



March 2003

MODIFICATION REPORT

MODIFICATION PROPOSAL P102 – Entitlement of Licence Exemptable Generators (“LEGs”) to BSC Membership without Evidence of Trading

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

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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	Modification Proposal P102 'Entitlement of Licence Exemptable Generators ("LEGs") to BSC Membership without Evidence of Trading' (P102AR)
Reference 2	Interface Definition and Design (IDD)
Reference 3	Initial Written Assessment of Modification Proposal P102 'Entitlement of Licence Exemptable Generators ("LEGs") to BSC Membership without Evidence of Trading' (P102IR)
Reference 4	Assessment Report Modification Proposal P102 'Entitlement of Licence Exemptable Generators ("LEGs") to BSC Membership without Evidence of Trading' (P102IR)
Reference 5	High Level Requirements Specification to Support Modification Proposal P102: Entitlement of Licence Exemptable Generators ("LEGs") to BSC Membership without Evidence of Trading (P102RS)

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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 Procedures, and the resultant findings of this report, the Balancing and Settlement Code Panel (the Panel) recommends that:

Alternative Modification P102 should be made;

Proposed Modification P102 should not be made;

- **The Implementation Date for Alternative Modification P102 should be 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;**
- **In the event that the Authority determines that Proposed Modification P102 should be made, an Implementation Date of 20 Working Days after the Authority determination;**

It should be noted that P102 has an interaction with P114, "Entitlement of Licence Exemptable Generators ("LEGs") and other non-trading Parties to BSC Membership without Evidence of Trading", should Proposed Modification P114 be made Alternative Modification P102 would not be necessary.

1.2 Background

Modification Proposal P102 'Entitlement of Licence Exemptable Generators ("LEGs") to BSC Membership Without Evidence of Trading' (P102) was submitted on 7 October 2002 by Slough Energy Supplies Ltd. P102 aimed to allow Licence Exemptable Generators (LEGs) to become signatories to the Balancing and Settlement Code ('the Code') on a non-trading basis, thereby obtaining access to information only available to registered Parties.

P102 proposed that LEGs be excused the requirement to demonstrate evidence of trading activity, within six months of registration as a BSC Party, as defined in paragraph A 2.6 of the Code. Thereby LEGs would be able to remain Code signatories and receive information only available to Parties, whilst not undertaking any trading activity.

The Settlement Standing Modification Group (SSMG) has assessed Modification Proposal P102, and the detail of the assessment is provided in the Assessment Report for Modification Proposal P102 (Reference 4).

It was the view of the SSMG that there were issues surrounding the use of BSC Party status as a means of accessing information. The SSMG concluded that through the creation of a licence outside the Code, which LEGs could sign to receive data, issues raised by allowing non-trading BSC Parties to remain signatories to the Code would be addressed. This approach forms Alternative Modification P102.

The Panel considered the Assessment Report (Reference 4) at its meeting of 13 February 2003, and agreed to provisionally endorse the recommendations of the SSMG, that the Proposed Modification should not be made and the Alternative Modification should be made. Therefore, the Panel agreed to submit P102 to the Report Phase.

The Panel considered the draft Modification Report and the consultation responses made in respect of the report at its meeting of 13 March 2003 and agreed to confirm its provisional recommendation that the Alternative Modification should be made.

1.3 Rationale for the Panel Recommendations

The majority of the Panel agreed with the rationale for the recommendations made by the SSMG that Proposed Modification P102 should not be made and that Alternative Modification P102 should be made.

The Panel agreed with the SSMG view that the provision of information to LEGs would better facilitate Applicable BSC Objective (c), as it would promote effective competition in the generation and supply of electricity.

Furthermore, the Panel agreed that there were issues surrounding the use of BSC Party status as a means of accessing information, such that the Proposed Modification would have a detrimental effect on Applicable BSC Objective (d), as it would not promote efficiency in the implementation and administration of the Code.

Therefore, the Panel agreed that, on balance, Proposed Modification P102 would not better facilitate the Applicable BSC Objectives.

The Panel agreed with the view of the SSMG that through the creation of a licence outside the Code, which LEGs could sign to receive data, issues raised by allowing non-trading BSC Parties to remain within the Code would be addressed. Therefore it was agreed that the Alternative Modification P102 would better facilitate Applicable BSC Objective (c), as it would promote effective competition in the generation and supply of electricity.

It was further agreed that Alternative Modification P102 would have negligible effect on Applicable BSC Objective (d), as it would not affect the efficiency of implementation and administration of the Code.

