

## Responses from P131 Assessment Consultation

Consultation issued 9 October 2003

Representations were received from the following parties:

No	Company	File Number	No. BSC Parties Represented	No. Non-Parties Represented
1.	YEDL/NEDL	P131_ASS_001	2	
2.	Scottish and Southern	P131_ASS_002	4	
3.	SAIC Ltd	P131_ASS_003	6	
4.	Innogy	P131_ASS_004	9	
5.	British Gas Trading (BGT)	P131_ASS_005	5	

P131\_ASS\_001 – YEDL/NEDL

<b>Respondent:</b>	<i>Jill Setven</i>
<b>No. of BSC Parties Represented</b>	
<b>BSC Parties Represented</b>	<i>Please list all BSC Parties responding on behalf of (including the respondent company if relevant).</i>
<b>No. of Non BSC Parties Represented</b>	
<b>Non BSC Parties represented</b>	<i>Please list all non BSC Parties responding on behalf of (including the respondent company if relevant).</i>
<b>Role of Respondent</b>	<i>DUoS Billing Manager NEDL &amp; YEDL</i>

<b>Q</b>	<b>Question</b>	<b>Response</b>	<b>Rationale</b>
1.	Do you believe Proposed Modification P131 better facilitates the achievement of the Applicable BSC Objectives (specifically consider Objectives (c) and (d))? Please give rationale and state the relevant objective(s)	Yes / <del>No</del>	I believe Proposed Modification P131 better facilitates the achievement of the Applicable BSC Objectives, in particular Objective (d), if Option 1 is selected to encourage timeliness and prevent confusion when raising queries.
2.	Three options for criteria encouraging timeliness have been developed (see consultation document Section 2.1, 2.2 and 2.3). Which, if any, do you prefer? Please give rationale and if none are considered suitable state suggested alternative.	/Option 1/ <del>/Option 2/</del> <del>/Option 3/</del> <del>/Neither/</del>	Option 1 is selected as feel that unless the criteria is very prescriptive there is the possibility of delays and confusion
3.	Do you agree with a pre-rectification materiality barrier of £500 (see consultation document Section 2.6)? Please give rationale.	Yes / <del>No</del>	I agree with a pre-rectification materiality barrier of £500, as I feel because of the work involved there needs to be a reasonable level of materiality before going ahead. It is also important that the threshold is objective, so that everyone is aware of the situation.

Q	Question	Response	Rationale
4.	Do you think a clause that caters for extenuating or exceptional circumstances, and which allows the TDC to exercise discretion in such circumstances, should be included (See consultation document Section 2.5)? Please give rationale.	Yes / <del>No</del>	Discretionary clause acceptable, only if used very infrequently
5.	Do you consider timescales pertaining to Settlement Day are more appropriate than Settlement Run (See consultation document Section 2.4)? Please give rationale.		I think that the statement using "R2; SD + 100 Days" would seem appropriate for this, and is also appropriate for errors appearing in Settlement or Reconciliation Run not present in the previous Settlement or Reconciliation Run.
6.	In the case of an error appearing in a Settlement or Reconciliation Run that was not present in the previous Settlement or Reconciliation Run, should this be catered for in the criteria or be considered via TDC discretion? (see consultation document Section 2.4) Please give rationale.		See 5. above
7.	Do you believe there are any alternative solutions that the Modification Group has not identified and that should be considered? Please give rationale	Yes / No	
8.	Does P131 raise any issues that you believe have not been identified so far and that should be progressed as part of the Assessment Procedure? Please give rationale	Yes / No	
9.	Are there any further comments on P131 that you wish to make?	Yes / No	

**P131\_ASS\_002 – Scottish and Southern Energy**

<b>Respondent:</b>	<i>Andrew Colley</i>
<b>No. of BSC Parties Represented</b>	<i>4</i>
<b>BSC Parties Represented</b>	<i>Scottish and Southern Energy plc, SSE Energy Supply Ltd, Keadby Generation Ltd, Southern Electric Power Distribution plc</i>
<b>No. of Non BSC Parties Represented</b>	<i>0</i>
<b>Non BSC Parties represented</b>	
<b>Role of Respondent</b>	<i>Supplier/ Generator / Trader / Party Agent / Licensed Distribution Network Operator</i>

<b>Q</b>	<b>Question</b>	<b>Response</b>	<b>Rationale</b>
10.	Do you believe Proposed Modification P131 better facilitates the achievement of the Applicable BSC Objectives (specifically consider Objectives (c) and (d))? Please give rationale and state the relevant objective(s)	Yes	Incentives are required on parties to detect and raise disputes in a timely manner. Applying additional criteria and placing additional obligations upon parties is a reasonable means of achieving this. This will promote early accuracy and avoid the costs of unnecessarily prolonged settlement, which will achieve applicable objective (d). The case for objective (c) is less clear; but it could be argued that any reduction in settlement uncertainty achieved through tighter control of disputes will help to alleviate any perceived barrier to new entrants to the market.

