

P281 – ALTERNATIVE LEGAL TEXT

SECTION B: THE PANEL (Version 18.0)

Amend paragraph 2.1 to read as follows:

2. APPOINTMENT OF PANEL MEMBERS

2.1 Appointment of Panel Chairman

- 2.1.1 The Panel Chairman shall be a person ~~appointed~~ nominated, in consultation with the Board, by the ~~Authority~~ Panel; (which may follow such procedures as it shall determine for the selection of the person so ~~appointed~~ nominated) and approved by the Authority.
- 2.1.2 Subject to paragraph 2.1.3, a person shall be appointed as Panel Chairman where the Authority has given notice to the Panel Secretary of ~~such appointment~~ its approval, with effect from the later of the date ~~of such appointment~~ specified in such notice and the date on which such notice is given.
- 2.1.3 A person shall not be appointed as Panel Chairman until and unless that person has entered into an agreement in writing with BSCCo setting out terms as to his remuneration and benefits (determined in accordance with paragraph 2.11.3) and any related matters.
- 2.1.4 A person shall be removed from and shall cease to hold the office of Panel Chairman:
- (a) subject to paragraph 2.1.6 and 2.1.7, upon expiry of his term of office; or
 - (b) in the circumstances in paragraph 2.7.4(b) or 2.7.4(d).
- 2.1.5 The Panel Secretary shall send ~~a copy of any notice under paragraph 2.1.2~~ to all Panel Members and all Parties:
- (a) a notice setting out the identity of the person nominated by the Panel under paragraph 2.1.1; and
 - (b) a copy of any notice under paragraph 2.1.2.
- ~~promptly upon receiving such notice.~~
- 2.1.5A The notice referred to in paragraph 2.1.5(a) shall be sent promptly following the Panel's nomination and the notice referred to in paragraph 2.1.5(b) shall be circulated promptly upon receipt.
- 2.1.6 The term of office of the Panel Chairman shall be three years from the date of his appointment, provided that this shall not prevent a person holding that office from re-appointment to that office.
- 2.1.7 If, at the expiry of the term of office or upon the resignation of a person appointed as Panel Chairman, no other person has been appointed to that office, that person shall (if willing to do so) continue in office as Panel Chairman until such time as another person is so appointed.

Amend paragraph 2.8.2 to read as follows:

- 2.8.2 A person shall not be appointed as a Panel Member unless he shall have first:

- (a) confirmed in writing to BSCCo for the benefit of all Parties:

~~(i)~~ that he agrees to act as a Panel Member in accordance with the Code and acknowledges the requirements of paragraphs 2.8.1 and 2.8.3; and

~~(ii) that (in the case of an Industry Panel Member) he agrees to accept appointment (if appointed) as a Director of BSCCo (and its Subsidiaries) under Section C4.2;~~

(b) where that person is employed, provided to the Panel Secretary a letter from his employer agreeing that he may act as Panel Member ~~and (if appointed) as a Director of BSCCo (and its Subsidiaries)~~, and that the requirement in paragraph 2.8.1(b) shall prevail over his duties as an employee.

Amend paragraph 2.15.3 to read as follows:

2.15.3 The Deputy Panel Chairman shall not exercise the power:

(a) to appoint Panel Members under paragraph 2.5 or 2.6; or

~~(b) to appoint Directors of BSCCo under Section C4.3; or~~

(be) to determine the remuneration of Panel Members under paragraph 2.11.4.

Amend paragraph 6.2 to read as follows:

6.2 Annual BSC Meeting

6.2.1 An Annual BSC Meeting shall be held once in each BSC Year, in the month of July.

6.2.2 One or more representatives of each Party shall be entitled to attend and speak at the Annual BSC Meeting.

6.2.3 Any person entitled (other than pursuant to paragraph 4.5.1) to attend and speak at a meeting of the Panel shall be entitled to attend and speak at the Annual BSC Meeting.

6.2.4 The Panel Secretary shall convene the Annual BSC Meeting by giving not less than 28 days' notice, specifying the date, time and place of the meeting and the names of each Eligible Director, to each Party, each Panel Member, and each person entitled to receive notice of a meeting of the Panel.

