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4 February 03

The National Grid Company, BSC Signatories and
Other Interested Parties

Our Ref: MP No P108

Dear Colleague,

Modification to the Balancing and Settlement Code ("BSC") - Decision and Direction in relation to Modification Proposal P108: "Modification to enable BSCCo to prepare for the implementation of British Electricity Trading and Transmission Arrangements (BETTA)"

The Gas and Electricity Markets Authority (the "Authority")¹ has carefully considered the issues raised in the Modification Report² in respect of Modification Proposal P108, "Modification to enable BSCCo to prepare for the implementation of British Electricity Trading and Transmission Arrangements (BETTA)".

The Balancing and Settlement Code Panel (the "Panel") recommended to the Authority that the Proposed Modification P108 should be made with an Implementation Date of 2 Business Days after the date of the Authority's decision.

The Authority has decided to direct a Modification to the BSC.

This letter explains the background and sets out the Authority's reasons for its decision. In addition, the letter contains a direction to The National Grid Company plc ("NGC") to modify the Balancing and Settlement Code ("BSC") in line with Modification Proposal P108, as set out in the Modification Report.

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

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

² ELEXON document reference P108RR, Version No. 1.0, dated 17 January 2003

Background

British Gas Trading Ltd submitted Modification Proposal P108, "Modification to enable BSCCo to prepare for the implementation of British Electricity Trading and Transmission Arrangements (BETTA)" on 1 November 2002. The justification for the Modification Proposal was that it would better facilitate achievement of the Applicable BSC Objective³ C3 (3) (e).

The Panel considered the Initial Written Assessment at its meeting of 14 November 2002 and agreed to submit Modification Proposal P108 to a one-month Assessment Procedure. The Governance Standing Modification Group (the "Group") considered the Modification Proposal over the course of two meetings (15 and 29 November 2002). It issued a consultation document to industry participants on 19 November 2002 and requested a High Level Impact Assessment from Parties and the Transmission Company on the same date. The closing date for responses to both of these issues was 26 November 2002.

In the light of the responses received, the Group concluded that the Proposed Modification better facilitated achievement of Applicable BSC Objective C3 (3) (e). An Assessment Report was presented to the Panel at its meeting of 12 December 2002, where the Panel agreed that the Proposed Modification should proceed to the Report Phase.

The Modification Proposal

Currently, licensed Generators and Suppliers in England and Wales have to sign up and comply with the requirements of the BSC, whilst those in Scotland have to comply with the Settlement Agreement for Scotland ("SAS"). The British Electricity Trading and Transmission Arrangements ("BETTA") aim to introduce a single set of trading rules and connection rules for Great Britain. Ofgem and the Department of Trade and Industry (DTI) are committed to working towards the introduction of BETTA no later than April 2005, although for planning and operational purposes the target implementation date is October 2004.

Modification Proposal P108 seeks to modify the BSC so as to authorise BSCCo to provide or procure assistance to the Authority in connection with the development of BETTA. The particular issues it proposes are that:

a) BSCCo be authorised to provide or procure assistance to the Authority in connection with the development and implementation of BETTA, primarily in the following areas:

³ The Applicable BSC Objectives, as contained in Condition C3 (3) of National Grid Company'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.

- i) identification of the changes to systems and contracts of BSC Agents required to support the implementation of BETTA;
 - ii) progression of the above changes;
 - iii) identification of the changes required to the drafting of the BSC and associated Subsidiary Documents in order to support the implementation of BETTA ; and
 - iv) planning and preparing for the transition (from the existing arrangements in England and Wales and in Scotland) to and introduction of a GB BSC.
- b) The scope of the work undertaken by BSCCo should be limited to that necessary and timely for the effective implementation of BETTA and that is relevant to the proposed GB BSC.
- c) The authorisation to be given by this Modification Proposal (if approved) is to be time-limited. The Group concluded that the duration of the authorisation should cease when Applicable BSC Objective (e), ceases to have force.
- d) BSCCo would be able to request services from BSC Agents, and use and disclose BSC data and systems for the purposes of providing assistance to the Authority.
- e) Each area of work must be proposed by BSCCo and approved by the Authority prior to its commencement.
- f) Costs incurred by BSCCo in providing such assistance to the Authority must be separately identified.
- g) The BSCCo Board should monitor and control the company's activities and costs and BSCCo should make available to BSC Parties regular reports on the progress and costs of its BETTA activities.

