

## **MODIFICATION PROPOSAL P147 'INTRODUCTION OF A NOTIFIED CONTRACT CAPACITY TO LIMIT PARTY LIABILITY IN THE EVENT OF ERRONEOUS CONTRACT NOTIFICATIONS'**

### **ASSESSMENT CONSULTATION DOCUMENT**

#### **1 INTRODUCTION**

Modification Proposal P147 'Introduction of a Notified Contract Capacity to limit Party liability in the event of erroneous contract notifications' (P147) was raised by Npower Ltd ('the Proposer') on 19 November 2003. P147 seeks to introduce a new parameter, the 'Notified Energy Contract Capacity', into the Balancing and Settlement Code ('the Code') such that a Party can specify an upper limit on its contract notification volumes per Energy Account, and thus specify effectively the potential exposure to imbalance, specifically aimed at limiting the imbalance liability resulting from erroneous or malicious contract notifications. Furthermore, P147 proposes to put in place a warning mechanism whereby Parties are alerted when they reach a certain percentage (for example 80% and/or 90%) of the Notified Energy Contract Capacity.

On submission of the Modification Proposal, the Proposer requested that P147 be treated as an Urgent Modification (more detail about the rationale for the request, and the process followed, is provided in the Initial Written Assessment for P147). However, the Authority, on 21 November 2003, determined that P147 should not be granted urgent status, on the grounds that it did not exhibit any of the requisite characteristics (detailed in the Initial Written Assessment) for urgency to be granted. Therefore P147 was submitted to the normal Modification Procedure.

The Panel considered the Initial Written Assessment for P147 at its meeting of 11 December 2003. The Panel agreed to submit P147 to a two month Assessment Procedure, with the assessment to be undertaken by the Settlement Standing Modification Group (SSMG). Furthermore, the Panel agreed that P147 should not be considered to be replacing Approved Modification P98 ('Dual notification of contract positions'), and instructed the SSMG to assess P147 accordingly.

To date, the SSMG have met twice to consider P147, on 18 December 2003 and 13 January 2004. The SSMG, at its meeting of 18 December 2003, defined the requirements for the solution to the Proposed Modification and undertook a BSC Agent impact assessment on this solution. The SSMG also identified two potential alternatives to P147 which were also impact assessed by the BSC Central Service Agent. The impact assessment is provided for further information with this consultation and it should be noted that only the BSC Central Service Agent development and implementation costs are provided within this consultation document, as the remaining impact assessments (BSC Parties / Party Agents, Funds Administration Agent and BSCCo) are being obtained in parallel with this consultation. The SSMG considered the results of the impact assessment at its meeting of 13 January 2004, and agreed a way forward in respect of the Proposed Modification and the potential alternatives, and this consultation document reflects that agreed outcome.

However, in summary:

1. The SSMG do not believe that the Proposed Modification should be made for the reasons set out in section 3;
2. The SSMG do not believe that the potential alternative comprising a time constraint on notification submission should be progressed for the reasons set out in section 4; and
3. The SSMG do not believe that the potential alternative comprising the post event notification error rectification process should be progressed for the reasons set out in section 5.

Therefore, this consultation is seeking views in respect of these recommendations.

## **2 CONSULTATION LOGISTICS**

Documentation provided in support of this consultation is:

1. Requirements Specification for P147;
2. BSC Central Service Agent Impact Assessment; and
3. A memorandum providing more detail in respect of the notification error rectification process and consideration thereof.

Please send your responses, in the proforma provided, by:

**17:00 on Friday 30 January 2004**

to [Modifications@elexon.co.uk](mailto:Modifications@elexon.co.uk) and please entitle your email '**P147 Assessment Consultation**'. Please note that any responses received after the deadline may not be considered by the Modification Group.

Any queries on the content of the consultation pro-forma should be addressed to Mandi Francis on 020 7380 4377, email address [mandi.francis@elexon.co.uk](mailto:mandi.francis@elexon.co.uk).

