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MODIFICATION REPORT
MODIFICATION PROPOSAL P113 –
E-mail Communications under the
Code

Prepared by ELEXON on behalf of the Balancing
and Settlement Code Panel

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I DOCUMENT CONTROL

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b Distribution

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The Gas and Electricity Markets Authority	Ofgem
Each BSC Panel Member	Various
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c References

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1	BSC Panel Paper 52/021	ELEXON	14 November 2002	FINAL
2	P113 – Initial Assessment	ELEXON	12 December 2002	1.0

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1 SUMMARY AND RECOMMENDATIONS

1.1 Recommendation

On the basis of the analysis undertaken in respect of this Modification Proposal during the Initial Assessment Phase, and the resultant findings of this report, the Balancing and Settlement Code Panel ('the Panel') recommends that:

The Proposed Modification P113 should be made with an Implementation Date of 13 weeks after the day of an Authority decision.

1.2 Background

Modification Proposal P113 'E-mail Communications under the Code' (P113) was raised on 27 November 2002 on behalf of the Panel, following ELEXON's recommendation to the Panel at its meeting of 14 November 2002 that a Modification Proposal be raised (Paper 52/021, Reference 1). An Initial Written Assessment (IWA) was submitted to the Panel on 12 December 2002 (P113 – Initial Assessment, Reference 2), where the Panel agreed with ELEXON's recommendation that P113 should proceed directly to the Report Phase since the changes proposed by the Modification are of a minor and inconsequential nature. After consultation with interested parties, the Panel considered the draft Modification Report at its meeting of 16 January 2003 and determined to make the recommendations set out above.

1.3 Rationale for Recommendations

P113 proposes to clarify within the Balancing and Settlement Code ('the Code') that where a general communication is to be given by ELEXON, the Panel, a Panel Committee, a Modification Group, or their respective secretaries, to all Parties (or class of Parties) simultaneously the communication may be given by e-mail. Existing provisions within the Code provide for particular communications to a Party to be given by postal mail or facsimile, and these provisions are not sufficiently clear that they exclude general communications to all Parties. The Code is currently silent on the provision of correspondence by e-mail.

ELEXON's current practice is that communications to be given simultaneously to all Parties are sent by e-mail, and examples of such correspondence include ELEXON Circulars and communications to all interested parties regarding Modification Proposals. ELEXON believes that e-mail represents the most efficient form of communication in such cases since it enables fast dissemination of information to large numbers of recipients (typically several hundred per communication). If such correspondence was to be sent by means other than e-mail this would add considerably to the cost to ELEXON of making such communications (both financially and in terms of time spent) and would potentially lengthen the time between information becoming available and its communication to interested parties.

P113 is not intended to alter the provisions by which specific communications are given to individual Parties.

The Panel therefore believes that a modification to the Code, to confirm existing practice with respect to such communications, would better facilitate the objective in Condition C3(3)(d) of the Transmission Licence – i.e. promoting efficiency in the implementation and administration of the balancing and settlement arrangements. P113 has no impact on any of the other objectives, as set out in Condition C3(a) to (c).

The proposed changes have no impact on any Party or BSC Systems. The effect of the changes is to increase efficiency in the administration of BSC processes and, accordingly, the Modification Proposal has been raised under paragraph C 3.8.8 of the Code with a view to increasing efficiency and better achieving the objective in Condition C3(3)(d).

2 INTRODUCTION

This Report has been prepared by ELEXON Ltd., on behalf of the Panel, in accordance with the terms of the Code. The Code is the legal document containing the rules of the balancing mechanism and imbalance settlement process and related governance provisions. ELEXON is the company that performs the role and functions of the BSCCo, as defined in the Code.

This Modification Report is addressed and furnished to the Gas and Electricity Markets Authority ('the Authority') and none of the facts, opinions or statements contained herein may be relied upon by any other person.

An electronic copy of this document can be found on the BSC Website, at www.elexon.co.uk.

3 HISTORY OF PROPOSED MODIFICATION

At the meeting of the Panel held on 14 November 2002 ELEXON recommended that a Modification Proposal be raised in accordance with paragraph F 2.1.1(d)(iv) of the Code. These provisions provide the Panel with the authority to raise a Modification where to do so would better facilitate achievement of the objective of 'efficiency in the implementation and administration of the balancing and settlement arrangements' or would have the purpose 'to rectify manifest errors in or to correct minor inconsistencies (or make other inconsequential changes) to the Code'. The Panel agreed with ELEXON's recommendation to raise a Modification, and P113 was raised on behalf of the Panel on 27 November 2002.

An Initial Assessment of P113 was presented to the Panel at its meeting of 12 December 2002. The Panel determined that P113 should proceed directly to the Report Phase in accordance with paragraph F 2.7 of the Code. This decision was made in view of the guidance provided in paragraph F 2.2.4, which states:

'For the avoidance of doubt, it is expected that the Panel would usually proceed directly to the Report Phase pursuant to paragraph 2.2.3(b)(iii) where the Modification Proposal is of a minor or inconsequential nature and/or where the recommendation which the Panel should make to the Authority in relation to such Modification Proposal would generally be considered to be self-evident.'

Accordingly, a draft Modification Report was prepared and issued for consultation on 17 December 2002. A summary of the responses received can be found in Section 6 of this report and copies of all responses are attached as Annex 1.

4 DESCRIPTION OF PROPOSED MODIFICATION

P113 seeks to clarify within the Code that where a general communication is to be given by ELEXON, the Panel, a Panel Committee, a Modification Group, or their respective secretaries, to all Parties (or class of Parties) simultaneously the communication may be given by e-mail.

