

P232: Black Start and Fuel Security Compensation and Single Imbalance Price Derivation

BSCP Guidance Information (to be included in appropriate place within the new BSCP)

References to requirements, 'REQ', correspond to the Requirements Matrix in Appendix 4 of the P232 Consultation document.

Role of the Claims Committee and Experts – REQ 2.4 and REQ 2.6

REQ 2.4 - The membership of any Claims Committee will be appointed by the BSC Panel and may contain members of the BSC Panel but does not have to (i.e. the Claims Committee could be the BSC Panel, a sub-set of the BSC Panel, or have no direct BSC Panel Members' involvement).

REQ 2.6 - The BSC Panel or a Claims Committee may employ expert/ technical/ specialist sub-committees to advise or to assist it in determining a claim.

The Claims Committee discharges the responsibilities ascribed to the BSC Panel in section G of the Code, the FSC and FSC Guidance (the last two documents being those published by DECC on behalf of the Secretary of State, as amended from time to time).

The Claims Committee can establish (a) one, or a number of, expert/technical/specialist sub-committee(s) to which the Claims Committee can delegate consideration of claims to and / or (b) advisory groups/individuals to assist the Claims Committee in determining the validity of claims. Specifically in relation to FSC claims only, establishment of any sub-committee(s) are subject to the Authority not disapproving (i.e. sub-committee(s) will be established unless the Authority notifies the Claims Committee of its specific disapproval); note this applies to establishment only, sub-committee (or indeed the Claims Committee) membership is not subject to Authority approval.

Note that an expert or number of experts can be co-opted directly onto the Claims Committee. In such a case they become Claim Committee members rather than advisory experts.

Sub-committee(s) can potentially perform the bulk of claim validation work, particularly if the volume and complexity of claims was significant (e.g. due to a lengthy FSC period affecting all/many BSC Parties). Thus sub-committee(s) might be established, depending on the volume of claims etc, to look at the main (technical/specialist) aspects of all the claims received. These might be, for example, 'Fuel Costs', 'Insurance', 'Financing', 'Overheads', 'Emissions', 'Damages', 'Industry Charges' and 'Other Costs'. In other words, under this example, all the 'Fuel Costs' aspects of all the individual claims received would go to the 'Fuel Costs' sub-committee for validation, with this sub-committee membership being drawn from those persons whom the Claims Committee believed to be competent in the field of 'Fuel Costs' etc..

The role of sub-committee(s) can be to validate aspects of claims that fall under their specialist area of knowledge/expertise and advise the Claims Committee accordingly of their conclusions. The onus is on the claimant to supply sufficient evidence to the Claims Committee to enable it (or any sub-committee etc., that they establish to assist them) to carry out their duties. The role of the Claims Committee (and any sub-committee(s) supporting it) is to verify (and adjust as necessary) claims and determine the amount (£) of compensation to be paid to the BSC Party making the claim in question. In accordance with this sub-committee(s) would not actively gather evidence but would engage only in verification of evidence submitted. However, if the evidence submitted by the claimant is, in

the opinion of the sub-committee(s) (or the Claims Committee itself) insufficient to carry out its duties it may, if it wishes, ask the Claims Committee to seek such additional information from the claimant as, in the reasonable opinion of the sub-committee(s) (or the Claims Committee itself), it believes would be sufficient to complete its duties.

The Claims Committee is to make a judgement of the need to employ expert sub-committee(s) based on the need for specialist expertise and knowledge in relation to particular claim(s) and the need to delegate due to the volume of claims. The Claims Committee is to be mindful of the need to maintain the efficiency of the process by minimising the number of sub-committee(s) involved

Role of ELEXON and the Claims Committee – REQ 2.7

REQ 2.7 - ELEXON are to provide the Claims Committee with any administrative support and are to provide any requested information.

ELEXON are to provide to the Claims Committee:

- Any administrative and secretarial support necessary to assist the Claims Committee; and
- Any supporting information it requests which is available to ELEXON (e.g. Metered Volume data).

Confidentiality – REQ 2.8

REQ 2.8 - Any meeting of the Claims Committee shall be held in close session to ensure confidentiality.

Meetings of the Claims Committee are to be held in closed session to ensure confidentiality.

As well as the Claims Committee and (if invited) any sub-committee(s) members or experts, the Authority and DECC are free to attend meetings in an observational capacity. Relevant persons (e.g. representatives of claimants) can be invited to attend only for the consideration of particular claims, as deemed necessary by the Claims Committee.

Information submitted by claimant as part of a claim (or in response to a request from the Claims Committee) is to be treated as confidential by the Claims Committee.

Following the claims validation process, information held by the Claims Committee shall be destroyed after a period of time previously determined by the Claims Committee (and that date would be published to industry). For example, this time period may align with a time period permitted for appeal of the Credit Committee's determination.

