

## **ASSESSMENT REPORT for Modification Proposal P159 Extending the Scope of E-mail Communications under the Code**

**Prepared by: Governance Standing Modification Group**

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**Document reference:** P159AR

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This document has been distributed in accordance with Section F2.1.10<sup>1</sup> of the Balancing and Settlement Code.

### **RECOMMENDATIONS**

The Governance Standing Modification Group invites the Panel to:

- **AGREE that the Proposed Modification P159 should be made;**
- **AGREE a provisional Implementation Date for Proposed Modification P159 of 23 February 2005 if an Authority decision is received on or before 1 September 2004, or 29 June 2005 if the Authority decision is received after 1 September 2004 but on or before 1 December 2004;**
- **AGREE that Modification Proposal P159 be submitted to the Report Phase; and**
- **AGREE that the draft Modification Report be issued for consultation and submitted to the Panel Meeting of 10 June 2004.**

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<sup>1</sup> The current version of the Balancing and Settlement Code (the 'Code') can be found at [www.elexon.co.uk/ta/bsc/el\\_docs/bsc\\_code.html](http://www.elexon.co.uk/ta/bsc/el_docs/bsc_code.html)

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## SUMMARY OF IMPACTED PARTIES AND DOCUMENTS

As far as BSCCo and the GSMG have been able to assess, the following parties/documents would be impacted by Modification Proposal P159.

Parties	Sections of the BSC	Code Subsidiary Documents	
Suppliers <input checked="" type="checkbox"/>	A <input checked="" type="checkbox"/>	BSC Procedures <input checked="" type="checkbox"/>	
Generators <input checked="" type="checkbox"/>	B <input type="checkbox"/>	Codes of Practice <input type="checkbox"/>	
Licence Exemptable Generators <input checked="" type="checkbox"/>	C <input type="checkbox"/>	BSC Service Descriptions <input type="checkbox"/>	
Transmission Company <input checked="" type="checkbox"/>	D <input type="checkbox"/>	Service Lines <input type="checkbox"/>	
Interconnector <input checked="" type="checkbox"/>	E <input type="checkbox"/>	Data Catalogues <input type="checkbox"/>	
Distribution System Operators <input checked="" type="checkbox"/>	F <input type="checkbox"/>	Communication Requirements Documents <input type="checkbox"/>	
<b>Party Agents</b>			
Data Aggregators <input type="checkbox"/>	G <input type="checkbox"/>	Reporting Catalogue <input type="checkbox"/>	
Data Collectors <input type="checkbox"/>	H <input checked="" type="checkbox"/>	MIDS <input type="checkbox"/>	
Meter Operator Agents <input type="checkbox"/>	J <input type="checkbox"/>	<b>Core Industry Documents</b>	
ECVNA <input type="checkbox"/>	K <input type="checkbox"/>	Grid Code <input type="checkbox"/>	
MVRNA <input type="checkbox"/>	L <input type="checkbox"/>	Supplemental Agreements <input type="checkbox"/>	
<b>BSC Agents</b>			
SAA <input type="checkbox"/>	M <input type="checkbox"/>	Ancillary Services Agreements <input type="checkbox"/>	
FAA <input type="checkbox"/>	N <input type="checkbox"/>	Master Registration Agreement <input type="checkbox"/>	
BMRA <input type="checkbox"/>	O <input type="checkbox"/>	Data Transfer Services Agreement <input type="checkbox"/>	
ECVAA <input type="checkbox"/>	P <input type="checkbox"/>	British Grid Systems Agreement <input type="checkbox"/>	
CDCA <input type="checkbox"/>	Q <input type="checkbox"/>	Use of Interconnector Agreement <input type="checkbox"/>	
TAA <input type="checkbox"/>	R <input type="checkbox"/>	Settlement Agreement for Scotland <input type="checkbox"/>	
CRA <input type="checkbox"/>	S <input type="checkbox"/>	Distribution Codes <input type="checkbox"/>	
Teleswitch Agent <input type="checkbox"/>	T <input type="checkbox"/>	Distribution Use of System Agreements <input type="checkbox"/>	
SVAA <input type="checkbox"/>	U <input type="checkbox"/>	Distribution Connection Agreements <input type="checkbox"/>	
BSC Auditor <input type="checkbox"/>	V <input type="checkbox"/>	<b>BSCCo</b>	
Profile Administrator <input type="checkbox"/>	W <input type="checkbox"/>	Internal Working Procedures <input checked="" type="checkbox"/>	
Certification Agent <input type="checkbox"/>	X <input type="checkbox"/>	<b>Other Documents</b>	
MIDP <input type="checkbox"/>		Transmission Licence <input type="checkbox"/>	
TLFA <input type="checkbox"/>			
<b>Other Agents</b>			
SMRA <input type="checkbox"/>			
Data Transmission Provider <input type="checkbox"/>			

# **1 DESCRIPTION OF MODIFICATION PROPOSAL AND ASSESSMENT AGAINST THE APPLICABLE BSC OBJECTIVES**

## **1.1 Modification Proposal**

### **1.1.1 Background: Current provisions under H9.2**

Modification Proposal P159 'Extending the Scope of E-mail Communications under the Code' ('P159', Reference 1) was raised on 28 January 2004 by the Balancing and Settlement Code Panel ('the Panel') in accordance with paragraph F2.1.1(d)(i) of the Balancing and Settlement Code ('the Code').<sup>2</sup>

P159 proposes to extend the current Code provisions regarding use of e-mail, in order to formalise e-mail as an available medium for all individual notices and communications given in accordance with paragraph H9.2 of the Code. H9.2 covers any communications between Parties, BSCCo (including BSC Clearer) and the Panel (including Panel Subcommittees and Modification Groups) under the Code and Code Subsidiary Documents which are not subject to express provisions elsewhere in the Code.

The Panel agreed to raise P159 on BSCCo's recommendation that expanding the Code's recognition of e-mail as a form of communication under H9.2 would better facilitate Applicable BSC Objective (d):

'promoting efficiency in the implementation and administration of the balancing and settlement arrangements'.

In so doing, the Panel took account of the Authority's determination in respect of Approved Modification Proposal P113 'E-mail Communications under the Code' ('P113', Reference 2), which was implemented on 10 July 2003. P113 introduced provisions within H9.2 that where a general communication is to be given by BSCCo, the Panel, a Panel Committee, a Modification Group, or their respective secretaries, to all Parties (or a class of Parties) simultaneously the communication may be given by e-mail. Prior to P113, H9.2 only expressly provided for such communications to be sent by post or fax.

### **1.1.2 Modification Proposal P113**

P113 confirmed BSCCo's existing practice regarding use of e-mail for general or 'mass' communications under the Code and Code Subsidiary Documents – examples of which include ELEXON Circulars, Modification/Change Proposal Circulars, Project Circulars, and notifications relating to Modification Proposals. The Panel, in its recommendation to the Authority regarding P113, agreed that e-mail represents the most efficient means of correspondence for such communications since it enables fast dissemination of information to large numbers of interested parties. The Panel also noted that if these communications were to be sent by means other than e-mail this would add considerably to administration costs for BSCCo, and lengthen the time between the issue and receipt of communications.

In its decision letter concerning P113, the Authority stated that the distribution of general notices by e-mail has demonstrated itself to be as reliable as post or fax, whilst delivering significant gains in administrative efficiency. The Authority also considered that the potential efficiency gains which might result from P113 would outweigh any perceived increase in risk to Parties from use of e-mail.

The Panel and the Authority noted that P113 did not seek at that time to alter the provisions within H9.2 by which communications are given by BSCCo to individual Parties, as the issues relating to use of e-mail for individual communications were felt to be potentially less self-evident. P113 also did not cover communications from individual Parties to BSCCo, on the same grounds.

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<sup>2</sup> F2.1.1(d)(i) allows BSCCo to recommend to the Panel any modification which in BSCCo's opinion would better facilitate Applicable Objective (d).

More information regarding P113 can be found in the P113 Initial Written Assessment (Reference 3), Modification Report (Reference 4) and Authority decision letter (Reference 5).

### **1.1.3 Modification Proposal P159**

P159 argues that, in the period of time following the submission of P113, e-mail has become even more widely acknowledged by Parties as an efficient and cost-effective form of communication – with no material e-mail performance issues having been brought to BSCCo's attention following implementation of P113. BSCCo, in recommending that P159 be raised, therefore suggested that an opportune time has been reached at which to consider expanding H9.2's provisions for e-mail to all other notices and communications between Parties under the Code and Code Subsidiary Documents. P159 will include communications sent both from and to BSCCo.

P159 notes that a number of Balancing and Settlement Code Procedures (BSCPs) already envisage individual e-mail communications between Parties, and that P159 would therefore confirm current practice in this regard. Some existing BSCP provisions regarding use of e-mail were carried over during conversion of the Agreed Procedures under the Pool into BSCPs, and thereby led to the inclusion of additional similar provisions under NETA. P159 argues that such provisions have become widely accepted by Parties since NETA Go-Live as an appropriate means of sending and receiving communications to and from BSCCo, and as BSCCo's operational practice.

The Code is currently silent on use of e-mail for such individual communications. However, paragraph H1.5.1 states that in the event of any conflict between the provisions of the Code and the provisions of any Code Subsidiary Document, the provisions of the Code shall take precedence. In recommending that P159 be raised, BSCCo noted the desirability of removing any perceived inconsistency between the Code and BSCPs by expressly confirming existing practice within the Code.

However, P159 recognises that expansion of the current Code provisions to all notices and communications under the Code and Code Subsidiary Documents may also legitimise use of e-mail for communications which are not currently sent (or envisaged to be sent) by such means. The Modification Proposal therefore suggests that a set of express exceptions be developed where it may be inappropriate for individual communications to be given by e-mail.

Finally, P159 considers that some additional rules for the governance of e-mail transmissions may be required in order to reflect the different kinds of communications under the Code and Code Subsidiary Documents. The Proposal suggests that these could be included within an appropriate BSCP, such as BSCP38 'Authorisations'.

### **1.1.4 Process followed to date**

The P159 Initial Written Assessment (Reference 6) was presented to the BSC Panel at its meeting of 12 February 2004, where the Panel determined that the Modification Proposal should be submitted to a three-month Assessment Procedure by the Governance Standing Modification Group (GSMG). The issues raised by BSCCo and the Panel during the Initial Assessment of P159 formed the basis of the GSMG's Terms of Reference, and can be found in Annex 2 along with details of the Group's membership.

The GSMG met three times during the Assessment Procedure to consider P159: on 19 February, 10 March and 7 April 2004. A summary of the GSMG's discussions and recommendations is provided in Sections 1.2-1.6. An industry consultation was issued and impact assessments commissioned from BSC Parties, Core Industry Document Owners, the Transmission Company, and BSCCo. Summaries of the views and impacts returned can be found in Sections 4, 5 and 6, with the full responses attached as Annexes 3-5. For further information regarding the format of the consultation and impact assessments,

please refer to the P159 Assessment Consultation document (Reference 7) and Requirements Specification (Reference 8).