6.2.5 Each Panel Member (in person and not via an alternate), each Director of BSCCo and the Chief Executive of BSCCo shall attend the Annual BSC Meeting unless prevented from doing so by exceptional circumstances; and the Panel Chairman (or in his absence the Deputy Panel Chairman failing whom a Panel Member nominated by the Panel) shall chair the meeting.

6.2.6 The purpose of the Annual BSC Meeting shall be for:

(a) an explanation and discussion of the accounts and reports provided pursuant to paragraph 6.1 for the previous BSC Year, and the Business Strategy and Annual Budget provided pursuant to paragraph 6.1 for the current BSC Year, and a response to any questions which Parties may have in relation to them (including any questions submitted in advance pursuant to paragraph 6.2.8); and

(b) the Board to make representations in the circumstances set out in paragraphs 6.2.9 to 6.2.15.

- 6.2.7 The Annual BSC Meeting shall not be a general meeting of BSCCo or a meeting of the Directors of BSCCo or of the Panel; and the Annual BSC Meeting shall have no power to take any decision; and no vote on any matter shall be taken at such meeting; and nothing said by any Panel Member or Director of BSCCo at such meeting shall amount to a decision of the Panel or Board of Directors of BSCCo or have any other binding effect.
- 6.2.8 Where a Party wishes the Panel, the Directors of BSCCo and/or the Chief Executive of BSCCo to address a particular question at the Annual BSC Meeting (having regard to the purpose of the meeting as set out in paragraph 6.2.6), such Party may submit such question to the Panel Secretary in writing in advance of such meeting and the Panel Secretary shall copy such question to all Parties.
- 6.2.9 Without prejudice to the rights of the BSCCo Shareholder and the Board in respect of the removal of Directors, the Panel may vote to remove any Director of BSCCo (other than the chairman of the Board) who has been appointed since the last Annual BSC Meeting (an "Eligible Director"). The Panel shall only be entitled to vote on the removal of an Eligible Director where the appointment of that Eligible Director has not complied with the terms of reference of the Nomination Committee (as established in accordance with Section C4.1).
- 6.2.10 Where a Party or a Panel Member wishes the Panel to vote on the removal of an Eligible Director, such Party or Panel Member shall give notice to the Panel Secretary. In order to be valid and effective such notice shall:
- (a) be in writing;
 - (b) be given at least 14 days before the Annual BSC Meeting;
 - (c) specify the name of the Eligible Director(s); and
 - (d) specify the reasons for seeking the removal of each Eligible Director,
- (together a "Ratification Notice").
- 6.2.11 The Panel Secretary shall be entitled, after consultation with the Panel Chairman, to reject a Ratification Notice where the notice has not been validly given under paragraph 6.2.10 (including, for the avoidance of doubt, where the reasons specified in the Ratification Notice do not comply with paragraph 6.2.9).
- 6.2.12 Where the Panel Secretary has received a valid Ratification Notice he shall copy such notice to all Directors of BSCCo, the company secretary of BSCCo, all Panel Members and all Parties.
- 6.2.13 The Board shall be entitled to:
- (a) nominate one or more of its members to be heard at the Annual BSC Meeting;
and
 - (b) make representations in writing prior to the Annual BSC Meeting which shall be sent forthwith by the Panel Secretary to every person who received a copy of the Ratification Notice:
 - (i) if so requested by the Board; and
 - (ii) if not received too late to do so.

6.2.14 Immediately following the Annual BSC Meeting, a meeting of the Panel shall be convened at which the Panel shall consider the removal of the relevant Eligible Director(s). A Panel resolution to remove an Eligible Director shall, notwithstanding paragraphs 4.3.2 and 4.4.3, require the vote in favour of the resolution of at least all Panel Members (other than the Panel Member appointed by the Transmission Company who shall not be entitled to vote) less one Panel Member and, for these purposes, an abstention shall count as a vote cast against the resolution.

