

## Responses from P115 Draft Report Consultation

Consultation issued 17 April 2003

Representations were received from the following parties:

No	Company	File Number	No. BSC Parties Represented	No. Non-Parties Represented
1.	IMServ	P115_DR_001	0	1
2.	Aquila Networks	P115_DR_002	1	0
3.	Scottish Power	P115_DR_003	6	0
4.	LE Group	P115_DR_004	9	0
5.	Scottish and Southern	P115_DR_005	4	0
6.	British Gas Trading	P115_DR_006	1	0
7.	Npower	P115_DR_007	9	0
8.	Powergen	P115_DR_008	15	0

P115\_DR\_001 – IMServ

<b>Respondent:</b>	<i>Name Tom Cook</i>
<b>No. of BSC Parties Represented</b>	Nil
<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>	One
<b>Non BSC Parties represented</b>	<i>IMServ</i>
<b>Role of Respondent</b>	<i>Party Agent</i>

<b>Q</b>	<b>Question</b>	<b>Response</b>	<b>Rationale</b>
1	Do you agree with the Panel's views on P115 and the provisional recommendation to the Authority contained in the draft Modification Report that P115 should not be made? Please give rationale.	Yes	Whilst the Proposal has our full support it is accepted that implementation is not straightforward. Therefore, it may not be feasible to proceed.
2	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P115? Please give rationale.	Yes	
3	Are there any further comments on P115 that you wish to make?	No	

**P115\_DR\_002 – Aquila Networks**

Please find that Aquila Networks Plc response to P115 Consultation on draft Modification Report is 'No Impact'.

regards

Rachael Gardener

Deregulation Control Group &  
Distribution Support Office  
AQUILA NETWORKS

P115\_DR\_003 – Scottish Power

<b>Respondent:</b>	<i>Name John W Russell (SAIC Ltd)</i>
<b>No. of BSC Parties Represented</b>	<i>6</i>
<b>BSC Parties Represented</b>	<i>Please list all BSC Parties responding on behalf of (including the respondent company if relevant). Scottish Power UK plc; ScottishPower Energy Trading Ltd.; ScottishPower Generation Ltd.; ScottishPower Energy Retail Ltd.; SP Transmission Ltd.; SP Manweb plc.</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>(Supplier/Generator/ Trader / Consolidator / Exemptable Generator / BSC Agent / Party Agent / other – please state) Supplier / Generator / Trader / Consolidator / Exemptable Generator / Party Agent</i>

<b>Q</b>	<b>Question</b>	<b>Response</b>	<b>Rationale</b>
1	Do you agree with the Panel's views on P115 and the provisional recommendation to the Authority contained in the draft Modification Report that P115 should not be made? Please give rationale.	<b>Yes</b>	<i>We agree with VASMG and the Panels recommendation that without a viable solution, or clear current baseline, it is not possible to adequately assess whether the Proposed Modification would better facilitate the achievement of the Applicable BSC Objectives. Therefore we agree that this Modification should not be made.</i>
2	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P115? Please give rationale.	<b>Yes</b>	<i>Notwithstanding that we disagree with this Modification, we would agree that the long implementation date appears to be appropriate.</i>

Q	Question	Response	Rationale
3	Are there any further comments on P115 that you wish to make?	Yes	<p><i>We are concerned that the report seems to focus too heavily on Supplier Force Majeure (SFM). SFM was viewed as being one potential solution to the problem of the lack of a dispute mechanism covering Supplier Charges. We would suggest that further analysis should be carried out to:</i></p> <p><i>1) Assess the materiality of the issue presented by P115. In particular, this should look at how effective the current Supplier Charges framework is at incentivising non-performing Suppliers to improve.</i></p> <p><i>2) Consider the requirement for some mechanism to be available to Suppliers for them to raise concerns over their Supplier Charges if they believe them to be unrepresentative of their particular situation. This could include some form of dispute mechanism and a facility to disapply the relevant proportion of charges if a "dispute" is upheld.</i></p> <p><i>On the support for P115 expressed in the consultation responses, we would make the point that the consultation responses also raised doubt over the materiality of the issue. In our view, this shows that there is support for a Supplier Charges framework which achieves the objectives that the current framework has (i.e. to incentivise Suppliers to improve performance), but that respondees felt unsure whether this objective was achieved using the current arrangements. In other words, it is not clear until further analysis is carried out whether the current Supplier Charges are "broken".</i></p>