Draft legal text has been provided, and is attached as Annex 1.

## 1.2 Proposed Modification

The following table represents a high-level view of the solution agreed by the GSMG to support P159, with respect to the issues identified in the P159 Initial Written Assessment and Terms of Reference.

**Table 1 – Overview of P159 solution**

Issue	GSMG's agreed solution	Detail
Scope of P159.	<p>P159 covers communications between BSC Parties (including BSCCo, the Transmission Company and the Panel). There is no impact upon any BSC Agents or Party Agents.</p> <p>P159 covers communications within the Code and BSCPs. There is no impact upon any other Code Subsidiary Documents.</p>	See 1.3.1.
Identification of exceptions to use of e-mail.	Sole use of e-mail is not appropriate for certain 'formal' communications which require paper signatures, grant rights or impose obligations (e.g. Default notices).	See 1.3.3 (a).
Working practice regarding exceptions to use of e-mail.	As a working practice, e-mail may be used for the above exceptions providing that the sender additionally confirms the communication by post or fax. However, under the P159 Code provisions, deemed receipt (and any resulting actions by the receiver) would only result from the 'official' post or fax version.	See 1.3.3 (b).
Choice of communications medium.	The choice of whether to issue communications by e-mail will be at the sender's discretion.	See 1.3.2.
Deemed receipt rules.	The existing P113 deemed receipt rules in H9.2 will be extended to all communications under P159, including communications from and to BSCCo.	See 1.3.5 (a).
Additional e-mail governance rules.	Caveat to be inserted into H9.2 deemed receipt rules, to state that e-mail communications will be deemed to have been received at the existing point of deemed receipt providing that an undeliverable receipt has not been received by the sender at that time.	See 1.3.5 (b).
Current BSCP provisions.	Aside from the exceptions identified above, e-mail will be added as an available communication method within all BSCP step tables where this option is not currently available.	See 1.3.6 (a).
BSCCo working practice.	BSCCo to use the implementation of P159 as an opportunity to seek to strengthen, and communicate with Parties regarding, its working practices in respect of communications under the Code and Code Subsidiary Documents.	See 1.3.6 (b).

More information regarding this solution can be found in Section 1.3 below.

### 1.3 Issues raised by the Proposed Modification

This section summarises the GSMG's discussions regarding the following issues raised by the P159 Initial Written Assessment and Terms of Reference:

- Scope of P159;
- Choice of communications medium under P159;
- Exceptions to use of e-mail;
- Option of e-mail for communications where not existing practice;
- E-mail deemed receipt rules;
- Additional P159 e-mail governance rules; and
- Draft legal text.

#### 1.3.1 Scope of P159

##### a) Communications covered by P159

P159 seeks to allow use of e-mail for all notices and communications covered by paragraph H9.2 of the Code. H9.2 provides for any communications between the following parties under the Code and Code Subsidiary Documents which are not subject to express alternative provisions within Section O or elsewhere within the Code:

- BSCCo (including BSC Clearer);
- The Panel (including Panel Subcommittees, Modification Groups and their respective secretaries); and
- BSC Parties (including the Transmission Company).

##### b) Communications outside the scope of P159

The existing exceptions to the provisions of H9.2 are located in Section O, paragraph O1.2 – and the following table provides a summary of these exceptions.

**Table 2 – Communications outside scope of P159**

Communications outside scope of H9.2 and P159	Location of provisions
Communications between Parties (including the Transmission Company) or Party Agents and BSC Agents. <sup>3</sup>	O1.2.1, further provisions of Section O, Communications Requirements Document, NETA Data File Catalogue.
Communications between BSC Agents and/or Market Index Data Providers (MIDPs).	O1.2.1(c), Communication Requirements Document, relevant BSC Service Descriptions, BSC Agent/MIDP Contracts, BSCPs etc.
Communications between the Transmission Company and a Party, as governed by the Grid Code.	O1.2.1(b) and Section Q.
Data transfers between Suppliers, Supplier Agents, Supplier Meter Registration Agents, BSCCo, the Supplier Volume Allocation Agent and the Teleswitch Agent using the Data	O1.2.1(d), O1.4, further provisions of Section O, SVA Data Catalogue and other SVA Code Subsidiary Documents.

<sup>3</sup> The Balancing Mechanism Reporting Agent, BSC Auditor, Central Data Collection Agent, Central Registration Agent, Certification Agent, Energy Contract Volume Aggregation Agent, Funds Administration Agent (FAA), Profile Administrator, Technical Assurance Agent, Settlement Administration Agent, Supplier Volume Allocation Agent and Teleswitch Agent.

Communications outside scope of H9.2 and P159	Location of provisions
Transfer Network.	
Communications specified within Data Catalogues.	In accordance with provisions of relevant Data Catalogue.
Any express provision of the Code/Subsidiary Documents for a communication to be made via the Balancing Mechanism Reporting Service or BSC Website.	As expressly provided within the Code/Subsidiary Documents.

The GSMG therefore clarified that communications between Parties and Party Agents/BSC Agents, and communications via electronic data flows lie outside the scope of P159. The Group also noted that the Code contains no specific provisions for the medium or deemed receipt of communications to and from the Authority, which are therefore not covered by P159.

The GSMG noted BSCCo's advice that, since H9.2 does not cover communications to or from BSC Agents and Party Agents, P159 has no impact upon any Code Subsidiary Documents other than BSCPs.

The GSMG recognised that there may also be many 'day-to-day' communications between BSCCo and Parties (or between Parties) which fall outside the scope of notices and communications under the Code – such as communications to Parties by BSCCo's Operational Support Managers. These may be sent by e-mail or otherwise, and are not intended to be covered by P159 or by the Code and BSCPs.

### c) Existing P113 baseline

The GSMG also noted the advice contained with the P159 Terms of Reference that P159 is not intended to alter the provisions implemented for general communications under P113. Although some of the P113 drafting is amended in the proposed P159 legal text in order to reflect the additional e-mail communications under P159, the GSMG's assessment of P159 was framed against the current Code baseline incorporating P113.

#### 1.3.2 Choice of communications medium under P159

The GSMG discussed whether, apart from any express exceptions developed by the Group (see 1.3.3 below), use of e-mail to send and receive notices and communications under P159 should be voluntary by Parties.

##### a) GSMG's rejection of e-mail at receiver's discretion

The GSMG agreed that an option for Parties to opt in or out of receiving e-mail communications on a 'per communication' basis would outweigh the efficiency benefits of use of e-mail, since it would require BSCCo to put in place additional resources to maintain a register of Parties' preferences for each communication. The Group therefore agreed that this option would not better facilitate the Applicable BSC Objectives.

The GSMG considered an alternative solution whereby Parties could opt in or out of receiving e-mail communications as a whole under P159 (with the exception of those general e-mail communications covered by P113). However, the Group noted that this would still require the maintenance and checking of a register of Parties' preferences, and therefore incur administrative costs.

##### b) GSMG's rejection of e-mail as mandatory or at BSCCo's discretion

The GSMG discussed whether use of e-mail for communications under P159 could therefore either be mandatory or at BSCCo's discretion. The majority of the Group agreed that Parties might have concerns that this approach would impose the use of e-mail on Parties for issuing communications, and that allowing BSCCo to choose the format for both issue and receipt (and thereby removing this choice for Parties) could potentially be viewed as discriminatory.

One member of the GSMG stated that they would prefer the Code and BSCPs to provide certainty as to which medium would be used. However, this member recognised the difficulties involved in allowing Parties or BSCCo to choose a preferred medium for each communication – and also noted that changing the Code and BSCPs to specify one method per communication, rather than providing the option of several mediums as currently, would be outside the scope of P159. This member therefore stated that their preferred approach would be for use of e-mail to be mandatory under P159. The member argued that this would maximise efficiency in communications since it would enable BSCCo and Parties to have certainty over how communications would be issued to them, remove the need to monitor several methods of receipt (i.e. post, fax machines and e-mail inboxes), remove the need to maintain multiple contact details (postal address, fax number and e-mail address), thereby minimise the risk of communications going astray or failing to be actioned promptly, and reduce BSCCo's administrative overheads.

### **c) GSMG's agreement of e-mail at sender's discretion**

The other members of the GSMG considered the above arguments but agreed that the most efficient and cost-effective approach would be to allow the choice of medium for communications under P159 (i.e. a choice between post, fax or e-mail) to be at the discretion of the sender. P159 would therefore allow the option of issuing communications by e-mail, rather than mandating its use. The majority of the Group agreed that this approach would strike a balance between the preferences of BSCCo and of Parties – enabling BSCCo to benefit from the efficiency gains of sending communications to Parties by e-mail, whilst allowing each Party to choose the most efficient medium for that Party when issuing its own communications. The GSMG recognised that this approach, unlike those considered above, would largely confirm BSCCo's and Parties' existing practices and would therefore involve the least impact upon BSCCo and Parties (and thereby incur the least implementation costs).

## **1.3.3 Exceptions to use of e-mail under P159**

### **a) Identification of exceptions**

The GSMG discussed the suggestion of the Modification Proposal that a set of express exceptions, in addition to those already contained in Section O, should be developed for any individual communications under H9.2 where use of e-mail would not be appropriate.

The GSMG expressed its desire that the provisions for use of e-mail be consistent and efficient, and therefore for exceptions to these provisions to be kept to a minimum.

The GSMG agreed that exceptions should only be made where for legal reasons it would not be appropriate to send particular communications solely by e-mail. The Group noted the legal advice provided by BSCCo that there is no restriction in law regarding the use of e-mail for any specific notices or communications. However, the Group also noted BSCCo's legal view that it would not be appropriate for some formal notices under the Code and BSCPs which grant rights or impose obligations, or which require paper signatures, to be sent solely by e-mail. The GSMG agreed with the principle that such formal notices should not be sent solely by e-mail – but noted that, since communications would not become less 'legal' or binding if sent by e-mail, deciding what represented a 'significant' or 'formal' notice would involve a degree of judgement on the part of the Group. The GSMG therefore specifically invited consultation respondents to identify any communications which they believed should form exceptions under P159.

The table on the following pages therefore outlines those communications where the GSMG (supported by BSCCo's legal advice) agreed that sole use of e-mail would not be appropriate, and summarises the rationale for each exception. No additional exceptions were suggested by respondents to the Assessment Consultation (see Section 6 for further information regarding responses).