Therefore, the Panel agreed that, on balance, Alternative Modification P102 would better facilitate the Applicable BSC Objectives, and should be made.

10 responses to the draft Modification Report consultation were received. 5 responses (13 Parties and 2 non-Parties) agreed with the Panel's provisional recommendation that Alternative Modification P102 should be made. 8 responses (38 Parties) agreed with the Panel's provisional recommendation that Proposed Modification P102 should not be made. 1 no comment on all recommendations was also received. No new arguments were expressed by any of the consultation respondents that had not already been discussed by the SSMG in their assessment of P102.

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 P102 'Entitlement of Licence Exemptable Generators ("LEGs") to BSC Membership Without Evidence of Trading' (P102) was submitted on 7 October 2002 by Slough Energy Supplies Ltd. P102 aimed to allow Licence Exemptable Generators (LEGs) to become signatories to the Code, on a non-trading basis, thereby obtaining access to information only available to registered Parties.

The Initial Written Assessment (IWA) for P102 (Reference 3) was presented to the Panel on 17 October 2002, where it was agreed that P102 be submitted to a 3-month Assessment Procedure to be undertaken by the SSMG.

At the first meeting of the SSMG on 24 October 2002 it was decided that, subject to legal advice, the scope of P102 should be extended to include all interested parties. Legal advice indicated that it was not possible to extend the scope of the Modification Proposal, as this was beyond the defect described.

Modification Proposal P114-'Entitlement of Licence Exemptable Generators ("LEGs") and other Non-trading Parties to BSC Membership Without Evidence of Trading' (P114) was submitted on 2 December 2002 by the Proposer of P102. The IWA for P114 was presented to the Panel on 16 December 2002, where it was agreed that P114 be submitted to a 2-month Assessment Procedure. Due to the similar issues addressed, the Panel agreed that P102 and P114 Assessment Reports should be submitted to the Panel and assessed by the SSMG in parallel. Therefore the Assessment timetable for P102 was extended by 1 month, such that the Assessment Reports for P102 and P114 be presented to the Panel at its meeting on 13 February 2002.

During the Assessment Procedure for P102, the SSMG met five times, to assess P102 against the assessment criteria identified, consider the consultation responses and impact assessments and to agree recommendations to be made to the Panel in respect of P102.

An Assessment Consultation on the principle of data provision, including several potential solutions, was issued on 25 November 2002, with responses received by 6 December 2002.

A request for an Impact Assessment, based on the P102 Requirements Specification (Reference 5), was issued on 25 November 2002 for industry high level impact assessment (MC00028), with responses received by 6 December 2002, and to the BSC Agent for impact assessment, on 4 November 2002, with an initial response received on 29 November 2002 and a final response received on 12 February 2002.

The SSMG met on 10 December 2002 to discuss responses to the first consultation and impact assessments. Following review of consultation and impact assessment responses the SSMG finalised requirements for both the Proposed and Alternative Modifications.

A second Assessment Consultation based on the finalised requirements and indicating costs for the Proposed and Alternative Modifications P102, was issued on 17 January 2002, responses received by 27 January 2003.

The SSMG met on 29 January 2003 to consider responses in respect of the second assessment consultation, finalise assessment of P102, and to agree the Assessment Report and the Group's recommendations in respect of P102.

The majority of the SSMG agreed that Proposed Modification P102 should not be made and that the Alternative Modification P102 should be made.

The Panel considered the Assessment Report at its meeting of 13 February 2003, and agreed to provisionally endorse the recommendations of the SSMG, that the Proposed Modification should not be

made and the Alternative Modification should be made. Therefore, the Panel agreed to submit P102 to the Report Phase.

The Panel agreed that, if the Authority determined that the Proposed Modification should be made that the Implementation Date should be 20 Working Days after the Authority decision.

The Panel agreed that, if the Authority determined that the Alternative Modification P102 should be made, the Implementation Date should be 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 noted the development and implementation costs associated with the Proposed Modification comprising of 12 man-days BSCCo effort.

The Panel noted the development and implementation costs associated with Alternative Modification P102, which comprise a BSC Agent Total Cost of £137,637 (Total Cost = Change Specific (£26,533) + Project Overhead (£111,104)) and 142 man-days of BSCCo effort.

The Panel noted the interaction with P114 and that, should Proposed Modification P114 be approved, Alternative Modification P102 would no longer be required.

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 3 March 2003).