The Proposer suggested that BSCCo must contribute to BETTA implementation to increase assurance that the target BETTA implementation date will be met.

ELEXON published a draft Modification Report on 16 December 2002, which invited respondents' views by 3 January 2003.

Respondents' views

ELEXON received eight responses to the consultation on Modification Proposal P108. Two responses (representing 4 Parties) expressed unreserved support for the Proposed Modification and five others (representing 30 Parties) gave their support, but with some reservations. One respondent (representing 1 Party) gave a "No Comment" response.

The main concerns of respondents with reservations were the uncertainties relating to both the costs to be incurred by the BETTA work and the mechanisms for their subsequent recovery.

The respondents' views are summarised in the Modification Report for Modification Proposal P108, which also includes the complete text of all respondents' replies.

Panel's recommendation

The Panel met on 16 January 2003 and considered the Modification Proposal P108, the draft Modification Report, the views of the Modification Group 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 2 Business Days after any such Authority approval.

Ofgem's view

Ofgem considers, having had regard to the Applicable BSC objectives and its statutory duties, that Modification Proposal P108 will better facilitate achievement of the Applicable BSC Objective C3 (3) (e).

Modification Proposal P108 enables BSCCo to provide or procure assistance to the Authority in connection with the development of BETTA. Ofgem takes the view that there are exceptional circumstances that require that BSCCo is able to contribute to the implementation of BETTA. Such circumstances are the importance of introducing BETTA in a timely manner, as demonstrated by the Government's commitment to introduce primary legislation to support it as soon as Parliamentary time allows⁴. Additionally, there is work that only BSCCo, through its contracts with service providers can undertake.

The majority of responses to ELEXON's consultation on Modification Proposal P108 support the Panel's view that the Proposal better facilitates achievement of the Applicable BSC Objective C3 (3) (e). Ofgem notes that Modification Proposal P108 refers to an Implementation Date for BETTA of April 2004. The DTI has recently announced that, subject to Parliamentary time being available, it is working towards the creation of a GB wide electricity market in October 2004. Ofgem considers that the change in the anticipated Implementation Date does not remove the need for BSCCo to assist the Authority in preparing for BETTA.

Ofgem notes that a number of respondents to ELEXON's consultation raised concerns about recovery of costs incurred by BSCCo in preparing for the implementation of BETTA, and in particular the need to be clear about from whom implementation cost should be recovered. Two respondents were also concerned about the allocation of initial funding costs. In the July 2002 and September 2002 consultations⁵ on the proposed modification to NGC's Transmission Licence, Ofgem outlined the possible need for the costs of ELEXON work related to BETTA to be funded by England and Wales Parties in the first instance, with cost-recovery arrangements being considered in a future consultation document. Ofgem will shortly be publishing a consultation on the issue of cost-recovery under BETTA.

⁴ Hansard, 15th April 2002 Official Report Column 748W

⁵ 'ELEXON and the introduction of BETTA: An Ofgem Initial Consultation on a Modification to NGC's Transmission Licence', Ofgem, July 2002, and 'ELEXON and the introduction of BETTA: Conclusions on the Proposed Modification to NGC's Transmission Licence under Section 11A Notice to modify NGC's Transmission Licence', Ofgem, September 2002.

Respondents also sought reassurance that BSCCo will continue to be able to fulfil its primary objectives under the BSC. Ofgem notes that Modification Proposal P108 specifically requires that any work undertaken by BSCCo to assist the Authority in preparing for the implementation of BETTA, should be without prejudice to the discharge of its other functions and responsibilities in accordance with Section C, paragraph 1.3.1 of the BSC.

Ofgem is content that Modification Proposal P108 will allow BSCCo to engage only in specific additional activities that are necessary for BETTA implementation. The Authority will approve each area of work that BSCCo proposes to undertake in preparation for the implementation of BETTA.

Ofgem agrees with the Panel's recommendation that Modification Proposal P108 should be made and implemented.

The Authority's decision

The Authority has therefore decided to direct that the Proposed Modification P108, as set out in the Modification Report for Modification Proposal P108, 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 P108 is 2 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,



David Haldearn

Director - Scotland and Europe

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