**Table 3 – Exceptions to sole use of e-mail under P159**

<b>Location of communication</b>	<b>Description of communication</b>	<b>Rationale for exception to sole use of e-mail under P159</b>
A2.2.3 (b).	Parties' submission of Accession Agreement.	Signing of agreement obliges Party to comply with provisions of the Code. Represents legal contract and requires hard-copy signature.
A2.3.2 (a)	Transmission Company execution of Accession Agreement.	Use of this provision would result from BSCCo's failure to comply with the Authority's direction to admit a Party to the Framework Agreement. Represents legal contract as above.
A2.6.1 (a).	BSCCo's notice of withdrawal to a Party which does not commence trading.	Hard copy needed as required to be served to Party's official address, and addressed to the Party as a company rather than an individual.  Removes company's status as BSC Party and all resulting rights under the Code.
A5.1.1 & BSCP65 form F65/03.	Parties' submission of Withdrawal Notice to BSCCo.	Represents legal notice of a Party's intention to withdraw from the Code; hard-copy required.
A5.2.4 & BSCP65 form F65/04.	Panel's Expulsion Notice to a Party.	Hard copy needed as required to be served to Party's official address, and addressed to the Party as a company rather than an individual.  Removes company's status as BSC Party and all resulting rights under the Code.
B2.5.1, 2.5.2, 2.6.1, 2.6.2 & 2.10.1.	Panel Chairman notices to Panel Secretary of appointment, reappointment or removal of Panel Members or Alternates.	Represent commencement/cessation of legal contracts. Require hard-copy signatures.
B2.8.2, 2.8.3, 2.8.4 & 2.9.3.	The following communications between Panel Members and BSCCo: indemnity letters, acceptance letters, and documents relating to contracts.	Represent legal contract terms/obligations and require hard-copy signatures.

Location of communication	Description of communication	Rationale for exception to sole use of e-mail under P159
Annex B-2 3.1 & 3.2.	Parties' submission of Panel election nomination and voting forms.	Require hard-copy signature of person authorised to vote on behalf of Trading Party Group.  Post or fax enables prompt validation and vote-counting, and ensures security.
D1.4.5 (a).	Party notification to Panel that it considers its Trading Dispute to justify adjustments in respect of the Volume Allocation data used in determining Funding Shares.	Important that Party understands the gravity of the request, which is a formal notification with potentially material consequences. Hard copy therefore required.
D6.1.1.	Party notification of bank account details to BSCCo.	Hard copy required to ensure security of bank details.
D6.5.6.	Party's notice to BSCCo before instituting any action or proceeding to enforce payments due to it.	Important that Party understands the gravity of taking such action; notification of legal action. Hard copy therefore required.
D6.6.1 (a).	BSCCo's notice to each Trading Party of an emergency amount to be recovered from that Party in addition to its usual Main Funding Shares.	Represents an out-of-the-ordinary request; important that Parties are aware of their requirement to make additional payments.
F1.1.2 & F1.1.4.	Transmission Company's notice to BSCCo to modify/not modify the Code in respect of a Modification Proposal.	Represents legal instruction. Hard-copy signature required.
F1.7.2.	Transmission Company's notification to BSCCo that the Authority has directed it to assume responsibility for the BSC Modification Procedures.	Represents legal instruction for BSCCo to cease responsibility for the BSC Modification Procedures. Hard-copy signature required.
F2.1.6	Notification from BSCCo to a Party that the Panel has refused to accept submission of a Modification Proposal.	Represents formal notice of the grounds for refusal. Hard-copy signature required.
F2.6.4 (b).	Modification Group member's release letter from their employer to BSCCo.	Hard-copy required as confirms membership of Group, and any resulting indemnities or expenses.

Location of communication	Description of communication	Rationale for exception to sole use of e-mail under P159
H3.1.	Default notices from BSCCo to Parties.	Hard copy needed as required to be served to Party's official address, and addressed to the Party as a company rather than an individual.  Impose obligations, and receipt marks commencement of default rectification period. May led to restriction of rights under the Code.
H7.1.5.	Party notice to BSCCo that it has referred a dispute between Parties to arbitration.	Important that Party understands the gravity of taking such action; represents notification of escalation of a dispute. Hard copy therefore required.
W3.5 & 3.6.	Party referrals of Trading Disputes to the Panel or to arbitration.	As above.
BSCP38 3.1.1.	Parties' first nomination of Authorised Persons.	First nomination of Authorised Persons requires hard-copy signatures for BSCCo's records. Thereafter, authorised signatures may be used by post, fax or e-mail by these Authorised Persons.

The GSMG noted that the above exceptions represented 'one-off' or rare communications, and therefore that any costs or inefficiency in continuing to issue these communications by post or fax would be minimal.

## **b) Governance rules for exceptions**

The GSMG agreed that, whilst it would not be appropriate for these exceptions to be sent solely by e-mail, there was no reason why an e-mail copy could not also be sent in addition to the 'official' post or fax communication. The Group agreed that allowing this option would provide the benefit of increased and/or advance awareness of the content of that communication. However, the GSMG agreed that deemed receipt of the exceptions (and therefore the timetable of any resulting processes) should be tied to receipt of the 'official' post or fax copy and not the e-mail. Similarly, the Group agreed that recipients should only be entitled to rely on the content of the post or fax copy.

Following the Group's discussions of the draft legal text (see Section 1.3.7), the GSMG agreed that the ability to also send exceptions by e-mail did not need to be expressly clarified within the Code – but that BSCCo and Parties could choose to adopt this approach as a working practice if desired. The Group noted BSCCo's legal advice that the proposed drafting was clear that deemed receipt of the exceptions would be tied to the post or fax communication.

### **1.3.4 Option of e-mail for communications where not existing practice**

The following sub-sections outline those communications where use of e-mail is not existing practice, and where the option to use e-mail would therefore be introduced by P159.

#### **a) BSCCo invoices**

The GSMG noted that invoices and other financial statements from BSCCo are not currently issued by e-mail, but that BSCCo's external legal advisors had confirmed that there would be no legal restriction against sending invoices by electronic means. The Group agreed that it did not believe there to be any issues associated with e-mail invoicing, and asked BSCCo to clarify whether its intention would be to introduce use of e-mail for such financial communications.

BSCCo clarified that it does not currently intend to issue invoices or statements by e-mail, but that introducing this option under P159 would remove the inefficiency and costs of any future Modification Proposal being raised in order to do so. The GSMG therefore agreed that P159 should allow the option for BSCCo to send such communications by e-mail, and noted that if BSCCo did decide at a future point to switch to e-mail invoicing it would appropriately notify Parties of this intention.

The GSMG agreed that any existing BSCP provisions for invoices or statements to be sent by post or fax should be unaltered by P159, in order to minimise the implementation costs of the Modification. The Group noted that if a future switch to e-mail for such communications occurred, the BSCP changes required to support this could be progressed at that time via an opportune Change Proposal.

The GSMG noted that any communications in respect of Trading Charges sent to and from the FAA, as a BSC Agent, lay outside the scope of P159.

#### **b) Trading Disputes and Manifest Error Claims**

The GSMG also asked BSCCo to clarify whether its intention would be to introduce use of e-mail under P159 for raising, and communications regarding, Trading Disputes and Manifest Error Claims.

BSCCo clarified that BSCP11 'Volume Allocation and Settlement Run Queries' and BSCP14 'Processing of Manifest Error Claims' already contain existing provisions (since Go-Live) for use of e-mail, including an authorised signatory in BSCP38 for raising Trading Disputes – but that this option is not currently used since use of e-mail is not expressly provided for by the Code. P159 would therefore confirm the option for senders of communications regarding Trading Disputes and Manifest Error Claims to use e-mail, in accordance with these existing provisions. BSCCo confirmed that it would welcome this confirmation,

since many Parties had previously requested to use e-mail for such communications. However, the GSMG also noted BSCCo's legal advice that Party referrals of Trading Disputes to the Panel or to arbitration in accordance with Section W should form exceptions to sole use of e-mail under P159 (see 1.3.3 above).

The GSMG therefore agreed that, with the exception of referrals of Trading Disputes to the Panel or to arbitration, P159 should confirm the option for communications regarding Trading Disputes and Manifest Error Claims to be sent by e-mail in accordance with BSCP11 and BSCP14. The Group noted that no changes to BSCP11 would be required to support P159, whilst BSCP14 would require only minor changes for consistency and clarity (see Section 5.2 for more detail regarding the proposed BSCP changes).

### **c) Other communications**

The GSMG recognised that P159 would also introduce use of e-mail for the following Code communications which are not currently sent by such means:

- Submission of questions by Parties to the BSC Annual Meeting in accordance with Section B of the Code; and
- A Party's statement to the Panel Secretary, in accordance with Section B, that it believes data to be commercially sensitive and should not be disclosed.

The GSMG also noted that (aside from the proposed exceptions to sole use of e-mail) there are a small number of additional communications within BSCPs where e-mail is not currently specified as an available communications medium, but for which use of e-mail would be introduced by P159. A list of the BSCP changes required to clarify the option of e-mail for these communications can be found in Section 5.2.

The Group noted that BSCCo had not identified any legal rationale for any of the above communications to form an exception to sole use of e-mail under P159.

### **1.3.5 E-mail deemed receipt rules**

The GSMG noted that the intention of P159 is that the provisions regarding use of e-mail for individual communications follow the existing deemed receipt rules introduced by P113 within H9.2 for general communications.

#### **a) P113 deemed receipt rules for communications from BSCCo to Parties**

Under P113, e-mail communications are deemed to be received one hour after being sent or, where the end of this hour falls after 1700, at 0900 the next day. This is consistent with the Code's provisions for deemed receipt of fax communications. Communications regarding Urgent Modification Proposals form a current exception to this rule, and are deemed to have been received one hour after being sent regardless of whether this falls before 0900 or after 1700.

The GSMG noted that the following areas of BSCCo's working practice relating to deemed receipt had been previously discussed under P113:

i) Contingency provisions in the event of e-mail failure:

- That in the event of an outage of BSCCo's e-mail system, BSCCo will deploy alternative methods of communication for the duration of the difficulties;
- That where a Party notifies BSCCo of problems with its own e-mail system, BSCCo will arrange alternative methods of communication with that Party for the duration of the difficulties;

- That the provisions of H9.2 for e-mail communications were drafted to be consistent with those for post or fax, which do not specify a process to be followed should these communications not be successfully delivered; and
  - That where an e-mail undeliverable receipt is received by BSCCo, BSCCo will undertake best endeavours to contact the Party concerned to verify its address details and arrange an alternative method of communication.
- ii) Use of delivery receipts:
- That delivery receipts cannot be relied upon as a means of determining receipt of e-mail communications, since they may or may not be generated according to the particular configuration and operation of Parties' e-mail systems; and
  - That it remains the responsibility of each Party to maintain the functionality of its e-mail system and advise BSCCo of any changes to its nominated e-mail addresses.
- iii) Lack of distinction in H9.2 between Working and non-Working Days:
- That the provisions for e-mail communications were drafted to be consistent with those for post or fax (as drafted at NETA Go-Live), which do not currently make a distinction between a Working and a non-Working Day – and that a separate Modification Proposal could be raised by a Party if it was felt that this distinction is required; and
  - That BSCCo's existing practice is that, wherever possible, communications are not issued outside of normal working hours.

The GSMG noted that, during preparation of legal drafting for P113, BSCCo's external legal advisors had confirmed that the P113 Code provisions were consistent with normal industry practice regarding electronic communications. More information regarding these points can be found in the P113 Modification Report.

The GSMG noted that, due to the scope of P113, the above issues had only been considered at that time in the context of 'general' communications from BSCCo to Parties. The Group agreed that these rules should additionally apply to individual communications under P159.

