K (on a T&M basis using current rates).

It should be noted that the scripts for checks 1 & 2 are part of CP974. So if CP974 were ordered by ELEXON, then the price would be reduced to around £1K for updating the Local Work Instructions with no charge for performing checks 1 & 2." (See annex 4)

### Funds Administration Agent (FAA)

The Defaulting Party could abandon the current minimum eligible amount (MEA) rules and receive its Credit Cover in 2 defined stages. The FAA currently liaises closely with ELEXON in determining appropriate action for Defaulting Parties. Therefore agreeing the new process of relevant percentages of Credit Cover to be refunded could be assimilated into the existing working arrangements.

There may be a change required to the relevant BSCP (BSCP301) and the FAA's internal working procedures. There would be a minimal impact on service levels, subject to the provision of appropriate staff, and no impact on system performance.

Providing P142 is approved, the FAA can undertake P152 for no extra cost, if P142 is not approved P152 would incur that cost. The cost of P142 is £2k to implement and £12.5k per year operational. (See annex 4).

In addition there will be BSCCo time incurred to update systems and documentation and hold a walkthrough of the new procedures. There will also be some ad hoc work for BSCCo to do per event.

## PROGRESSING MODIFICATION PROPOSAL

|                        |   |
|------------------------|---|
| <b>Demand Led Cost</b> | £0  |
| <b>ELEXON Resource</b> | 65 Man days (equating to approximately £10,920) |

<sup>5</sup> Clarification of the meanings of the cost terms in this section can be found in annex 5 of this report

## IMPLEMENTATION COSTS

|   |  | Stand Alone Cost | P152 Incremental Cost | Tolerance |
|---|--|------------------|-----------------------|-----------|
| <b>Service Provider<sup>6</sup> Cost</b>    | Change Specific Cost                       | £8,000           | £8,000                | unknown   |
|   | Release Cost                               | £0               |                       | n/a       |
|   | Incremental Release Cost                   | £0               | £0                    | n/a       |
|   | <b>Total Service Provider Cost</b>         | £8,000           | £8,000                | unknown   |
| <b>Implementation Cost</b>                  | External Audit                             | £500             | £500                  | +/-25%    |
|   | Design Clarifications                      | £300             | £300                  | +/-100%   |
|   | Additional Resource Costs                  | £0               | £0                    | n/a       |
|   | Additional Testing and Audit Support Costs | £0               |                       | n/a       |
| <b>Total Demand Led Implementation Cost</b> | £8,800                                     | £8,800           | unknown               |           |

|  |  |                         |                        |         |
|--|--|-------------------------|------------------------|---------|
| <b>ELEXON Implementation Resource Cost</b> |  | 115 Man days<br>£46,000 | 60 Man days<br>£24,000 | +/- 5%  |
| <b>Total Implementation Cost</b>           |  | £54,800                 | £32,800                | unknown |

## ONGOING SUPPORT AND MAINTENANCE COSTS

|                                   | Stand Alone Cost                     | P152 Incremental Cost                | Tolerance |
|-----------------------------------|--------------------------------------|--------------------------------------|-----------|
| Service Provider Operation Cost   | £2,000 per event<br>£12,500 per year | £2,000 per event<br>£12,500 per year | +/-0%     |
| Service Provider Maintenance Cost | £800 per annum                       | £800 per annum                       | +/-0%     |

<sup>6</sup> BSC Agent and non-BSC Agent Service Provider and software Costs

|                         |                                       |                                       |     |
|-------------------------|---------------------------------------|---------------------------------------|-----|
| ELEXON Operational Cost | 1 man day per event<br>£400 per event | 1 man day per event<br>£400 per event | n/a |
|-------------------------|---------------------------------------|---------------------------------------|-----|

### 3 RATIONALE FOR PANEL'S RECOMMENDATIONS

The Panel considered the P152 Assessment Report at its meeting on 12 February 2004 and the P152 draft Modification Report at its meeting on 11 March 2004. It considered the rationale of the P152 Modification Group that led to its decision to reject both the Proposed and Alternative Modification. The reason was that P152 did not better facilitate Applicable BSC Objectives (c) and (d). The P152 Modification Group considered that the risk to the industry of being liable for a bad debt would be a barrier to entry and hence would not better facilitate competition and hence the achievement of Applicable BSC Objective (c). In addition, the implementation of P127 - which enables a Party that is in Default by virtue of H3.1.1(g) and is withdrawing from the Code to reclaim its Credit Cover at RF - has both alleviated the defect outlined in P152 (a Party can reclaim its Credit Cover at RF and this is considered by the P152 Modification Group to be a reasonable compromise between allowing the insolvent Party to reduce its Credit Cover whilst not increasing the risk to industry and reducing competition), and has reduced the likelihood for remedies to be sought outside Code (see Assessment Report for details). The Panel concurred with the P152 Modification Group and made a unanimous decision to progress P152 to the Report Phase with a provisional recommendation to the Authority that neither Proposed nor Alternative Modifications should be made. It confirmed its recommendation to the Authority after consideration of the draft Modification Report at its March meeting.

The Panel unanimously agreed with the P152 Modification Group's recommendation regarding the suggested Implementation Date of 3 November 2004 if an Authority decision is received on or before 16 June 2004, or the 23 February 2005 if the Authority decision is received after 16 June 2004, but on or before 6 October 2004. This would provide sufficient time for BSCCo and its BSC Agents to make the necessary changes to documentation and internal working procedures. The Group felt that to minimise the cost of implementation the Implementation Date should correspond with a scheduled BSC Systems release date.

The Panel also considered that the draft legal text prepared for both the Proposed and Alternative Modification was appropriate and it was consulted on as part of the Report Phase consultation and no respondents considered that it was inappropriate. The Panel confirmed its support for the legal text at its meeting on the 11 March 2004.

### 4 IMPACT ON BSC SYSTEMS AND PARTIES

An assessment has been undertaken in respect of BSC Systems and Parties and the following areas have been identified as potentially being impacted by the Proposed Modification and the Alternative Modification.

