

## Modification Proposal

**MP No: 129**  
(mandatory by BSCCo)

### Title of Modification Proposal (mandatory by proposer):

Changes to Panel Determination Process and Panel Election Procedures

### Submission Date (mandatory by proposer): 7 May 2003

### Description of Proposed Modification (mandatory by proposer):

The time taken between submission of a proposal to a decision by the Authority varies significantly and can be unacceptably long. In addition Panel recommendations do not always appear to reflect the balance and breadth of views expressed by respondents to modification proposal consultations. This proposal would enable the Panel, where there was a substantial majority agreement, to make decisions to implement or reject modification proposals. At the same time revised procedures for election of Industry Panel Members would mean that a newly elected Panel would be in a better position to reflect the diversity of stakeholder views.

#### Panel Determinations

Currently the Panel makes recommendations on each proposal in a Modification Report, which is then sent to the Authority for a determination. Under this proposal, should a substantial majority of the Panel at the Modification Report stage (represented by [7] votes cast out of 9<sup>1</sup> voting members) be in favour or against a proposal, that proposal shall either be implemented or rejected. Only where the hurdle majority has not been reached would the proposal together with a Panel Recommendation be referred to the Authority for a decision.

#### Revised Election Procedures

The 'quality' of each of the Panel determinations is dependent on the expertise of Panel members and whether decisions properly reflect the views of industry participants and other key stakeholders. This proposal suggests ways in which the 'quality' of Panel determinations could be improved by ensuring elected Industry Members are drawn from a variety of backgrounds, through the establishment of voting constituencies.

The Panel elections would be carried out on an annual basis in [August] each year. Each trading party group (made up of all affiliate companies within a company group) would be permitted to cast two votes in their designated constituency(ies) as specified below:

1. Small Supplier Constituency One vote<sup>2</sup> allocated if annual metered energy offtaken by trading party group is greater than zero TWh and less than [25] TWh
2. Small Generator Constituency One vote<sup>3</sup> allocated if annual metered energy delivered by trading party group is greater than zero TWh and less than [10] TWh
3. Large Supplier Constituency One vote<sup>2</sup> allocated if annual metered energy offtaken by trading party group is greater than zero TWh and more than [25] TWh
4. Large Generator Constituency One vote<sup>3</sup> allocated if annual metered energy delivered by trading party group is greater than zero TWh and more than [10] TWh
5. Trading Constituency  
(Representing 'pure' traders (two votes) and net purchasers or sellers of electricity (one vote))
  - a) One vote allocated if annual metered energy offtaken by trading party group is less than or equal to 50% of the annual metered energy delivered by that trading party group (the 'Electricity Seller Vote').
  - b) One vote allocated if annual metered energy delivered by trading party group is less than or equal to 50% of the annual metered energy offtaken by that trading party group (the 'Electricity Buyer vote').

<sup>1</sup> An extra additional Industry Member can be appointed by the Panel Chairman under clause B2.6.1.

<sup>2</sup> Except where criteria 5a applies instead, i.e. where trading party group is a larger wholesale seller than supplier of electricity.

<sup>3</sup> Except where criteria 5b applies instead, i.e. where trading party group is a larger wholesale buyer than generator of electricity.

## Modification Proposal

**MP No: 129**

*(mandatory by BSCCo)*

In the Trading Constituency a 'pure' trader would have two votes (having neither metered deliveries or metered offtakes), suppliers that generate less than 50% of their own consumption one vote and generators that supply to consumers less than 50% of their own production one vote.

The current preference voting system would be replaced by a first past the post approach with the candidate with the highest number of votes cast in each constituency being elected. Each trading party group would declare in advance which constituencies it was affiliated to. These declarations would be circulated to the industry so that parties can if necessary challenge constituency electoral rolls. As with the current pre-election process for determining which parties form part of a trading party group Exelon would investigate any discrepancies or erroneous declarations and if necessary refer to annual metered energy delivered or offtaken in the previous year April to March to establish appropriate constituency membership. Following each election Exelon would publish the number of votes cast for each candidate in each constituency.