#### **b) P159 deemed receipt rules relating to undeliverable receipts**

BSCCo clarified that its existing practice in relation to undeliverable receipts received for individual communications is to resend the communication by post or fax, and to contact the Party concerned to advise them of the alternative medium and verify their e-mail address details. The GSMG agreed that this constituted good working practice and should also be followed for Party-issued communications, but noted that such standards would not be enforceable. The Group therefore requested that a caveat be inserted into the existing deemed receipt rules as part of the P159 legal text, clarifying that e-mail communications will be deemed to have been received at the existing P113 point of deemed receipt providing that an undeliverable receipt has not been received by the sender at that time (see Section 1.3.7 for further details). The GSMG noted that this provision would not lessen in any way the obligation on Parties to provide BSCCo with up-to-date contact details or to maintain the functionality of their e-mail systems, but would provide Parties with reassurance that they would not be disadvantaged due to e-mail problems of which they were unaware.

The GSMG noted that it was possible that an undeliverable receipt might be received by the sender after the existing Code point of deemed receipt, and therefore also initially requested that the above process should apply under P159 regardless of when such a receipt was returned. However, the GSMG noted BSCCo's legal advice that it would not be advisable to include such a provision, since allowing an undeliverable receipt to 'override' an earlier deemed receipt would create uncertainty over the authority

of any action which the sender had taken in good faith (and in accordance with the Code) at the point of deemed receipt. The Group noted that it might not be possible for the sender to 'undeem' the communication and undo any such action. The GSMG also recognised that the vast majority of undeliverable receipts are returned to the sender instantaneously. The Group therefore considered that the return of any undeliverable receipts after the point of deemed receipt would be an unlikely event which, though unfortunate, lay outside the sender's control. This could be seen as similar to a postal communication being 'returned to sender' after it had been deemed received under the Code. BSCCo advised that, in such circumstances, its working practice would still be to contact the Party by an alternative medium in order to inform them of the content of the communication and any resulting action which had been taken. BSCCo agreed the GSMG's request to ensure that this process is included within its internal operational documents.

### **c) P159 deemed receipt rules for communications from Parties to BSCCo**

The GSMG noted that applying the Code's existing deemed receipt rules (i.e. one hour deemed receipt, or 0900 the next day if this falls after 1700) to all notices and communications given in accordance with H9.2 would require communications to, as well as from, BSCCo to comply with these provisions. The Group noted that where BSCCo required communications by specific deadlines, this would oblige Parties to send such communications one hour before the deadline in order to guarantee their receipt under the Code by that time. The Group noted that examples of such communications included consultation and impact assessment responses, and that in some circumstances (such as submission of Supplier Routine Performance Monitoring Reports) there could be consequences in failing to meet the deadline.

The GSMG therefore considered what would happen in circumstances where a Party sent its communication less than an hour before a deadline, but the communication was still actually received by BSCCo before that deadline. The Group noted that BSCCo's legal interpretation of the deemed receipt period is that this does not prevent the receiver from actioning a communication if received before the point of deemed receipt – although the receiver is not obliged to do so. BSCCo clarified that its working practice under P159 would remain that it would still action communications which were actually received before a deadline, even where the point of deemed receipt fell after this time.

BSCCo advised that the rationale behind the one hour period was that an e-mail communication might not be delivered instantaneously – and that one hour had been considered (during progression of P113) to the realistic maximum delay which could occur between sending an e-mail and it being received, barring exceptional circumstances. BSCCo therefore advised that any Party which chose to send a communication less than one hour before a deadline could not rely on their communication being received in time, and would incur the risk that it might not actually be delivered by the deadline. The GSMG recognised this consequence of the P159 deemed receipt rules, but agreed that this risk was also present under existing practice – since Parties sending communications shortly before a deadline already run the risk that they will not be received in time. The Group therefore agreed that the P159 deemed receipt rules would provide clarity to Parties regarding the point at which they should send a communication in order to ensure its receipt, and noted that this would be highlighted to Parties by BSCCo as part of the implementation of P159 (see Section 1.3.6(b)).

One member of the GSMG argued that, rather than relying on BSCCo's working practice, the P159 deemed receipt rules should be amended to state that e-mail communications should be actioned at the point of actual receipt if this falls before the point of deemed receipt. The Group noted BSCCo's legal advice that it would not be advisable to include such a provision for the following reasons:

- BSCCo and Parties had commented during progression of P113 on the difficulties in establishing a robust definition of actual receipt for e-mail communications, due to the scope for interpretation over what this could mean (e.g. delivered to a server, delivered to an inbox, or actually read);

- Despite further consideration of these issues under P159, BSCCo had not been able to establish such a robust definition;
- Since the existing P113 deemed receipt provisions were approved by the Authority, and lie outside the scope of P159, introducing a concept of actual receipt under P159 would require the Code to apply different rules for 'general' (P113) and 'individual' (P159) communications; and
- As a wider issue, the concept of deemed receipt in the Code is intended to provide certainty to the sender as to when they are entitled to believe that a communication has been received. Introducing a caveat regarding actual receipt would create uncertainty for the sender regarding when they could expect the receiver to action the communication, and the point at which they should send the communication to guarantee its receipt by a deadline. This issue is also the rationale behind the Code's existing provisions for deemed receipt, rather than actual receipt, of post and fax communications.

The majority of the GSMG therefore agreed with BSCCo's view of the impracticality of introducing a concept of actual receipt under P159, and that a change to the deemed receipt rules was not required. One member continued to believe that the Code should contain a clarification regarding actual receipt of e-mail communications, but was unable to suggest a definition which resolved the above issues.

#### **d) P159 rules for communications between Parties other than BSCCo**

The GSMG noted that some BSCPs provide for communications between Parties other than BSCCo or the Panel/a Panel Subcommittee, and which fall within the scope of P159. The Group recognised that some of these provisions already include the option to use e-mail. The GSMG noted that the Parties issuing such communications would be required to comply with the P159 deemed receipt provisions in the Code (and with any Code/BSCP provisions regarding the content or format of specific communications), but agreed that no additional e-mail governance rules would be required for these communications under P159. The Group considered that this would be consistent with provisions for use of post or fax, which have no additional governance rules for communications between Parties other than BSCCo or the Panel/Panel Subcommittees. The GSMG noted that such communications form part of processes requiring a large degree of dialogue between two Parties (e.g. a change of Supplier or transfer of a Metering System) – and that it should therefore be for the Parties themselves to arrange the most convenient method of communication and the contact details to be used.

### **1.3.6 Additional P159 e-mail governance rules**

#### **a) GSMG's approach to Code and BSCP changes required by P159**

The GSMG agreed the following approach with regard to the P159 Code and BSCP drafting:

- That (aside from the small number of exceptions to sole use of e-mail agreed by the GSMG) e-mail should be added as an available communication method within all BSCP step tables where this option is not currently provided;
- That BSCP step table references to interfaces such as 'electronic method' or 'electronic or as agreed' should remain unchanged since these incorporate use of e-mail; and
- That where the Code or a BSCP specifies the communication method as 'as agreed', 'letter', 'written' or 'paper', these references will be taken to include the option to use post, fax and e-mail unless expressly stated otherwise.

The GSMG noted that current Code references to communications being made 'in writing' could not have been intended to mean post or fax only, since the Code already requires all communications to be sent by post or fax under H9.2. The Group therefore agreed that the intention of Code and BSCP

references to communications being issued by 'letter' or 'in writing' is to ensure that such communications are non-verbal, rather than non-electronic. In further support of this view, the GSMG noted that the Grid Code contains the following explanation of communications 'in writing' as being non-verbal communications which could include e-mail:

'References in the Grid Code to "in writing" or "written" include typewriting, printing, lithography, and other modes of reproducing words in a legible and non-transitory form and in relation to submission of data and notices includes electronic communications' (GC.6.1.2).

The GSMG therefore agreed that exceptions to sole use of e-mail under P159 should be explicitly drafted as requiring post or fax, rather than relying on current references to 'in writing' which could be open to interpretation by Parties and might not capture communications where use of e-mail would actually be inappropriate.

The GSMG noted BSCCo's advice that the terminology used to describe communications media is subject to slight variations within individual BSCPs, and recognised the desirability of adopting a consistent convention (e.g. Post / Fax / E-mail) throughout all the procedures. The Group noted that, as this lies outside the scope of P159, it is BSCCo's intention that a future review of this terminology will be undertaken at an opportune time via a Change Proposal.

The GSMG recognised that the existing process for authorised signatories within BSCP38 already contains security provisions for submission of BSCP forms by e-mail. Where BSCP forms which require authorised signatories are submitted by e-mail, the communication must contain a password and must only originate from the e-mail address registered for the relevant Authorised Person. Any e-mail submissions that contain a correct password but an incorrect originating address will therefore fail validation.

The GSMG considered that the content, rather than the format, of a communication should determine whether extra security checks were necessary (i.e. the level of security required should be consistent whether the communication is issued by post, fax or e-mail – although the exact security provisions may differ according to the format used). The Group agreed that, since the most business-critical or serious communications either already require authorised signatures or would form exceptions to sole use of e-mail under P159, no additional e-mail security provisions would be required as part of the P159 Code or BSCP drafting. The GSMG agreed that the only communication currently requiring an authorised signatory which should form an exception to sole use of e-mail should be a Party's submission of a Withdrawal Notice to BSCCo, due to the content of the communication (see Table 3 above).

The GSMG considered the suggestion of the Modification Proposal that additional governance rules be included in BSCP38, but considered that this BSCP would not be appropriate since its scope was limited to submission of BSCP forms using authorised signatures. The Group also noted that the Communication Requirements Document was specifically designed to cover communications between Parties and BSC Agents, and agreed that this would therefore not be a suitable place to document rules for Party-to-Party communications. The GSMG therefore noted that any additional e-mail rules would require either a new separate 'E-mail Communications' BSCP, or standard provisions to be agreed for insertion into all existing BSCPs. However, the Group considered that this would not be a cost-effective approach, due to the implementation cost and review cycles it would require.

Moreover, the GSMG agreed the need to avoid being too prescriptive or detailed within the Code or BSCPs regarding the processes for e-mail communications, since this could be too restrictive. The Group considered that including detailed BSCP provisions covering aspects such as the electronic software used by BSCCo to communicate with Parties would not be efficient, since any changes to these provisions (such as a change in software versions) would have to be progressed through the full Change Management process.

## **b) BSCCo implementation approach and ongoing working practice**

The GSMG recognised that P159 would confirm BSCCo's existing internal processes for communications to Parties and agreed that, in general, these practices have demonstrated themselves to be efficient. However, the Group echoed the Panel's request that BSCCo use the opportunity provided by the implementation of P159 to increase Parties' awareness of its working practices. The GSMG also requested that BSCCo additionally use this opportunity to review, and seek to strengthen, such practices.