The consultation responses made in respect of the Draft Modification Report were received on 3 March 2003. The majority of the respondents indicated support for the provisional recommendation contained within the draft Modification Report, namely that the Alternative 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 and agreed to confirm its provisional recommendation that the Alternative Modification P102 should be made and the Proposed Modification P102 should not be made.

4 DESCRIPTION OF THE MODIFICATION PROPOSAL

4.1 Proposed Modification

P102 aimed to allow Licence Exemptable Generators (LEGs) to become signatories to the Code on a non-trading basis, thereby obtaining access to information only available to registered Parties.

P102 proposed that LEGs be excused the requirement to demonstrate evidence of trading activity, within six months of registration as a BSC Party, as defined in paragraph A 2.6 of the Code. Thereby LEGs would be able to remain Code signatories and receive information only available to Parties, whilst not undertaking any trading activity.

4.2 Alternative Modification

The Proposed Modification seeks to endorse the use BSC Party status as a method of obtaining access to BSC information. Alternative Modification P102 addresses issues surrounding the use of BSC Party status to obtain access to information.

Through the creation of a licence outside the Code, which LEGs could sign to receive data, issues raised by allowing non-Trading BSC Parties to remain within the Code would be addressed. Signing of the

agreement would involve payment of a licence fee to recover the costs of making this data available. The licence would also include the legal responsibilities of non-Parties in regards to publication and use of the data acquired. Although the licence would be outside the Code a Modification would be required to allow specified reports (Annex 2) to be made available to LEGs.

The proposed process is outlined below:

- Interested persons sign licence.
- BSCCo collect payment from signatories.
- Reports made available through BSC Agents.
- BSCCo manage these licensees, including initial registration in BSC Systems and, if required, operational support, which includes manual provision of historic reports.
- Each new licensee is registered in CRA with a newly created role of "licensee".
- Licensees obtain access to data that is available to all BSC Parties.

Alternatively LEGs would be able to nominate a third party, also licensed, to receive data on their behalf. It was envisaged by the SSMG that this would lead to data processing agents being set up. These data processing agents would download and pre-process data on behalf of several LEGs (NB: these LEGs would also require a licence). The SSMG believed that pre-processing would be desirable due to the extensive nature of the reports to be made available. Nominated third parties would be bound by the conditions of the licence and would only be able to provide data to fellow licensees. Responses to the second Assessment Consultation indicated that uptake of the licence approach via a third party would be the preferred route to access data.

5 RATIONALE FOR PANEL RECOMMENDATIONS

The majority of the Panel supported the rationale for the recommendations made by the SSMG with regards to Modification Proposal P102 and on the basis of this rationale, the Panel recommended that Proposed Modification P102 should not be made and that the Alternative Modification P102 should be made.

The SSMG identified a set of issues that were the key areas to be considered in the Assessment of P102, and therefore to be considered when assessing whether P102 better facilitates achievement of the Applicable BSC Objectives. The discussions and considerations of the SSMG with respect to these issues are set out in full in the Assessment Report (Reference 4) and are summarised in this document (section 9).

5.1 Proposed Modification

The SSMG agreed that the provision of information to LEGs would better facilitate 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.'

The majority of the SSMG concluded that there were issues surrounding the use of BSC Party status as a means of accessing information, such that the Proposed Modification would have a detrimental effect on Applicable BSC Objective (d).

'Promoting efficiency in the implementation and administration of the Balancing and Settlement arrangements.'

Particular points considered include:

- The fact that the Code was drafted for trading Parties;
- Control of the data to be made available;
- Creation of a subset of the Code;
- Dilution of Party Status
- Submission of Modification Proposals.

It was also noted that an alternative solution, involving the provision of data via a licensing arrangement, could address several of the issues above.

Therefore, the majority of the SSMG concluded that, on balance, Proposed Modification P102 would not better facilitate the Applicable BSC Objectives.

5.2 Alternative Modification

The Proposed Modification seeks to endorse the use of BSC Party status as a method of obtaining access to BSC information. Alternative Modification P102 addresses issues surrounding the use of BSC Party status as a method of obtaining access to information. Through the creation of a licence, which LEGs could sign to receive data, issues raised by allowing non-Trading BSC Parties to remain within the Code would be addressed. Therefore it was agreed by the SSMG that the Alternative Modification would 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.'

It was further agreed by the SSMG that the Alternative Modification would have negligible effect on Applicable BSC Objective (d).

'Promoting efficiency in the implementation and administration of the Balancing and Settlement arrangements.'

It was recognised that there are increased implementation costs associated with the Alternative Modification. However the SSMG believed that these costs were justified to avoid issues surrounding the use of BSC Party status to provide access to information and also to protect the interest of BSC Parties.