The proposal does not suggest changes to the process for appointment of the 4 or 5 Panel members by energywatch or the Panel Chairman set out in sections B2.3 and B2.5 respectively. The Modification Group may wish in addition to consider as an alternative whether an increase in the number of Industry Members and or changes to the way in which other Panel members are appointed by energywatch/the Panel Chairman might better address the defect/issue described below.

### **Panel Determinations and their interaction with terms set out in other documents**

Currently the Authority is able to co-ordinate decisions across various codes and between competing and complimentary proposals, through its discretion in the timing of its decisions. Such flexibility is not available to the Panel, so new measures need to be established to deal with any inter-dependencies across trading arrangement terms set out in other documents.

Where implementation of a change is dependent on a change to terms set out in other documents which sit outside the vires of the Panel, the Panel shall be entitled to conditionally approve such a proposal if the hurdle majority is reached. Such conditional approval will state the basis of conditionality e.g. "a change to ABCD methodology to establish XYZ" and an implementation date linked to such a change (e.g. decision date 'D' plus x months). Clearly such a proposal could not be implemented without agreement to implement changes to the relevant non-BSC document.

On occasions, as is currently the case, the Panel will not be required to make determinations on competing modification proposals. Should competing proposals be presented to the Panel for determination at the same Panel meeting the Panel will be permitted to decide which of the proposals best facilitates the Applicable BSC Objectives. In such circumstances, only the proposal that best meets the Applicable BSC Objectives could be approved by the Panel under the substantial majority rule.

For avoidance of doubt this proposal does not seek to change the impartiality obligations set out in section B 2.8 of the Code, as the constituency election model merely seeks to establish a Panel that is in the best position to reflect the full diversity of views in its determinations.

Please also note implementation of this proposal is dependant on changes to Condition C4 clauses 4 and 5 of NGC's Transmission Licence, which specify the form of the BSC Modification process. If the Authority were minded to accept this proposal they would have to consult on changes to these clauses to facilitate implementation of this proposal. This would be a similar approach to that adopted for the establishment of Applicable Balancing Services Volume Data (ABSVD) under NGC's Transmission Licence necessary to facilitate

## Modification Proposal

**MP No: 129**  
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implementation of Modification P71.

[ ] The values in square brackets are suggested figures.

### **Description of Issue or Defect that Modification Proposal Seeks to Address** (mandatory by proposer):

The current modification decision making process is at times unacceptably slow. This can delay implementation of proposals, even when there is clear majority support for reform. The confidence in the quality of Panel determinations and any subsequent Authority decisions is also in doubt if the Panel is not seen to reflect the balance and breadth of industry views. Allowing Panel to make decisions where there is substantial majority agreement will streamline the Modification Procedures and a simpler constituency based election process carried out at annually will ensure the Panel are responsive to prevailing stakeholder opinion.

A more transparent and easier to understand election process where outcomes are perhaps less dependent on tactical use of the existing preference voting system will enhance the legitimacy of the Panel.

### **Impact on Code** (optional by proposer):

Section B and F.

### **Impact on Core Industry Documents** (optional by proposer):

None

### **Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties** (optional by proposer):

None

### **Impact on other Configurable Items** (optional by proposer):

None

### **Justification for Proposed Modification with Reference to Applicable BSC Objectives** (mandatory by proposer):

By establishing a more 'representative' Panel capable of making quicker determinations on the more straight-forward modification proposals, this proposal *will promote efficiency in the implementation and administration of the balancing and settlement arrangements.*

It will provide a 'filter' process to ensure prompt rejection of non-viable proposals (perhaps dissuading parties from submitting frivolous proposals) and will facilitate earlier implementation of changes that have clear substantial majority support. The Authority will be able to refocus its scarce resources on perhaps the one fifth of proposals that continue to be sent to the authority for a determination.

Parties will still be able to put forward proposals that challenge the status quo. The establishment of a Panel that genuinely represents a broad range of stakeholder will continue to ensure all proposals get a fair hearing. Indeed if a substantial majority of such a diverse Panel agree a particular change is or is not a good idea they are probably right.

## Modification Proposal

**MP No: 129**  
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**Attachments:** NO

**If Yes, Title and No. of Pages of Each Attachment:**

No