Q	Question	Response	Rationale
11.	<p>Three options for criteria encouraging timeliness have been developed (see consultation document Section 2.1, 2.2 and 2.3). Which, if any, do you prefer?</p> <p>Please give rationale and if none are considered suitable state suggested alternative.</p>	<p>/Option 1/ /Option2/ /Option 3/ /Neither/</p>	<p>Option 3 would be preferred as it is highly specific, gives the greatest objectivity and sends clear messages to parties as to what is expected and by when; whilst still allowing TDC discretion to be applied in limited circumstances. It is accepted however that this might prove difficult to draft and maintain and could cause conflict as to what constitutes a data item.</p> <p>Option 2 would be acceptable, provided that more certain wording is provided to recognise the right to dispute items that have changed in error from one Settlement or Reconciliation Run to the next (see 6. below).</p>
12.	<p>Do you agree with a pre-rectification materiality barrier of £500 (see consultation document Section 2.6)?</p> <p>Please give rationale.</p>	<p>Yes</p>	<p>It is inefficient to process disputes where the anticipated benefit is less than or equal to the costs of processing. Given the cost estimate of £400 to process each dispute and parties current familiarity with a £500 threshold, £500 is a sensible figure to choose.</p>
13.	<p>Do you think a clause that caters for extenuating or exceptional circumstances, and which allows the TDC to exercise discretion in such circumstances, should be included (See consultation document Section 2.5)?</p> <p>Please give rationale.</p>	<p>Yes</p>	<p>It is appropriate to provide for extenuating circumstances and thus allow unforeseen events to be taken into account when a case is submitted for TDC scrutiny. However the circumstances should be limited to those of a technical nature. "Situational" events, for example events similar to those that might typically be contained within contractual force majeure clauses, should not be subject to extenuating circumstances. Allowing such discretion could lead to a degradation in parties' Business Continuity procedures, which would act counter to applicable BSC objective (d).</p>

Q	Question	Response	Rationale
14.	Do you consider timescales pertaining to Settlement Day are more appropriate than Settlement Run (See consultation document Section 2.4)? Please give rationale.		Ideally, timescales should pertain to a combination of both data items. However, if a choice has to be made, then clearly Settlement Day is the more appropriate as Settlement is carried out on the basis of Settlement Days. However, we do not understand why any such choice should be necessary, and do not understand why the legal advice considers that this method would lack clarity.
15.	In the case of an error appearing in a Settlement or Reconciliation Run that was not present in the previous Settlement or Reconciliation Run, should this be catered for in the criteria or be considered via TDC discretion? (see consultation document Section 2.4) Please give rationale.		A mechanism must exist to allow for a dispute to be raised on an error that appeared in a Settlement or Reconciliation Run that was not present in the previous Settlement or Reconciliation Run. We are not convinced that leaving it to TDC discretion in these circumstances is the most robust method, as it reduces the objectivity and transparency of criteria and creates the risk of inconsistent decision making by TDC. A more certain and definitive wording is required, that will guarantee that disputes arising from such circumstances will be presented to and ruled upon by TDC.
16.	Do you believe there are any alternative solutions that the Modification Group has not identified and that should be considered? Please give rationale	No	We cannot envisage any further options to those laid out in Appendix 1. We agree with the conclusions reached within Appendix 1 for each of the options detailed.
17.	Does P131 raise any issues that you believe have not been identified so far and that should be progressed as part of the Assessment Procedure? Please give rationale	No	

Q	Question	Response	Rationale
18.	Are there any further comments on P131 that you wish to make?	Yes	<p>Timescales for SVA Half Hourly Criterion are too tight for all 3 options. More time needs to be allowed to avoid the risk of blanket raising of Trading Queries at R1 + 20. Timescales should also be split for MIST and MOST customers. Our proposal would be :-</p> <p>HH MIST :- R2 + 20</p> <p>HH MOST :- should align with SVA Non-Half Hourly Criterion as the performance standard relating to MOST customers requires such data to be accurate by RF and not any earlier.</p>

