



March 2003

MODIFICATION REPORT
MODIFICATION PROPOSAL P107–
Data Retention Requirements for Post-Final Trading Disputes

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

Document Reference P107RR
Version no. 1.0
Issue Final
Date of Issue 17 March 2003
Reason for Issue Authority decision
Author ELEXON

I DOCUMENT CONTROL

a Authorities

Version	Date	Author	Signature	Change Reference
0.1	18/02/03	Change Delivery		For Peer Review
0.2	19/02/03	Change Delivery		For Consultation
0.3	28/02/03	Change Delivery		For Formal Review
0.4	06/03/03	Change Delivery		For Final Review
0.5	07/03/03	Change Delivery		For Panel Review
1.0	17/03/03	Change Delivery		For Authority Decision

b Distribution

Name	Organisation
Each BSC Party	Various
Each BSC Agent	Various
The Gas and Electricity Markets Authority	Ofgem
Each BSC Panel Member	Various
energywatch	energywatch
Core Industry Document Owners	Various

c Related Documents

Reference	Document
Reference 1	Assessment Report Modification P107– 'Data Retention Requirements for Post-Final Trading Disputes' (P107AR10, 13 February 2003)
Reference 2	Initial Written Assessment of Modification Proposal P107 'Initial Assessment Of Modification Proposal P107 – 'Data Retention Requirements for Post-Final Trading Disputes' (P107IR V1.0, 8 November 2002)
Reference 3	Modification Proposal P107 - 'Data Retention Requirements for Post-Final Trading Disputes' (30 October 2002)

d Intellectual Property Rights and Copyright

This document contains materials the copyright and other intellectual property rights in which are vested in ELEXON Limited or which appear with the consent of the copyright owner. These materials are made available for you to review and to copy for the purposes of the establishment, operation or participation in electricity trading arrangements in Great Britain under the BSC. All other commercial use is prohibited. Unless you are a person having an interest in electricity trading in Great Britain under the BSC you are not permitted to view, download, modify, copy, distribute, transmit, store, reproduce or otherwise use, publish, licence, transfer, sell or create derivative works (in whatever format) from this document or any information obtained from this document otherwise than for personal academic or other non-commercial purposes. All copyright and other proprietary notices contained in the original material must be retained on any copy that you make. All other rights of the copyright owner not expressly dealt with above are reserved.

II CONTENTS TABLE

I	Document Control	2
a	Authorities	2
b	Distribution	2
c	Related Documents.....	2
d	Intellectual Property Rights and Copyright.....	2
II	Contents Table	3
1	Summary and Recommendations	4
1.1	Recommendation.....	4
1.2	Background	4
1.3	Rationale for Recommendations	4
2	Introduction	4
3	History of the Modification	5
4	Description of the Modification Proposal	6
4.1	Proposed Modification	6
5	Rationale for the Panel Recommendations	6
5.1	Applicable BSC Objectives – Proposed Modification	7
6	Legal Text to Give Effect to the Proposed Modification	7
6.1	Changes to legal text since assessment.....	7
6.2	Summary of legal text.....	8
7	Assessment Issues for Modification Proposal P107	8
7.1	Trading Dispute and data retention Time-scales	9
7.2	Implementation	11
8	Summary of Representations	14
8.1	Views on the Panel's recommendation in regards to the Proposed Modification.....	14
8.2	Views on the legal text.....	15
8.3	Views on time scales for provision of data to be used in Extra-Settlement Determination .	15
8.4	Views on the Implementation	16
8.5	Further Comments.....	16
	Annex 1 – Representations	18
	Annex 2 - Potential Trading Query / Trading Dispute Timeline	19

1 SUMMARY AND RECOMMENDATIONS

1.1 Recommendation

On the basis of the analysis, consultation and assessment undertaken in respect of this Modification Proposal during the Modification Procedure, and the resultant findings of this report, the Balancing and Settlement Code Panel (the Panel) recommends that:

Proposed Modification P107 should be made.

The Implementation Date for Proposed Modification P107:

- **Should be 4 November 2003, should the Authority determination be received before 2 May 2003; or**
- **Should an Authority determination be received on or after this date, but prior to 22 August 2003 then the Implementation Date should be 24 February 2004.**

If approved P107 should be implemented on a calendar day basis.

1.2 Background

P107 seeks to refine the existing cut-off points defined within the Balancing and Settlement Code (the Code), associated with raising and resolving a Trading Dispute post the Final Settlement Run. P107 also seeks to include within the Code appropriate data retention obligations on Parties, Party Agent and relevant BSC Agents. In addition P107 seeks to implement appropriate data transfer arrangements on change of Party Agent.