6.2.15 Where the Panel has voted to remove an Eligible Director under paragraph 6.2.14 the Panel Secretary shall notify the Board and the Board shall, as soon as reasonably practicable thereafter, effect the removal of that Eligible Director.

SECTION C: BSCCO AND ITS SUBSIDIARIES (Version 14.0)

Amend Section 4 to read as follows:

4. MANAGEMENT OF BSCCO

4.1 Appointment of Board of Directors

4.1.1 ~~The Board shall comprise five Directors as follows:~~

~~(a) The size and composition of the Board shall be determined by the Board's Nomination Committee provided that the person who is Panel Chairman for the time being, who shall be Chairman of the Board;~~

~~(b) two persons who are Industry Panel Members, nominated in accordance with paragraph 4.2;~~

~~(c) two persons nominated by the Panel Chairman in accordance with paragraph 4.3.~~

~~4.1.2 The business and proceedings of the Board shall not be invalidated by reason of there being at any time fewer than the numbers of Directors provided for in paragraph 4.1.1 by reason of any casual vacancy.~~

4.1.2 The Board shall establish a Nomination Committee which, other than in respect of the chairman of the Board who shall be appointed in accordance with Section B2, shall be responsible for:

(a) evaluating the balance of skills, experience, independence and knowledge on the Board; and

(b) leading the process for Board appointments including:

(i) preparing a description of the role and capabilities required for a particular appointment; and

(ii) making appointment recommendations to the Board.

4.1.3 The Board shall provide written terms of reference for the Nomination Committee which shall, inter alia, specify that:

- (a) the Nomination Committee shall, in recommending appointments to the Board, have appropriate regard to reflecting different classes of, or categories of, industry participants on the Board;
- (b) at least 50% of the Directors shall have relevant electricity industry experience;
- (c) at least two Directors shall be (industry) independent in that such individual or a Related Person (in relation to that individual) shall not, at any time in the period of 5 years before their proposed appointment, have been:
 - (i) a Panel Member; or
 - (ii) an employee, director or representative of any Party or class of Parties (including as a representative of an industry trade association or other industry group); and
- (d) without prejudice to the foregoing, the number of Directors shall not be greater than [five].

4.1.4 In respect of the Nomination Committee terms of reference, the Board shall:

- (a) consult with the Panel prior to finalising, or approving material changes to, the terms of reference; and
- (b) publish the terms of reference on the BSC Website.

4.1.5 The composition of the Nomination Committee shall be set out in its terms of reference provided that:

- (a) the chairman of the Nomination Committee shall be the chairman of the Board; and
- (b) a majority of the Nomination Committee shall be independent non-executive Directors and at least one shall also be independent within the meaning of paragraph 4.1.3(c).

4.1.6 The Panel may appoint one of its members to act as an advisor to the Nomination Committee in connection with the recruitment process for any proposed appointments to the Board. If a Panel advisor is appointed then the Nomination Committee shall:

- (a) keep the Panel advisor informed of the conduct and progress of the recruitment process; and
- (b) consult with and seek the advice of the Panel advisor at regular intervals (including before recommending an appointment to the Board).

4.2 Directors

4.2.1 A person appointed as Director under paragraph 4.1:

- (a) shall hold office for a term not exceeding two years, but shall be eligible for re-appointment on expiry of such term;
- (b) may resign or be removed from office in accordance with the provisions of the Articles of Association of BSCCo;

~~(c) shall cease to hold office if removed in accordance with Section B6.2.9 to B6.2.15; and~~

~~(d) shall, if also a Panel Member, cease to hold office if he also ceases to hold office as a Panel Member pursuant to Section B2.7.4(d).~~

~~4.2 Industry Directors~~

~~4.2.1 The Panel shall decide upon the Industry Panel Members who are to be Directors of BSCCo subject to and in accordance with this paragraph 4.2.~~

~~4.2.2 Whenever (upon a vacancy arising pursuant to paragraph 4.2.4) a requirement arises for a Director(s) to be nominated from among Industry Panel Members, the Panel shall consider and resolve upon which of them shall be so nominated, provided that:~~