The GSMG noted that BSCCo's BSC Website Redesign and Stakeholder Feedback projects have already led to a number of planned communication improvements, which are scheduled to be implemented in June 2004 and include the following:

- Ability for Parties to self-subscribe, change details or unsubscribe from BSCCo distribution lists (e.g. ELEXON Circular list) through the BSC Website;
- New website format to include a page of direct ELEXON contact details for each area of operation, and a news page allowing easy access to all circulars, newsletters and general communications;
- Improved website search facility enabling easier location of information; and
- Introduction of an ELEXON weekly bulletin, reducing the number of general 'for information' communications issued to Parties by BSCCo.

As well as reviewing the volume of BSCCo communications, the GSMG requested that BSCCo endeavour to send any large attachments as WinZip<sup>®</sup> (compressed) files<sup>4</sup> in order to reduce the size of communications issued to Parties – since large attachments could cause e-mail performance issues, particularly for smaller Parties. BSCCo noted the Group's concern and agreed to seek to strengthen its working practice in this regard. The GSMG also noted that it is BSCCo's intention to further reduce the size of general e-mail communications issued to Parties in the future (such as circulars) by attaching links to documents on the website rather than the documents themselves.

BSCCo also confirmed that it is in the process of implementing a policy to maintain operational contacts in a central internal database, which can be viewed by all staff but only updated by the individuals responsible for receiving Parties' nominated e-mail addresses. The GSMG noted that the aim of this policy is to avoid any risk that incorrect contact details could be used.

BSCCo agreed to use the opportunity of P159 to seek to further strengthen, and increase Party awareness of, its communication practices. The GSMG agreed BSCCo's suggested approach that a 'frequently asked questions' page or advice document regarding communications from and to BSCCo be incorporated into the new BSC Website. The Group agreed that, if P159 were approved, this document should provide advice to Parties regarding such areas as:

- The software used by BSCCo to electronically communicate with Parties (e.g. a web link to where Parties may download Adobe<sup>®</sup> Reader<sup>®</sup> in order to view Adobe Portable Document Format<sup>®</sup> (PDF) documents<sup>5</sup>);
- The general format of e-mail communications (e.g. how to submit BSCP forms or letters electronically);
- The processes by which Parties may submit or update contact details to BSCCo to be used for communications under the Code and BSCPs;

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<sup>4</sup> WinZip is a registered trademark of WinZip Computing, Inc. in the U.S. and other countries.

<sup>5</sup> Adobe, Adobe Portable Document Format (PDF) and Adobe Reader are either registered trademarks or trademarks of Adobe Systems Incorporated in the United States and/or other countries.

- BSCCo's and Parties' obligations, and standards of good working practice, regarding e-mail delivery and undeliverable receipts;
- Guidance regarding the Code's deemed receipt rules, and clarification as to when Parties should issue communications in order to ensure their receipt by BSCCo; and
- Contact details of the ELEXON staff whom Parties should inform if they are experiencing difficulties receiving e-mail communications or opening any electronic documents.

The GSMG noted BSCCo's advice that any potential issues or concerns regarding BSCCo's current practices could be raised by Parties via the new Stakeholder Forum or directly through ELEXON's Stakeholder Assurance department.

The GSMG agreed that it should remain Parties' responsibility to maintain the functionality of their e-mail systems and provide BSCCo with correct contact details. However, the Group noted that it is also BSCCo's existing practice to provide regular reminders to Parties (via industry forums and newsletters) to check that their contact details are up to date. BSCCo agreed to consider whether there were any additional ways in which it could pro-actively seek to ensure that details were correct.

### **1.3.7 Draft legal text**

The GSMG noted that suggested draft legal text had been provided as an attachment to the Modification Proposal. The Group agreed the following changes to that text, following its discussion of the issues raised by P159 and the responses received to the Assessment Consultation and impact assessment.

#### **a) Section A**

The GSMG considered the suggestion of the original draft legal text that a new provision be inserted into Section A, requiring each BSC Party to include an e-mail address within its Party Details when acceding to the Code. The Group noted that this would confirm the existing requirement within the Accession Form for an e-mail address to be provided to BSCCo for the purpose of receiving communications under H9.2.

One member of the Group queried how this requirement to provide a single e-mail address related to BSCCo's and Parties' current practice of providing multiple addresses in order to target particular communications to the correct individuals. BSCCo clarified that (with the exception of contacts whose nomination requires particular processes to be undertaken via BSCPs, such as nomination of authorised signatories under BSCP38 or Change Administrators under BSCP40) existing practice is to use the e-mail address provided at Accession as a 'default' address and starting point, particularly for 'mass' communications such as ELEXON Circulars or Modification communications. Following Accession, the ELEXON departments responsible for particular communications under the Code and BSCPs contact this default individual to allow the Party to nominate more targeted addresses for the communication concerned. These addresses can then be updated by the Party as required, upon request to BSCCo.

The GSMG considered whether a change was needed to existing practice to require Parties to provide multiple e-mail addresses during Accession, and/or to either resubmit the Accession Form or return a new BSCP form at a later point if they wished to register additional addresses or change details. However, the Group agreed with BSCCo's view that maintenance of e-mail contact details should remain flexible enough to allow Parties to update addresses quickly and on an ad-hoc basis, include several individuals within a Party on a mailing list if required, and arrange any temporary additions to cover factors such as annual leave. The Group recognised that requiring Parties to provide and update multiple addresses via a form would remove such efficiencies and flexibility for Parties and BSCCo, and that introducing this process within a BSCP would mean that any changes to that process or form

would become subject to the full Change Management process.<sup>6</sup> The Group also noted that this approach would undermine the work currently underway to allow Parties to subscribe to, and change details for, general communications directly through the BSC Website – and that Parties had expressed support for this functionality.

The GSMG therefore agreed the approach suggested by BSCCo's legal advisors that the requirement for Parties to provide an e-mail address at Accession should be inserted within A3.1, and a new paragraph A3.2.3 be inserted to capture BSCCo's and Parties' existing practice with regard to submission of further e-mail addresses. This paragraph clarifies that any additional addresses submitted for the purposes of receiving communications under H9.2 will be counted as Party Details, and the Group agreed that this would ensure that Parties were obliged to comply with the existing obligation in A3.2.2 to ensure that such details remained up to date.

## **b) Section H**

The GSMG noted that the existing provisions for e-mail within H9.2 would be expanded in order to cover all communications between Parties under the Code and BSCPs, apart from the list of exceptions developed by the Group. The Group also noted BSCCo's legal advice that those exceptions located in the Code should be listed as a new paragraph within H9.2, whilst existing paragraph H9.2.1 should be amended to reflect any exceptions contained within BSCPs.

The Group initially requested that an additional provision should be included in the legal text to reflect the Group's approach that these exceptions may be sent by e-mail, providing that they are additionally confirmed by post or fax – and that the deemed receipt will be tied to the post or fax copy. However, the majority of the GSMG agreed with the view of BSCCo's legal advisors that such a provision would not add any extra clarity to the text and could create ambiguity regarding the deemed receipt rules for the exceptions. These members agreed that the proposed drafting would allow BSCCo or Parties to additionally e-mail such communications if they wished, but that it was not necessary to include this in the legal text since it would not be a requirement. One member continued to believe that the text would benefit from the additional clarification, since it would ensure that Parties were aware that such communications could also be e-mailed.

Following the Group's discussion of the provision of e-mail addresses to BSCCo (see above) the GSMG agreed that the P159 legal text should include the clarification that communications under H9.2 should be sent to the e-mail address(es) provided by a Party for such purposes, either at Accession or subsequently as required. The Group noted that this drafting would be consistent with an existing provision within the Grid Code, which does not specify the processes by which multiple addresses are submitted.<sup>7</sup>

After discussing the process to be followed in the event of an undeliverable receipt (see Section 1.3.5 (b)), the GSMG agreed that a caveat should be inserted into the existing H9.2 provisions stating that e-mail communications will be deemed to have been received at the existing P113 point of deemed receipt – providing that an undeliverable receipt has not been received by the sender at that time. The Group agreed with BSCCo that the implication of this provision would be clear: i.e. that where an undeliverable was received by the sender during that period, the communication would not have been considered to have been received under the Code and the sender would therefore be required to reissue that communication. The Group agreed with BSCCo's legal advice that it was not necessary to explicitly state that the communication should be reissued, as the suggested provision was consistent

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<sup>6</sup> See also comments in response to the P159 impact assessment in Section 6.

<sup>7</sup> "Data and notices to be submitted either to NGC or to Users under the Grid Code... [shall be delivered by] electronic mail to a specified address or addresses previously supplied by NGC or the User (as the case may be) for the purposes of submitting that data or those notices" (GC.6.1.1).

with the existing rules for fax communications – which do not specify the process to be followed where a transmission failure notice is received.

As a result of its discussion of the consultation responses (see Section 6), the GSMG also agreed that a provision should be included in the P159 legal text to state that – subject to any express security requirements specified elsewhere in the Code or BSCPs (e.g. authorised signatories) - the recipient is entitled to rely both on the content of any communication sent under H9.2 and that the communication is from who it purports to be from.

The GSMG noted that some other minor changes had been made to the legal text for clarity, but that these were not material. The Group agreed that the text addressed the defect identified by the Modification Proposal, and delivered the solution agreed by the Group to support P159.

A copy of the proposed text is attached as Annex 1.

## **1.4 Governance and regulatory framework assessment**

The GSMG noted the communication provisions of other industry codes, and that currently the Grid Code provides for e-mail communications while the Connection and Use of System Code (CUSC) and Master Registration Agreement (MRA) do not.<sup>8</sup> The Group considered that both the existing Grid Code provisions and the Authority's approval of BSC Modification P113 represented a precedent in recognising e-mail as an acceptable medium for industry communications. The GSMG also agreed with BSCCo's suggestion that it would be advisable for the P159 legal drafting to be consistent with the Grid Code provisions, insofar as these were transferable to the particular vires and style of the Balancing and Settlement Code.

## **1.5 Modification Group's cost benefit analysis of Proposed Modification**

This section summarises the GSMG's discussions regarding the costs and benefits associated with P159. The actual figures relating to the estimated implementation costs for P159 are contained in Section 2.

### **1.5.1 Costs and benefits to BSCCo resulting from the implementation of P159**

The GSMG considered that, since P159 would largely confirm existing practice for individual communications between BSCCo and Parties, the cost and efficiency benefits to BSCCo of the implementation of P159 would be relatively small.

However, the GSMG recognised that were P159 not made – and existing practice was required to change in order to send individual communications by post or fax only – this would both remove the efficiency benefits of use of e-mail for BSCCo and result in increased BSCCo administrative costs (and therefore increased costs to Parties). The Group noted BSCCo's advice that extra resources would need to be put in place to handle the issue and receipt of all communications by post or fax, and that such a requirement could result in increased timescales for BSCCo processes such as logging Modification/Change Proposals and consultation responses.

The GSMG noted that the BSCCo costs of implementing P159 would be limited to Code legal text and any changes which were required to BSCPs or BSCCo Local Working Instructions in order to document current practice, plus some changes to current practice. The Group also noted BSCCo's intention to implement P159 with other changes as part of a planned release, so as to minimise these costs (see proposed implementation approach in Section 9).