1.3 Rationale for Recommendations

The Panel supported the rationale for the recommendations made by the Governance Standing Modification Group (GSMG) with regard to Proposed Modification P107 (Section 5) and on the basis of this rationale, the Panel recommended that Proposed Modification P107 should be made.

The Panel was in agreement with the view of the GSMG that implementing P107 would introduce certainty into the Trading Disputes process and bring the Code closer to existing industry practice. Therefore P107 would better facilitate achievement of Applicable BSC Objective (d), in that it would promote efficiency in the implementation and administration of the balancing and settlement arrangements.

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 THE MODIFICATION

Modification Proposal P107 'Data Retention Requirements for Post-Final Trading Disputes', (Reference 3), was submitted on 30 October 2002 by SSE Energy Supply Limited, in accordance with Section F, 2.1.1 of the Code.

The Initial Written Assessment for P107 (Reference 2) was presented to the Panel on 14 November 2002 (Panel 52/017), where it was agreed that P107 be submitted to a 3-month Assessment Procedure. The GSMG (supported by the Settlement Standing Modification Group, the Volume Allocation Standing Modification Group and the Trading Disputes Committee (TDC)) has progressed P107 through the Assessment Procedure.

During the Assessment Procedure, the GSMG met three times, to assess P107 against the assessment criteria identified, consider the consultation and impact assessment responses and to agree recommendations to the Panel in respect of P107.

An assessment consultation on the GSMG initial requirements for P107 was issued on 13 December 2002, with responses received by 10 January 2003. In addition to the consultation request, Gemserv were requested to issue the consultation paperwork to Master Registration Agreement (MRA) Contract Managers for consideration and comment in the same time scales. ELEXON also distributed the consultation paperwork to the Software Technical Advisory Group (STAG) and also the Supplier Agent Forum (SAF) for consideration and comment.

Following consideration of responses to the first assessment consultation the GSMG produced a refined set of requirements for P107. A second assessment consultation was issued to Parties on 28 January 2003 with responses received by 03 February 2003. ELEXON also distributed the second set of consultation paperwork to the STAG and SAF for consideration and comment. A Detailed Level Impact Assessment (DLIA) request was issued to Parties and Party Agents on 28 January 2003 via MC00037, with responses due on 3 February 2003. In addition DLIA requests were issued to a number of BSC Agents (SVAA, FAA, SAA, ECVAA, CRA and CDCA).

The GSMG met on 4 February 2003 to consider responses in respect of the second assessment consultation and DLIA's, finalise assessment of P107, and to agree the Assessment Report and the GSMG's recommendations in respect of P107.

The GSMG unanimously agreed that the Proposed Modification should be made.

The Panel considered the Assessment Report at its meeting of 13 February 2003 (Panel 58/009), and agreed to provisionally endorse the recommendations of the GSMG, that the Proposed Modification should be made. Therefore, the Panel agreed to submit P107 to the Report Phase.

The Panel further agreed that, if the Authority determined that the Proposed Modification should be made, an Implementation Date of 4 November 2003, should the Authority determination be received before 2 May 2003. Should an Authority determination be received on or after this date, but prior to 22 August 2003 then the Implementation Date should be 24 February 2004.

The Panel agreed that, if approved, P107 should be implemented on a calendar day basis.

The Panel noted the development and implementation costs associated with the Proposed Modification which comprise an estimated BSC Agent total estimated cost of £25,000 and 122 man-days of BSCCo effort.

The draft Modification Report, containing the provisional recommendations of the Panel, was provided to industry for consultation on 19 February 2003, allowing 8 working days for responses (due on 03 March 2003).

The consultation responses made in respect of the Draft Modification Report were received on 03 March 2003. The majority of the respondents indicated support for the provisional recommendation contained within the draft Modification Report, namely that the Proposed Modification should be made.

The Panel considered the draft Modification Report and the consultation responses made in respect of the report at its meeting of 13 March 2003 (Panel59/009) and unanimously agreed to confirm its provisional recommendation that the Proposed Modification should be made.

