



Direct Dial: 0207 901 7491

23 December 2003

The National Grid Company, BSC Signatories and
Other Interested Parties

Our Ref: MP No133

Dear Colleague,

Modification to the Balancing and Settlement Code (“BSC”) - Decision and Direction in relation to Modification Proposal P133: “Facility to permit BSCCo to undertake the role of Profile Administrator”

The Gas and Electricity Markets Authority (the “Authority”)¹ has carefully considered the issues raised in the Modification Report² in respect of Modification Proposal P133, “Facility to permit BSCCo to undertake the role of Profile Administrator”.

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

- Proposed Modification P133 should be made;
- Alternative Modification P133 should not be made;
- The Proposed Modification P133 should have an Implementation Date of 5 working days after the Authority Decision
- In the event that the Authority determines that Alternative Modification P133 should be made, it should have an Implementation Date of 5 Working Days after the Authority Decision.

Having carefully considered the Modification Report and the Panel’s recommendation and having regard to the Applicable BSC Objectives and the Authority’s wider statutory duties³, the

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

² ELEXON document reference P133RR, Version No. 1.0, dated 15 October 2003

³ Ofgem’s statutory duties are wider than the matters that the Panel must take into consideration and include amongst other things a duty to have regard to social and environmental guidance provided to Ofgem by the government.

Authority has decided to direct a Modification to the BSC in line with the Alternative Modification Proposal P133.

This letter explains the background and sets out the Authority's reasons for its decision. In addition, the letter contains a direction to The National Grid Company plc ("NGC") to modify the BSC in line with Alternative Modification Proposal P133, as set out in the Modification Report.

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

Background

The data provided by the Profile Administrator is an integral part of the Settlement System underpinning the non Half Hourly Supplier Volume Allocation calculation. Electricity Association Service Limited (EASL) is the present Profile Administrator and wishes to withdraw from this role. EASL gave formal notice to this effect which was received by BSCCo on the 22 August 2003, under the terms of its Profile Administrator contract. If an alternative service provider with the relevant expertise to undertake this role cannot be found the quality of the data stream entering the Settlement system may be compromised and if no service is put in place to provide the data BSCCo could be put in breach of its obligations under the Code. The Profile Administrator is currently defined as a BSC agent under Section E of the Balancing and Settlement Code (the Code). As such the role of Profile Administrator cannot be undertaken by any Party, nor is it obvious that the role can be undertaken by BSCCo or any of its subsidiary companies.

The Balancing and Settlement Code Panel ('the Panel') submitted Modification Proposal P133, "Facility to permit BSCCo to undertake the role of Profile Administrator" on 30 June 2003 at the recommendation of BSCCo following the panel meeting of 12 June 2003. An initial written assessment was considered by the Panel meeting on 10 July 2003 and the Panel submitted P133 to the Assessment Procedure to be undertaken by a new Modification Group ('the Group'). The Group was formed from members of the existing Volume Allocation Standing Modification Group and the Governance Standing Modification Group.

Two meetings of the Group were organised during the Assessment Procedure for P133, (17 July 2003 and 20 August 2003) with further correspondence issued via electronic mail. The Group issued a consultation document based on the discussions and views of the Group at the initial meeting. The second meeting of the Group agreed a provisional recommendation that the Proposed Modification should not be made and instead identified an Alternative Modification Proposal that it believed better facilitated the achievement of the Applicable BSC Objectives.

The Modification Proposal

Modification Proposal P133 seeks to modify the BSC so as to allow BSCCo, or one of its subsidiary companies, to provide the services currently undertaken by the profile administrator as described in Section S of the Code with respect to England and Wales. The justification for the

Modification Proposal was that it would better facilitate the achievement of Applicable BSC Objective⁴ C3 (3) (d).

In its discussions the Group believed that P133 may introduce efficiencies into the balancing and settlement arrangements and therefore would better facilitate the achievement of Applicable BSC Objective (d), in that it would be more efficient to ensure accurate profile data entered the Settlement process than having this data default to a previous year's value.

The Group felt that there may be a loss of transparency in the way in which the Profile Administration services were provided in the event that a regular re-procurement of the Profile Administration Services was not undertaken by BSCCo. The Group noted therefore that the most cost effective service provider might not always be undertaking the Profile Administrator role. It was felt that if this were to be the case, Applicable BSC Objective (c) may not be better facilitated by P133.

The Group concluded that although the efficiency of the balancing and settlement arrangements may be increased by the introduction of P133, this would be outweighed by the negative effects on competition in the generation and supply of electricity. The Group also concluded that these concerns could be mitigated through a different approach and therefore an Alternative Modification was developed.

The Group were minded to recommend an alternative modification which it considered would better facilitate the achievement of the applicable BSC objectives. It was decided that should a situation arise in which it was unlikely that sufficient notice would be provided by the incumbent Profile Administrator, that it would be entirely appropriate for BSCCo to step in as a temporary measure and provide the services until a suitable service provider could be procured in accordance with Section E of the code.

The Alternative Modification sought to allow BSCCo to provide the Profile Administrator Services for a limited period of time (agreed to be one year), a period which could be extended by the Panel on an annual basis, in the event that it proved impossible to procure an appropriate service provider within that time period. During the period in which BSCCo undertook the service, BSCCo would seek to procure a new Profile Administrator.

ELEXON published a draft Modification Report on 19 September 2003, which invited respondents' views by 12.00 noon on Monday 29 September 2003.