#### 4.1 BSCCo

BSCCo will have to perform checks to ensure the relevant Party meets the criteria outlined. These will use current BSCCo systems and processes. In addition BSCCo will perform the calculation set out in the Code that is based on a measure of the average positive Reconciliation Charges a Party has been liable for historically. BSCCo will present these matters to the Panel. There will be a slight increase in the workload for the Panel and for BSCCo in supporting the Panel. BSCCo would then inform the FAA whether and by how much a Party can reduce their Credit Cover.

## 4.2 BSC Systems

See BSC Agent impact assessments in annex 4.

| System / Process                | Potential Impact of Proposed/Alternative Modification  |
|---------------------------------|--|
| Clearing, Invoicing and Payment | BSCCo will inform the FAA whether and by how much a Party can reduce their Credit Cover and the FAA will act accordingly – using a process assimilated into current working practices. |

## 4.3 Parties and Party Agents

Parties meeting the criteria and wanting Credit Cover back are impacted by the new process but the impact is minimal since it is a manual process.

## 5 IMPACT ON CODE AND DOCUMENTATION

### 5.1 Balancing and Settlement Code

Both the Proposed Modification and the Alternative Modification will require changes to be made to Sections M and Section N, see legal text attached in annex 1.

### 5.2 Code Subsidiary Documents

An initial assessment has been undertaken in respect of all Code Subsidiary Documents and the following documents have been identified as potentially being impacted by the Modification Proposal.

| Item   | Potential Impact of Proposed Modification  |
|--|--|
| BSCP301: Clearing, Invoicing and Payment             | Changes to reflect the fact that Defaulting Parties under the specific circumstances outlined can reduce their Credit Cover according to the equation set out in the relevant section of the Code.       |
| Funds Administration Agent (FAA) Service Description | Changes to reflect the fact that certain types of Defaulting Parties can reduce their Credit Cover by an amount specified to the FAA by BSCCo (calculated according to an equation set out in the Code). |

### 5.3 BSCCo Memorandum and Articles of Association

No changes will be required to BSCCo Memorandum and Articles of Association as a consequence of either the Proposed Modification or Alternative Modification.

### 5.4 Impact on Core Industry Documents and supporting arrangements

An assessment has been undertaken in respect of Core Industry Documents and supporting arrangements and no impact was identified.

## 6 SUMMARY OF CONSULTATIONS

8 responses representing 28 Parties and 1 non Party were received to the consultation.

| Consultation question | Respondent agrees | Respondent disagrees | Opinion unexpressed |
|-----------------------|-------------------|----------------------|---------------------|
|-----------------------|-------------------|----------------------|---------------------|

|   |            |           |       |
|---|------------|-----------|-------|
| Do you agree with the Panel's views on P152 and the provisional recommendation to the Authority contained in the draft Modification Report that P152 should not be made?          | 5 (26)     | 2 (1 + 1) | 1 (1) |
| 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? | 5 (20 + 1) | 0         | 3 (8) |
| Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P152?   | 4 (20)     | 2 (1 + 1) | 2 (7) |
| Are there any further comments on P152 that you wish to make?   | 2 (1 + 1)  | 5 (26)    | 1 (1) |

## 6.1 Summary of the consultation responses

### 6.1.1 Panel's Provisional Recommendation

#### 6.1.1.1 In Support of the Panel

A majority of respondents agreed with the views of the Panel and its recommendation to the Authority that P152 should not be made. These respondents considered that P152 would expose Parties to unnecessary risk. The Defaulting Party can be sure that it will receive its security cover in full after RF as long as it does not Default on payments due under the Code. In contrast, if the Credit Cover is returned, Parties as a whole have no certainty that payments due, can or will be paid. Therefore, the risk is asymmetric and it is correct that the full amount of Credit Cover should be retained until the risk of payment Default has passed.

One respondent considered that at the time of raising P152 there was a defect in the Code that prevented a Party in Default from reclaiming their Credit Cover, but that the approval of P127 alleviates the defect, by allowing a Party in Default to have any unused Credit Cover returned to them after the 14-month reconciliation period. Therefore the approval of P127 should alleviate the concerns of the Proposer by providing a route for the return of unused Credit Cover without unduly increasing the risk of Parties being exposed to a bad debt. As such P152 does not better facilitate competition. This respondent also considered the Proposer's assertion that P152 would reduce the risk of a Party chasing the return of Credit Cover outside of the Code and thereby would better facilitate Applicable BSC Objective (d). It believes the approval of P127 has also mitigated this risk since P127 provides Parties with a defined period of time at which they can request any unused Credit Cover. Therefore this respondent does not believe either the Proposed or the Alternative Modification better facilitates efficiency in the administration of the balancing and settlement arrangements.

One respondent changed its position with reference to its response to a previous consultation in which it had responded in favour of P152. It had indicated that certain strict criteria should apply before the automatic repayment of Credit Cover could be considered. These criteria included the assumption of both past and future debts by any new owner of a Defaulting Party. However, where such a buyer could not be found, or no such agreement was obtained, but the remaining criteria were satisfied, the matter should be deferred to the Panel for final decision. However, this respondent considers that the Panel had already signalled its reluctance to accept responsibility for these decisions and, in the case of the Proposer it seems that only future liabilities are to be assumed.

### 6.1.1.2 In Disagreement with the Panel

Two respondents (1 Party and 1 non Party) disagreed with the views of the Panel and the recommendation to the Authority that P152 should not be made. One of these was the Proposer who stated that the Credit Cover that it currently has in place is manifestly disproportionate to the potential liability that could arise from any future Reconciliation Runs. The amount of Credit Cover retained after cessation of trading is based entirely on the amount that was put in place for the purposes of trading, regardless of potential liability – the current rules are arbitrary in that they require the same Credit Cover to be retained irrespective of whether it is ten times or one thousand times more than the future liability. The Proposer thus supports the Alternative Modification, as it allows the Credit Cover to be reduced to a level that can be calculated objectively, and is equitable to all Parties involved.