P115\_DR\_004 – LE Group

<b>Respondent:</b>	Paul Chesterman
<b>No. of BSC Parties Represented</b>	9
<b>BSC Parties Represented</b>	LE Group plc, London Electricity plc, Jade Power Generation Ltd, Sutton Bridge Power Ltd, West Burton Power, London Power Networks plc, EPN Distribution Ltd, Seeboard Power Networks plc, Seeboard Energy Ltd,
<b>No. of Non BSC Parties Represented</b>	None that we consider applicable
<b>Non BSC Parties represented</b>	
<b>Role of Respondent</b>	Supplier / Generator / Party Agent / Distribution Business

<b>Q</b>	<b>Question</b>	<b>Response</b>	<b>Rationale</b>
1	Do you agree with the Panel's views on P115 and the provisional recommendation to the Authority contained in the draft Modification Report that P115 should not be made? Please give rationale.	Yes	This is a pragmatic response. We believe that the effort involved in finding a solution (which has so far proved to be very elusive) will far outweigh the scale of the problem.
2	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P115? Please give rationale.	No	We believe that giving an implementation date is redundant, especially in this case where there a viable solution has not been identified.
3	Are there any further comments on P115 that you wish to make?	Yes	We would not wish to see Elexon utilise much resource on this issue. We would prefer to see how the application of Supplier Charges develops as further Serials are introduced. We would suggest the issue is reviewed at the end of this calendar year.

## P115\_DR\_005 – Scottish and Southern

Dear Sirs,

This response is sent on behalf of Scottish and Southern Energy, Southern Electric, Keadby Generation Ltd. and SSE Energy Supply Ltd.

In relation to the three questions listed in the Consultation Paper, contained within your note of 17th April 2003 concerning Modification Proposals P115, we have the following comments to make:-

Q1 Do you agree with the Panel's views on P115 and the provisional recommendation to the Authority contained in the draft Modification Report that P115 should not be made?

Yes. We fully agree with the comments in the Initial Written Assessment (comments that are echoed in sentiment in the Authority's letter of 9th April 2003) that:-

"Supplier Charges seek to incentivise Suppliers to improve performance and are an important aspect of the Performance Assurance Framework. Any change to the way these charges are applied would need to ensure the incentive is adequately maintained and also consider the wider aspects of the PAF."

We are not persuaded that the materiality of the reported defect is sufficient to support this Modification Proposal, particular in light of these IWA comments and the need to ensure that incentives, in regard to performance, are maintained on Suppliers.

In addition we also note the comments in section 4.2 of the Assessment Report concerning the ongoing CoS and CoA initiative and believe this casts further doubts on the materiality of the reported defect.

Please note our following comments should not be construed to lend support whatsoever to this Modification.

Q2 Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P115?

If the Modification Proposal P115 is approved, we agree with the proposed BSC Panel recommendation on the timing for the Implementation Date, as outlined in Section 1.1 of the Modification Report.

Q3 Are there any further comments on P115 that you wish to make?

We do not support retrospective changes to the Code. This gives rise to serious Regulatory Risk for BSC Parties. In the normal course of business we proceed on the basis of the Code (and other industry documents) as they are currently written. If retrospective changes are to be allowed then this opens up serious dangers for all BSC Parties that having proceeded to carry out their business in accordance with the rules and obligations of the BSC, they find their actions to have been wasted. This cannot be said to meet the BSC Objectives.