The GSMG also recognised that if the option of using e-mail was removed for communications which are currently sent by such means, the necessary removal of existing BSCP provisions for e-mail via a

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<sup>8</sup> See Grid Code paragraph GC.6.1, CUSC paragraph 6.21, and MRA paragraph 45.

Change Proposal would itself incur implementation costs. The Group noted that insistence on use of post or fax would also require a review of process timescales within BSCPs, in order to ascertain whether processes which were required to take place within one or two Working Days following receipt of a communication were still practical or would need to be extended if e-mail could not be used.

The GSMG therefore considered that a requirement for BSCCo to change its existing practice regarding the use of e-mail would be inefficient, and agreed that P159 would remove the risk of any future question as to the compliance of current practice with the provisions of the Code. The Group agreed that P159 would therefore better facilitate efficiency in the administration of the balancing and settlement arrangements and Applicable BSC Objective (d), when compared with the alternative possibility that existing practice could be required to change in order to remove any perceived inconsistency with the Code.

In addition, the GSMG noted BSCCo's view that use of e-mail for individual communications under the Code and Code Subsidiary Documents has delivered the following cost and efficiency savings for BSCCo over the period since Go-Live:

- Savings in the amount of time and resource spent by BSCCo in manually issuing communications to Parties and filing original or duplicate copies of such communications;
- Savings in the amount of time and resource spent by BSCCo in manually receiving and sorting communications from Parties (i.e. avoidance of the need to maintain internal post and filing systems capable of dealing with large volumes of paper communications);
- Savings in the amount of time and resource spent by BSCCo entering information from, or copies of, paper communications such as consultation responses into other documents or database systems for wider use or publication (including the ability to quickly publish such documents on the BSC Website);
- Savings in the amount of time between communications being issued and being received, as well as the ability to quickly send the same copy of a communication to multiple recipients within a Party and thereby avoid duplication of communications;
- Consequential savings in the timescales of BSCP processes which are tied to the receipt of communications;
- The benefit of being able to remotely access copies of electronic communications in emergency circumstances, using network and server back-ups;
- The benefit, compared with postal communications, of knowing via undeliverable receipts when communications have not been successfully delivered;
- The benefit, compared with post and fax communications, of sending a communication directly to the intended recipient – rather than relying on it to be delivered via internal post or collected from a fax machine; and
- The benefit, compared with post and fax communications, of knowing via automatic replies when the intended recipient is out of the office and therefore unable to receive the communication.

The GSMG therefore agreed that even if use of e-mail had not been existing practice, the introduction of a Code provision to allow e-mail communications would better facilitate efficiency in the balancing and settlement arrangements as compared with the current Code limitation to post or fax. Consequently, the Group agreed that implementation of P159 would also better facilitate Applicable BSC Objective (d) as compared with the existing Code baseline.

The GSMG noted that the original provisions of H9.2 for communication by post or fax had been transferred from the largely-identical provisions of the Pooling and Settlement Agreement.<sup>9</sup> The Group agreed that it would not be efficient for the Code to ignore technological advances in communications media purely on the grounds that use of e-mail had not been drafted into the Code at Go-Live, and noted that fax had itself once represented a 'new' form of communication – superseding older mediums such as telex. The GSMG considered that the existing Grid Code provisions for use of e-mail and the Authority's approval of P113 demonstrated that e-mail had become a recognised form of industry communication, and noted that Ofgem itself uses e-mail for processes such as receiving consultation responses.

The GSMG agreed that e-mail has proved itself to be at least as reliable as post or fax, and should therefore be formalised as an available form of communication under the Code. Moreover, the Group argued that e-mail may actually deliver greater efficiencies and cost-savings than these other media, for the reasons outlined above.

The GSMG agreed that the benefits of P159 to BSCCo outweighed the BSCCo implementation costs associated with the Modification Proposal.

### **1.5.2 Costs and benefits to BSC Parties resulting from the implementation of P159**

The GSMG agreed that many of the benefits identified in 1.5.1 above could equally be applied to Parties. The Group considered that, since implementation of P159 would largely confirm Parties' current practice with regard to use of e-mail, a requirement to alter current practice to use of post or fax could result in costs and inefficiencies for Parties and thereby reduce the potential for competitiveness in the market. As one example, the Group noted that an insistence on use of post or fax for consultation responses could effectively result in reduced consultation timescales for Parties – since deadlines might need to be brought forward to allow BSCCo to compile response tables using hard copies of responses. The GSMG therefore agreed that P159 would better facilitate Applicable BSC Objective (c) by codifying Parties' existing practice regarding e-mail communications.

The GSMG noted that P159 would not alter the number of communications sent to and from Parties under the Code and Code Subsidiary Documents. However, the Group noted that P159 would result in a slight increase in e-mail communications and a corresponding decrease in communications by post or fax, since it would introduce use of e-mail for some communications not currently sent by such means (see Section 1.3.4). The GSMG therefore agreed to seek views, via the P159 Assessment Consultation and impact assessment, as to whether use of e-mail under P159 could result in any additional costs or e-mail system performance issues for Parties. The GSMG specifically invited Parties to provide cost information in support of their views.

The majority of respondents to the consultation agreed that existing use of e-mail communications has delivered significant gains in administrative efficiency. These respondents noted that use of e-mail:

- saves on postage and administration costs for BSCCo and Parties; and
- reduces the time between a communication being issued and actioned.

Although one response initially disagreed with this opinion, this respondent later altered their view following the GSMG's further discussions (see Section 6 below for more detail regarding the consultation responses).

All consultation respondents agreed that P159 would better facilitate the Applicable BSC Objectives by confirming current practice in the Code. No respondents to the consultation or impact assessment

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<sup>9</sup> See Pooling & Settlement Agreement, Part XXII: Miscellaneous, 75. Notices, p.233.

identified any significant costs which would be incurred by Parties as a direct result of the implementation of P159.

The GSMG noted that since P159 would largely confirm existing practice, and as no detailed cost information had been provided by respondents, it was difficult to measure the cost-benefits of e-mail communications to Parties. However, the Group believed that the benefits to Parties of confirming the existing efficiencies of e-mail within the Code would outweigh the BSCCo implementation costs of the Modification. In addition to the views of respondents that existing use of e-mail is more cost-effective and efficient than post or fax, the Group also noted that P159 would introduce use of e-mail for certain communications which Parties had historically requested to issue or receive by such means (for example, communications regarding Trading Disputes). The GSMG also agreed that extending the range of communication methods available to include e-mail could help reduce barriers to entry for new Parties.

The GSMG therefore agreed that P159 would better facilitate achievement of Applicable Objective (c) for Parties, as compared with the current Code baseline.

### **Small Parties**

The GSMG recognised a Panel Member's concern that the e-mail systems of smaller Parties might not be equipped to handle large numbers of e-mail communications. The Group noted that this Panel Member had questioned whether e-mail represented an efficient medium for such Parties, and whether any increase in e-mail communications under P159 could potentially disadvantage smaller players through performance issues or costs of upgrading systems or installing software. As requested by the Panel in the P159 Terms of Reference, the GSMG therefore specifically sought consultation and impact assessment responses from small Parties regarding the efficiency of e-mail. The GSMG agreed to set a three-week consultation period in order to facilitate responses.

No consultation or impact assessment responses were received from small Parties, and the GSMG expressed its disappointment that – despite BSCCo's efforts to encourage smaller participants to respond via ELEXON Link and the Trading Operations Forum – it had been unable to gain the views of such Parties regarding P159.

However, on balance, the GSMG considered that existing use of e-mail since NETA Go-Live had resulted in specific cost and efficiency savings to small Parties. The arguments expressed by the Group in support of this view were that e-mail:

- provides smaller players with the benefit of receiving communications when off-site;
- reduces the need for administrative resource to handle communications by post or fax; and
- thereby delivers a potential time-saving between the issue and reading of communications sent to Parties with less administrative resources.

The GSMG therefore agreed that P159 would benefit small Parties by confirming e-mail as an efficient and cost-effective communications medium.

## 1.6 Assessment of whether the Proposed Modification would better facilitate the Applicable BSC Objectives

In summary, the unanimous view of the GSMG was that P159 would better facilitate Applicable BSC Objectives (c) and (d) for the following reasons:

- P159 would confirm existing operational practice regarding use of e-mail, ensure that there was no perceived inconsistency between the Code and BSCPs, and therefore remove the risk of any future question as to the compliance of current practice with the provisions of the Code;
- P159 would thereby enable greater certainty for both Parties and BSCCo regarding the authorised methods of communication under the Code (and the rules and regulations pertaining to such communications);
- Although the actual cost and efficiency savings resulting from confirming current practice within the Code would be small, significant costs and inefficiencies for BSCCo and Parties could result if P159 were not made and existing practice was required to change; and
- Even if use of e-mail had not been existing practice by BSCCo and Parties, introduction of P159 would better facilitate efficiency than the existing Code baseline – since e-mail has proved itself to be at least as reliable as post or fax, and may actually deliver greater efficiencies and cost-savings than these other forms of communication.

In undertaking its assessment of P159 against the Applicable BSC Objectives, the GSMG took account of the views expressed by respondents to the Assessment Consultation and impact assessment (see Section 1.5 and Section 6 for further details).

## 2 COSTS<sup>10</sup>

### PROGRESSING MODIFICATION PROPOSAL

<b>Demand Led Cost</b>	£0
<b>ELEXON Resource</b>	60 man days (equating to approximately £7,950)

<sup>10</sup> Clarification of the meanings of the cost terms in this section can be found in Annex 6 of this report.

## IMPLEMENTATION COSTS

		Stand Alone Cost	P159 Incremental Cost	Tolerance
<b>Service Provider Cost<sup>11</sup></b>	Change Specific Cost	0	0	N/A
	Release Cost	0	0	N/A
	Incremental Release Cost	0	0	N/A
	<b>Total Service Provider Cost</b>	0	0	N/A
<b>Implementation Cost</b>	External Audit	0	0	N/A
	Design Clarifications	0	0	N/A
	Additional Resource Costs	0	0	N/A
	Additional Testing and Audit Support Costs	0	0	N/A
<b>Total Demand Led Implementation Cost</b>	0	0	N/A	

<b>ELEXON Implementation Resource Cost</b>		125 Man days* £50,000*	55 Man days* £22,000*	+/-5%
<b>Total Implementation Cost</b>		£50,000	£22,000	+/-5%

\*The recommendation of the GSMG is that P159 be implemented with other changes as part of a planned release (see Section 9 for further details), in order to only incur the 'incremental' cost shown in the above table. The 'stand-alone' cost therefore represents that which would be incurred if this approach was not followed and P159 was delivered outside of a release.

<sup>11</sup> BSC Agent and non-BSC Agent Service Provider and software costs.