The Proposer also asserts that although P127 provides a mechanism for the return of Credit Cover to an insolvent Trading Party at RF, it believes the Alternative Modification better facilitates Applicable BSC Objectives (c) and (d). In its opinion, the current situation remains a barrier to entry. It accepts that a market entrant is unlikely to be deterred from entry, however, in the specific case of an insolvency practitioner, the fact that funds will remain trapped as security subsequent to it ceasing trading is a material disincentive to continuing or restarting generation (to trade in receivership) and increase the likelihood that such a generator will be mothballed. This will reduce the plant margin and act against the interests of promoting competition. Furthermore, the existing provisions could lead to serious difficulties as follows:

- To Receivers, administrators or other insolvency practitioners

The enforced withholding of Credit Cover for longer than is necessary or prudent interferes with the receiver's ability to carry out its duty to act in the best interests of the relevant creditors.

- To entities who are connected to the relevant insolvent Trading Party by virtue of being either lenders or commercial counterparties

Such entities could be relying to a material extent on payments due from the Trading Party. In turn, the Trading Party could be relying on funds for its survival (and to meet outstanding contractual obligations, many of which may be owed to other BSC Parties) which could be released were it not for this defect.

Generally in the case of generators, including those that meet the criteria in Alternative Modification P152, the statistical likelihood of a significant liability arising out of the reconciliation process appears to be negligible (although greater variances may occur in the case of Suppliers).

It is in the Proposer's opinion, inequitable to require a Party, which is in the unfortunate position described in Alternative Modification P152, to underwrite risks that would not be required of a non-Defaulting Trading Party (regardless of its financial position or its ability to meet Past Notification Error claims or a claim arising from a Trading Dispute). The Panel has accepted the position that Credit Cover is not intended to cover either PNE Claims or a Trading Dispute in the case of a Trading Party that has ceased trading (see P132 Modification Report "Redefinition of Credit Cover Requirements to account for Reconciliation Charges" (P132)). As such the Proposer believes that Alternative Modification P152 ensures a greater consistency in the treatment of Credit Cover between Trading Parties, since the treatment is based on their actual circumstances and liability profile, rather than simply whether they happen to be in Default or not. In addition, basing Credit Cover on the fact of Default is inconsistent. The calculation proposed under the Alternative Modification ensures adequate security is retained by BSCCo on the one hand, whilst allowing the return of excess Credit Cover to financially distressed companies on the other.

The Proposer maintained the view that the current situation may encourage a Trading Party to seek the return of the excess Credit Cover outside the Code. This would have material time and cost implications

for the Code and also for BSCCo. The Alternative Modification would, in its opinion, significantly reduce the likelihood of Parties seeking their remedies in alternative fora outside the Code.

The Proposer further claims, that the return of Credit Cover under P127 does not constitute an equitable, timely or appropriate remedy in light of the concerns raised in Alternative Modification P152. P127 was not designed to deal with the defect described in P152 (and indeed they understand that in P127 the 14 month period to RF had elapsed in relation to the Proposer). The retention of the full amount of Credit Cover until RF could lead to serious financial difficulties for administrative receivers and other insolvency practitioners of otherwise fully BSC Trading Charge-compliant generators. By withholding the release of difficult-to-raise funds for 14 months after the cessation of trading and payment of outstanding liabilities, the Code is clearly dis-incentivising ongoing trading operations.

In the Proposer's opinion, the Alternative Modification provides for a reasonable and equitable level of Credit Cover during the 14-month period, thereby removing the barrier to entry and reducing the economic case for mothballing. Although they note that NGC did not have any comments to add regarding this issue, the Proposer, is an administrative receiver and therefore in a strong position to confirm the validity of this issue. The Proposer submits that a Party in Default (as per the criteria set out in P152) does not necessarily pose more of a risk to the industry than a non-Defaulting Party. Hence, it is necessary to treat each P152 Trading Party on a case-by-case basis. The following examples are illustrative in this regard:

- Default under H3.1.1(g) may be technical only. Such a Party is not necessarily insolvent and may in fact own significant assets, including cash;
- It is entirely possible that a Party that is not in Default may have a similar or worse credit-standing than one that is in Default;
- A Party not in Default could voluntarily liquidate itself and cease trading after the return of its Credit Cover, thereby creating a greater risk of non-payment of Reconciliation Charges than a Party in Default that meets the P152 criteria (risks that are considered acceptable to the industry as described in the report on Modification Proposal P132);

Such a distinction between Defaulting and Non-Defaulting Trading Parties is inconsistent with the requirements for Credit Cover during trading: The calculation of Credit Cover required for all Parties whilst they are actively trading is based on the MEA. The method of calculation applies regardless of a Party's creditworthiness and whether or not it is in Default. In addition, a Party that goes into Default is under no obligation to increase its Credit Cover as a result of such Default. Any Trading Party (including those in Default) whose Credit Cover requirement has been reduced to zero should be entitled to the return or at least an appropriate reduction of its posted Credit Cover. If a Defaulting Trading Party (as per P152) has an MEA of zero, it cannot elect to withdraw or reduce its Credit Cover upon ceasing trading, unlike a non-Defaulting (but otherwise identical) Trading Party. The non-Defaulting Trading Party can withdraw irrespective of its financial position or ability to meet reconciliation and other future liabilities. The logical solution to such inequitable treatment is to permit a Defaulting Party (as per P152) to reduce its Credit Cover to a level commensurate with the actual credit risk that Party poses (the insolvency premium).

Under the Alternative Modification, the use of the average positive Reconciliation Charge for the determination of Credit Cover to be retained until RF (to cover future risk to BSC Parties) is a prudent yet equitable measure to apply to a Defaulting Trading Party. It positively addresses the existing inequity under the Code and the Panel's concern with the real potential Settlement risks arising from that Trading Party's Reconciliation Runs.