4 DESCRIPTION OF THE MODIFICATION PROPOSAL

4.1 Proposed Modification

P107 seeks to refine the existing cut-off points defined within the Code, associated with raising and resolving a Trading Dispute post the Final Settlement Run. P107 also seeks to include within the Code appropriate data retention obligations on Parties, Party Agent and relevant BSC Agents. In addition P107 seeks to implement appropriate data transfer arrangements. To achieve this, the GSMG have agreed that:

- The cut-off point for raising a Trading Query should be 20 months after the Settlement Day;
- The cut-off point for a Post-Final Settlement Run should be 28 months after the Settlement Day;
- The existing ability of the Panel to authorise Settlement Runs beyond the normal cut-off (28 months under P107), as detailed in Section U2.2.4 of the Code, should be removed;
- No cut-off point will be specified for undertaking an Extra-Settlement Determination. Typically these will be undertaken by 40 months after the Settlement Day. Industry would be notified of any requirement to undertake an Extra-Settlement Determination beyond this point;
- Parties, Party Agents and the relevant BSC Agents will be required to retain a minimum of 40 months of Settlement data (with 28 months being retained in the live operational environment and the further 12 months being retained either in the live operational environment or using an appropriate archiving mechanism);
- Data transfer obligations, on change of Party Agent, within a number of Code Subsidiary Documents would be revised to ensure consistency with the Code following implementation of P107; and
- The above requirements should not compromise the Past Notification Error (P6) or the large Annualised Advance (AA) / Estimate Annual Consumption (EAC) issue. For example it would be possible to process P6 claims via Post Final Settlement Runs beyond 28 months if required.

5 RATIONALE FOR THE PANEL RECOMMENDATIONS

The Panel supported the rationale for the recommendations made by the GSMG with regards to P107 and on the basis of this rationale, the Panel recommended that the Proposed Modification should be made.

The GSMG identified a set of issues that were the key areas to be considered in the assessment of P107, and therefore to be considered when assessing whether P107 better facilitates achievement of the Applicable BSC Objectives. The discussions and considerations of the GSMG with respect to these issues are set out in the Assessment Report (Reference 1) and are summarised in this document (section 7).

5.1 Applicable BSC Objectives – Proposed Modification

The GSMG's rationale for recommending approval of P107 is that the current protracted nature of the process outlined in the Code for raising Post-Final Trading Queries / Trading Disputes implies onerous and expensive data retention requirements for Parties, Party Agents and BSC Agents and is inconsistent with industry working practices (both in terms of when Post-Final Trading Queries / Trading Disputes are raised and resolved and also in terms of how much data is retained by the industry).

It was the view of the GSMG that implementing P107 would introduce certainty into the Trading Disputes process and bring the Code closer to existing industry practice (as outlined in Code Subsidiary Documents), thereby better facilitating achievement of the Applicable BSC Objective (d):

'Promoting efficiency in the implementation and administration of the balancing and settlement arrangements'

It was noted by the GSMG that a minority of consultation responses indicated that P107 could also better facilitate Applicable BSC Objective (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'

on the basis that P107 will result in reduced data retention costs, decreasing the price of market entry, thus better facilitating the achievement of Applicable BSC Objective (c). However it was the view of the GSMG that P107 would not have an effect on Applicable BSC Objective (c).

In conclusion the GSMG agreed that, P107 would better facilitate the Applicable BSC Objectives and should be made.

The GSMG agreed that P107, if approved, should be implemented on a calendar day basis. The GSMG believed that this approach was necessary to address the defect identified by P107 (section 7.2). Furthermore the GSMG believed that this rule change would not affect the behaviour of industry participants in a way that would distort the market in their favour, nor would it affect the expected material outcome of the rectification process.

6 LEGAL TEXT TO GIVE EFFECT TO THE PROPOSED MODIFICATION

6.1 Changes to legal text since assessment

In light of legal advice received following presentation of the P107 Assessment Report to the Panel on 13 February 2003 the legal text to give effect to Proposed Modification P107 was revised. The revised legal text does not materially change the principles of the Proposed Modification and does not constitute an Alternative Modification. The draft Modification Report was issued for consultation containing the revised version of the legal text (section 8). The GSMG has agreed that the revised text addresses the defect identified within the Modification Proposal.

P107 seeks to reduce the time limit in which a Trading Query/ Trading Dispute can be raised from 36 to 20 months. The majority of Trading Disputes, resolved post the Final Settlement Run, are processed via

a Post Final Settlement Run at or around 24 months after the relevant Settlement Day, it is not envisaged that this would change under P107. Currently it is possible for a Trading Query/ Trading Dispute to be raised on such Post Final Settlement Run, as it is within 36 months of the relevant Settlement Day. Were P107 implemented using the legal text included in the Assessment Report, Parties would lose the opportunity to raise a Trading Query/ Trading Dispute on a Post Final Settlement Run or Extra Settlement Determination which did not occur within 20 months. Legal advice indicated it would be unreasonable to restrict the right of a Party to challenge an error in a Settlement Run or Extra-Settlement Determination.