## **3 PROPOSED MODIFICATION P147**

### **3.1 POTENTIAL MECHANISM**

At its meeting of 18 December 2003, the SSMG identified a number of potential mechanisms for giving effect to Proposed Modification P147. These were documented in full in the Requirements Specification (provided with this consultation), but can be summarised at a relatively high level as follows:

1. A BSC Party (optionally) registers its Notified Energy Contract Capacity, in MWh, for each of its Energy Accounts with the Central Registration Agent (CRA). The Notified Energy Contract Capacity is a Settlement Period value, representing the maximum aggregate contract volume for the specified Energy Account, which can be registered monthly potentially comprising a daily profile of values. Furthermore, the value can be amended as required by the BSC Party;

2. The Energy Contract Volume Aggregation Agent (ECVAA) will, on receipt of each notification, where the notification becomes effective within the next [x] Settlement Periods, calculate the aggregate contract volume for both counterparties and Energy Accounts, including that notification for the next [x] Settlement Periods, and where the aggregate contract volume breaches the Notified Energy Contract Capacity for either of the Parties, reject the notification to the submitting notification agent, and copy the rejection to both counterparties to the notification, specifying which Party has breached its Notified Energy Contract Capacity. Where the aggregate contract volume initially breaches 80% of the Notified Energy Contract Capacity, and / or where the aggregate contract volume has breached 90% of the Notified Energy Contract Capacity, a report will be sent to the affected BSC Party detailing the percentage breach and the relevant Energy Account and the Settlement Period to which it applies;
3. At Gate Closure, the ECVAA will calculate the aggregate contract volume for each BSC Party and Energy Account for Settlement Period j + [3]. Where the aggregate contract volume initially breaches 80% of the Notified Energy Contract Capacity, and / or where the aggregate contract volume has breached 90% of the Notified Energy Contract Capacity, a report will be sent to the affected BSC Party detailing the percentage breach and the relevant Energy Account and the Settlement Period to which it applies. Notifications will not be rejected, as it will be the responsibility of the Party to take appropriate action on receipt of the warning.

The SSMG considered an automated registration and confirmation of the Notified Energy Contract Capacity, as well as a manual registration and confirmation. All of the options are detailed in the Requirements Specification.

The BSC Central Service Agent Impact Assessment (provided in full with this consultation) is summarised in the following table, noting that each of the twelve options comprises a different combination of the manual and automated approach, thus allowing the preferred combination to be identified and 'costed'.

<b>Option</b>	<b>Description</b>	<b>Service Provider Total Cost</b>	<b>Service Provider Change Specific Cost</b>	<b>Service Provider Annual Maintenance Cost</b>
Option 1	Automatic registration Automatic confirmation (CRA-I014/I020)	£2,311,069	£1,952,262	£63,317
Option 2	Manual registration (multiple values) Automatic confirmation (CRA-I014/I020)	£2,281,667	£1,924,631	£59,448
Option 3	Manual registration (single value) Automatic confirmation (CRA-I014/I020)	£2,281,667	£1,924,631	£59,448
Option 4	Automatic registration Automatic confirmation (ECVAA-I022)	£2,281,667	£1,924,631	£59,448
Option 5	Manual registration (multiple values) Automatic confirmation (ECVAA-I022)	£2,240,653	£1,888,927	£54,450

<b>Option</b>	<b>Description</b>	<b>Service Provider Total Cost</b>	<b>Service Provider Change Specific Cost</b>	<b>Service Provider Annual Maintenance Cost</b>
Option 6	Manual registration (single value) Automatic confirmation (ECVAA-I022)	£2,240,653	£1,888,927	£54,450
Option 7	Automatic registration Manual confirmation (BSCP form)	£2,240,653	£1,888,927	£54,450
Option 8	Manual registration (multiple values) Manual confirmation (BSCP form)	£2,194,960	£1,849,683	£48,956
Option 9	Manual registration (single value) Manual confirmation (BSCP form)	£2,194,960	£1,849,683	£48,956
Option 10	Automatic registration Manual confirmation (csv file)	£2,251,634	£1,898,138	£55,749
Option 11	Manual registration (multiple values) Manual confirmation (csv file)	£2,222,738	£1,871,013	£51,942
Option 12	Manual registration (single value) Manual confirmation (csv file)	£2,222,738	£1,871,013	£51,942

The Service Provider total cost comprises the Service Provider change specific costs and its release costs, but excludes the Service Provider's annual maintenance charge. These costs also exclude any ELEXON development and implementation costs and resource.

