

**P107 DRAFT LEGAL TEXT**

**18 FEBRUARY 2003**

**Section F**

*Insert new paragraph 1.9.2 as follows:*

- 1.9.2           A reference in any provision of the Code to the "**Relevant Implementation Date**" is to the Implementation Date of the Approved Modification pursuant to which that provision (in its current form) applies.

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**Section S**

*Amend paragraph 2.7.9(b) as follows:*

- (b) in the case of a Non Half Hourly Metering System, the Metered Data obtained for each relevant Settlement Register on each occasion during the preceding 40 months on which valid Metered Data was obtained, and the latest values of Estimated Annual Consumption and Annualised Advance.

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**Section U**

*Insert new paragraph 1.6 as follows:*

**1.6 Data retention**

1.6.1 Without prejudice to the requirement to hold or send data for the purposes of any Initial Settlement Run, Initial Volume Allocation Run, Timetabled Reconciliation Settlement Run or Timetabled Reconciliation Volume Allocation Run or to any other requirement to hold data under the Code:

- (a) each Party shall, and shall procure that its Party Agents shall, and
- (b) each relevant BSC Agent shall

retain settlement data in accordance with this paragraph 1.6, to enable such data to be provided and used for the purposes of the resolution of Trading Queries and Trading Disputes, any related arbitration, and the carrying out of any Post-Final Settlement Run, Post-Final Volume Allocation Run or Extra-Settlement Determination.

1.6.2 For the purposes of this paragraph 1.6:

- (a) relevant BSC Agents are the CDCA, the CRA, the ECVAA, the SVAA, the SAA and the FAA;
- (b) in relation to a Party, relevant BSC Agent or Party Agent, "**settlement data**" means data which:
  - (i) in the case of a BSC Agent, is received, produced or sent by that BSC Agent,
  - (ii) in the case of a Party, relates to that Party and is received, produced or sent by that Party or its Party Agent

pursuant to the Code for the purposes of Settlement.

1.6.3 Settlement data is required to be held pursuant to this paragraph 1.6:

- (a) until a date at least 28 months after the Settlement Day to which it relates, in a form in which the data can be sent for use and used in carrying out a Settlement Run or Volume Allocation Run;
- (b) thereafter, until the date 40 months after the Settlement Day to which it relates, subject to paragraph 1.6.4, in an archive or any other form (including, for the avoidance of doubt, in the form referred to in paragraph 1.6.3(a)) in which the data can be retrieved if requested within 10 Business Days, sent for use in and used in carrying out an Extra-Settlement Determination as provided in the relevant Code Subsidiary Document.

1.6.4 Where the Panel (on the advice of BSCCo, the Trading Disputes Committee or otherwise) has informed Parties and relevant BSC Agents that settlement data (or particular settlement data) relating to a particular Settlement Day may be required for any of the purposes mentioned in paragraph 1.6.1:

- (a) pursuant to Section P6.5.1(c), after the date in paragraph 1.6.3(a); or

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(b) in any case, after the date specified in paragraph 1.6.3(b);

then that settlement data is required to be held pursuant to paragraph 1.6.3(a) or (b) (as the case may be) until such time as the Panel notifies Parties and relevant BSC Agents that such data is no longer required to be so held.

1.6.5 The reference in Section J4.2.3 to "data" shall be construed as including settlement data.

*Amend paragraph 2.2.4 as follows:*

2.2.4 Except pursuant to Section P6.5.1(c), no Settlement Run or Volume Allocation Run shall be carried out on any date which is more than 28 months after the Settlement Day to which such runs relate.

*Amend paragraph 2.6.1 as follows:*

**2.6 Effect of Settlement Runs and Extra-Settlement Determinations**

2.6.1 Subject to paragraph 2.2.4, where a Party wishes to dispute or challenge the data used in or the results of any Volume Allocation Run or Settlement Run or Extra-Settlement Determination:

- (a) the Party may do so (subject to the provisions of Section W) by raising a Trading Query or Trading Dispute in accordance with Section W but not otherwise;
- (b) subject to and in accordance with Section W, the outcome of the Trading Query or Trading Dispute will be taken into account in a subsequent Timetabled Reconciliation Settlement Run or Post-Final Settlement Run or Extra-Settlement Determination;
- (c) the Party shall not be entitled to a remedy (if any, as provided in Section W) sooner than the carrying out of such subsequent Timetabled Reconciliation Settlement Run or Post-Final Settlement Run or Extra-Settlement Determination unless otherwise permitted following resolution of a Trading Dispute pursuant to Section W.

*Insert new paragraph 2.6.3 as follows:*

2.6.3 For the avoidance of doubt:

- (a) a Party may not dispute or challenge (as provided in paragraph 2.6.1) an Extra-Settlement Determination on the grounds that such determination was made on an estimated or approximate basis pursuant to paragraph 2.2.3(e);
- (b) the reference in Section W1.3.2(a) to the provisions of the Code shall be treated as including any basis of estimation or approximation decided by the Panel pursuant to paragraph 2.2.3(e).

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**Section W**

*Amend paragraph 1.2.5 as follows:*

- 1.2.5 No Trading Query or Trading Dispute may be raised in respect of a Settlement Day after the relevant deadline; and accordingly a Party may not after the relevant deadline refer to arbitration any matter which would constitute a Trading Dispute (except pursuant to paragraph 3.6 where such matter has been raised as a Trading Dispute before the relevant deadline); and each Party hereby agrees to waive any right, claim or remedy it may have, whatsoever and howsoever arising, in respect of matters which, but for this paragraph 1.2.5, would constitute a Trading Dispute in respect of such Settlement Day.

*Insert new paragraph 1.2.6 as follows:*

- 1.2.6 For the purposes of paragraph 1.2.5, the "**relevant deadline**" in relation to a Settlement Day is:
- (a) subject to paragraphs, (b) and (c), the date 20 months after such Settlement Day;
  - (b) in the case of a Settlement Day more than 17 months before the Relevant Implementation Date, subject to paragraph (c), the earlier of the date 3 months after the Relevant Implementation Date and the third anniversary of such Settlement Day; or
  - (c) if later, when the settlement error (in relation to which the Trading Query or Trading Dispute is raised) is an error in a Post-Final Settlement Run or an Extra-Settlement Determination the date 1 month after the date of such Post-Final Settlement Run or Extra-Settlement Determination.

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**Annex X-1**

*Insert new definition as follows:*

**Annex X-1**      **"Relevant Implementation Date"**      has the meaning given to that term in Section F1.9.2;