In conclusion the majority of the SSMG agreed that, on balance, the Alternative Modification P102 would better facilitate the Applicable BSC Objectives and should be made.

6 LEGAL TEXT TO GIVE EFFECT TO THE PROPOSED MODIFICATION

Proposed Modification P102 requires changes to Sections A and 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 Proposed Modification P102 can be summarised as follows:

Section A: This section will be updated to excuse LEGs the requirement to commence trading.

Section X-2: A definition of LEG added.

The legal drafting included with this report is drafted against the version of the Code current on the date of the Panel meeting (07 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 P102, or if other Modification Proposals are to be implemented at the same time as P102, the legal text may need to be amended.

7 LEGAL TEXT TO GIVE EFFECT TO THE ALTERNATIVE MODIFICATION

Alternative Modification P102 requires changes to Sections V and 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 Alternative Modification P102 can be summarised as follows:

Section V: This section will be updated to allow for provision of specific reports to LEGs.

Section X-2: A definition of LEG added.

The legal drafting included with this report is drafted against the version of the Code current on the date of the Panel meeting (07 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 P102, or if other Modification Proposals are to be implemented at the same time as P102, the legal text may need to be amended.

8 LICENCE

A licence would be drafted and approved by the Panel as part of the implementation of Alternative Modification P102. The SSMG agreed the following high level requirements for the licence, although it was recognised that the Panel would decide the final content.

- **Confidentiality**

The confidentiality obligations of non-BSC Parties signed up to the licence will be similar to those of BSC signatories. Therefore the confidentiality terms within the licence would mirror similar obligations within the Code. This would include the requirement to use data only for the purpose of supply and generation of electricity in England and Wales.

- **Information Provided**

This would include reports detailed in Section V of the Code that are currently available to all BSC Parties (Annex 2). Historic versions of this data would be made available using the manual process currently used for BSC Parties.

- **Cost recovery**

Licensees would be required to pay an annual fee covering the costs of providing data. It was the view of the SSMG that this fee should initially be set at an annual value of £3,000, to be agreed by the Panel as an Implementation Activity for Alternative Modification P102 if approved.

- **Termination**

BSCCo will have the ability to terminate the agreement with any licensee on any breach by that licensee. BSCCo will also be able to terminate the agreement on reasonable grounds (For example a Modification affecting licensing is to be implemented). However if BSCCo requires termination, without agreement from the licensee and for any reason other than a breach on behalf of the licensee, Panel approval would be necessary.

Licensees will have the option not to renew the licence agreement at the end of its duration and the power to terminate in the event of a material breach by BSCCo. No Panel approval shall be required in either case.

- **Changes to Licence agreement**

Panel approval will be required for any changes to the standard licence agreement.

- **Third party access**

Facility will be included in the licence for provision of data via a third party. This will allow data provision services to be set up such that data can be pre-processed on the behalf of licensees. A potential benefit of this approach is that there would be fewer licensees physically accessing Central Systems and therefore a reduction of the impact on service infrastructure. It should be noted however that each end user of the data is required to be a licensee.

9 ASSESSMENT ISSUES FOR MODIFICATION PROPOSAL P102

The SSMG identified a set of issues considered to be key in the Assessment of P102. The discussions and views of the SSMG, with respect to these issues, are set out in full in the Assessment Report (Reference 4) and are summarised in this section.

9.1 Use of Party status to access information

During assessment of P102 the SSMG considered whether the use of Party status in order to obtain access to information was desirable and the areas considered are outlined below.

The SSMG considered the obligations and rights of a non-trading Party signing up to the Code in order to access information.

Concern was expressed at the ability of non-trading BSC Parties to submit Modification Proposals that affect a market in which they are not directly involved. The view was presented that the costs of the Modification Procedures are mainly recovered from trading BSC Parties. Therefore allowing non-trading BSC Parties to remain signatories to the Code and submit limitless Modification Proposals would present a cost to trading BSC Parties. It was noted that there are existing methods whereby non-BSC Parties can submit Modification Proposals, for example through a written request from a representative body. However it was the view of the SSMG that there is a certain element of control over these processes that would not be present for non-trading BSC Parties.

Under the Code BSCCo is obliged to send notifications to, or consult with, Parties in relation to budgets, reviews of trading issues and business plans. It was the view of the SSMG that it would be undesirable for non-Trading Parties, purely interested in accessing information, to be involved in these processes.