P131\_ASS\_003 – SAIC Ltd

<b>Respondent:</b>	Man Kwong Liu (SAIC Ltd)
<b>No. of BSC Parties Represented</b>	6
<b>BSC Parties Represented</b>	Please list all BSC Parties responding on behalf of (including the respondent company if relevant).
<b>No. of Non BSC Parties Represented</b>	Scottish Power UK plc; ScottishPower Energy Management Ltd.; ScottishPower Generation Ltd; ScottishPower Energy Retail Ltd.; SP Transmission Ltd; SP Manweb plc.
<b>Non BSC Parties represented</b>	Please list all non BSC Parties responding on behalf of (including the respondent company if relevant). 0
<b>Role of Respondent</b>	(Supplier/Generator/ Trader / Consolidator / Exemptable Generator / BSC Agent / Party Agent / other – please state <sup>1</sup> ) Supplier / Generator / Trader / Consolidator / Exemptable Generator / Party Agent

Q	Question	Response Error! Bookmark not defined.	Rationale
19.	Do you believe Proposed Modification P131 better facilitates the achievement of the Applicable BSC Objectives (specifically consider Objectives (c) and (d))? Please give rationale and state the relevant objective(s)	Yes	We believe that by having clearly laid down criteria for trading disputes, it would enable timely resolution of any settlement errors, which could improve the liquidity of smaller companies. This would better facilitate the achievement of the Applicable BSC Objectives (c) – promote effective competition. Having objective detailed criteria would also improve the trading dispute process for the TDC in its determination and for BSC parties in raising any potential disputes. This would better facilitate the achievement of the Applicable BSC Objectives (d) – promote efficiency.

<sup>1</sup> Delete as appropriate – please do not use strikethrough, this is to make it easier to analyse the responses



Q	Question	Response Error! Bookmark not defined.	Rationale
20.	Three options for criteria encouraging timeliness have been developed (see consultation document Section 2.1, 2.2 and 2.3). Which, if any, do you prefer? Please give rationale and if none are considered suitable state suggested alternative.	Option 3	We believe that having as detailed a list as possible of criteria improve the process of trading disputes as mentioned above. In view of legal opinion, we believe that Option 3 gives a good compromise, in that it allows legal texts to be drafted more appropriately and easily (as would be the case for Option 1), but still gives as much details as possible in the BSCP which would improve the working of the TDC and parties' understanding. By having the details in the BSCP also enable updates to be done more efficiently.
21.	Do you agree with a pre-rectification materiality barrier of £500 (see consultation document Section 2.6)? Please give rationale.	Yes	The threshold should not be below the cost of producing a Post Final Settlement run. The only caveat to this could be were a BSC Party provides evidence that it will encounter financial difficulties (e.g. insolvency) without rectification.
22.	Do you think a clause that caters for extenuating or exceptional circumstances, and which allows the TDC to exercise discretion in such circumstances, should be included (See consultation document Section 2.5)? Please give rationale.	Yes	The process must be seen as 'reasonable' and must therefore cater for unforeseen circumstances. In other word, there is always the possibility of an exception to the rule (which may lead a future modification). The TDC should act as an arbitrator and provide a ruling on matters of principle. The raising party should also have the right to appeal such decisions to the BSC Panel.
23.	Do you consider timescales pertaining to Settlement Day are more appropriate than Settlement Run (See consultation document Section 2.4)? Please give rationale.	No	As parties will probably only find out any settlement errors following a Settlement Run, it is therefore more appropriate to use Settlement Run. There is no reason why the timescales cannot be based on Settlement Run.