~~(a) if any Panel Member shall so require, the Panel shall resolve separately and by secret ballot, in relation to each Industry Panel Member, whether he shall be nominated;~~

~~(b) if the Panel does not resolve to nominate at least the number (one or two as the case may be) of Directors which are to be nominated, the Chairman shall decide which Industry Panel Member(s) (in addition to any nominated by the Panel) shall be nominated as Director(s);~~

~~(c) if the Panel resolves to nominate more than the number (one or two as the case may be) of Directors which are to be nominated, the Chairman shall decide which of the Industry Panel Member(s) so resolved upon shall be nominated as Director(s).~~

~~4.2.3 An Industry Panel Member shall not vote upon a proposal that he be nominated as Director.~~

~~4.2.4 An Industry Panel Member appointed as Director shall hold the office of Director until:~~

~~(a) his term of office as Panel Member expires in accordance with Section B2.7.3; provided that he shall be eligible for re-appointment but shall not automatically continue to hold the office of Director by virtue of re-appointment as a Panel Member; or~~

~~(b) if earlier, he ceases to hold office as a Panel Member pursuant to Section B2.7.4(b), (c) or (d); or~~

~~(c) he ceases to hold office in accordance with the provisions of the Articles of Association of BSCCo.~~

~~4.3 Other Directors~~

~~4.3.1 The Panel Chairman shall decide, after consultation with the Panel, upon the person or persons to be nominated from time to time as Director(s) under paragraph 4.1.1(c), and shall notify the Panel Secretary of his decision.~~

~~4.3.2 A person appointed as Director under paragraph 4.1.1(c):~~

~~(a) shall hold office for a term not exceeding two years, but shall be eligible for re-appointment on expiry of such term;~~

~~(b) — may resign or be removed from office in accordance with the provisions of the Articles of Association of BSCCo.~~

4.43 Expenses and remuneration

4.43.1 Each Director shall be entitled to be reimbursed by BSCCo for the reasonable costs and expenses (including travel and accommodation costs) properly incurred by such Director in attending meetings of or otherwise in the conduct of the business of the Board.

4.43.2 In addition to reimbursement under paragraph 4.43.1, any Director appointed under paragraph 4.1.43(ec) shall be entitled to be paid by BSCCo such remuneration and benefits as may be determined by the Panel Chairman after consultation with the Panel.

4.43.3 Except as provided in paragraph 4.43.2, no Director shall be entitled (in that capacity) to be paid any remuneration or benefits other than his costs and expenses in accordance with paragraph 4.43.1.

4.43.4 The secretary of BSCCo shall not be entitled to remuneration in that capacity, but without prejudice to the terms on which he is employed by BSCCo.

4.43.5 The remuneration and benefits payable to a Director pursuant to paragraph 4.43.2 shall be disclosed in the Annual BSC Report.

4.54 Indemnity

4.54.1 The Directors of BSCCo shall be indemnified by BSCCo as and to the extent provided in the Articles of Association of BSCCo.

4.65 Chief Executive

4.65.1 After consultation with the Panel, the Board shall appoint, and may from time to time remove, reappoint or replace, a person, not being a Director, to be the Chief Executive of BSCCo.

4.65.2 The person appointed as Chief Executive shall be employed or otherwise engaged by BSCCo on such terms as the Board shall decide.

4.65.3 The Chief Executive shall not be a Director but shall be entitled to receive notices of and to attend and speak (but not to vote) at all meetings of the Board, and (if requested by the Chairman of the Board) shall be required to attend such meetings, provided that the Board may require him to be absent from any part of a meeting at which any matter concerned with his employment or engagement by BSCCo is to be considered.

4.65.4 The Board shall delegate to the Chief Executive authority to conduct the day to day business of BSCCo.

4.76 Proceedings of the Board

4.76.1 Subject to the provisions of the Code, proceedings of the Board shall be conducted and governed in accordance with the requirements contained in the Articles of Association of BSCCo.