The existing provisions within the Code provide for particular communications to be given to a Party, and require these communications to be given by conventional means such as postal mail or facsimile. These provisions do not make it sufficiently clear that they exclude general communications to all Parties.

It is ELEXON's current practice that general communications, requiring correspondence with large numbers of recipients (typically several hundred per communication), are sent by e-mail. Examples of such communications include:

- ELEXON Circulars issued by ELEXON to all interested parties;
- Distribution of information to all BSC Parties and other interested parties (as defined in F 1.1.2(b) of the Code) by ELEXON in respect of Modification Proposals;
- Distribution of information to all BSC Change Administrators and Party Agent Change Administrators from ELEXON in accordance with BSCP40 in respect of Change Proposals and Modification Proposals;
- Distribution of the meeting dates, agendas, papers and minutes of the Panel and Panel Sub-Committees by ELEXON; and
- Correspondence from Lead Analysts to Modification Group members regarding Modification Proposals.

It is also ELEXON's practice that, with the exception of confidential ELEXON Circulars sent to all BSC Signatories, such communications are simultaneously published on the relevant areas of the BSC Website – including either a copy of the original circular and its attachments or other documentation as relevant.

ELEXON believes that, in the case of such general communications, e-mail represents the most efficient means of correspondence – enabling fast dissemination of information to large numbers of interested parties. P113 therefore proposes to clarify the Code to reflect current practice with regard to such communications. The Proposed Modification is not intended to alter the provisions by which particular communications are given to individual Parties.

5 ASSESSMENT

The proposed changes are of a minor and inconsequential nature, and have no impact on any BSC systems or Party systems and processes. No impact on any ELEXON systems or processes has been identified, since the proposed changes would confirm existing practice.

No major issues relating to P113 were identified by the IWA. However, 3 minor issues were identified during the drafting of legal text at the Initial Assessment stage, and these were discussed at the Panel meeting of 12 December 2002:

- Contingency provisions in the event of e-mail failure.

Should a prolonged period of e-mail outage occur, ELEXON's Business Continuity Plan provides for the use of alternative forms of communication including (but not limited to) the temporary use of internet-based e-mail accounts and communication by fax. These provisions are continuously assessed for their robustness and to ensure that, should they be invoked, any disruption to normal communication is minimised.

Whilst recognising the need for such contingency provisions, this issue is not felt to detract from the efficiency of e-mail as a form of communication or to be material to the progression of P113.

- When an e-mail should be deemed by ELEXON to have been received by Parties.

ELEXON considers that e-mail delivery receipts are not a reliable means of deeming receipt by Parties since they rely on the particular configuration and operation of recipients' e-mail systems. ELEXON therefore believes that an e-mail should be deemed to have been received one hour after it has been successfully transmitted past ELEXON's e-mail firewall. If the conclusion of this hour falls after 5pm on the day of transmission, the e-mail shall be deemed to have been received at 9am on the following day. Communications sent by e-mail in respect of Urgent Modification Proposals would form an exception to the above, with such communications deemed to have been received one hour after successful transmission. Where communications regarding Urgent Modifications are to be sent outside of working hours, ELEXON will (where possible) provide advance notice of its intent to issue such communications.

Where a communication may not be received by a Party within this time due to problems with that Party's e-mail system – resulting in an undeliverable receipt being received by ELEXON – ELEXON will endeavour to contact the Party concerned in order to issue the communication to that Party by alternative means. A Panel member noted that undeliverable receipts might be received after the time of deemed receipt had passed and ELEXON confirmed that, where such receipts were received, attempts would still be made to contact the Party concerned. However, ELEXON advised that such late receipts were likely to result from problems with a Party's e-mail system, and that the responsibility to maintain a fully functional system would necessarily lie with that Party. Whilst ELEXON acknowledges a distinction between the receiving and reading of an e-mail, it is considered that this is consistent with communication by fax or post where successful issue of correspondence, rather than its reading by the intended recipient, is ascertained.

A Panel member expressed concern that the proposed legal text regarding receipt of e-mail did not make a distinction between a Working Day and non-Working Day. ELEXON advised that the text had been drafted to be consistent with the current provisions within the Code concerning communication by fax (paragraph A 9.2.2 (c) of the Code), which do not currently make such a distinction.

- How e-mail addresses are notified to ELEXON by Parties for such communications.

Currently, the means by which BSC Parties, Party Agents and other interested parties notify ELEXON of the e-mail addresses to which they wish to receive particular types of general communications are documented within relevant Balancing and Settlement Code Procedures (BSCPs) or ELEXON working practices. Should P113 be approved by the Authority, ELEXON shall undertake a review of this documentation to ensure that existing provisions within BSCPs are robust and that any notifications of e-mail addresses currently documented in ELEXON working practices are incorporated into existing relevant BSCPs. The proposed implementation timescale for P113 therefore allows for any resulting changes to BSCPs to be drafted by ELEXON and agreed by the relevant Panel Sub-Committee(s).

The Panel were satisfied with the responses provided to address these issues and confirmed their recommendation that the Proposed Modification should be made.

6 SUMMARY OF REPRESENTATIONS

[Summary of responses to consultation on Draft Modification Report to be inserted here, with copies of all responses attached as Annex 1]

7 LEGAL TEXT TO GIVE EFFECT TO THE PROPOSED MODIFICATION

7.1 Conformed Version

Attached as separate document (see Annex 2 to this report).

ANNEX 1 – REPRESENTATIONS

[Insert copies of representations on Draft Modification Report]

ANNEX 2 – CONFORMED LEGAL TEXT

Attached as separate document.