



Direct Dial: 020-7901 7435

3 June 2003

The National Grid Company, BSC Signatories and
Other Interested Parties

Our Ref: MP No P119

Dear Colleague,

Modification to the Balancing and Settlement Code ("BSC") - Decision and Direction in relation to Modification Proposal P119: "Increased flexibility in the reporting of upheld Trading Disputes relating to Credit Default"

The Gas and Electricity Markets Authority (the "Authority")¹ has carefully considered the issues raised in the Modification Report² in respect of Modification Proposal P119, "Increased flexibility in the reporting of upheld Trading Disputes relating to Credit Default".

The BSC Panel (the "Panel") recommended to the Authority that Modification Proposal P119 should be made and that the Implementation Date should be 15 Business Days after the Authority's 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 Authority has decided to direct a Modification to the BSC in line with the Modification Proposal P119.

This letter explains the background and sets out the Authority's reasons for its decision. In addition, the letter contains a direction to National Grid Company plc ("NGC") to modify the BSC in line with Modification Proposal P119, as set out in the Modification Report.

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

² ELEXON document reference P119RR, Version No. 1.0, dated 11 April 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.

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

Background

Section M3.5.1(a) of the BSC states that where a Trading Party has been treated as in Credit Default, but it is subsequently determined that they should not have been treated as being in Credit Default, "...BSCCo will post a notice on the BMRS and BSC Website, referring to the relevant notices of Credit Default and stating that the Party should not have been in Credit Default". At present, there is not a process to allow notices of upheld Trading Disputes relating to Credit Default to be published on the Balancing Mechanism Reporting Service ("BMRS"). Changes would therefore have to be made to the BMRS or ELEXON, as BSCCo, could find itself in breach of the requirements of the BSC. The costs for making the necessary changes to the BMRS and the associated operational costs have not yet been ascertained and are being considered under Change Proposal 917 (CP917) "Reporting of upheld Trading Disputes relating to Credit Default on the BMRS". However, there is concern that the cost of these changes could be significant, but that the benefits to Parties arising out of the changes would be minimal.

In order to rectify this situation, BSCCo submitted Modification Proposal P119, "Increased flexibility in the reporting of upheld Trading Disputes relating to Credit Default" on 19 February 2003, on behalf of the Panel.

The Modification Proposal

Modification Proposal P119 seeks to modify the BSC so as to allow the outcome of upheld Trading Disputes relating to Credit Default notices to be published on either, or both, the BMRS and the BSC website, rather than both as currently required. The justification for the Modification Proposal was that it would better facilitate achievement of the Applicable BSC Objective⁴ C3 (3) (d).

If CP917 is authorised, Modification Proposal P119 would enable upheld Trading Disputes to be automatically published (alongside Credit Default statements⁵) on the BMRS. If the costs involved in implementing CP917 prove to be unacceptable, implementation of Modification Proposal P119 would allow ELEXON to publish outcomes of upheld Trading Disputes relating to Credit Default notices solely on the BSC Website, without being in breach of the BSC. Authorisation of CP917 in conjunction with Modification Proposal P119 would give ELEXON

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.

⁵ Credit Default statements will be published on the BMRS upon implementation of CP703 "Credit Default Process".

the option to publish outcomes on both the BMRS and BSC Website, thereby giving additional robustness to cover any individual system failure.

The Panel considered the Initial Written Assessment at its meeting of 13 March 2003 and agreed to submit Modification Proposal P119 directly to the Report Phase. ELEXON published a draft Modification Report on 19 March 2003, which invited respondents' views by 28 March 2003.

Respondents' views

ELEXON received five responses to the consultation on Modification Proposal P119. Four responses (representing 12 Parties) expressed unreserved support for the Proposed Modification, and the remaining one (representing 15 Parties) expressed support for the principle of the Proposal, but expressed reservations regarding the lack of information on the implementation cost of CP917.

The respondents' views are summarised in the Modification Report for Modification Proposal P119, which also includes the complete text of all respondents' replies.

Panel's recommendation

The Panel met on 10 April 2003 and considered the Modification Proposal P119, the draft Modification Report and the consultation responses received.

The Panel recommended that the Authority should approve the Proposed Modification and that, if approved, the Proposed Modification should be implemented 15 Business Days after any such Authority approval.

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 Proposed Modification P119 will better facilitate achievement of the Applicable BSC Objectives.

Ofgem considers that the current requirement to publish the outcome of upheld Trading Disputes in relation to Credit Default notices on both the BMRS and BSC Website is to maximise Parties' exposure to the decision, so as to protect the reputation of the Trading Party who has been incorrectly treated as being in Credit Default. However, Ofgem is mindful of the support that respondents have given to the Proposal, which indicates that they do not consider that the change to a situation where the publication of upheld Trading Dispute notices is on either of the BMRS or the BSC Website would have any substantial adverse impact with regards the protection of their interests and reputations. The Modification Report also includes a confirmation that ELEXON Circulars will continue to be sent following Trading Dispute Committee meetings so as to provide added visibility for BSC Parties on the outcome of Trading Disputes. Accordingly, Ofgem's view is that the operational flexibility provided by the implementation of Modification Proposal P119 better facilitates achievement of Applicable BSC Objective (d).

Ofgem notes the concerns of the respondent who considered that it would be imprudent to give unqualified support to the Modification Proposal without first knowing the implementation costs for CP917. Ofgem's view is that the flexibility given by the implementation of Modification Proposal P119 should ensure that the decision on whether to authorise CP917 can be made on the basis of CP917's own merits and cost-effectiveness.

The Authority's decision

The Authority has therefore decided to direct that the Proposed Modification P119, 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 Modification Report.

The Implementation Date for Modification Proposal P119 is 15 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 'DE', is positioned above the printed name and title of the signatory.

David Edward
Head of Electricity Code Development

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