The key point to note is that the change specific cost (and therefore the total cost) includes approximately £1.5 million attributable to additional hardware required to mitigate any ECVAA performance degradation as a result of the increased processing. The BSC Central Service Agent Impact Assessment provides a set of assumptions and calculations in relation to the hardware required.

The SSMG considered the BSC Central Service Agent Impact Assessment, and raised the question as to how necessary the additional hardware was considered to be, i.e. would the postulated impact on the service cause an issue if the level of hardware proposed was not implemented. Therefore the SSMG requested clarification of the impact assessment in this respect. The BSC Central Service Agent clarified that, in its opinion the additional hardware would be necessary to retain the current service levels on the ECVAA, as if P147 were implemented without the additional hardware, then the Credit Check would take twice as long, furthermore notifications cannot be loaded during the Credit Check, and loading of notifications would take three and a half times as long, which would constitute an unacceptable processing delay.

### 3.2 CONSIDERATION OF THE PROPOSED MODIFICATION

The SSMG considered the Proposed Modification and the BSC Central Service Agent development and implementation costs associated with P147. The SSMG agreed, on balance, that Proposed Modification P147 should not be progressed, for two main reasons, namely that:

1. The BSC Central Service Agent development and implementation costs are of a magnitude that, even were the £1.5 million hardware costs to be removed, the costs of implementing P147 would outweigh the benefits, and therefore the SSMG believe that P147 does not better facilitate achievement of the Applicable BSC Objectives, specifically Objective (d) (efficiency in the administration of the balancing and settlement arrangements); and
2. Development and implementation costs aside, the mechanism itself is seen by the majority of the SSMG to offer limited benefit, as it is difficult to see how the solution addresses the defect set out in the Modification Proposal and it is difficult to see how the mechanism could be used meaningfully / usefully by Parties. The rationale for this is that:
  - A maximum limit on the aggregate contract volume would protect against notifications that increase (in absolute terms) the contract volume above that defined limit, however, an erroneous or malicious notification that decreases (in absolute terms) the aggregate contract volume can be just as damaging for a Party's imbalance position, but is not identified nor prevented under this mechanism;
  - The Notified Energy Contract Capacity would have to be incredibly dynamic in order to provide the requisite level of flexibility and protection, for example, a larger trade than normal may be legitimate, but which would be prevented by the currently notified limit. Without an extremely dynamic amendment process, the presence of a limit could present a risk of rejection for a legitimate trade. Another example is Interconnector Users, where capacity is bid for on a daily basis, with consequent traded quantities reflecting that capacity. A non dynamic limit would render the mechanism relatively useless to such users;
  - There is a complex issue as to how far ahead contract volumes need to be checked, and therefore aggregated for when performing the aggregation on receipt of a notification; and
  - The calculation of the aggregated volume becomes problematic and incredibly complex for a Party that is using a combination of single and dual notification, as there is an issue as to the volumes that are used in the aggregation for dual notifiers. The BSC Party may, in addition to any single notifications, have a number of dual notifications in various states of matching. Therefore should the ECVAAs only look at the matched volumes, potentially causing an issue where a Settlement Period is pending matching, or does the ECVAAs only look at the volumes notified by the BSC Party (and Energy Account) in question, potentially leading to problems where there is an erroneous volume pending matching.

Therefore the SSMG are seeking views in respect of the (unanimous) recommendation not to progress Proposed Modification P147.

## 4 POTENTIAL ALTERNATIVE TO MODIFICATION P147: TIME CONSTRAINED NOTIFICATIONS

### 4.1 POTENTIAL MECHANISM

At its meeting of 18 December 2003, the SSMG identified two potential alternatives to P147, the first of which comprises a time constraint on notifications being made against a Party. The proposed process would be to enable a Party to specify a time period where, should a notification be received which is not notified by that Party (i.e. BSC Party = ECVNA), or by an ECVNA specified by the Party, the notification is rejected. For example, a non 24-7 player would be able to specify that notifications received from its counterparties outside of Business hours should be rejected.

There are two potential ways of achieving this requirement, either to:

1. Allow each BSC Party to specify the time period where notifications are to be rejected; or
2. To have a defined 'non operational' block, applicable to all Parties that choose to apply it.

ECVAA would hold a list of BSC Party – ECVNA equivalences, or to implement a process whereby the Party nominates the ECVNA which is allowed to submit outside of the specified times.