The other dissenting respondent is of the opinion that the Panel does not appear to have considered all the arguments in the Modification Proposal or the further effects the present rules have on other



participants in a similar position. In its opinion, the Panel assumes that P127 provides a satisfactory solution for all purposes. The respondent believes this is not the case since a receiver will not be minded to deregister a facility when attempting to sell an asset in receivership as a going concern. It will only do so once the asset has been sold, (this is also a comment against P152 since this too requires the deregistration of BM Units). It is likely that by that time, all charges and imbalances are paid, pre and post appointment of a receiver and the Credit Cover provider no longer has the business and therefore is no longer trading hence there is no risk to the market for the Credit Cover provider to remove or at the very least to reduce their Credit Cover in the same way as any other Trading Party (irrespective of its Credit and financial status) would be able to under the Code. There is no justification for discriminating against a Party which is in Default simply because of the operation of Section H3.1.1(g), irrespective of the likely risks and the proportionality of the amount of Credit Cover in place. This respondent contends that there remains a defect in the rules and the Panel is unwilling to recognise this by taking the view it has.

This respondent considers that the current rules are discriminatory and unworkable in their present format, hindering a receiver and disadvantaging a Defaulting Party, who, with all charges paid, the RF has elapsed, cannot remove the Credit Cover, even when another Party has assumed responsibility. This is compounded by the receiver leasing the business out to a third party who has installed their own Credit Cover to guarantee their operations. This respondent wanted to highlight the reasons given for why the current rules are unworkable whilst acknowledging that this is not the same situation that P152 describes since for P152, RF has not elapsed.

#### **6.1.2 Draft Legal Text**

None of the respondents disagreed with the legal text presented for both the Proposed and Alternative Modifications and there was majority support.

#### **6.1.3 Implementation Date**

A majority, four respondents, considered the Implementation Date suggested was appropriate. Two respondents had no comment. Two respondents considered the Implementation Date was inappropriate. One considered this to be inappropriate since RF has passed and hence there is no risk to the market. This respondent mistakenly considered P152 to only apply after RF. It was pointed out to this respondent that this was not the case. The Proposer disagreed with the suggested Implementation Date since the reason this date appears to have been recommended was to minimise costs corresponding to a scheduled BSC Systems release date. However, on account of the negligible implementation costs and system changes (set out in the draft Modification Report), and given the very limited probability of cases in which this proposal needs to be activated, an earlier release of excess Credit Cover is more equitable and aligned with the rationale underlying P152.

#### **6.1.4 Additional Comments**

Two respondents had additional comments to make. One respondent, the Proposer, considered the wider impacts of P152 relate to the industry, and indirectly, also to consumers. These wider implications are significant as they relate to Section 3A of the Electricity Act 1989. There is an increased likelihood of a plant being mothballed in receivership (and incurring additional costs on starting up). Withdrawal of capacity in the short-term, and potentially in the longer term also (as an older mothballed plant may not find an owner) has implications on the National Grid's obligation to provide a safe and secure transmission network. The reduction in generating capacity will inhibit the development of competition and hence, drive up electricity prices. The Code as it currently stands is inequitable and discriminatory towards Generating Plant in administrative receivership, which have otherwise paid all their Trading Charges and behaved in an exemplary fashion towards meeting all liabilities. The Proposer simply requests that the level of Credit Cover is realigned with the true level of

potential liability arising from any future Settlement Runs. The other respondent believes that the proposed condition that a Defaulting Party shall have completed de-registration from ownership on any BM Units is irrelevant and should be removed. It is sufficient for the purposes of addressing the risks to the industry for the other proposed conditions to have been satisfied so that no amounts are due from the Defaulting Party and no contract notifications are in place by that Party.

## 6.2 Comments and views of the Panel

The Panel considered the draft Modification Report and the attached consultation responses and confirmed the provisional view to the Authority that neither proposed nor Alternative Modifications P152 should be made. In the event that the Authority determined that either one or the other should be made the Panel agreed that the legal text provided for both and the suggested Implementation Dates were appropriate.

One Panel member commented that from the consultation responses it seemed that there may be a general issue in the market with respect to Credit Cover being retained for Parties in Default for reasons of Section H3.1.1(g) only. The Panel member recommended that this issue be discussed by one of the Standing Modification Groups.

## 7 SUMMARY OF TRANSMISSION COMPANY ANALYSIS

### 7.1 Analysis

The Transmission Company did not formally respond to the P152 consultation. It did however state that it is generally in support of the sentiment of the Modification Proposal but feels that the detail of the proposed solution should be the subject of Modification Group discussions in addition to consultation responses received.

## 8 SUMMARY OF EXTERNAL ADVICE

No external advice was sought.

## 9 DOCUMENT CONTROL

### 9.1 Authorities

| Version | Date     | Author      | Reviewer           |
|---------|----------|-------------|--------------------|
| 0.1     | 12/02/04 | Dena Harris | Change Delivery    |
| 0.2     | 17/02/04 | Dena Harris | Consultation       |
| 0.3     | 27/02/04 | Dena Harris | Change Delivery    |
| 0.4     | 03/03/04 | Dena Harris | Change Delivery    |
| 0.5     | 05/03/04 | Dena Harris | Panel Decision     |
| 0.6     | 11/03/04 | Dena Harris | Change Delivery    |
| 1.0     | 12/03/04 | Dena Harris | Authority Decision |

### 9.2 References

| Ref    | Document   | Owner  | Issue date | Version |
|--------|--|--------|------------|---------|
| P152AR | P152 Assessment Report "Reduction of Credit Cover for a Trading Party in Default which has ceased trading and which has paid all accrued Trading Charges"<br><a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/P152/P152AR10.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/P152/P152AR10.pdf</a> | ELEXON | 09/01/04   | 1.0     |

|          |  |        |          |     |
|----------|--|--------|----------|-----|
| P127RR   | P127 Modification Report "Optional De-registration by Insolvent Party"<br><a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP127/P127RR10.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP127/P127RR10.pdf</a>                                    | ELEXON | 15/10/03 | 1.0 |
| P132MR   | P132 Modification Report "Redefinition of Credit Cover Requirements to account for Reconciliation Charges"<br><a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/P132/P132RR10.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/P132/P132RR10.pdf</a>  | ELEXON | 15/10/03 | 1.0 |
| MRP142   | P142 Modification Report "Minor refinement to allow a Level 2 Default Cure period in defined circumstances"<br><a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/P142/MRP14210.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/P142/MRP14210.pdf</a> | ELEXON | 20/01/04 | 1.0 |
| CP974v.2 | CP974 "Full review of BSCP65"<br><a href="http://www.elexon.co.uk/docs/ta/change/props/open/CP974.pdf">http://www.elexon.co.uk/docs/ta/change/props/open/CP974.pdf</a>   | ELEXON | 16/09/03 | 2.0 |

## ANNEX 1 LEGAL TEXT

- Text for Proposed Modification see Attachment 1.
- Text for Alternative Modification see Attachment 2.