During the P102 Assessment Procedure the SSMG also considered the Entry Process required to achieve Party status and whether this could act as a barrier to some of the individuals that P102 aims

to benefit. The Entry Process includes Accession, Authorisation, Registration and Qualification. Further details of the Entry Process are available on the BSC Website, as follows:

http://www.elexon.co.uk/ta/market_entry/generator.html

In order to receive BSC data a non-Trading Party would be required to undergo Qualification testing, whereby data is sent to or received from BSC Systems. This testing is necessary in order to ensure corrupt data does not enter BSC Systems. Under the Alternative Modification P102 licensees would have read only access to BSC Systems and would not require the ability to encrypt/decrypt nor validate sequence numbers, or send response files. Therefore it is not envisaged licensees would be required to undergo Qualification testing.

It was the view of the SSMG that the route to access data under the Proposed Modification would be unnecessarily complex. Furthermore it was noted that consultation responses from non-BSC Parties had indicated that taking on BSC Party status in order to obtain access to information would prove too onerous.

In conclusion the majority of the SSMG agreed that the use of Party status to access information was undesirable and should not be endorsed as per Proposed Modification P102.

9.2 Costs

This section details the estimated costs of both the Proposed Modification P102 and Alternative Modification P102.

9.2.1 Proposed

The SSMG noted that the implementation of the Proposed Modification would only require documentation changes. These changes would require 12 man-days BSCCo effort.

Under Proposed Modification P102, LEGs would be subject to the Base Monthly Charge of £250 per month. This Base Monthly Charge contributes to the operational costs incurred by BSCCo in support of BSC Parties.

9.2.2 Alternative

Initial costs indicated by BSC Agents (Specifically CRA, SAA and CDCA) for the changes required to BSC Systems to support the Alternative Modification are summarised below:

- **Change Specific Costs = £26,533**

The Change Specific Cost is the marginal cost of including these changes in a standard BSC Systems Release.

- **Project Overhead = £111,104**

If the Modification is not implemented as part of one of the standard BSC Systems Releases then the 'Project Overhead' must be added to the Change Specific Costs to arrive at the Total Cost.

- **Total Cost = £137,637**

Total Costs = Change Specific + Project Overhead. The actual cost of implementing a change where included as part of a standard BSC Systems Release is normally made up of the Change Specific costs plus some fraction of the Project Overhead.

- **Annual Maintenance cost = £19,269**

Annual Maintenance costs is calculated as a standard percentage (14%) of the Total cost.

- **Annual Operational costs = £250 per annum per LEG**
- **Project Duration = 9 Weeks**

In addition to the BSC Agent costs a total of 142 man-days effort would be required to implement the Alternative Modification. This can be broken down as follows:

- **Market Entry:** Estimated 30 man-days effort required implementing updates to local working instructions and processes in support of the Alternative Modification.
- **CVA Operations:** Estimated 40 man-days effort required implementing updates to local working instructions in support of the Alternative Modification. Up to one quarter full time equivalent would be required to cover the licensing process, to manage operational issues and to deal with the ongoing administration.
- **CVA Programme:** Estimated 65 man-days effort to implement documentation updates. An implementation time-scale of 27 weeks, after an Authority decision, required for the Alternative Modification. This timescale includes BSC Agent Development time and BSCCo testing activity.
- **Legal:** Estimated effort 6 man-days to complete drafting of the licence agreement.

In order to implement the Alternative Modification a total lead-time of 27 weeks would be required, including both BSC Agent development time and BSCCo testing activity.

It was the view of the SSMG that the cost of the Alternative Modification P102 would be justified in order to provide a transparent and easy route to access data that does not require the use of Party status. It was noted that the majority of BSC Parties, responding to the second Assessment Consultation, had indicated a preference for the Alternative Modification.

It was noted by the SSMG that these costs are based on a small number of licensees registered to receive reports directly from Central Systems (less than 20).

9.3 Cost Recovery Mechanism

The SSMG agreed that LEGs should contribute towards the costs of making data available to themselves under P102. This section details the SSMG's discussion of the charging mechanism under both the Proposed Modification P102 and the Alternative Modification P102.

9.3.1 Cost recovery under the Proposed Modification

Under Proposed Modification P102 LEGs would be subject to the Base Monthly Charge of £250 per month which would contribute to the operational costs incurred by BSCCo in support of BSC Parties, the SSMG were split as to whether this was appropriate.