Q	Question	Response Error! Bookmark not defined.	Rationale
24.	In the case of an error appearing in a Settlement or Reconciliation Run that was not present in the previous Settlement or Reconciliation Run, should this be catered for in the criteria or be considered via TDC discretion? (see consultation document Section 2.4) Please give rationale.	Yes	The process must be 'reasonable'. As mentioned above, most errors are picked up after Settlement Run. Therefore, if one was not present at the previous run, then dispute could not be raised. Therefore timescale should be based on settlement runs with the earliest run set as the criteria unless there is change from subsequent run.
25.	Do you believe there are any alternative solutions that the Modification Group has not identified and that should be considered? Please give rationale	No	
26.	Does P131 raise any issues that you believe have not been identified so far and that should be progressed as part of the Assessment Procedure? Please give rationale	Yes	Modification P107 addresses dispute timescales, which look likely to be adopted as part of a revised BSCP11 (if Mod P131 is approved). However, these timescales seem out of step with the required data retention periods, and as a result, data retention should be considerably reduced to say 28 months.
27.	Are there any further comments on P131 that you wish to make?	Yes	We believe that as well as timeliness in raising disputes, there should be some committed timescale for disputes to be resolved and rectified. This enables settlement to be finalised promptly and reduce the risk of non-payment from parties who may be insolvent during this long period. Such arrangement would better facilitates the achievement of the Applicable BSC Objectives(c) and (d). We also think that 28 months gives ample time for any disputes to be resolved. We do however agree that there would need to be some flexibility for special exceptional cases, at the discretion of the TDC or Panel.

**P131\_ASS\_004 – Innogy**

<b>Respondent:</b>	<i>Mark Thomas</i>
<b>No. of BSC Parties Represented</b>	<i>9</i>
<b>BSC Parties Represented</b>	<i>RWE Innogy plc, Innogy Cogen Limited, Innogy Cogen Trading Limited, Npower Limited, Npower Direct Limited, Npower Northern Limited, Npower Northern Supply Limited, Npower Yorkshire Limited and Npower Yorkshire Supply Limited</i>
<b>No. of Non BSC Parties Represented</b>	<i>None</i>
<b>Non BSC Parties represented</b>	<i>N/A</i>
<b>Role of Respondent</b>	<i>Supplier / Generator/ Trader / Consolidator / Exemptable Generator / Party Agent</i>

<b>Q</b>	<b>Question</b>	<b>Response</b>	<b>Rationale</b>
28.	Do you believe Proposed Modification P131 better facilitates the achievement of the Applicable BSC Objectives (specifically consider Objectives (c) and (d))? Please give rationale and state the relevant objective(s)	Yes	
29.	Three options for criteria encouraging timeliness have been developed (see consultation document Section 2.1, 2.2 and 2.3). Which, if any, do you prefer? Please give rationale and if none are considered suitable state suggested alternative.	Option2	Less complicated, simpler, more straightforward
30.	Do you agree with a pre-rectification materiality barrier of £500 (see consultation document Section 2.6)? Please give rationale.	No	The materiality too low, would result in increased disputes. I feel that £500 is not representative of the cost of rectification. I would suggest a materiality of £5,000.

Q	Question	Response	Rationale
31.	Do you think a clause that caters for extenuating or exceptional circumstances, and which allows the TDC to exercise discretion in such circumstances, should be included (See consultation document Section 2.5)? Please give rationale.	Yes	There are circumstances of problems occurring that are impossible to detect in a timely manner and may not be covered by the criteria.
32.	Do you consider timescales pertaining to Settlement Day are more appropriate than Settlement Run (See consultation document Section 2.4)? Please give rationale.	Yes	This will give a more flexible scope.
33.	In the case of an error appearing in a Settlement or Reconciliation Run that was not present in the previous Settlement or Reconciliation Run, should this be catered for in the criteria or be considered via TDC discretion? (see consultation document Section 2.4) Please give rationale.		Should be catered for in the criteria and not at the discretion of the TDC. If it were catered for clearly in the criteria it would be a fairer option then via the discretion of the TDC which could make parties may feel disadvantaged.
34.	Do you believe there are any alternative solutions that the Modification Group has not identified and that should be considered? Please give rationale	No	
35.	Does P131 raise any issues that you believe have not been identified so far and that should be progressed as part of the Assessment Procedure? Please give rationale	No	
36.	Are there any further comments on P131 that you wish to make?	No	

**P131\_ASS\_005 – British Gas Trading (BGT)**

<b>Respondent:</b>	Mark Manley
<b>No. of BSC Parties Represented</b>	
<b>BSC Parties Represented</b>	British Gas Trading (BGT)
<b>No. of Non BSC Parties Represented</b>	
<b>Non BSC Parties represented</b>	
<b>Role of Respondent</b>	