## ANNEX 2 MODIFICATION GROUP DETAILS

| Member         | Organisation          | Email                                  | 18/12/03 | 05/01/04 | 28/01/04 |
|----------------|-----------------------|--|----------|----------|----------|
| Roger Salomone | ELEXON (Chairman)     | Roger.salomone@elexon.co.uk            | ✓        | ✓        | ✓        |
| Dena Harris    | ELEXON (Lead Analyst) | Dena.harris@elexon.co.uk               | ✓        | ✓        | ✓        |
| Fred Barasi    | ELEXON                | Fred.barasi@elexon.co.uk               | ✓        | ✓        | ✓        |
| Lisa Deverick  | ELEXON (Legal)        | Lisa.deverick@elexon.co.uk             | ✓        | X        | ✓        |
| Helen Bray     | London Electricity    | Helen.Bray@edfenergy.com               | ✓        | X        | ✓        |
| James Nixon    | Scottish Power        | James.Nixon@saic.com                   | ✓        | ✓        | X        |
| Joanne Ellis   | Cornwall Consulting   | joanne.ellis@cornwall-consulting.co.uk | ✓        | X        | ✓        |
| Phil Russell   | Not Applicable        | Phil.russell@bigfoot.com               | X        | X        | ✓        |
| John Sykes     | Scottish and Southern | john.sykes@scottish-southern.co.uk     | X        | X        | X        |
| Louise Wilks   | National Grid         | Louise.Wilks@ngtuk.com                 | X        | X        | X        |
| Mark Manley    | BGT                   | Mark.Manley@centrica.co.uk             | ✓        | ✓        | ✓        |
| Paul Jones     | Powergen              | paul.jones@pgen.com                    | ✓        | X        | ✓        |
| Steve Drummond | EDF Trading           | steve.drummond@edftrading.com          | ✓        | ✓        | ✓        |

| Attendee        | Organisation           | Email                        | 18/12/03 | 05/01/04 | 28/01/04 |
|-----------------|------------------------|------------------------------|----------|----------|----------|
| Zaki Hassan     | PricewaterhouseCoopers | zaki.hassan@uk.pwc.com       | ✓        | X        | ✓        |
| Ian Lester      | PricewaterhouseCoopers | Ian.d.lester@uk.pwc.com      | X        | ✓        | X        |
| Scott Brodsky   | Linklaters             | scott.brodsky@linklaters.com | ✓        | ✓        | X        |
| Tim Sandford    | Linklaters             | tim.sandford@linklaters.com  | X        | ✓        | ✓        |
| Sean Prior      | Linklaters             | sean.prior@linklaters.com    | ✓        | X        | X        |
| Jerome Williams | Ofgem                  | Jerome.Williams@Ofgem.gov.uk | ✓        | ✓        | ✓        |

## ANNEX 3 CONSULTATION RESPONSES

See Attachment 3.

## ANNEX 4 BSC AGENT IMPACT ASSESSMENTS

### FAA Impact Assessment

|   |                         |                         |
|---|-------------------------|-------------------------|
| <b>NETA Change Form</b>   |                         | <b>ELEXON Reference</b> |
|   |                         | <i>P152AS</i>           |
| <b>Title</b>  |                         | <b>Version No.</b>      |
| ion of Credit Cover for a Trading Party in Default which has trading and which has paid all accrued Trading Charges |                         | <i>1.0</i>              |
|   |                         | <b>EPFAL Reference</b>  |
|   |                         | <i>PI52</i>             |
| <b>Type of Assessment</b>   | <b>Date CP Received</b> | <b>Date IA Issued</b>   |

|  |         |        |
|--|---------|--------|
| DLIA / Quotation   | 28/1/04 | 3/2/04 |
| <b>Brief Summary of Change</b>   |         |        |
| <p>P152 seeks to enable a Party that is in Default for reasons of insolvency and fulfils several criteria, to reduce or reclaim its Credit Cover as would a Party that has ceased trading under regular circumstances.</p>   |         |        |
| <b>Logica EPFAL's Proposed Solution</b>  |         |        |
| <p>The FAA has been requested by ELEXON to respond to the 2 proposed solutions detailed in the P152 Requirement Specification. Firstly, the Sliding Scale proposal and secondly the solution whereby the Panel determines how much Credit Cover should be returned prior to the Final Reconciliation Run.</p> <p>The Sliding Scale option (2b) would best suit the current working practices governing the FAA's custodianship of the Trading Party's Credit Cover. The Defaulting Party could abandon the current Minimum Eligible Amount (MEA) and receive its Credit Cover in 2 defined stages. The FAA currently liases closely with ELEXON in determining appropriate action for Defaulting Party's. Therefore agreeing the new process of relevant percentages of Credit Cover to be refunded could be assimilated into the existing working arrangements.</p> |         |        |
| <b>Deviation from ELEXON's Solution / Requirements</b>   |         |        |
| <p>Whilst the FAA would respect the determinations of any Panel decision in relation to Credit Cover reduction appeals, it believes that in the interest of audit requirements and uniformity the Defaulting Party's interests would be best served if the FAA liased with ELEXON in co-ordinating reductions of Credit Cover.</p>   |         |        |
| <b>Operational Solution and Impact</b>   |         |        |
| <p>If option 2b is adopted the new process could subsumed into the existing working practices.</p> <p>As part of the Operational Solution and Impact the FAA would propose a walkthrough of any new agreed processes</p>   |         |        |