The view was presented that allowing non-trading BSC Parties to remain signatories to the Code, whilst only paying the basic monthly rate, could effectively result in trading BSC Parties subsidising non-trading BSC Parties. It was the opinion of some SSMG members that the current mechanism charges new BSC Parties at a reduced rate whilst they establish themselves. When the new BSC Party is fully set-up and begins trading the costs of this set-up period will be recovered through increased charges associated with trading. It was proposed that there is an assumption within the current charging

mechanisms that all BSC Parties will eventually commence trading. Therefore some members of the SSMG expressed concern that £250 would not be an appropriate charging level for non-trading BSC Parties.

Further analysis identified several established BSC Parties, for example non-physical trading BSC Parties, currently paying the basic monthly rate. As these BSC Parties are entitled to receive the same reports that would be available to non-trading BSC Parties under P102, the view was presented that it would be considered discriminatory for non-trading BSC Parties to pay a higher rate.

In conclusion some members of the SSMG believed that the basic rate of £250 per month does not represent the true cost of remaining a Code signatory and is not appropriate for either trading or non-trading Parties. However the SSMG agreed that this issue was outside the scope of P102 and agreed that the charging mechanism implemented under P102 should be comparable to the Base Monthly Charge for BSC Parties.

9.3.2 Cost recovery under the Alternative Modification

Under the Alternative Modification the following factors were considered by the SSMG when specifying a charging mechanism.

- The charging level should be of the same order as the Base Monthly Charge for BSC Parties.
- An indicated annual operational charge of £250 per licensee for registration within the BSC Systems.
- Estimated uptake of the order of 10 licensees (5 within Central Systems and 5 receiving data via a third Party).
- Ongoing maintenance of Central Systems (charged at 14% of the implementation cost).
- Initial implementation costs.
- BSCCo operational costs for managing licensees, estimated that these costs would be of the order of the annual operational charge of the BSC Agent (i.e. £250 per LEG per annum).
- Reduction of administrative work required for an annual rather than monthly fee.

On consideration by the SSMG of the points above it was agreed that the licence should initially include an annual £3000 fee, payable in advance. This charge would cover the operational costs of an individual LEG to both the BSC Agent and BSCCo with any excess contributing to the maintenance and initial implementation costs arising from changes required to Central Systems. This charge would be finalised and included within the licence, to be approved by the Panel, prior to implementation of the Alternative Modification P102.

9.4 Obligation to provide licence

The SSMG considered the draft legal text and licence. It was the view of the Proposer that that an additional obligation on BSCCo, to enter into the licence, should be included in the draft legal text. Therefore the SSMG requested that, subject to legal advice, the draft legal text should include this obligation.

Legal advice on whether this obligation should be included in the Code made reference to Section H9.4 of the Code, which provides that Parties do not intend that any third party shall have any "rights, benefits, entitlements or privileges under the Code, the Framework Agreement and the Code Subsidiary Documents". The legal view is that the inclusion in the Legal Text, of an obligation on BSCCo to enter

into the licence, would undermine Section H9.4. Reference was also made, in the legal advice, to Section C1.3.1, which provides that BSCCo is required to exercise its powers and discharge its functions and responsibilities in order to achieve the objectives in Section B1.2.1. Therefore legal advice indicated that under the Alternative Modification any obligations of BSCCo towards licensees should be included within the licence and should not appear within the Code. It was suggested that BSCCo's high level obligations were sufficient to ensure that such a licence would be made available on request.

Section V of the Code outlines the provisions concerning the reporting obligations of BSC Agents not BSCCo. Although, BSCCo in accordance with its high level obligations, must facilitate the entitlement of Parties and non-BSC Parties to receipt of the relevant reports from the various BSC Agents. The Legal Text is consistent with the approach to reporting requirements and data provision in Section V.

In light of this legal advice, the majority of the SSMG agreed that it was not necessary, or desirable, to include such an obligation in the Code. A member of the SSMG held the view that, without this obligation on BSCCo to make a licence available, Alternative Modification P102 would not better facilitate the Applicable BSC Objectives.

9.5 Confidentiality of Data

During the Assessment Procedure the SSMG considered the confidentiality of data to be made available under P102 (Annex 2). It was noted by the SSMG that there are existing concerns surrounding this information being made available to all BSC Parties. However obligations within the Code on use and confidentiality of this information are considered adequate. Both the Proposed Modification P102 and Alternative Modification P102 place identical obligations on licensees and the SSMG believed this would provide adequate protection against misuse of the information. It was noted that any person could become a BSC Party, for up to six months, thereby obtaining access to this information in the short term.

Therefore the SSMG concluded that, although there are concerns surrounding provision of trading Data to persons not involved in trading activity, the Proposed Modification P102 and Alternative Modification P102 provide the same level of protection as is currently available under the Code.

