Report Phase Consultation Responses

P331 'Extended Dispute Deadline at the Post-Final Settlement Run under exceptional circumstances'

This Report Phase Consultation was issued on 15 January 2016, with responses invited by 5 February 2016.

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Phase

- Initial Written Assessment
- Definition Procedure
- Assessment Procedure
- Report Phase
- Implementation

Consultation Respondents

Respondent	No. of Parties/Non-Parties Represented	Role(s) Represented
TMA Data Management Ltd	0/4	HHDC, HHDA, NHHDC, NHHDA
EDF Energy	7/18	Generator, Supplier, Non Physical Trader, ECVNA, MVRNA, Supplier Agent
RWE npower	6/14	Supplier, Supplier Agents

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Question 1: Will P331 impact your organisation?

Summary

Yes	No	Neutral/No Comment	Other
0	2	0	1

Responses

Respondent	Response	Rationale
TMA Data Management Ltd	No	-
EDF Energy	Other	Consequential settlement impacts of disputes arising from an increase in the period allowed following post-final settlement runs for disputes to be raised. These could be a cost or a benefit depending on the nature of any such disputes.
RWE npower	No	There will be no activities that RWE npower are required to undertake to implement P331.

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Question 2: Will your organisation incur any costs in implementing P331?

Summary

Yes	No	Neutral/No Comment	Other
0	3	0	0

Responses

Respondent	Response	Rationale
TMA Data Management Ltd	No	-
EDF Energy	No	No signficant costs.
RWE npower	No	-

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Question 3: Do you agree with the Panel's initial unanimous recommendation that P331 should be approved?

Summary

Yes	No	Neutral/No Comment	Other
2	1	0	0

Responses

Respondent	Response	Rationale
TMA Data Management Ltd	Yes	-
EDF Energy	No	We are unconvinced that the proposal would better meet BSC objectives. The existing dispute deadline: 1. provides timing certainty for the final end date for BSC Settlement for any given day. 2. provides incentive to participants to identify errors in a timely manner. These features assist BSC objective (d) relating to efficiency of BSC processes, and, by setting the same expectation for all parties, objective (c) relating to competition. The proposal would increase uncertainty over the final end date for BSC settlement, and would reduce the incentive on participants to identify errors quickly. Parties that are disadvantaged by errors caused by other parties or originating within the settlement process may have no means of identifying those errors. If the risk from these errors are considered significant, they should be addressed through preventative measures in the Performance Assurance process.
RWE npower	Yes	RWE npower are supportive of widening the scope of exceptional circumstances to cover the Post-Final Settlement Run and agree that it should be applicable up to two months. We agree that the change better facilitates BSC Objective (d) and is a pragmatic approach to enable the correction of Settlement Error and subsequent allocation of Trading Charges between BSC Parties.

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Question 4: Do you believe that extending the Disputes Deadline for Post-Final Settlement Runs creates an unacceptable risk of a moral hazard?

Summary

Yes	No	Neutral/No Comment	Other
0	2	0	1

Responses

Respondent	Response	Rationale
TMA Data Management Ltd	No	It certainly creates a risk. We have always supported a shortening of dispute timescales and a shortening of Settlement Timescales as an incentive for Parties to ensure data is correct first time. We only support P331due to the "exceptional circumstances" caveat and we trust that the Trading Disputes Committee or the Panel would not allow the use of the extension provided by P331 in any other circumstances.
EDF Energy	Other	[Moral hazard "i.e. that extending the deadline could encourage more risky behaviour"] We think it would unnecessarily reduce the incentive on participants to identify errors in a timely manner. Such disputes are currently rare, and only time would tell whether the consequences of relaxing the deadline would turn out to be unacceptable. We do not think suppliers/agents would deliberately relax their processes on the assumption that TDC would grant exceptional circumstances. This would be a risky way of operating given uncertainty in the TDC decision. However, knowledge that there is a firm deadline is a strong incentive to identify errors quickly, so avoiding uncertainty for other participants and avoiding additional administrative effort by Elexon and the TDC.
RWE npower	No	The concept of exceptional circumstances allows the TDC to exercise discretion and gives the flexibility to extend the Dispute Deadline to two months, only where appropriate to do so. It is not a blanket extension to allow an extension to two months for all Trading Disputes at the Post-Final Settlement Run.