| Testing Strategy      |  |                        |   |                     |   |
|-----------------------|--|------------------------|---|---------------------|---|
| Unit                  |  | Change Specific        |   | End to End          | v |
| Module                |  | Operational Acceptance | Ö | Participant Testing |   |
| System                |  | Performance            |   | Parallel Running    |   |
| Regression            |  | Volume                 |   | Deployment/ Backout |   |
| Other:                |  |                        |   |                     |   |
| N/A                   |  |                        |   |                     |   |
| Validated Assumptions |  |                        |   |                     |   |
| N/A                   |  |                        |   |                     |   |
| Outstanding Issues    |  |                        |   |                     |   |
| N/A                   |  |                        |   |                     |   |
|                       |  |                        |   |                     |   |
| Changes to Service    |  |                        |   |                     |   |

| <b>Services Impacted</b> <i>[Tick boxes to show impacted systems and associated documentation]</i>  |  |  |         |
|---|--|--|---------|
|   | Funds Transfer System  | Other 1  | Other 2 |
| Software  |  |  |         |
| IDD Part 1  | v  |  |         |
| IDD Part 2  |  |  |         |
| URS   |  |  |         |
| SS  |  |  |         |
| DS  |  |  |         |
| OSM   |  |  |         |
| RTP   | <i>[indicate which Regression Test Pack will need to be updated ]</i>  |  |         |
| Comms   | <i>[provide commentary explaining how comms might be impacted]</i>     |  |         |
| Other   | <i>[DR Sync Proc, Unplanned Outage Proc, Planned Outage Proc, etc]</i> |  |         |
| <b>Nature of Documentation Changes</b>  |  |  |         |
| <p>There maybe a change required to the relevant BSCP and the FAA's internal working procedures</p> |  |  |         |
| <b>Nature / Size of System Changes</b>  |  |  |         |
| <p>NA</p>   |  |  |         |
| <b>Type of Release Costed:</b>  |  | Stand alone  |         |
| <b>Deployment Issues, eg Outage Requirements:</b>   |  | NA   |         |
| <b>Impact on Service Levels:</b>  |  | Minimal, subject to the provision of appropriate staff |         |
| <b>Impact on System Performance:</b>  |  | No impact  |         |
| <b>Responsibilities of ELEXON</b>   |  |  |         |

The FAA will require a closer working relation with ELEXON once a Trading Party has been declared in Default to ensure the correct percentage of cover is returned and to ensure all outstanding FAA liabilities have been met.

**Acceptance Criteria**

N/A

**Any Other Information**

N/A

**Attachments****PRICING****Price Breakdown**



| Item description   | Remarks | Price (ex VAT)                                    |
|--|---------|---|
| Change Specific Cost   |         |   |
| Project Overhead   |         |   |
| <b>Total Price</b>   |         | <i>[ Price excluding VAT ]</i>                    |
| <b>Project Duration</b>  |         | <i>[ Total project time in weeks ]</i>            |
| <b>Operational Price (eg per annum or event)</b>   |         | <i>[ Price excluding VAT per annum or event ]</i> |
| <b>Rationale</b>   |         |   |
| <p>Providing the cost of implementing P142, 'Minor Refinement to allow a Level 2 Default Cure period in Defined Circumstances', can be met the FAA can undertake the above Modification for no extra cost.</p> |         |   |
| <b>Annual Maintenance Price</b>  |         | <i>[ Price excluding VAT ]</i>                    |
| <b>Rationale</b>   |         |   |
| N/A  |         |   |
| <b>Validity Constraints</b>  |         |   |
| N/A  |         |   |
| <b>Authorised Signature</b>  |         | <b>Date Signed</b>                                |
|  |         |   |

### ECVAA Impact Assessment

ECVAA originally sent in an Impact Assessment (attached below) that was based on developing a new script to perform the criteria checks. It was asked to update its estimate and the following note was received:

"Given that ELEXON are able make the 3<sup>rd</sup> and 4<sup>th</sup> checks listed below, then the price to set up the manual process for the 1<sup>st</sup> and 2<sup>nd</sup> checks under P152 will be around £6K. Every time there is a request to carry out these checks for a Party, the price will be about £7K (on a T&M bases using current rates).

It should be noted that the scripts for checks 1 & 2 are part of CP974. So if CP974 were ordered by ELEXON, then the price would be reduced to around £1K for updating the Local Work Instructions with no charge for performing checks 1 & 2."

Original Impact Assessment

|   |                         |                            |
|---|-------------------------|----------------------------|
| <b>NETA Change Form</b>   |                         | <b>ELEXON Reference</b>    |
|   |                         | MP 152                     |
| <b>Title</b>  |                         | <b>Version No.</b>         |
| Reduction of Credit Cover for a Trading Party in Default which has ceased trading and which has paid all accrued Trading Charges  |                         | Version 0.1                |
|   |                         | <b>LogicaCMG Reference</b> |
|   |                         | ICR 577                    |
| <b>Type of Assessment</b>   | <b>Date CP Received</b> | <b>Date IA Issued</b>      |
| Impact Assessment   | 9-Jan-2004              | 23-Jan-2003                |
| <b>Brief Summary of Change</b>  |                         |                            |
| <p>Enable a Party that is in Default for reasons of insolvency and fulfils several criteria, to reduce or reclaim its Credit Cover as would a Party that has ceased trading under regular circumstances.</p> <p>This assessment is against the P152 dated 1<sup>st</sup> December 2003</p>  |                         |                            |
| <b>LogicaCMG's Proposed Solution</b>  |                         |                            |
| <p>The Modification Proposal identified the following three possible alternatives, which may be appropriate to deal with the determination of a reduction in a Party's Credit Cover.</p> <p><b>Option 1:</b><br/>The Credit Cover could be determined in accordance with existing principles set out in the BSC.</p> <p><b>Option 2:</b><br/>Credit Cover would be based on a Sliding Scale (multi-step &amp; two-step)</p> <p><b>Option 3:</b><br/>The Panel has the discretion to decide the level of Credit Cover.</p> <p>For all three Options LogicaCMG propose the development of a new script (or Oracle Report) to check that the criteria to apply for a reduction in Credit Cover have been met by a Participant.<br/>For the specified Participant, the script will report:<br/>BM Unit registrations.</p> |                         |                            |

Market Role registrations for the Party.