Concerns were raised by the SSMG that large consumption, directly connected customers might have concerns surrounding BSC Party information being made available to a wider audience. These concerns were based on the fact that large consumer's own consumption data can be identified within this BSC Party information. The consultation was made available to large demand sites via the Energy Intensive User Group (EIUG). No issues were raised, on behalf of large demand sites, during the consultation process. Furthermore it was confirmed at the Panel meeting on 13 February 2003 that the EIUG had no issues with P102.

During the Assessment Procedure concern was expressed relating to the provision of trading data to non-BSC Parties (as proposed under Alternative Modification P102), without the explicit agreement of Parties. Therefore the draft legal text for P102 Alternative Modification contains a provision whereby BSC Parties agree for certain reports, as identified in Section V of the Code (including the reports detailed in Annex 2), to be provided to non-BSC Parties.

9.6 Extension Beyond LEGs

The SSMG believed that, if the requirement to commence trading is to be removed for LEGs, non-trading status should be made available to other interested Parties. Consultation responses supported this view. However legal advice stated that the defect described in P102 was specific to LEGs and that any extension to include other interested persons could not be covered by an Alternative Modification.

Modification Proposal P114-‘Entitlement of Licence Exemptable Generators (“LEGs”) and other Non-trading Parties to BSC Membership Without Evidence of Trading’ (P114) was submitted on 2 December 2002 by the Proposer of P102.

10 SUMMARY OF REPRESENTATIONS

A total of 10 responses (41 Parties, 2 non Parties) were received to the consultation on the draft Modification Report.

- 5 responses (13 Parties and 2 non-Parties) supported the recommendation that the Alternative Modification should be made;
- 8 responses (39 BSC Parties) supported the recommendation that the Proposed Modification should not be made;
- 8 responses (39 Parties) supported the Legal Drafting;
- 8 responses (39 Parties) supported the recommended Implementation Dates; and
- 1 Response had no comment.

A summary of responses to the P102 draft Modification Report consultation is included below:

Respondent:	Reject Proposed	Approve Alternative	Legal text	Date	Parties	Non Parties
SEEBOARD Energy Limited	✓	✓	✓	✓	1	-
Powergen	✓	X	✓	✓	15	-
LE Group	✓	✓	✓	✓	7	-
NGC	✓	✓	✓	✓	1	-
Aquila Networks	NC	NC	NC	NC	1	-
Scottish and Southern	✓	X	✓	✓	4	-
Scottish Power	✓	X	✓	✓	6	-
British Gas Trading	✓	✓	✓	✓	1	-
Slough Energy Supplies Ltd	X	✓	X	X	2	2
British Energy (Late Response)	✓	X	✓	✓	3	-
Total	8	5	8	8	41	2

This report contains a summary of the responses and copies of the actual responses received. A summary of the arguments raised in the responses is given below in sections 10.1 through 10.4. These arguments were all discussed by the SSMG during the Assessment Procedure and are summarised for completeness.

10.1 Views on the Panel's recommendation with regards to the Proposed Modification

The majority, 8 responses (39 Parties) agreed with the Panel's provisional recommendation that Proposed Modification P102 should not be made. 1 respondent (2 Parties, 2 non Parties), did not agree with the view expressed by the Panel in relation to the Proposed Modification.

Arguments expressed in support of the Panel's recommendation that the Proposed Modification should not be made:

- The Proposed Modification offers a low cost solution but the associated risks are high. These risks could lead to problems with BSC administration;
- Creation of special class of Party is not appropriate to facilitation of the purpose of the Modification and this approach could potentially lead to future legal issues;
- Concern was expressed at the ability of non-trading Parties to submit Modification Proposals;
- The Proposed Modification would create a precedent whereby subsets of the trading arrangements are applied to categories of Parties. This approach could dilute the effectiveness of the Code; and
- Both the Proposed and Alternative Modifications are discrimination in their limitation to LEGs.