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Question 5: Do you agree with the Panel that the redlined changes to the BSC and BSCP11 deliver the intention of P331?

Summary

Yes	No	Neutral/No Comment	Other
2	0	0	1

Responses

Respondent	Response	Rationale
TMA Data Management Ltd	Yes	-
EDF Energy	Other	1. The form of words in the legal and BSCP11 text "shall not in any event be later than, or if later...." is contradictory and unsatisfactory. What the text is trying to say is that there is a 20 month deadline, except where an error is found in a Post-Final Settlement Run or an Extra-Settlement Determination (performed to make a previously agreed correction). In this case the usual 20 month deadline will not limit the time following the Run/Determination date during which a dispute can be raised to less than 1 month, and in exceptional circumstances 2 months, following a Post-Final Settlement Run. To address this in the BSCP11 text, I would change the proposed text: "Notwithstanding the above, if the TDC determines that there are exceptional circumstances, the Trading Dispute must still be raised no later than 20 months after the relevant Settlement Day in which the affected Settlement Period occurred or if later, where the alleged Settlement Error is an error in a Post-Final Settlement Run or an Extra-Settlement Determination, in accordance with W1.2.6." to "Section W1.2.6 of the Code requires that a Trading Dispute must be raised no later than 20 months after a Settlement Day, except where an error is found in a Post-Final Settlement Run or an Extra-Settlement Determination (performed to make a previously agreed correction), in which case the usual 20 month deadline will not limit to less than one month the period following a Post-Final Settlement Run or Extra-Settlement Determination date during which a dispute can be raised, and in

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Respondent	Response	Rationale
		exceptional circumstances will not limit to less than two months the period following a Post-Final Settlement Run during which a dispute can be raised." I could suggest clearer BSC legal text along the same lines, but this may be out of scope. 2. It is not absolutely clear how months and days are counted "after" a given Settlement Day or from a given Settlement Run or Extra-Settlement Determination (existing ambiguity). The day after today is usually understood as tomorrow, but the week, month or year after today is often understood to be the same day of a following week, month or year. Eg. For Settlement Day 15th January 2014, is the day 20 months after it (= the last day for dispute) 15th September 2015 or 16th September 2015 or something else? Not all months have the same number of days. Eg. For Settlement Day 31st January 2014, is the day 20 months after it 30 September 2015 or 1 October 2015 or something else?, with extra complications for non/leap years. Ambiguity might be reduced by referring to dispute being raised no later than the same numbered day of the 20th month following the day, or if there is no such day, the first day of the following month.
RWE npower	Yes	-

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Question 6: Do you agree with the Panel's recommended Implementation Date?

Summary

Yes	No	Neutral/No Comment	Other
2	0	0	1

Responses

Respondent	Response	Rationale
TMA Data Management Ltd	Yes	-
EDF Energy	Other	We can achieve an implementation date of 30 June 2016. There are no material operational implementation costs for us.
RWE npower	Yes	-

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Question 7: Do you agree with the Panel's initial view that P331 should be treated as a Self-Governance Modification?

Summary

Yes	No	Neutral/No Comment	Other
2	0	0	1

Responses

Respondent	Response	Rationale
TMA Data Management Ltd	Yes	-
EDF Energy	Other	The consequential materiality for correction of settlement errors occurring very late in the settlement process, which would not otherwise be corrected, is uncertain. The materiality could turn out to be very small or very large, and it is unclear whether this meets the criteria for self-governance.
RWE npower	Yes	-

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Question 8: Do you have any further comments on P331?

Summary

Yes	No
1	2

Responses

Respondent	Response	Rationale
TMA Data Management Ltd	No	-
EDF Energy	Yes	Other changes identified at the same time as P331 should reduce the risk of errors in the PFSR, so hopefully reduce the likelihood of needing to raise a Dispute on PFSR data. Adding an extra month runs contrary to discussions in Ofgem's Smarter Markets work, PSRG, and possibly also SRAG. The benefit of 'closing the books' earlier was stressed. It feels like the changes are designed such that the Dispute which led to the Mod could have been upheld in its entirety. If a future Dispute in the PFSR (or ESD) missed the new deadlines and was sufficiently material would we see another Mod raised to extend deadlines further?
RWE npower	No	-

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