Effective Notifications.

Indebtedness for previous 30 days.

( For Option 2 and Option 3 it has been assumed that there is no ECVAA involvement .)

| Deviation from ELEXON's Solution / Requirements  |          |                        |     |                     |     |     |       |
|--|----------|------------------------|-----|---------------------|-----|-----|-------|
| none   |          |                        |     |                     |     |     |       |
| Operational Solution and Impact  |          |                        |     |                     |     |     |       |
| none   |          |                        |     |                     |     |     |       |
| Testing Strategy   |          |                        |     |                     |     |     |       |
| Unit   | X        | Change Specific        | X   | End to End          |     |     |       |
| Module   | X        | Operational Acceptance | X   | Participant Testing |     |     |       |
| System   | X        | Performance            |     | Parallel Running    |     |     |       |
| Regression   |          | Volume                 |     | Deployment/ Backout |     |     |       |
| Other:   |          |                        |     |                     |     |     |       |
|  |          |                        |     |                     |     |     |       |
| Validated Assumptions  |          |                        |     |                     |     |     |       |
| none   |          |                        |     |                     |     |     |       |
| Outstanding Issues   |          |                        |     |                     |     |     |       |
| It has been assume that there is no ECVAA involvement if the Sliding Scale (Option 2) or Panel Decision (Option 3) options are chosen. |          |                        |     |                     |     |     |       |
| Changes to Service   |          |                        |     |                     |     |     |       |
| Services Impacted  |          |                        |     |                     |     |     |       |
|  | BMRA     | CDCA                   | CRA | ECVAA               | SAA | TAA | Other |
| Software   |          |                        |     | X                   |     |     |       |
| IDD Part 1 (Docs)  |          |                        |     |                     |     |     |       |
| IDD Part 1 (S'Sheet)   |          |                        |     |                     |     |     |       |
| IDD Part 2 (Docs)  |          |                        |     |                     |     |     |       |
| IDD Part 2 (S'Sheet)   |          |                        |     |                     |     |     |       |
| URS  |          |                        |     | X                   |     |     |       |
| SS   |          |                        |     |                     |     |     |       |
| DS   |          |                        |     |                     |     |     |       |
| MSS  |          |                        |     | X                   |     |     |       |
| OSM  |          |                        |     | X                   |     |     |       |
| LWIs   |          |                        |     |                     |     |     |       |
| RTP  | [ None ] |                        |     |                     |     |     |       |
| Comms  | [ None ] |                        |     |                     |     |     |       |
| Other  | [ None ] |                        |     |                     |     |     |       |

| <b>Nature of Documentation Changes</b>  |                  |
|---|------------------|
| ECVAA URS / OSM / MSS will require update to describe the use of the new script, and the new trigger for the Minimum Eligible Amount calculation. |                  |
| <b>Nature / Size of System Changes</b>  |                  |
| Small   |                  |
| <b>Type of Release Costed:</b>  | Standalone Patch |
| <b>Deployment Issues, e.g. Outage Requirements:</b>   | None             |
| <b>Impact on Service Levels:</b>  | None             |
| <b>Impact on System Performance:</b>  | None             |
| <b>Responsibilities of ELEXON</b>   |                  |
| Within reasonable levels, ELEXON will make available appropriate staff to assist LogicaCMG during the development of this change.                 |                  |
| <b>Acceptance Criteria</b>  |                  |
| Documentation:- Address of ELEXON review comments leading to final DCR issue being provided.  |                  |
| Software:- This is covered by the acceptance criterion 2 in the "CVA Program – Release Acceptance Criteria" document for the Feb03 release.       |                  |
| <b>Any Other Information</b>  |                  |
| None.   |                  |
| <b>Attachments</b>  |                  |
| P152 Price Presentation   |                  |

| <b>PRICING</b>   |                |                       |
|--|----------------|-----------------------|
| <b>Price Breakdown</b>   |                |                       |
| <b>Item description</b>  | <b>Remarks</b> | <b>Price (ex VAT)</b> |
| Change Specific  |                | £19,140               |
| Variable Release Costs   |                | £4,679                |
| Fixed Release Costs  |                | £215,159              |
| <b>Total Price (ex VAT)</b>  |                | £238,977              |
| <b>Price Tolerance</b>   |                | 0 %                   |
| <b>Project Duration</b>  |                | 4 weeks               |
| <b>Operational Price (e.g. per annum or event) (ex VAT)</b>                  |                | £0                    |
| <b>Rationale</b>   |                |                       |
| N/a  |                |                       |
| <b>Annual Maintenance Price (ex VAT)</b>                                     |                | £2,680                |
| <b>Rationale</b>   |                |                       |
| The Annual Maintenance Price is derived as 14% of the Change Specific Price. |                |                       |

| Validity Constraints   |             |
|--|-------------|
| <p>Price excludes provision for indexation of daily rates from 1<sup>st</sup> April 2004.<br/>                     Price and duration assume that this change is developed in isolation and the effects of other changes are excluded.<br/>                     Price is for creating DCRs, not a formal documentation issue.<br/>                     No allowance is included for the final solution being different from the CP<br/>                     No allowance is included for supporting PwC activities. Any effort will be charged at contracted T&amp;M rates<br/>                     No allowance is included for supporting ELEXON assurance activities. Any effort will be charged at contracted T&amp;M rates<br/>                     No allowance is included for End to End/Participant Testing activities. Any effort will be charged at contracted T&amp;M rates<br/>                     No allowance is included for Walkthrough activities. Any effort will be charged at contracted T&amp;M rates</p> <p>The validity period for this quote is 30 days and the offer is based on the following payment schedule:<br/>                     LogicaCMG will invoice in full for this change on deployment or within one month of the change being ready for deployment<br/>                     Maintain charges will be invoiced monthly in arrears with part months charged pro rata</p> |             |
| Authorised Signature   | Date Signed |
|  |             |