Changes to the legal text to give effect to P107 since the Assessment Report was issued can be summarised as follows:

- Paragraph U 2.6.1 amended such that a Party has the ability to dispute or challenge the data used in or the results of any Extra-Settlement Determination.
- New Paragraph U 2.6.3 added in order to clarify that, it is possible to dispute or challenge an Extra-Settlement Determination, but this dispute or challenge can not be based on the fact that Extra-Settlement Determination is an estimated or approximated process.
- Paragraph W 1.2.6 amended such that a Trading Query/ Trading Dispute can be raised up to 1 month after any Post Final Settlement Run or Extra-Settlement Determination, even if this is beyond 20 months after the relevant Settlement Day.

6.2 Summary of legal text

The Proposed Modification requires changes to Sections U, W, F and Annex X-2 of the Code. For a summary of the changes and a detailed red-lined version of the legal text see attached document.

Changes to the Code to give effect to P107 can be summarised as follows:

Section U:	Data retention requirements defined.
Section U:	Cut-off for performing a Settlement Run shortened from 36 to 28 months.
Section W:	Cut-off for raising a Trading Query/ Trading Dispute shortened from 36 to 20 months.
Section F:	Updated to define "Relevant Implementation Date".
Annex X-1:	Definition of "Relevant Implementation Date" added.

The legal drafting included with this Modification Report is drafted against the version of the Code current on the date of the Panel meeting (13 March 2003). The legal drafting was checked against all Modifications that had been approved by the Authority on the date of the Panel meeting, including those that have not yet been implemented. If the baseline of the Code changes prior to implementation of P107, or if other Modification Proposals are to be implemented at the same time as P107, the legal text may need to be amended.

7 ASSESSMENT ISSUES FOR MODIFICATION PROPOSAL P107

The GSMG identified a set of issues considered to be key in the Assessment of P107. The discussions and views of the GSMG, with respect to these issues, are set out in full in the Assessment Report (Reference 1) and are summarised in this section.

7.1 Trading Dispute and data retention Time-scales

This section outlines the Trading Dispute and data retention time-scales under the current Code baseline and those proposed under P107, as well as the GSMG rationale for the proposed processes.

7.1.1 Current Trading Disputes timetable and data retention requirements

Under the current baseline Trading Queries/ Trading Disputes are raised and processed in line with the following Code requirements:

- Trading Queries/ Trading Disputes can be raised up to 36 months after the Settlement Day to which they relate. (Paragraph W 1.2.5)
- Trading Disputes can be processed either via a Post Final Settlement Run or an Extra-Settlement Determination. (Paragraph W 4.2.1)
- Settlement Runs or Volume Allocation Runs can be carried out up to 36 months after the Settlement Day to which such run relates. However the Panel has the power to authorise a Post Final Settlement Run or Volume Allocation Run beyond this 36-month cut-off, upon resolution of a Trading Dispute raised not more than 36 months after the Settlement Day in question. (Paragraph U 2.2.4)
- Specific data retention obligations are not explicitly included within the Code (apart from the BMRA, Paragraph V 2.2.4). However there is an implied requirement to retain data to support Post Final Settlement or Volume Allocation Runs for more than 36 months and potentially indefinitely. (Paragraph W 1.6)
- Code Subsidiary Documents, specifying data retention time-scales, maybe inconsistent with Code requirements as they specify 28 month data retention.

The Modification Proposal stated that this protracted timetable for raising and resolving Trading Disputes within the Code imposes significant data retention costs on Parties, Party Agents and BSC Agents and that this brings little or no benefit in return. The Modification Proposal indicated that there is no reason why Parties should need to raise Trading Disputes more than six months after the Final Settlement Run, and there is no reason why the TDC should require more than eight months to resolve them.

The justification given for raising P107 is to bring the Code closer to existing industry practice by reflecting the small percentage of Trading Queries or Trading Disputes that are raised by Parties after the Final Settlement Run.

7.1.2 Proposed Trading Disputes timetable and data retention requirements

The Modification Proposal suggested that:

- The cut-off point for raising a Trading Dispute should be [20] months after the Settlement Day.
- The cut-off point for a Post-Final Settlement Run should be [28] months after the Settlement Day.
- The cut-off point for an Extra-Settlement Determination should be [28] months after the Settlement Day.