## ONGOING SUPPORT AND MAINTENANCE COSTS

	Stand Alone Cost	P159 Incremental Cost	Tolerance
Service Provider Operation Cost	0	0	N/A
Service Provider Maintenance Cost	0	0	N/A
ELEXON Operational Cost	0	0	N/A

### 3 RATIONALE FOR MODIFICATION GROUP'S RECOMMENDATIONS TO THE PANEL

The unanimous recommendation of the GSMG is that P159 should be made. All members of the Group agreed that e-mail represents an efficient and cost-effective medium of communication under the Code and Code Subsidiary Documents, and that P159 would therefore better facilitate Applicable BSC Objectives (c) and (d).

More detail regarding this recommendation can be found in Sections 1.5 and 1.6 above. For details of the proposed Implementation Dates, please refer to Section 9.

### 4 IMPACT ON BSC SYSTEMS AND PARTIES

An assessment has been undertaken in respect of BSC Systems and Parties, and the following have been identified as impacted by P159.

#### 4.1 BSCCo

The table below provides a summary of the effort required by BSCCo to support the implementation of P159.

Area of business	Impact of P159	Implementation effort required
CVA/SVA Programme	Responsible for implementing changes to CVA/SVA BSCPs.	Standalone release: 120 man days.  Incremental (as part of existing release): 50 man days.
Corporate Assurance	Provision of assurance to implementation project.	3 man days.
CVA Operations	Minor change to Payment Default LWI to clarify Default Notices as exception to sole use of e-mail.	2 man days.

#### 4.2 BSC Systems

P159 has no impact upon any BSC Systems.

### 4.3 Parties and Party Agents

The impact upon BSC Parties in general is expected to be minimal, since P159 will largely confirm existing practice. The extent of the impact upon individual Parties will depend on to what degree the Party already uses e-mail for communications under the Code and BSCPs and whether there will be any increase in Party 'take-up' of e-mail as a communications option under P159. However, as the option of e-mail already informally exists and is used for the majority of BSCCo communications – and since P159 will still allow Parties to send communications by post or fax – it is not anticipated that there will be a significant switch from post or fax to e-mail communications as a direct result of P159.

For more information regarding the impact upon BSC Parties, please refer to the GSMG's discussion of the consultation and impact assessment responses in Section 6. No respondents identified any significant costs which would be incurred by Parties as a direct result of P159.

P159 has no impact upon any Party Agents.

## 5 IMPACT ON CODE AND DOCUMENTATION

### 5.1 Balancing and Settlement Code

P159 would impact the following Code Sections:

Code Section	Proposed changes
Section A 'Parties and Participation'	See Section 1.3.7 (a) above.
Section H 'General'	See Section 1.3.7 (b) above.

Draft legal text is provided in Annex 1.

## 5.2 Code Subsidiary Documents

The following table outlines the BSCP changes which are expected to be required as a result of P159.

Note: some additional changes may be required in order to take account of any new BSCPs or BSCP versions resulting from the implementation of other Modification/Change Proposals between the date of this report and the Implementation Date for P159.

BSCP	Version reviewed	Proposed changes
BSCP14 'Processing of Manifest Error Claims'	2.0	3.3.10 (return TDC finding form) – add option of e-mail.
BSCP15 'BM Unit Registration'	8.0	3.6.1 (notification of cessation of a Supplier) – add option of e-mail; 3.13.1 – 3.13.5 (transfer of Supplier ID process) – add option of e-mail.
BSCP20 'Registration of Metering Systems for Central Volume Allocation'	8.0	3.2.4 (confirm de-registration details) – add option of e-mail; 3.3.1 & 3.3.3 (change of Registrant for Metering System) – remove requirement for postal follow-up copy to New Registrant; 3.4.1 (change of Meter Operator Agent) – remove requirement for postal follow-up copy to BSCCo; 3.8.13 (resolve issues relating to REFD and/or MOA appointment) – add option of e-mail.
BSCP31 'Registration of Trading Units'	7.0	3.1 (registration of Trading Unit) – add option of e-mail throughout sub-steps; 3.2 (registration of Trading Units) – add option of e-mail throughout sub-steps; 3.3 (de-register Trading Unit) – add option of e-mail throughout sub-steps.
BSCP32 'Metering Dispensations'	4.0	Add option of e-mail throughout all step tables.

BSCP	Version reviewed	Proposed changes
BSCP38 'Authorisations'	6.0	3.1.1 (registration in Authorisation Register) – clarify that first registration of authorised signatories must be by post or fax; 3.1.2 (amendment to Authorisation Register) – add option of e-mail; 3.2 (Authorisation Register annual confirmation) – add option of e-mail. Change to authorisation category S, to clarify Withdrawal Notice as exception to sole use of e-mail.
BSCP41 'Report Requests and Authorisation'	6.0	3.2 (confidential report requests) – add option of e-mail throughout sub-steps.
BSCP65 'Registration of Parties and Exit Procedures'	6.0	3.4.7 (forward Expulsion Notice to Party) – clarify as exception to sole use of e-mail. 3.3 (submit Withdrawal Notice to BSCCo) – clarify as exception to sole use of e-mail.
BSCP71 'ECVNA and MVRNA Registration, Authorisation and Termination'	6.0	3.7.5 (provision of details) – add option of e-mail for BSCCo/Parties;
BSCP501 'Supplier Meter Registration Service'	9.0	3.10.7 (resolve issues) – add option of e-mail.
BSCP507 'Supplier Volume Allocation Standing Data Changes'	7.0	3.1.1 (send change request) – add option of e-mail for sending to BSCCo; 3.1.8 (send notification that change incorporated) – add option of e-mail for sending to BSCCo.
BSCP511 'Entry Process – Supplier Meter Registration Service'	4.0	3.1.15 (send notification to PAB/Supplier) – add option of e-mail.
BSCP512 'Entry Process – Supplier'	5.0	Add e-mail throughout all step tables.
BSCP513 'Bulk Change of Non Half Hourly Supplier Agent'	1.0	3.1.2 (submit bulk change of agent application) – add option of e-mail; 3.1.8 (resubmit application) – add option of e-mail.
BSCP520 'Unmetered Supplies Registered in SMRS'	4.0	3.3.23 – 3.3.26 (distribute CPC) – add option of e-mail.

BSCP	Version reviewed	Proposed changes
BSCP526 'Technical Assurance of Half Hourly Metering Systems for Supplier Volume Allocation'	3.0	4.5.2 (arrange inspection visit) – add option of e-mail.
BSCP528 'SVA Line Loss Factors for Half Hourly and Non Half Hourly Metering Systems Registered in SMRS'	6.0	<p>3.1.1 (send Summary Report to BSCCo) – step table states method as e-mail, but appendix states post (appendix will be clarified to allow both D0265 data file and form F528/01 to be sent by e-mail);</p> <p>3.1.3 (send Summary Report to Panel) – add option of e-mail;</p> <p>3.1.5 (request for re-submission) – add option of e-mail;</p> <p>3.1.10 (notification of Panel decision) – add option of e-mail;</p> <p>3.2.4 (send Summary Report to Panel) – add option of e-mail;</p> <p>3.2.6 (request for re-submission) – add option of e-mail;</p> <p>3.3.3 (send Summary Report to Panel) – add option of e-mail;</p> <p>3.3.5 (request for re-submission) – add option of e-mail.</p>
BSCP531 'Accreditation'	5.0	4.9.1a, 4.13.12 & 4.13.1.23 – add option of e-mail for notifying Parties.
BSCP533 'PARMS Data Provision'	7.0	<p>3.8.5 (agree/disagree query response form) – add option of e-mail;</p> <p>3.9.4b (send clarification) – add option of e-mail;</p> <p>4.9 (Frequency of Report and Data Submission) – clarify impact of H9.2 deemed receipt rules for PARMS data submission deadlines.</p>
BSCP601 'Metering Protocol Approval and Compliance Testing'	3.0	2.1 (application procedure) – clarify option of e-mail throughout sub-steps.

### 5.3 BSCCo Memorandum and Articles of Association

No impact identified.

### 5.4 Impact on Core Industry Documents and supporting arrangements

No impact identified.

## 6 SUMMARY OF CONSULTATION AND IMPACT ASSESSMENT

### 6.1 Modification Group's summary of the consultation responses

Seven responses (representing 46 BSC Parties) were received to the P159 Assessment Consultation.

The GSMG expressed disappointment that only three of the responses received were from Parties who were not members of the Modification Group, and that no small Parties had responded to the consultation. The GSMG noted that the responses therefore largely mirrored the discussions of the Group as outlined in Section 1.6.

A summary of the consultation responses is provided below, whilst the GSMG's discussion of these responses is contained in Section 6.2. Full copies of the consultation responses are attached as Annex 5.

**Table 4 – Summary of Assessment Consultation responses**

Q.	Consultation question	Yes	No	No comment
1.	Do you believe that the Proposed Modification P159 would better facilitate the achievement of the Applicable BSC Objectives?	6 <sup>12</sup> (45)	0	1 (1)
2.	Do you believe that e-mail represents a cost-effective and efficient medium for individual communications within the Code and Code Subsidiary Documents?  <i>Parties are invited to provide views as to the costs or cost-benefits associated with use of e-mail.</i>	5 (40)	1 (5) (later changed to 'yes' – see 6.2)	1 (1)
3.	Do you support the approach of the GSMG that use of e-mail under P159 should be at the discretion of the sender of the communication?	5 (44)	1 (1)	1 (1)
4.	Do you support the approach of the GSMG that exceptions to use of e-mail under P159 should occur only where BSCCo's legal advice indicates that certain communications should not be sent solely by e-mail?	5 (40)	1 (5) (later changed to 'yes' – see 6.2)	1 (1)
5.	Do you believe there to be any other communications not considered by the GSMG which should form exceptions to use of e-mail under P159?	0	6 (45)	1 (1)

<sup>12</sup> Number of respondents. Bracketed numbers indicate the number of Parties represented by respondents.

Q.	Consultation question	Yes	No	No comment
6.	Do you believe there to be any communications considered by the GSMG to require exceptions where sole use of e-mail would in fact be appropriate?	1 (1)	5 (44)	1 (1)
7.	Do you support the approach of the GSMG that exceptions under P159 may be sent by e-mail providing that they are additionally confirmed by post or fax?	6 (45)	0	1 (1)
8.	Do you believe there to be any communications under P159 which may require exceptions to the existing e-mail deemed receipt provisions contained in H9.2 of the Code?	0	6 (45)	1 (1)
9.	Do you believe there to be any additional governance rules for e-mail communications which should be introduced by P159 and which have not been considered by the GSMG?	1 (5) (later changed to 'no' – see 6.2)	5 (40)	1 (1)
10.	Do you believe that there are any alternative solutions that the Modification Group has not identified and that should be considered?	0	6 (45)	1 (1)
11.	Does P159 raise any other issues that you believe have not been identified so far and that should be progressed as part of the Assessment Procedure?	2 (6)	4 (39)	1 (1)

### 6.1.1 Applicable BSC Objectives

All respondents who commented believed that P159 would better facilitate the Applicable BSC Objectives. The arguments expressed by these respondents were that P159 would codify and regularise current practice, remove a potential inconsistency between the Code and Code Subsidiary Documents, and avoid the cost and inefficiency of a potential future requirement to alter existing practice.