FSC Costs – REQ 2.16

REQ 2.16 - The following Cost Headings are to be used for FSC claims: Fuel Costs, Insurance Costs, Financing Costs, Overhead Costs, Maintenance Costs, Emission Costs, Damages, Industry charges, Other Costs

The cost headings below are a list of areas which can comprise 'Exceptional Costs' required for Generator operation in accordance with an FSC period, and therefore appropriate for inclusion in a FSC Exceptional Cost claim.

These areas can be used to facilitate the handling of claims by the Claims Committee, and might also be the areas for which specialist sub-committee(s) may be formed and employed to advise the Claims Committee in validating claims.

This list is not exhaustive (the 'Other Costs' section can be used when uncertain). There is no ability for a claimant to 'double recover' any of these costs; if they are able to trade commercially and do so, any income received should be used to offset the claimant's costs prior to making any claim under the provisions of the FSC. Claim items may include:

- Fuel costs (including purchase, freight/transportation, storage, handling and use e.g. any changes to fuel efficiency arising from operating in accordance with the FSC);
- Insurance costs (including proportion of current insurance costs applied to the period in question as well as any increase in those costs arising due to the FSC period being invoked and/or resultant claim submissions, as appropriate);
- Financing costs (costs associated with funding the power station(s), via banking loan and/or via shareholder funds, using a reasonable rate of return/risk assessment);
- Overhead costs (cost of running the power station(s), including those associated with staffing e.g. overtime payments, and ancillary supplies, rent,);
- Maintenance costs (costs associated with day-to-day operation, ongoing maintenance and wear & tear of plant/specific apparatus);
- Damages (losses in respect of damage to property e.g. plant/apparatus or death/injury to persons);
- Emissions costs (cost of purchasing various emissions allowances, e.g. CO₂, NO_x and SO_x, needed to operate the power station(s));
- Industry charges (including proportion of current TNUoS and BSUoS charges applied to the claim period, and any additional charges arising from the FSC period being invoked and/or resultant claim submissions, as appropriate); and
- Other costs (any additional costs necessarily and properly incurred in good faith and on a basis consistent with commercial practices and procedures that were normal and prudent, after all reasonable efforts had been made to establish that no practicable alternative action (or inaction) was available at lower cost).

To assist the Claims Committee (and any sub-committee(s) established) with the handling of Black Start Period claims, claimants should also breakdown their claim costs into their constituent parts using the following headings: "Fuel", "Plant & Apparatus", "Emissions", "Industry Charges" and "Others".

Interim Payments – REQ 2.20 and REQ 2.21

REQ 2.20 - Interim payment sums (£) can be agreed by the Claims Committee only for Exceptional Costs (arising from complying with an FSC Direction received by the Claimant) which have been incurred (up to the date of the interim claim submission) throughout a FSC anticipation period or during a FSC period. The Claims Committee do not manage payment of that claim. BSC Parties are advised to ensure submitted claims are easy to validate if they require swift determination by the Claims Committee.

REQ 2.21 - Payment received as an Interim Payment cannot be claimed for again as part of the final claim; i.e. no double recovery.

The interim (claims) payment process for claims arising from costs incurred (up to the date of the interim claim submission) during a Black Start Period, during a FSC event or in an anticipation of a FSC event is to be exactly the same process as for the 'final' claims process for similar claims for these three examples. The purpose is so claims for interim payment can be assessed and approved for BSC Parties to make claims where cash-flow might be an issue,

but any BSC Party can claim if they so desire. However the process of assessing the claim as determined by the Claims Committee will not change.

Claimants are reminded that claims, for interim (or indeed final) payment, can only be for those costs:

- a) defined in the BSC as "Avoidable Costs" for a Black Start Period; or
- b) defined in the FSC as "Exceptional Costs" for FSC events

where:

- i) the BM Unit concerned has received a specific Black Start Instruction or FSC Direction (as the case may be) which gave rise to those costs being incurred; and
- ii) those costs have actually been incurred by that BM Unit up to the date of the interim claims submission.

Any Payment amount (£) determined by the Claims Committee cannot be claimed for again as part of any final claim; i.e. there is no double recovery. Claimants are to submit details of any interim payment made as support to their final claim.

BSC Parties who wish to receive prompt determination by the Claims Committee of their interim claims (which could help to facilitate them receiving prompt payment) are advised to send in these claims with evidence which is easily assessable and understood, and attach a note requesting a quick resolution. For example, during a FSC event a BSC P could submit multiple claims for fuel costs as interim payments, then claim for Insurance and Financing costs for the entire event once it has ended.

Notes:

- i) The 20 day claim submission time-frame for Black Start Periods and the 60 day claim submission time-frame for FSC events do not apply for claims submitted for interim payments during an on-going Black Start Period, FSC event or anticipation period for a FSC event. Only when these periods/events end do the claims time-frames apply (for making the final claims application).
- ii) The Claims Committee is not responsible for ensuring any Payment is made. The Claims Committee can only determine that a claim is valid for payment.
- iii) No costs claim for interim payment can be made for costs which may (or will) be incurred at a future date.