The precise cut-off points were included within square brackets in recognition of the fact that they were open to discussion and debate by the appointed Modification Group. The Modification Proposal stated

that the cut-off points suggested “strike an appropriate balance between preserving the right of Parties to dispute errors in Settlement, and avoiding burdening the industry with wholly disproportionate data retention costs”. In addition, the Modification Proposal noted that these cut-off points were consistent with a number of existing Code Subsidiary Documents.

The GSMG discussed at length the potential time scale that would apply for any Trading Query submitted close to the 20 month cut-off period and the time scales for progressing this through to resolution and subsequent appeal and arbitration. Annex 2 provides the timeline for progression of such a Trading Query / Trading Dispute. The key steps and estimated time scales are summarised below:

- Trading Query converted into a Trading Dispute at 20 months after the Settlement Day. There is a dependency on the Party for this activity;
- The TDC assesses and determines upon the Trading Dispute by 28 months after the Settlement Day;
- A Party who is dissatisfied with the Trading Disputes Committee (TDC) determination could appeal the TDC decision to the Panel around 29 months after the Settlement Day;
- The Panel would consider any appeal and notify the appellant of their decision by 32 months after the Settlement Day;
- The Party, if dissatisfied with the Panel decision, could refer the Trading Dispute to arbitration by 33 months after the Settlement Day; and
- After 33 months and if the arbitration was upheld, the industry would need to be advised that the Extra-Settlement Determination route would be used to correct the Trading Dispute and the associated timescales by when this was likely to be performed, which in normal circumstances would occur prior to 40 months after the Settlement Day. However should the Trading Dispute not be resolved by 40 months after the Settlement Day then the industry would be notified accordingly.

In view of the above timetable that could potentially arise, the GSMG concluded that retention of data for only 28 months after the Settlement Day would not be sufficient to support the complete Trading Disputes process. Furthermore the GSMG agreed that, potentially, it would not be possible to identify the data required to resolve a Trading Dispute until 36 months after the relevant Settlement Day. Therefore the GSMG concluded that it was appropriate to set a data retention period cut-off at 40 months as this would address the vast majority of Trading Dispute resolutions.

The GSMG agreed that the first 28 months of data should be held in the live operational environment (such that Post Final Settlement Runs could be supported). Furthermore the GSMG agreed that the remaining 12 months could be maintained either in the live operational environment or alternatively in an archive form, provided Extra-Settlement Determinations could be supported. The GSMG concluded that it was a matter for the Parties and Party Agents to decide on the appropriate mechanism and that BSCCo would instigate appropriate data retention mechanisms with the relevant BSC Agents.

In conclusion the GSMG agreed that the proposed data retention requirements would support the processing of any foreseeable Trading Disputes. See Annex 2 for details.

7.1.3 Trading Disputes Committee review

The Panel considered the Assessment Report (Reference 1) at its meeting of 13 February 2003. It was noted that the data retention requirements proposed by P107 were more onerous than those outlined in the Modification Proposal. However it was recognised that the GSMG had considered this issue in full

and that the data retention requirements specified under P107 represent the optimum arrangement at the present time. Therefore it was agreed that, should P107 be implemented, the TDC would review the process within 6 to 9 months of Implementation and inform the Panel of the outcome.

It should be noted that any review conducted by the TDC would be restricted to the Trading Disputes process. It would be necessary for any review of data retention and data transfer arrangements to be considered by both the Imbalance Settlement Group (ISG) and Supplier Volume Allocation Group (SVG).

Should this review indicate that further amendment of the Trading Dispute or data retention time-scales is desirable, the appropriate procedures to implement such change would be followed. For example, should a change to the Code be considered necessary a Modification Proposal would be required.

7.2 Implementation

During the Assessment procedure the GSMG considered several issues relating to the implementation of P107 as detailed within this section.

7.2.1 Calendar Day/ Settlement Day

During the Assessment Procedure the GSMG considered whether, if approved, P107 should be implemented on a calendar day or Settlement Day basis.

Under a Settlement Day implementation Settlement Runs and Volume Allocation Runs carried out on or after the Implementation Date, in respect of Settlement Days prior to that date, would not take account of the changes to the Code resulting from the Modification Proposal.

Under a calendar day implementation Settlement Runs and Volume Allocation Runs carried out on or after the Implementation Date, in respect of Settlement Days prior to that date, would be carried out taking account of changes to the Code resulting from the Modification Proposal.