<b>Q</b>	<b>Question</b>	<b>Response</b>	<b>Rationale</b>
37.	Do you believe Proposed Modification P131 better facilitates the achievement of the Applicable BSC Objectives (specifically consider Objectives (c) and (d))? Please give rationale and state the relevant objective(s)	Yes	<p>BGT believe Modification Proposal P131 will better facilitate Applicable BSC Objective (c). Encouraging timely detection of errors in Settlement and correcting those errors where appropriate should improve data quality in Settlement. Improving the quality of data upon which Suppliers and Generators pay or are paid Trading Charges will promote effective competition in the generation and supply of electricity.</p> <p>BGT are unsure why this modification will better facilitate applicable BSC Objective (d). BGT do not believe the implementation of criteria for raising Trading Disputes will better promote efficiency in the balancing and settlement arrangements.</p>

Q	Question	Response	Rationale
38.	<p>Three options for criteria encouraging timeliness have been developed (see consultation document Section 2.1, 2.2 and 2.3). Which, if any, do you prefer?</p> <p>Please give rationale and if none are considered suitable state suggested alternative.</p>	Option2	<p>BGT supports option 2 as it provides a general criterion with four specified exceptions plus it enables the TDC discretion. This solution should be user friendly for both the custodians of the process and Parties wanting to raise Trading Queries. This solution also remains consistent with the principles that have underpinned the Disputes process to date under the Pool and since NETA Go-Live.</p> <p>The timescales associated with the criteria place realistic but stringent timescales on raising Trading Queries. The proposed timescales are also consistent with the data retention obligations placed on BSC Parties, BSC Agents and Party Agents via P107.</p> <p>BGT also has noted the legal advice, which suggests that Option 1 and 3 would be difficult to draft.</p>
39.	<p>Do you agree with a pre-rectification materiality barrier of £500 (see consultation document Section 2.6)?</p> <p>Please give rationale.</p>	Yes	<p>BGT agree with the recommendation of the modification group in respect of the materiality criteria for rectifying Trading Disputes. It is essential the level is reflective of the cost of rectification.</p>

Q	Question	Response	Rationale
40.	<p>Do you think a clause that caters for extenuating or exceptional circumstances, and which allows the TDC to exercise discretion in such circumstances, should be included (See consultation document Section 2.5)? Please give rationale.</p>	Yes	<p>BGT believes it is important for the process that Parties are able to raise a claim under exceptional circumstances. The materiality of Trading Disputes can be significant and in certain circumstances the TDC should be able to use its discretion to consider claims. BGT does have concerns that if Parties are prevented from raising Trading Queries because they are timed out this may lead to expensive and time-consuming legal battles. If such a criterion is included it is essential the TDC apply the rule consistently to ensure that all Parties are treated equitably.</p> <p>BGT are unaware why such a clause should be excluded. An exceptional circumstance clause formed part of the previous criteria and was available to Parties under the Pool. The process has worked historically with an exceptional circumstance criterion BGT believe such a clause would work equally well now.</p>
41.	<p>Do you consider timescales pertaining to Settlement Day are more appropriate than Settlement Run (See consultation document Section 2.4)? Please give rationale.</p>		<p>BGT support the timescales being linked to a Settlement Run rather than a Settlement Day. Parties will be able to identify a Settlement Error by checking the Settlement Run output. As detection is only possible via this route it would appear sensible to start the clock from that point.</p> <p>Additionally, BGT do not believe a Settlement Error can occur until the SF Run because Trading Charges are not accrued until that point. This would suggest that the timescales should pertain to a Settlement Run.</p>

Q	Question	Response	Rationale
42.	In the case of an error appearing in a Settlement or Reconciliation Run that was not present in the previous Settlement or Reconciliation Run, should this be catered for in the criteria or be considered via TDC discretion? (see consultation document Section 2.4) Please give rationale.		BGT would be supportive of resolving this issue via the criteria rather than catering for it by TDC discretion. If this issue was left to be resolved via the TDC discretion clause it may result in numerous Trading Queries being raised against such a clause. The TDC discretion clause is one that should be utilised relatively infrequently.  Also there is a very distinct possibility that Settlement Errors could become present that were in not in the previous Settlement Run. Therefore on the basis it would seem sensible to cater for this eventuality within the standard criteria.
43.	Do you believe there are any alternative solutions that the Modification Group has not identified and that should be considered? Please give rationale	No	
44.	Does P131 raise any issues that you believe have not been identified so far and that should be progressed as part of the Assessment Procedure? Please give rationale	No	
45.	Are there any further comments on P131 that you wish to make?	No	