

Draft MODIFICATION REPORT for Modification Proposal P131 INTRODUCTION OF FURTHER PROVISIONS RELATING TO THE DETERMINATION OF TRADING DISPUTES

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This document has been distributed in accordance with Section F2.1.10¹ of the Balancing and Settlement Code.

RECOMMENDATIONS

The Balancing and Settlement Code Panel (the Panel) recommends that:

- **Proposed Modification P131 should be made;**
- **the Implementation Date of 30 June 2004 if the Authority's decision is received by or on the 1 February 2004 and 3 November 2004 if the Authority's decision is received after 1 February 2004, but prior to 1 July 2004.**

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¹ 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

CONTENTS TABLE

Summary of impacted parties and documents	3
1 Description of Proposed Modification and assessment against the Applicable BSC Objectives	4
1.1 Modification Proposal	4
1.2 Proposed Modification	4
1.3 Issues raised by the Proposed Modification	5
1.4 Assessment of how the Proposed Modification will better facilitate the Applicable BSC Objectives	5
1.5 Modification Group's cost benefit analysis of Proposed Modification	6
1.6 Alternative Modification	6
1.7 Governance and regulatory framework assessment	6
2 Rationale for Panel's recommendations	6
3 Impact on BSC Systems and Parties	7
3.1 BSCCo	7
3.2 BSC Systems	7
3.3 Parties and Party Agents	7
4 Impact on Code and documentation	7
4.1 Balancing and Settlement Code	7
4.2 Code Subsidiary Documents	7
4.3 BSCCo Memorandum and Articles of Association	7
4.4 Impact on Core Industry Documents and supporting arrangements	7
5 Summary of consultations	8
5.1 Summary of the consultation responses	8
5.2 Comments and views of the Panel	8
6 Summary of Transmission Company analysis	8
7 Summary of external advice	8
8 Implementation approach	8
9 Document control	8
9.1 Authorities	8
9.2 References	9
Annex 1 Draft legal text	10
Annex 2 Modification Group details	10
Annex 3 Consultation responses	10

SUMMARY OF IMPACTED PARTIES AND DOCUMENTS

The following parties/documents have been identified as being potentially impacted by Modification Proposal P131.

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

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

Total Cost of implementing Proposed Modification:	45 ELEXON man days
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1 DESCRIPTION OF PROPOSED MODIFICATION AND ASSESSMENT AGAINST THE APPLICABLE BSC OBJECTIVES

1.1 Modification Proposal

Modification Proposal P131 "Introduction of further provisions relating to the determination of Trading Disputes" ("P131") was raised on 23 June 2003 by the Trading Disputes Committee (TDC) on behalf of the BSC Panel.

P131 was raised following the suspension by the Panel of the criteria used by the TDC to judge Trading Disputes. Based on legal advice provided to the TDC, these criteria, used by the TDC to determine the validity of a claim, were deemed to be inconsistent with the Code and therefore invalid.

P131 seeks to modify the Code to incorporate provisions relating to the timely detection and prompt rectification of Trading Disputes, for example the setting of baseline dates for the detection of settlement errors.

The TDC is of the view that the BSC should place obligations on Parties with regard to the detection of alleged settlement errors.

The Panel, at its meeting on 10 July 2003 agreed with BSCCo's recommendation to progress P131 to the Definition Procedure. The Panel felt that P131 required further definition to provide the Modification Group with sufficient time to create a clear statement of the P131 requirements prior to entering the Assessment Procedure and thus identify the issues for assessment. A Modification Group was established, met three times during the Definition Procedure and issued one consultation document to industry. At its meeting on the 11 September 2003 the Panel decided to submit P131 to a two month Assessment Procedure. The P131 Modification Group met four times and issued one consultation document to industry. Five responses representing 26 Parties were received to this consultation.

P131 was initially considered by the Panel at its meeting on 13 November 2003. The Panel determined that P131 required further assessment. This was due to an issue with the draft legal text that was sent out prior to its meeting, particularly with regard to the TDC's use of discretion as pertains to errors that appear in a Settlement or Reconciliation Run that were not present in the previous one. There was a suggestion that including provision for this within the criteria would make the legal text lack clarity, however not including such a provision and leaving matters to the TDC's discretion made several members of the P131 Modification Group feel uncomfortable. The Panel suggested that this issue be explored further and resolved in a one month extension to the Assessment Procedure. The Assessment Report was presented to the Panel at its meeting on 11 December 2003. The Panel agreed that P131 should progress to the Report Phase with the Modification Report being presented to the Panel at its meeting on the 15 January 2003. The Panel recommended that P131 be made.