In respect of P107, as an example, should P107 be implemented on 04 November 2003¹, under a Settlement Day implementation P107 would have the following effect:

- For Settlement Days prior to 04 November 2003 it would be possible to raise a Trading Dispute/ Trading Query up to 36 months after the Settlement Day. For Settlement Days after the 04 November 2003 it would be possible to raise a Trading Dispute/ Trading Query up to 20 months after the Settlement Day. Therefore the P107 changes relating to raising a Trading Dispute/ Trading Query would not become fully effective until 4 November 2006 (36 months after implementation).
- For Settlement Days prior to 04 November 2003 there would be a requirement to be able to perform a Settlement Run or Volume Allocation Run up to 36 months after the Settlement Day and, with Panel Approval, indefinitely. For Settlement Days after 04 November 2003 there would be requirement to be able to perform a Settlement Run or Volume Allocation Run up to 28 months after the Settlement Day. Therefore the P107 changes relating to performing a Settlement Run or Volume Allocation Run would not become fully effective until 4 November 2006 (36 months after implementation).

¹ Two Implementation Dates have been recommended for P107 such that the Proposed Modification could potentially be implemented either on 04 November 2003 or 24 February 2004.

- For Settlement Days prior to 04 November 2003 data retention requirements would be undefined within the Code (apart from for the BMRA, Paragraph V 2.2.4) and therefore it would be necessary to retain data indefinitely. For Settlement Days after 04 November 2003 data retention requirements would be defined. Therefore the P107 changes relating to data retention would never become fully effective.

Therefore, under a Settlement Day implementation, the protracted timetable for raising and resolving Trading Disputes within the Code and the uncertainty relating to data retention would continue for a period of at least 36 months beyond the implementation of P107 and potentially indefinitely.

As an example, should P107 be implemented on 04 November 2003¹, under a calendar day implementation P107 would have the following effect:

- For all Settlement Days it would be possible to raise a Trading Query/ Trading Dispute up to 20 months after the Settlement Day to which such Trading Dispute relates.
- Excluding Settlement Days affected by P6 claims, it would not be possible to perform a Settlement Run or Volume Allocation Run beyond 28 months after the Settlement Day for any Settlement Day.
- Data retention requirements for all Settlement Days would be defined by the P107 requirements.

Therefore, under a calendar day implementation, the protracted timetable for raising and resolving Trading Queries/ Trading Disputes within the Code and the uncertainty relating to data retention would be addressed on the day of implementation.

It was recognised by the GSMG that shortening the cut-off for raising a Trading Query/ Trading Dispute from 36 to 20 months under a calendar day implementation could lead to Parties losing the ability to raise Trading Disputes relating to Settlement Days between 20 and 36 months prior to implementation. Therefore the GSMG agreed that Parties should be given a 3-month period to raise any Trading Disputes relating to this time period and this has been embodied within the legal text.

It was concluded by the GSMG that, if approved, P107 should be implemented on a calendar day basis. The GSMG agreed that this rule change would not affect the behaviour of industry participants in a way that would distort the market in their favour, nor could it affect the expected material outcome of the rectification process.

7.2.2 NETA Go-Live

Current working practices, as outlined in a number of Code Subsidiary Documents, are such that Parties, Party Agents and BSC Agents may currently employ processes capable of retaining data for 28 months. NETA Go-Live was on the 27 March 2001, therefore around 27 July 2003 data relating to NETA would be lost if Parties and Party Agents follow the Code Subsidiary Document requirements. To avoid losing data relating to NETA Go-Live and to comply with the current Code baseline, new data retention processes would be required from 27 July 2003.

If approved, P107 will be implemented post 27 July 2003, therefore interim data retention processes would be required between 27 July 2003 and the Implementation Date of P107 (4 November 2003 or 24 February 2004). It was noted there would be an associated cost should these interim data retention processes be required.

Code text becomes effective from the time it is approved by the Authority, regardless of the Implementation Date. At any time the current legal version of the Code is the version as published,

read together with the legal text of all Approved Modifications awaiting implementation. Therefore the GSMG believe that, should the Authority approve P107, giving sufficient notice prior to the 27 July 2003, it should be possible for Parties and Party Agents to put in place processes in order to be compliant with both the Code baseline at that time and post implementation of P107. Thereby the costs associated with interim data retention process could be avoided.