ECVAA would also need to amend the validation process and to amend the rejection reason code for notifications rejected as 'out of hours'.

An impact assessment was received from the BSC Central Service Agent in respect of this potential alternative, as follows:

Option	Description	Service Provider Total Cost	Service Provider Change Specific Cost	Service Provider Annual Maintenance Cost
Potential Alternative	Time constrained notifications	£316,139	£79,689	£11,156

The Service Provider total price comprises the Service Provider change specific costs and its release costs, but excludes the Service Provider's annual maintenance charge. These costs also exclude any ELEXON development and implementation costs and resource.

### 4.2 SSMG CONSIDERATION OF THE POTENTIAL ALTERNATIVE

The SSMG considered this first potential alternative and agreed that it should not be progressed as an Alternative Modification to P147. The SSMG believe that this potential alternative does not fully address the defect that P147 identified (namely the mitigation of the risks of exposure to unlimited liability from erroneous or malicious notifications), as it will not prevent an erroneous or malicious notification being made during business hours which cannot be rectified.

## 5 POTENTIAL ALTERNATIVE TO MODIFICATION P147: POST EVENT NOTIFICATION ERROR RECTIFICATION

### 5.1 POTENTIAL MECHANISM

At its meeting of 18 December 2003, the SSMG also identified a second potential alternative to P147 which comprises a process which would allow, within a tightly defined timescale, erroneous or malicious notifications to be rectified. Such erroneous or malicious notifications would be identified by the BSC Party. The BSC Party would then apply to the BSC Panel for rectification. Where the Panel agrees the rectification, then the rectification will be made via manual input into ECVAA. It is envisaged that the process would be prospective (i.e. would only apply to notification errors occurring post implementation), and would be broadly similar to the Past Notification Error rectification process defined in Section P6 of the Code, encompassing many similar features, such as the Error Correction Payment, and a consideration / determination as to whether the notifier was reasonable and prudent in relation to the error.

An impact assessment was received from the BSC Central Service Agent in respect of this potential alternative, as follows:

Option	Description	Service Provider Total Cost	Service Provider Change Specific Cost	Service Provider Annual Maintenance Cost
Potential Alternative	Manual Rectification Approx cost for rectification: 48 Settlement Periods @ £365	£0	£0	£0

The Service Provider total cost comprises the Service Provider change specific costs and its release costs, but excludes the Service Provider's annual maintenance charge. These costs also exclude any ELEXON development and implementation costs and resource, as well as excluding any Funds Administration Agent (FAA) development and implementation costs from the implementation of an Error Correction Payment.

### 5.2 DISCUSSION OF THE POTENTIAL RECTIFICATION MECHANISM AND OTHER CONSIDERATIONS

The SSMG requested that BSCCo look at precedents in relation to post event notification error rectification, i.e. the Authority determinations in respect of a number of relevant Modifications (namely P9, P19, P35, P37, P44, and P128, and P98 and P110), as well as the determinations made in respect of Approved Modification P37 (i.e. in relation to Past Notification Error claims made under Section P6 of the Code), in order to derive a prospective notification error rectification process that would address the issues raised by the Authority in previous related determinations, and which would allow notification error rectification that would<sup>1</sup>:

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<sup>1</sup> The two bullet points relate to the main issues raised by the Authority in previous determinations regarding notification error rectification, with the wording in these two bullet points derived from the P37 Authority determination.

1. Maintain the strong incentives on Parties to deliver correct notifications: If the incentives to have robust contract notification systems in place are inadequate, it is likely that Parties would wish to correct or adjust their notifications more frequently due to errors and this could adversely affect the efficient administration of the Code; and
2. Eliminate the potential for ex post trading to take place: Inadequate constraints on notification error rectification may allow Parties to seek to make intentional post Gate Closure adjustments to their traded quantities. Thus raising concerns that ex post trading might increase the opportunities for players with generation assets, even in a generally competitive market, to drive up the prices that participants with short positions will have to pay to reduce their imbalance exposure after real time and before contract notification.

The analysis in respect of the previous Authority determinations is provided with this consultation document, in the form of a memorandum to the SSMG. The SSMG considered the memorandum at its meeting of 13 January 2004, and agreed that it should be attached to the consultation, as the SSMG believe that it provides detail in respect of a post event notification error rectification process that would provide useful context for respondents to this consultation.