1.2 Proposed Modification

The Modification Group has defined P131 in the following way:

The Group agreed the need to introduce criteria into the Code that will place obligations on Parties to detect settlement errors and hence raise Trading Queries / Disputes in a timely manner. The criteria will consist of a general rule - all Trading Queries will have to be raised within SF + 20WD²³. This will have several exceptions. Trading Queries relating to SVA Half Hourly data and processes excluding

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² WD = Working Day

³ SF = Initial Settlement Run

Metering Outside Settlement Timescales (MOST), will have an $R1 + 20WD^4$ timescale. Trading Queries relating to SVA Non Half Hourly data and processes including MOST, will have an $RF^5 + 70WD$ timescale. Trading Queries relating to Profiling and Profile Coefficients will have a $D^6 + 3$ timescale and Trading Queries relating to Market Domain Data, a $D + 2$ timescale. In addition, there will be provision within the criteria for the situation where an error appeared in a Settlement or Reconciliation Run that was not present in the previous Settlement or Reconciliation Run.

To raise a Trading Dispute, Parties must first raise a Trading Query by sending the Trading Query form (F11/01) to BSCCo within the prescribed timescales. The same criteria will apply to BSCCo raised Trading Disputes. Parties will be able to apply to TDC to use its discretion if they feel the criteria were impossible to comply with for whatever reason. The TDC will then consider whether a settlement error actually exists by using data provided by Parties, Party Agents and BSC Agents. If a settlement error is identified then it will be rectified promptly provided that the materiality passes a threshold of £500. Failure to meet the relevant requirements at any stage in the process of raising a dispute will cause the Party's Trading Query to be rejected. Where a Party is dissatisfied with how the process has been followed they shall be entitled to appeal to the Panel. The Panel in this case will consider the matter according to the same criteria as the TDC. If, however, the Party is displeased with the result for reasons other than due process not being followed they have the option of taking the case to arbitration.

1.3 Issues raised by the Proposed Modification

The following issues were considered during the Assessment of P131:

- Assessment against the Applicable BSC Objectives;
- Exact form of the timeliness criteria;
- Exact nature of the materiality criterion;
- Definition of the 'trigger';
- Inclusion of an 'exception clause';
- 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 P131 Modification Group discussed how P131 better facilitated the achievement of the Applicable BSC Objectives with regard to the consultation responses received and legal opinion as to the status of Applicable BSC Objective (d) which is concerned with the costs incurred when the Code is administered and implemented by BSCCo (through service provider contracts, business processes, systems etc.). In light of this the P131 Modification Group agreed that P131 would better facilitate achievement of Applicable BSC Objective (c) in the main but also (d) to a lesser extent.

Objective (c) would be better facilitated because the Group believed that P131 would lead to a reduction in the uncertainty of Settlement / improvement of the quality of data early on in Settlement and the tighter control requirements placed on BSC Parties through the criteria for raising a Trading

⁴ R1 = First Reconciliation Run

⁵ RF = Final Reconciliation Run

⁶ D = Settlement Day

Dispute would improve the liquidity of Parties who have credit problems. In addition, it was argued that a more transparent Disputes process would alleviate perceived barriers to entry. Objective (d), efficiency in the implementation and administration of the balancing and settlement arrangements would be better facilitated to a lesser extent since P131 may save the TDC and BSCCo time as they would not have to analyse whether settlement errors exist for Trading Queries submitted outside the timescales and Parties may choose not to submit Trading Queries if they know they have missed the prescribed timescale.

1.5 Modification Group's cost benefit analysis of Proposed Modification

The P131 Modification Group did not undertake a cost-benefit analysis. Implementation costs, arising from changes to documentation, would be minimal.

1.6 Alternative Modification

No Alternative Modification was developed by the P131 Modification Group.

1.7 Governance and regulatory framework assessment

During the assessment of the Proposed Modification, the P131 Modification Group considered the wider implications of P131 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 P131 Modification Group was of the opinion that, were P131 to be implemented, there would be no such wider implications.

2 RATIONALE FOR PANEL'S RECOMMENDATIONS

The Panel unanimously recommend that the Proposed Modification P131 be made as it agrees with the P131 Modification Group that P131 better facilitates the achievement of the Applicable BSC Objective (c) and to a lesser extent (d).

The Panel unanimously agreed that the legal text provided correctly addressed the defect or issue identified in the Modification Proposal and reflected the conclusions of the P131 Modification Group.

In addition the Panel unanimously agreed an Implementation Date of 30 June 2004 if the Authority's decision is received by or on the 1 February 2004 and 3 November 2004 if the Authority's decision is received after 1 February 2004, but prior to 1 July 2004. They agreed that a four month lead time would provide sufficient time for BSCCo to make the necessary changes to documentation, for Parties to change their internal working procedures and for the new rights and obligations of Parties to be communicated via a workshop.

The Panel noted the Group's view that given that there doesn't seem to have been a step change in the number of disputes being raised since the criteria were disappplied, the Implementation Date could correspond with a scheduled programme release date, to minimise the cost of implementation. If however the number of "late" Trading Disputes started to rise significantly, the option of seeking to bring forward the Implementation Date would be open.

One Panel member commented there were no smaller Parties represented on the Modification Group and in fact that there were no members of smaller Parties on the TDC. The Panel member questioned whether the solution developed by the P131 Modification Group was fair to smaller Parties, i.e. could they be expected to detect settlement errors in the timescales. The view of the P131 Modification Group was that since smaller Parties generally have a lot less data to check, they would still be expected to adhere to the timescales. In addition it was noted by another Panel member that the TDC and Modification Group members are independent of the companies they work for whilst they perform those roles.