Arguments expressed opposed to the Panel's recommendation that the Proposed Modification should not be made:

- There was concern that the Alternative Modification did not contain a contractual right to provide the data set out in the Modification Proposal, nor for the LEGs to receive the data. Alternative Modification P102 requires for provision of data to LEGs, providing they have entered into a suitable agreement with BSCCo. Furthermore contractual rights for a non-BSC Party to receive data can only exist once such non-BSC Party has entered into a contract (i.e. a licence agreement). As is consistent with current Code provisions in relation to services and data to be supplied to non-BSC Parties via licensing arrangements the legal text to give effect to Alternative Modification P102 does not include a specific obligation on BSCCo to enter into licence agreement; and
- Use of Party status, as per the Proposed Modification, would permit LEGs to submit Modification Proposals, thereby providing a forum for non-Trading Parties to affect the arrangements by which they receive data;

Both arguments had been considered by the SSMG during the Assessment Procedure. The SSMG concluded that that the Alternative Modification would provide LEGs with sufficient rights to access data (section 9.4). The SSMG concluded it was undesirable for non-Trading Parties to submit Modifications that affect a market in which they are not directly involved.

10.2 Views on the Panel's recommendation with regards to the Alternative Modification

5 responses (13 Parties and 2 Non-Parties) agreed with the Panel's provisional recommendation that Alternative Modification P102 should be made. 4 responses (28 Parties) did not agree with the view expressed by the Panel.

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

- Assists competition without leading to problems with BSC administration;
- Increased costs in comparison to the Proposed Modification are justified for the safeguards provided;
- Provides a clear, targeted mechanism for recovery of costs incurred in producing and distributing data to LEGs; and
- Increases competition and avoids issues relating to the use of Party Status.

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

- 2 responses (21 Parties) supported the principle of data provision to a wider audience but felt that limitation to LEGs was discriminatory and indicated support of P114. This issue was considered by the SSMG during Assessment (section 9.6) and it was agreed that data should be made available to a wider audience. However it was recognised that this was outside the scope of P102;
- 1 response (4 Parties) rejected P102 in its entirety on the grounds that no defect had been identified and there was no justification for provision of data to a wider audience. Modification Proposal P102 (Reference 1) included a paper outlining why LEGs require access to BSC data. The SSMG considered the rationale provided in this paper during the Assessment Procedure. Although P102 was rejected in its entirety, a preference for the Alternative Modification over the Proposed Modification was indicated; and
- 1 response (3 Parties) supported a data licensing approach in principle but rejected P102 Alternative on the grounds that the costs would not be wholly recovered from non-trading Parties. The SSMG considered this issue during assessment (section 9.3) and concluded that non-Parties would contribute a suitable amount to the costs of making information available.

10.3 Views on the Legal Text

The majority, 8 responses (39 Parties) agreed that the legal text provided in the Modification Report addresses the defect identified in the Modification Proposal.

One response (2 Parties and 2 non-Parties) supported the legal text for the Proposed Modification but indicated that the legal text for the Alternative Modification would not provide sufficient obligation to provide information to parties that require it. This issue was considered by the SSMG during Assessment (section 9.4).

10.4 Views on the Panel's recommendation with regards to the Implementation Date

The majority, 8 responses (39 Parties) agreed with the recommended Implementation Dates included in the draft Modification Report. Respondents indicated that, if approved, P102 Alternative Modification should be implemented as part of a standard BSC Systems Release, thereby minimising the associated costs.

One response (2 Parties and 2 non-Parties) believed that, as P102 is directed towards improving competition, it should be implemented as soon as possible. The recommended Implementation Date incorporates the necessary lead-time required, following an Authority decision, to complete

Development and Implementation work required by both BSCCo and the BSC Agents. In light of the lead times required the recommended Implementation Date presents the earliest opportunity to incorporate the changes within a standard BSC Systems Release, thereby minimising implementation costs.

ANNEX 1 – REPRESENTATIONS

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

ANNEX 2 – BSC PARTY INFORMATION

The table below details the reports that are currently available to all Parties and that would be available to any interested person under Alternative Modification P102.

Report	IDD Ref.	Contents
Settlement Reports	SAA-I014 (Sub flow 2, see IDD part 2)	Bid-Offer Data, Acceptance Data and Trading Charges for each Party. Volumes and Prices for the whole system. (See the IDD for further details)
Aggregated Data Report	CDCA-I042	Metered Volumes for each BM Unit, Interconnector or GSP Group. (See the IDD for further details)
Meter Period Data Report	CDCA-I030	Metered Volumes for all Distribution Systems Connection Points. (See the IDD for further details)
Total Gross Demand per GSP	CDCA-I029	Aggregated meter flows for each Grid Supply Point in each GSP Group per Settlement Period. (See the IDD for further details)

Table A1-1: BSC Party Report Contents.

For full details of the reports in the table above please refer to the Interface Definition and Design (IDD) (Reference 2), the current versions of which are available on the BSC Website:

http://www.elexon.co.uk/ta/bscrel_docs/ursidd.html