In conclusion the GSMG believe that the Authority should issue a determination on P107 as soon as possible, and give sufficient notice prior to 27 July 2003, to avoid the requirement for the industry to implement additional data retention processes, which could potentially be superseded, should P107 be approved.

8 SUMMARY OF REPRESENTATIONS

A total of 10 responses (37 Parties and 1 non Party) to consultation on the draft Modification Report were received. The majority, 5 responses (22 Parties) agreed with the Panel's provisional recommendation that Proposed Modification P107 should be made. 3 responses (9 Parties, 1 non-Party), did not agree with the view expressed by the Panel. 2 no comment responses (6 Parties) were also received.

No substantive new arguments were expressed by any of the consultation respondents that had not already been discussed by the GSMG in their assessment of P107.

A summary of the responses to the P107 draft Modification Report consultation is included below:

Respondent:	Approve Proposed	Legal text	10 Business Days	Date	Parties	Non Parties
SEEBOARD Energy Limited	✓	✓	✓	✓	1	-
LE Group	✓	✓	✓	✓	7	-
IMServ	X	✓	X	✓	-	1
Innogy	✓	✓	✓	✓	9	-
Scottish and Southern	✓	✓	✓	✓	4	-
NEDL & YEDL	NC	NC	NC	NC	2	-
Scottish Power	X	✓	V	X	6	-
British Gas Trading	✓	✓	✓	✓	1	-
British Energy (Late Response)	X	NC	X	NC	3	-
Aquila Networks	NC	NC	NC	NC	4	
Total	5	7	5	6	37	1

8.1 Views on the Panel's recommendation in regards to the Proposed Modification

The majority, 5 responses (22 Parties) agreed with the Panel's provisional recommendation that Proposed Modification P107 should be made. 3 responses (9 Parties, 1 non-Party), did not agree with the view expressed by the Panel in relation to the Proposed Modification. 2 no comment responses (6 Parties) were also received.

Arguments expressed in support of the Panel's recommendation that the Proposed Modification should be made:

- The Proposed Modification will ensure consistent methods for data retention across the industry;
- The Proposed Modification will reduce the time period for raising and processing Trading Queries/ Trading Disputes thereby increasing efficiency; and

- Proposed reduction in time-scales for raising and processing Trading Queries/ Trading Disputes within the Code would be more representative of how the current process works.

Arguments expressed opposed to the Panel's recommendation that the Proposed Modification should be made:

Views expressed by the minority of responses opposed to the Panel's recommendation that the Proposed Modification should be made were as follows:

- One response (1 non-Party) presented the view that P107 would elongate the Trading Disputes process. During assessment the GSMG considered, at length, the Trading Disputes process under both the current Code baseline and Proposed Modification P107 (section 7.1) and agreed that the finalised requirements for P107 presented an improvement on the current situation;
- One response (6 Parties) indicated that the original intent of P107 was to introduce a data retention period of 28 months and that the Proposed Modification could effectively prolong the Trading Disputes Process. The GSMG considered, at length, the Trading Disputes process under both the current Code baseline and Proposed Modification P107 (section 7.1) and agreed that the finalised requirements for P107 presented an improvement on the current situation; and
- One response indicated that limiting the data retention period and restricting the execution of Settlement Runs beyond a particular time could create considerable difficulties and costs in resolving Trading Disputes. In particular the view was presented that limiting resolution of Trading Disputes to Extra-Settlement Determination beyond 28 months could prove both problematic and costly. The GSMG considered the introduction of a 28-month cut-off for performing Settlement Runs during assessment (Reference 1) and was aware that there was an associated risk. It was agreed by the GSMG that the benefit of introducing the cut-off at 28 months outweighed the associated risks.

8.2 Views on the legal text

The majority, 7 responses (22 Parties), agreed that the legal text to give effect to Proposed Modification P107, as included in the draft Modification Report, addressed the defect identified within the Modification Proposal. 3 no comment responses (9 Parties) were also received.

8.3 Views on time scales for provision of data to be used in Extra-Settlement Determination

During the Assessment Procedure the GSMG agreed the legal text to give effect to Proposed Modification P107, which included a 10 Business Day time-scale for provision of data in support of an Extra-Settlement Determination. At this time it was recognised that this 10 Business Day time scale should be consulted on and it was agreed that consultation during the Report Phase should include a specific question in this area.

The majority, 5 responses (22 Parties) agreed with the, 10 Business Day, time-scale for providing data to be used in Extra-Settlement Determination. 3 responses (9 Parties, 1 non-Party), did not agree with the proposed time scale. 2 no comment responses (6 Parties) were also received.