Regards

Garth Graham  
Scottish and Southern Energy

P115\_DR\_006 – British Gas Trading

<b>Respondent:</b>	Andrew Latham
<b>No. of BSC Parties Represented</b>	British Gas Trading Limited
<b>BSC Parties Represented</b>	1
<b>No. of Non BSC Parties Represented</b>	N/A
<b>Non BSC Parties represented</b>	N/A
<b>Role of Respondent</b>	Supplier

<b>Q</b>	<b>Question</b>	<b>Response</b>	<b>Rationale</b>
1	Do you agree with the Panel's views on P115 and the provisional recommendation to the Authority contained in the draft Modification Report that P115 should not be made? Please give rationale.	Yes	British Gas agrees with The Panel that whilst this Modification is sound in principle it is currently extremely difficult to implement retrospective charges.
2	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P115? Please give rationale.	Yes	
3	Are there any further comments on P115 that you wish to make?	No	

P115\_DR\_007 – Npower

<b>Respondent:</b>	<i>Richard Harrison, Npower Limited</i>
<b>No. of BSC Parties Represented</b>	9
<b>BSC Parties Represented</b>	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
<b>No. of Non BSC Parties Represented</b>	N/A
<b>Non BSC Parties represented</b>	N/A
<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>
1	Do you agree with the Panel's views on P115 and the provisional recommendation to the Authority contained in the draft Modification Report that P115 should not be made? Please give rationale.	Yes	We note the views of the Panel and the Provisional view of the Authority, and are inclined to agree that it would be impracticable to implement the Modification in its present state, and also that this may not be necessary given the Legal advice concerning the Supplier Force Majeure provisions.
2	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P115? Please give rationale.	Yes	In the event that the Authority advises it does require Legal drafting, the proposed implementation timescales should be sufficient to allow this (together with any Code subsidiary document developments).

Q	Question	Response	Rationale
3	Are there any further comments on P115 that you wish to make?	Yes	<p>Whether or not a Modification results, we believe that the process of considering this Proposal has been useful in gaining recognition of a number of issues with the current market arrangements and, hopefully, prompting more action to address these.</p> <p>We note the concerns about the potential impact of dis-applying some SCs under some circumstances on compensation of other market participants. However, we would observe that, where another Supplier or its Agents or an apparent defect or weakness in a market process has impacted a Supplier's performance and hence its SCs, the Supplier concerned currently faces a loss (not shared across the market) for which there is no compensation.</p> <p>We ourselves did some work on looking at how "blame" for individual errors contributing to under-performance could be attributed, which could form the basis of an adjustment solution, but our conclusion was that this is very difficult and potentially costly to do in the context of complex industry processes, and it is probably more worthwhile concentrating on cooperative resolution of the industry process issues.</p> <p>We are not convinced that the "allowances" in some of the current standards adequately reflect some of the market problems which have emerged as the result of changes such as NHH Agent Competition, and we feel that a review of these standards and SCs may be appropriate once some of the current problems have been addressed and new changes such as REMA and the introduction of competition in Distribution have bedded down.</p>

P115\_DR\_008 – Powergen

<b>Respondent:</b>	Afroze Miah
<b>No. of BSC Parties Represented</b>	15
<b>BSC Parties Represented</b>	Powergen UK plc, Powergen Retail Limited, Diamond Power Generation Limited, Cottam Development Centre Limited, TXU Europe Drakelow Limited, TXU Europe Ironbridge Limited, TXU Europe High Marnham Limited, Midlands Gas Limited, Western Gas Limited, TXU Europe (AHG) Limited, TXU Europe (AH Online) Limited, Citigen (London) Limited, Severn Trent Energy Limited (known as TXU Europe (AHST) Limited), TXU Europe (AHGD) Limited and Ownlabel Energy Limited
<b>Role of Respondent</b>	Supplier

<b>Q</b>	<b>Question</b>	<b>Response</b>	<b>Rationale</b>
1	Do you agree with the Panel's views on P115 and the provisional recommendation to the Authority contained in the draft Modification Report that P115 should not be made? Please give rationale.	Yes	Although we agree with the principle behind disapplying supplier charges, the method(s) to do this have been difficult to define and the implications difficult to measure.
2	Do you agree with the Panel's provisional recommendation concerning the Implementation Date for P115? Please give rationale.	Yes	
3	Are there any further comments on P115 that you wish to make?	Yes	We believe further analysis of the current supplier charges regime is required before this modification proposal can be progressed and that this will require some time.