It should be noted that the memorandum sets out some initial thinking on a possible alternative modification for P147, in response to a request from the SSMG, and that this was intended to provide a 'straw man' for consideration by the SSMG, and was not intended to be a definitive set of requirements nor to represent the thinking of the SSMG.

Furthermore, the summaries in the memorandum document are interpretations of Authority determinations and are therefore not intended to be definitive, and certainly do not replace the Authority determinations.

### **5.3 SSMG CONSIDERATION OF THE POTENTIAL ALTERNATIVE**

The SSMG considered the potential alternative and agreed that it should not be progressed as an Alternative Modification to P147.

The SSMG considered the post event notification error rectification process, and raised a number of issues in respect of this potential alternative, namely:

1. Although the post event notification error rectification process is considered to be a valid alternative to P147 (a manual process for error rectification could be considered to be addressing the same defect as Proposed Modification P147, since the Modification Proposal asserts that P147 is seeking to "limit liability associated with contract notifications identified in Modification Proposal P98 and enable these risks to be effectively managed by BSC Parties at much lower cost [*than P98*]", and therefore is considered to be a valid Alternative Modification), the SSMG believe that this solution deviates significantly from the intent of the Proposed Modification, and goes further than the Proposed Modification in addressing the defect.

The SSMG therefore believe that a modification with the significance of a post event notification error rectification process should have a wider consideration than the SSMG, and therefore question the appropriateness of considering such a process without a wider audience. A number of the SSMG believe that there may be merit in a post event notification error rectification process, but believe that it should be raised as a Modification in its own right, such that it gets an appropriate audience, rather than progressed as an alternative to P147;



2. The SSMG raised concerns in relation to the determination on the ongoing (prospective) consideration of notification error claims, noting that any determination would have to be subjective, based on a number of relatively loosely defined criteria (as defining strict criteria is not possible, given the vast range of circumstances that could lead to notification errors / malicious notifications. In the absence of tightly defined criteria, the Panel / Panel delegated committee would be required to apply a certain element of discretion / judgement when determining what constituted a valid claim. As such, the process may not provide the requisite level of transparency and impartiality. Furthermore, the absence of rigid qualifying criteria may open the process to legal reprisals;
3. The SSMG also raised concerns in respect of the amount of effort required to define the notification error rectification process. The SSMG noted that a material amount of effort would be needed in order to progress this potential alternative, and therefore expressed concerns in expending this effort without a degree of certainty that industry, and the Authority, would welcome such an initiative;
4. The SSMG also raised concerns in relation to the process to be followed. The Past Notification Error rectification process defined in Section P6 of the Code provides a reasonable precedent for the ongoing (prospective) consideration of notification error claims, and the SSMG noted the material costs associated with implementing the 'P6' process and in reaching a determination on each claim. A number of SSMG members believe that the costs associated with an ongoing (P147) process are likely to be of the same order of magnitude, and therefore potentially outweigh the benefit of the process; and
5. A number of the SSMG raised concerns that the constraints in respect of raising a claim, coupled with the increased experience of trading, would mean that the post event notification error rectification process may be implemented (incurring significant cost and resource effort), and then never, or rarely, utilised. Therefore the benefit of the process would be outweighed by the administrative burden.

Therefore on balance the SSMG agreed, pending consideration of the consultation responses, that this potential alternative to P147 should not be progressed.

#### **5.4 POTENTIAL ALTERNATIVE: FURTHER CONSIDERATIONS**

The SSMG agreed to consult on the decision not to progress the potential alternative comprising the post event error rectification process, in order to obtain industry views on whether the industry would welcome a notification error rectification process proposed as an Alternative to P147. The SSMG have agreed that if the consultation responses indicate that there is a requirement for such a process and that it is appropriate to progress the process under P147, then the SSMG will seek to:

1. Request the Panel and the Authority for an extension to the Assessment Procedure such that the full implications of the process can be considered;
2. Provide an interim report on the findings of the SSMG in respect of P147 and the potential alternative, and seek to obtain the provisional thinking of the Authority in respect of progressing this alternative, in order to ensure that the significant effort required is both warranted and focused correctly; and
3. Open the Modification Group to a wider audience, such that representation can be extended to include Past Notification Error process experts.