Arguments expressed in support of the requirement to supply data for use in Extra Settlement Determination within 10 Business Days.

- The 10 Business Day window for the restoration of Settlement data is sufficient to maintain the efficiency of administering the process without placing too onerous obligations on Parties, Party Agents and BSC Agents.

Arguments expressed opposed to the requirement to supply data for use in Extra Settlement Determination within 10 Business Days.

- One response indicated that the time-scale should be considered on a case by case basis. During the Assessment Procedure the GSMG agreed it was preferable to have a recognised time-scale in the Code such that there was certainty in the process required and equity across industry. Thereby allowing suitable processes to be put in place to allow any requests to be fulfilled within a known time-scale; and
- One response indicated that if a Trading Dispute has progressed to the stage of Extra-Settlement Determination there is no reason why the issue should be this urgent at this time and that therefore the 10 Business Day requirement was too short.

8.4 Views on the Implementation

The majority, 6 responses (23 Parties and 1 non-Party) agreed with the Panel's provisional recommendations relating to the implementation of P107. One response (6 Parties) did not agree with the view expressed by the Panel. 3 no comment responses (9 Parties) were also received.

Arguments expressed in support of the Panel's recommendation relating to the implementation of P107.

- Support was expressed for implementation of the Proposed Modification on a calendar day basis as it removes the uncertainty of data retention requirements and the protracted nature of the Trading Disputes process from the date of implementation.

Arguments expressed opposed to the Panel's recommendation relating to the implementation of P107.

- One respondent, although opposed to P107, presented the view that, as indicated during the Assessment Procedure, six months notice should be given prior to implementation. The GSMG were aware during the Assessment Procedure that any delay in the implementation of P107 could present issues (section 7.2). Furthermore, it was noted that the current Code baseline implies that data should be retained indefinitely and, in order to comply with the Code, whether or not P107 were implemented, new data retention practices would be required by anyone currently following Code Subsidiary Documentation (i.e. 28 month data retention).

8.5 Further Comments

One comment was received in support of the requirement to review the Trading Disputes Process (see section 7.1).

One comment was received opposed to any review of the Trading Disputes process or data retention requirements so soon after the extensive consultation completed during the Modification Procedure for P107. Furthermore the view was presented that the review of data retention and transfer processes would be outside the vires of the TDC.

One respondent offered a potential alternative approach to P107, involving a limited set of data being retained beyond 28 months following notification via an ELEXON Circular. Furthermore it was stated that this view had been presented during the Assessment Procedure but that the arguments in support of this approach were not highlighted within the Modification Report. A non-member attendee of a GSMG meeting during the Assessment Procedure suggested this solution. The GSMG considered the suggested approach and agreed that it would not be possible, in all cases, to identify the data that would be required to resolve any particular Trading Dispute prior to 28 months (Section 7.1 and Annex 2). Therefore the GSMG agreed that any solution which required identification of all the data required to process a particular Trading Dispute prior to 28 months was not workable.

One respondent suggested that the rationale behind Proposed Modification P107 is based on industry practice under the Pool arrangements and an over-optimistic assessment of the current situation. The GSMG's rationale during the Assessment Procedure was based on experience of current work practices under NETA and the potential time-scale for progressing a Trading Dispute raised at or near the proposed 20 month cut-off (Section 7.1 and Annex 2). Furthermore concern was expressed that the costs of settling data errors outside of Settlement Runs (i.e via Extra-Settlement Determination) could outweigh the savings achieved by allowing Parties and Party Agents to limit the data retention period. The view was presented that P107 could increase the requirement to utilise Extra-Settlement Determination and thereby increase the costs of resolving Settlement errors. Further comment was made opposed to Approved Modification P61-'Ad Hoc Adjustments to Settlement involving material errors without resorting to Ad Hoc Settlement Runs', in that it only allows one Post Final Settlement Run, thereby increasing the requirement to utilise the Extra-Settlement Determination process. Should P107 be implemented the majority of Trading Disputes, resolved post the Final Settlement Run, would continue to be processed via a Post Final Settlement Run at or around 24 months. Therefore the GSMG agreed that implementation of P107 would not lead to a significant increase in the requirement to utilise the Extra-Settlement Determination process.

ANNEX 1 – REPRESENTATIONS

For representations received in response to consultation on the draft Modification Report see attached document.

ANNEX 2 - POTENTIAL TRADING QUERY / TRADING DISPUTE TIMELINE