⁴ The Applicable BSC Objectives, as contained in Standard Condition C3 (3) of NGC's Transmission Licence, are:

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

Respondents' views

ELEXON received 7 (seven) responses to the consultation on Modification Proposal P133. 6 (six) responses (representing 39 Parties and 0 non-Parties) expressed support for the Proposed Modification, 1 (one) response (representing 6 (six) Parties and 0 (zero) non-Parties) opposed the Proposed Modification, 0 (zero) Responses provided a "no comment" response.

Of those parties in favour of the solution embodied within the Proposed Modification one party considered that it was important that BSCCo should be able to undertake the role of the Profile Administrator to maintain the integrity of the settlement data. Another stressed the importance of the transparency, accountability and cost accounting in the appointment process, but considered that the Proposed Modification, coupled with BSCCo's publicly stated intention to tender out the role of Profile Administrator in the first instance, represented a suitable balance between allowing BSCCo to take on the role of Profile Administrator and allowing the BSC Panel further opportunity to review the process.

The respondent against the Proposed Modification and in favour of the Alternative Modification commented that P133 may give rise to a situation in which the current process of having the Profile Administrator as a BSC agent with BSCCo managing the contract and monitoring its performance would no longer be in place and that this would not better facilitate the achievement of BSC Objective C3 (3) (c). It also commented that without a proper tendering process the industry would not be satisfied that the most cost effective and efficient option had been chosen and that this would not better facilitate the achievement of applicable BSC Objective C3 (3) (d).

The respondents' views are summarised in the Modification Report for Modification Proposal P133, which also includes the complete text of all respondents' replies.

Panel's recommendation

The Panel met on 9 October 2003 and considered the Modification Proposal P133, the draft Modification Report, the views of the Modification Group and the consultation responses received.

The Panel recommended that the Authority should approve the Modification Proposal P133 and that, if approved, the Modification Proposal should have an Implementation Date of 5 (five) Working Days after the Authority Decision.

Ofgem's view

Having carefully considered the Modification Report and the Panel's recommendation, Ofgem considers, having regard to the Applicable BSC Objectives and its statutory duties, that Alternative Modification Proposal P133 will better facilitate achievement of the Applicable BSC Objectives.

The implementation of Alternative Modification Proposal P133 would ensure that if an alternative service provider with the relevant expertise to undertake this role could not be found BSCCo could step in to ensure that the quality of the data stream entering the Settlement system and the performance of its obligations under the Code. This would introduce efficiencies into the balancing and settlement arrangements and better facilitate the achievement of BSC Objective (d).

BSCCo recognised the importance of transparency and accountability in the procurement of the services of a new profile administrator and stated its intention to tender out the service in the first instance. Ofgem is mindful of the need to support these principles within the market structure and considers that the Legal Text of the Alternative Modification Proposal better facilitates Applicable BSC Objective (d) as it provides a clear, publicly accessible framework, capable of being assessed by the Authority at the time of this decision. The alternative would be to rely on an as yet undetermined methodology which may not fulfil this Applicable Objective as efficiently as the framework of the Alternative Modification.

The Authority further considers that it may be possible to identify cost savings during the process of appointing a new Profile Administrator. Ofgem considers that these efficiencies would be more likely come to light through a tendering process carried out in good faith in accordance with Section E of the Code as envisaged by the Alternative Modification Proposal. Tendering along these lines is likely to engender greater participation in the process, thus creating a higher degree of transparency and competition than might occur if the tendering process were to develop from an undefined assurance which may not fulfil the requirements of Section E to the same extent. This higher degree of transparency and competition has the potential to provide a more cost efficient mechanism to the market in the appointment of a replacement Profile Administrator. In doing so this option will better promote efficiency in the implementation and administration of the balancing and settlement arrangements described in Applicable BSC Objective (d).

It was the opinion of the Panel that the legal text of Alternative Modification Proposal P133 precluded the Panel from granting an extension to BSCCo's powers for longer than one year under the Alternative Modification. Ofgem considers that under the Alternative Modification, an extension to BSCCo's powers could not be made for periods of longer than one year without the further approval of the Panel. Ofgem considers that it is open to the Panel, in the appropriate circumstances, to approve that BSCCo continues to fulfil the role of Profile Administrator for consecutive periods of one year. Ofgem has noted concerns made by ELEXON relating to this issue, including recruiting difficulties, and acknowledges that the Alternative Modification strikes a balance between market transparency and market certainty. The extent to which recruiting issues would manifest themselves as a material inconvenience to BSCCo's operations is uncertain. The Authority considers that the Alternative Modification is the most appropriate solution to deal with the initial transition period in which the incumbent Profile Administrator will terminate its performance of this function, but that it may be appropriate to review the arrangements should it become apparent that no suitable alternative provider is likely to be found after one or two years.

The Authority's decision

The Authority has therefore decided to direct that the Alternative Modification Proposal P133, as set out in the Modification Report, should be made and implemented.

Direction under Condition C3 (5) (a) of NGC's Transmission Licence

Having regard to the above, the Authority, in accordance with Condition C3 (5) (a) of the licence to transmit electricity granted to NGC under Section 6 of the Electricity Act 1989 as amended (the "Transmission Licence"), hereby directs NGC to modify the BSC as set out in the Alternative Modification resulting from the Modification Report.

The Implementation Date for Alternative Modification Proposal P133 is 5 Business Days after the date of this decision letter, that being the day on which the Authority decided to approve the Modification Report.

In accordance with Condition C3 (5) (b) of NGC's Transmission Licence, NGC shall modify the BSC in accordance with this direction of the Authority.

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

Yours sincerely,

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

Nick Simpson

Director of Industry Code Development

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