## ANNEX 5 CLARIFICATION OF COSTS

There are several different types of costs relating to the implementation of Modification Proposals. ELEXON implements the majority of Approved Modifications under its CVA or SVA Release Programmes. These Programmes incur a base overhead which is broadly stable whatever the content of the Release. On top of this each Approved Modification incurs an incremental implementation cost. In order to give Stakeholders a feel for the estimated cost of implementing an Approved Modification the templates shown in Attachment 1 have three columns:

- **Stand Alone Cost** – the cost of delivering the Modification as a stand alone project outside of a CVA or SVA Release, or the cost of a CVA or SVA Release with no other changes included in the Release scope. This is the estimated maximum cost that could be attributed to any one Modification implementation.
- **Incremental Cost** - the cost of adding that Modification Proposal to the scope of an existing release. This cost would also represent the potential saving if the Modification Proposal was to be removed from the scope of a release before development had started.

- **Tolerance** – the predicted limits of how certain the cost estimates included in the template are. The tolerance will be dependent on the complexity and certainty of the solution and the time allowed for the provision of an impact assessment by the Service Provider(s).

The cost breakdowns are shown below:

| <b>PROGRESSING MODIFICATION PROPOSAL</b> |   |
|--|---|
| <b>Demand Led Cost</b>                   | This is the third party cost of progressing a Modification Proposal through the Modification Procedures in accordance with Section F of the Code. Service Provider Impact Assessments are covered by a contractual charge and so the Demand Led cost will typically be zero unless external Legal assistance or external consultancy is required. |
| <b>ELEXON Resource</b>                   | This is the ELEXON Resource requirement to progress the Modification Proposal through the Modification Procedures. This is estimated using a standard formula based on the length of the Modification Procedure.  |

| <b>SERVICE PROVIDER<sup>7</sup> COSTS</b> |  |
|---|--|
| <b>Change Specific Cost</b>               | Cost of the Service Provider(s) Systems development and other activities relating specifically to the Modification Proposal.   |
| <b>Release Cost</b>                       | Fixed cost associated with the development of the Service Provider(s) Systems as part of a release. This cost encompasses all the activities that would be undertaken regardless of the number or complexity of changes in the scope of a release. These activities include Project Management, the production of testing and deployment specifications and reports and various other standard release activities. |
| <b>Incremental Release Cost</b>           | Additional costs on top of base Release Costs for delivering the specific Modification Proposal. For instance, the production of a Test Strategy and Test Report requires a certain amount of effort regardless of the number of changes to be tested, but the addition of a specific Modification Proposal may increase the scope of the Test Strategy and Test Report and hence incur additional costs.          |

| <b>IMPLEMENTATION COSTS</b>  |   |
|------------------------------|---|
| <b>External Audit</b>        | Allowance for the cost of external audit of the delivery of the release. For CVA BSC Systems Releases this is typically estimated as 8% of the total Service Provider Costs, with a tolerance of +/- 20%. At present the SVA Programme does not use an external auditor, so there is no External Audit cost associated with an SVA BSC Systems Release. |
| <b>Design Clarifications</b> | Allowance to cover the potential cost of making any amendments to the proposed solution to clarify any ambiguities identified during implementation. This is typically estimated as 5% of the total Service   |

<sup>7</sup> A Service Provider can be a BSC Agent or a non-BSC Agent, which provides a service or software as part of the BSC and BSC Agent Systems. The Service Provider cost will be the sum of the costs for all Service Providers who are impacted by the release.



|   |  |
|---|--|
|   | Provider Costs, with a tolerance of +/- 100%.  |
| <b>Additional Resource Costs</b>                  | <p>Any short-term resource requirements in addition to the ELEXON resource available. For CVA BSC Systems Releases, this is typically only necessary if the proposed solution for a Modification Proposal would require more extensive testing than normal, procurements or 'in-house' development.</p> <p>For SVA BSC Systems Releases, this will include the management and operation of the Acceptance Testing and the associated testing environment.</p> <p>This cost relates solely to the short-term employment of contract staff to assist in the implementation of the release.</p> |
| <b>Additional Testing and Audit Support Costs</b> | <p>Allowance for external assistance from the Service Provider(s) with testing, test environment and audit activities. Includes such activities as the creation of test environments and the operation of the Participant Test Service (PTS). For CVA BSC Systems Releases, this is typically estimated as £40k per release with at tolerance of +/-25%. For SVA BSC Systems Releases this is estimated on a Modification Proposal basis.</p>  |

#### TOTAL DEMAND LED IMPLEMENTATION COSTS

This is calculated as the sum of the total Service Provider(s) Cost and the total Implementation Cost. The tolerance associated with the Total Demand Led Implementation Cost is calculated as the weighted average of the individual Service Provider(s) Costs and Implementation Costs tolerances. This tolerance will be rounded to the nearest 5%.

#### ELEXON IMPLEMENTATION RESOURCE COSTS

Cost quoted in man days multiplied by project average daily rate, which represents the resources utilised by ELEXON in supporting the implementation of the release. This cost is typically funded from the "ELEXON Operational" budget using existing staff, but there may be instances where the total resources required to deliver a release exceeds the level of available ELEXON resources, in which case additional Demand Led Resources will be required.

The ELEXON Implementation Resource Cost will typically have a tolerance of +/- 5% associated with it.

#### ONGOING SUPPORT AND MAINTENANCE COSTS

|  |   |
|--|---|
| <b>ELEXON Operational Cost</b>         | Cost, in man days per annum multiplied by project average daily rate, of operating the revised systems and processes post implementation.   |
| <b>Service Provider Operation Cost</b> | Cost in £ per annum payable to the Service Provider(s) to cover staffing requirements, software or hardware licensing fees, communications charges or any hardware storage fees associated with the ongoing operation of the revised systems and processes. |

|  |  |
|--|--|
| <b>Service Provider<br/>Maintenance Cost</b> | Cost quoted in £ per annum payable to the Service Provider(s) to cover the maintenance of the amended BSC Systems. |
|--|--|