Amend paragraph 7.5 to read as follows:

7.5 Directors and secretary

- 7.5.1 Subject to paragraph 7.5.1A, tThe board of directors of each Subsidiary of BSCCo shall at all times comprise the persons who are for the time being Directors of BSCCo, and the company secretary of such Subsidiary shall be the person who is for the time being company secretary of BSCCo.
- 7.5.1A Where any Subsidiary of BSCCo is a Dormant Subsidiary then it shall not be necessary for all of the persons who are for the time being Directors of BSCCo to also be Directors of each Dormant Subsidiary provided that the chairman of BSCCo shall at all times be a Director of each Subsidiary.
- 7.5.2 Subject to paragraph 7.5.1A, Aany person who is appointed or re-appointed as, or who resigns or is removed as, Director or company secretary of BSCCo shall be appointed or re-appointed, or shall resign or be removed, as a director or (as the case may be) the company secretary of each Subsidiary of BSCCo; and a director or the company secretary of such a Subsidiary shall not resign as such unless he resigns at the same time as a director or (as the case may be) the company secretary of BSCCo.
- 7.5.3 The person who is for the time being Chief Executive of BSCCo shall act as chief executive of each Subsidiary of BSCCo, under such terms of reference as the board of directors of such Subsidiary may determine.
- 7.5.4 Each director of a Subsidiary shall be entitled to be reimbursed by BSCCo for the reasonable costs and expenses (including travel and accommodation costs) properly incurred by such director in attending meetings or otherwise in the conduct of the business of the board of directors of the Subsidiary and not otherwise reimbursed under paragraph 4.43.1.
- 7.5.5 No director of a Subsidiary shall be entitled (in that capacity) to be paid any remuneration or benefits other than his costs and expenses in accordance with paragraph 7.5.4.

Amend paragraph 8.2.4 to read as follows:

- 8.2.4 The functions of, and the things done by, BSCCo under and pursuant to this paragraph 8 shall be considered to be functions under and things done pursuant to the Code for the purposes of paragraphs 3.4.1, 3.4.2, 4.43, 4.54, 4.65, 5.1 and 5.3 and Sections D2, H4.2 and H4.3 (but subject to paragraph 8.2.1(f) above), H4.5, H4.6, H4.7 (for the purposes of which BSCCo Materials and BSC Systems shall be construed taking account of BETTA Support Work), H4.9, H4.10.2, H6, H7 and H9 but not for the purposes of any other provision of the Code (including paragraph 1.3) which applies or refers directly or indirectly to the functions of BSCCo; and the Panel shall have no duties or responsibilities in relation to BETTA Support Work and (except as provided in paragraph 8.2.3) BSCCo shall owe no duties to the Panel or to any Party or Parties generally in the carrying out of such functions.

ANNEX X-1: GENERAL GLOSSARY (Version 53.0)

Amend the following definition to read as follows:

"Affiliate": means, in relation to any Party, any holding company of that Party, any subsidiary of that Party or any subsidiary of a holding company of that Party, in each case within the meaning of sections ~~736, 736A and 736B~~ 1159 –of the Companies Act ~~1985~~ 2006, but subject to Section X2.2.5 in relation to the Transmission Company;

"Chief Executive":	means the person appointed from time to time as chief executive of BSCCo by the Board in accordance with Section C4.65;
"Related Undertaking":	means, in relation to any person, any undertaking in which such person has a participating interest as defined by section <u>421A of the Financial Services and Markets Act 2000-260(1) of the Companies Act 1985 as substituted by section 22 of the Companies Act 1989</u> ;
"Subsidiary":	has the meaning given to that term in section <u>736A-1159</u> of the Companies Act <u>19852006</u> ;

Insert the following new definitions in alphabetical order:

<u>"Dormant Subsidiary":</u>	<u>means a BSCCo Subsidiary that is dormant within the meaning of section 1169 of the Companies Act 2006;</u>
<u>"Eligible Director":</u>	<u>has the meaning given to that term in Section B6.2.9;</u>
<u>"Nomination Committee":</u>	<u>means the committee of that name appointed by the Board pursuant to Section C4.1;</u>
<u>"Ratification Notice":</u>	<u>has the meaning given to that term in Section B6.2.10;</u>