3 IMPACT ON BSC SYSTEMS AND PARTIES

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

3.1 BSCCo

P131 will alter the processes followed by the TDC and the Panel in assessing Trading Queries and Trading Disputes. BSCCo would be obliged to put the criteria to use and although it will impact the manner in which Trading Disputes are resolved, operationally no increase in workload is envisaged.

3.2 BSC Systems

No impact on BSC Systems, as a result of P131 is envisaged.

3.3 Parties and Party Agents

Parties will be affected as they will have to change their internal working procedures to ensure the correct reports and Settlement outputs are checked in order for them to be able to detect errors and then submit the Trading Query form within the prescribed timescales.

4 IMPACT ON CODE AND DOCUMENTATION

4.1 Balancing and Settlement Code

Parts of Section W of the Code will have to be altered. See annex 1 below.

4.2 Code Subsidiary Documents

Parts of BSCP11 – “Volume Allocation and Settlement Run Queries” - will also be changed.

4.3 BSCCo Memorandum and Articles of Association

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

4.4 Impact on Core Industry Documents and supporting arrangements

There would be no impact on Core Industry Documents and supporting arrangements.

5 SUMMARY OF CONSULTATION RESPONSES

Consultation question	Respondent agrees	Respondent disagrees	Opinion unexpressed
Do you agree with the Panel's views on P131 and the provisional recommendation to the Authority contained in the draft Modification Report that P131 should be made?			
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?			
Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P131?			
Are there any further comments on P131 that you wish to make?			

5.1 Summary of the consultation responses

[Insert a summary of the consultation responses submitted by Parties and interested third parties during the consultation undertaken in respect of the Proposed Modification. Include consultation responses from all stages of this process – this is a stand-alone document.]

Note: Remember to emphasise strength of argument.]

5.2 Comments and views of the Panel

[Include commentary agreed by the Panel on the views of the consultees. This should set out majority/minority views if necessary.]

6 SUMMARY OF TRANSMISSION COMPANY ANALYSIS

No Transmission Company Analysis was sought.

7 SUMMARY OF EXTERNAL ADVICE

No external advice was sought.

8 IMPLEMENTATION APPROACH

No implementation approach was required.

9 DOCUMENT CONTROL

9.1 Authorities

Version	Date	Author	Reviewer	Change Reference
0.1	15/12/03	Dena Harris	Change Delivery	P131MR

9.2 References

Ref	Document	Owner	Issue date	Version
P131AR	P131 Assessment Report	ELEXON	5 December 2003	2.0

ANNEX 1 DRAFT LEGAL TEXT

- Text for Proposed Modification in attached document.
- The timescales to appear in BSCP11 are:

Criteria	Timescale
SVA Half Hourly	R1 + 20WD
SVA Non Half Hourly	RF + 70WD
Profiling	D + 3WD
MDD	D + 2WD

WD = Working Day

- The pre-rectification materiality threshold to appear in BSCP11 is £500.
- Note: There is a potential interaction with Modification Proposal P124 "Revision of Mandatory Half Hourly metering criteria" which will replace the definition of 100 kW Premises with 100 kW Metering Systems. If P124 is approved the definitions that P131 is adding to Section X, Table X-6 will have to be amended as the definition of 100 kW Premises is used.

ANNEX 2 MODIFICATION GROUP DETAILS

Name	Position	Member	E-mail	18/09	24/09	01/10	27/10
Roger Salomone	Chairman	Y	Roger.Salomone@elexon.co.uk	Y	Y	Y	Y
Dena Harris	Lead Analyst	Y	Dena.Harris@elexon.co.uk	Y	Y	Y	Y
Claire Maxim	Powergen	Y	Claire.Maxim@pgen.com	Y	Y	Y	N
Mark Thomas	Innogy	Y	Mark.THOMAS.3@INNOGY.COM	Y	Y	Y	Y
Mark Manley	BGT	Y	Mark.Manley@centrica.co.uk	Y	Y	Y	Y
Marie Branch	International Power	Y	marie.branch@natpower.com	N	N	N	N
Andrew Colley	Scottish and Southern	Y	andrew.colley@scottish-southern.co.uk	Y	Y	N	Y
Martin Mate	British Energy	Y	martin.mate@british-energy.com	Y	Y	Y	Y
Tim Roberts	Scottish Power	Y	tim.roberts@manweb.co.uk	N	N	Y	Y
Man Kwong Liu	Scottish Power	Y	MAN.KWONG.LIU@saic.com	Y	Y	N	N
Jerome Williams	Ofgem	N	Jerome.Williams@ofgem.gov.uk	Y	N	Y	Y
David Ahmad	ELEXON - Legal	Y	David.Ahmad@elexon.co.uk	N	N	Y	Y
Victoria Moxham	ELEXON - TDC	Y	Victoria.Moxham@elexon.co.uk	Y	Y	Y	Y
David Edward	Ofgem	N	David.Edward@ofgem.gov.uk	N	Y	N	N

ANNEX 3 CONSULTATION RESPONSES