One of these respondents stated that efficiency in administration of the balancing and settlement arrangements would be enhanced through limiting the range of communication methods in use. BSCCo sought to clarify this comment with the respondent, since P159 would add the option of an additional communication method rather than limit the methods available to Parties. The respondent clarified that they recognised this effect of P159, and that their comment had been intended to express support for limiting the need to use (and the inefficiencies involved in using) post or fax. This respondent also stated their view that e-mail communications now provide a better guarantee of delivery (through the generation of undeliverable receipts) than the use of post.

One respondent had no comment.

### 6.1.2 Cost and efficiency

The majority of respondents agreed with the view of the GSMG that e-mail represents a cost-effective and efficient communications medium. The arguments expressed were that e-mail has demonstrated itself to be as reliable as post or fax whilst delivering time and cost savings for BSCCo and Parties.

One respondent initially disagreed with this view, and considered that use of e-mail would be more complicated to administer and less secure than post or fax. Following the GSMG's clarification of its view regarding the cost-savings and efficiencies of P159, this respondent clarified that they were satisfied with the Group's approach to such issues and that they therefore believed e-mail to be an efficient form of communication under P159 (see Section 6.2).

One respondent had no comment.

### **6.1.3 Choice of communications medium**

The majority of respondents supported the approach of the GSMG that use of e-mail under P159 should be at the discretion of the sender of the communication. The arguments expressed by these respondents were that the efficiency benefits of P159 would be lost if recipients of communications were able to select different methods of delivery, that allowing BSCCo to choose the format for both issue and receipt could potentially be viewed as discriminatory by Parties, and that the Group's approach would largely confirm existing practice. These responses therefore reiterated the view of the majority of the GSMG (see Section 1.3.2). One of these respondents, whilst supporting the approach of the GSMG, noted that maintaining Parties' existing choice over the format of the communications they send would mean that BSCCo would have to cater for both electronic and post/fax communications. This respondent commented that this could be viewed as less efficient than selecting one medium and mandating its use.

One respondent stated that they would prefer to have some certainty in terms of which medium would be used for communications, rather than providing the option of post, fax or e-mail. The arguments expressed within this response reiterated the minority view of the Group as detailed in Section 1.3.2 (b).

One respondent had no comment.

### **6.1.4 Exceptions to use of e-mail**

The majority of respondents supported the approach of the GSMG that exceptions to use of e-mail under P159 should occur only where BSCCo's legal advice indicated that certain communications should not be sent by e-mail. The arguments expressed by these respondents were that it would not be appropriate for formal notices that grant rights or impose obligations to be solely issued by e-mail, and sending these by post or fax would ensure that such notices were legally robust. Some of these respondents noted that, although this would retain an element of inefficiency through requiring these exceptions to be issued by post or fax, this requirement would only be applied to a small number of infrequent communications.

One respondent appeared not to support this approach, stating that it contradicted the GSMG's agreement that the sender of a communication should be able to choose its medium. The Group sought to clarify this comment, since the respondent's later answer to Question 9 (see below) stated that paper backups of some signed communications should be required. Following the GSMG's clarification of its approach, this respondent confirmed that they agreed that certain communications should not be issued solely by e-mail.

No respondents believed there to be any other communications which required exceptions under P159, and the majority did not believe that any of the identified exceptions should be allowed to be solely issued by e-mail. One respondent queried whether post or fax copies of Panel election documentation was required, but accepted BSCCo's clarification of the rationale for this exception (see Table 3 in Section 1.3.3).

All respondents who commented supported the approach of the GSMG that exceptions under P159 could be sent by e-mail providing that they were additionally confirmed by post or fax. The arguments expressed were that allowing the option to send such communications by e-mail in addition to the 'official' post or fax copy would provide the benefit of prior warning of the communication.

One of these respondents commented that they would be sympathetic to an e-mail-only route being available for the exceptions where the sender and receiver agreed this approach. However, this respondent subsequently accepted BSCCo's legal advice regarding the need to retain a post or fax copy (see Section 6.2).

#### **6.1.5 Deemed receipt rules**

No respondents believed there to be any communications which would require exceptions to the existing e-mail deemed receipt provisions.

One respondent commented that as formal notices under the Code would be sent by hard copy as well as e-mail, this should provide additional assurance of delivery. Another respondent considered that applying the current deemed receipt rules appeared a logical and consistent approach.

One respondent had no comment.

#### **6.1.6 Additional governance rules**

The majority of respondents did not believe that any additional governance rules would be required by P159. One of these respondents noted that BSCCo's external legal advisors had confirmed that the P113 Code provisions (which would also be applied under P159) were consistent with normal industry practice.

One respondent stated their view that for certain communications requiring signatures it would be essential to have a paper backup. The GSMG sought to clarify this comment, since the respondent's earlier answer to Question 4 had indicated that they did not agree that exceptions to sole use of e-mail were required. This respondent also queried what would happen if the e-mail and post/fax copies of the same communication contained different information. Following the GSMG's clarification of its approach, this respondent stated that they were satisfied with the governance rules developed by the Group (see Section 6.2).

One respondent had no comment.

#### **6.1.7 Alternative solutions**

No respondents believed there to be any alternative solutions which had not been considered by the GSMG.

One respondent had no comment.

#### **6.1.8 Other issues**

The majority of respondents did not believe there to be any other issues which required consideration by the GSMG.

One respondent stated their view that BSCCo should be required to create a central communication channel that it was obligated to adhere to for all communications, since this would reduce the risk of pertinent e-mails going astray. This respondent clarified to the GSMG that they believed BSCCo should be obliged to issue communications by one medium only, rather than being able to choose between post, fax and e-mail. The arguments of this respondent reiterated the minority view of the Group discussed in Section 1.3.2 (b).

Another respondent questioned whether e-mail communications were as secure as post or fax, and raised concerns regarding potential security risks involved in web-based communications. Following the GSMG's clarification of this issue, this respondent stated that they were satisfied with the Group's approach to e-mail security under P159 (see Section 6.2).

One respondent had no comment.

## **6.2 Comments and views of the Modification Group regarding consultation responses**

A number of new arguments were raised by one respondent to the Assessment Consultation, who was a member of the GSMG but who had been unable to attend the first two meetings of the Group. This respondent clarified the issues raised by their organisation's response at the final meeting of the GSMG, and the summary below outlines the Group's discussions regarding these issues.

### **a) Benefits of e-mail**

The other members of the GSMG considered the suggestion of the consultation response that the main advantage of e-mail is one of time-saving, rather than cost-saving, since any saving in postage costs would be marginal. However, these members considered that use of e-mail also delivered a resource (and thereby cost) saving for the reasons outlined in Section 1.5 of this report. The responding member clarified that their organisation had found it difficult to comment on the benefits of P159 in terms of the Applicable BSC Objectives, since the Modification Proposal would confirm current practice and therefore existing benefits which were difficult to quantify. This member stated that their organisation agreed that P159 would better facilitate the achievements of the Applicable BSC Objectives, but only due to the costs and inefficiencies involved in altering current practice.

The other GSMG members noted that they had also found it difficult to measure the benefits of an existing practice, and also agreed that P159 would better facilitate achievement of the Applicable BSC Objectives compared with a requirement to alter this practice. However, these members argued that P159 should additionally be measured against the current Code baseline, which only allows for post or fax. After discussing the other concerns raised by the consultation response (see below), the responding member agreed with the view that inclusion of e-mail in the existing Code baseline would better facilitate Applicable BSC Objectives (c) and (d).

### **b) Software requirements and compatibility<sup>13</sup>**

The GSMG considered the concerns of the consultation response that use of e-mail would require Parties to have certain software installed in order to receive attachments issued via e-mail by BSCCo, and that there could be compatibility problems even between different versions of the same product. The responding member also commented that a requirement to issue attachments in Adobe® Portable Document Format® (PDF) would impose a cost upon Parties who might not currently have such software.

The other members of the GSMG agreed that P159 would implicitly assume that all Parties operated Microsoft® Office System products – specifically, Microsoft Word and Excel. However, these members argued that this assumption was borne out by current practice, and noted that neither the GSMG nor BSCCo were aware of any Parties who did not have such software. Moreover, the other members of the GSMG considered that documents produced in different versions of these products (whether run on Microsoft Windows® or Apple® Mac OS® operating platforms) could be opened in other versions, and

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<sup>13</sup> Adobe, Acrobat, Adobe Portable Document Format (PDF) and Adobe Reader are either registered trademarks or trademarks of Adobe Systems Incorporated in the United States and/or other countries. Microsoft and Windows are either registered trademarks or trademarks of Microsoft Corporation in the U.S. and/or other countries. Apple and Mac OS are trademarks of Apple Computer, registered in the U.S. and other countries.

that they were not aware of any material compatibility issues. These members noted BSCCo's advice that any changes in its own software are communicated to all Parties in advance via ELEXON Circular, along with any compatibility points to be noted by Parties. BSCCo also advised that, wherever possible, it endeavours to ensure that documents produced in newer software are created in a format which is compatible with previous versions.

The other members of the GSMG also recognised that the majority of attachments to BSCCo communications are issued in PDF format, and that requiring Parties to install Adobe Reader® would not be discriminatory since the software is free to download. These members noted that any changes in the version needed by Parties to read such documents is notified to Parties by ELEXON Circular.

BSCCo advised that it would not expect Parties to issue their own communications in PDF format, since acquiring Adobe Acrobat® software to create such documents would incur a cost. Although the respondent suggested that PDF documents represented a more secure format, the other members of the GSMG argued that any communications from Parties to BSCCo where security was felt to be particularly important would either require authorised signatures or form exceptions to sole use of e-mail under P159. These members therefore considered that no additional passwords for e-mail communications would be required.

The responding member clarified that the intention of their organisation's comments to the consultation had been to raise the need to avoid being too prescriptive regarding the format of electronic communications, since this would be inefficient. Following the GSMG's further discussion of this issue (see Section 1.3.6), this member agreed with the other members of the Group that the P159 Code and BSCP drafting should not contain this level of detail – but that BSCCo would produce an 'advice document' regarding e-mail communications, which would be made available to Parties. The GSMG noted that this document would specifically cover the issues raised above.

### **c) Filing and durability of electronic communications**

The GSMG considered the concern raised within the consultation response that electronic communications would be inefficient and involve duplication, since they would have to be printed and filed as paper copies. However, the GSMG noted BSCCo's advice that it files copies of such communications electronically on servers, which are backed up daily and can be accessed remotely in an emergency. The Group also noted that ELEXON's IT Strategy and Business Continuity Plan are reviewed by ELEXON's Executive team for robustness.

The other members of the GSMG noted that, although Parties might wish to keep their own paper copies of communications, there would not be a Code requirement for them to do so. These members considered that keeping copies of electronic communications (by whatever method) would not involve more administrative effort than keeping photocopies of communications sent by post, and recognised that Parties' own filing systems lay outside the scope of the Code.

The responding member stated that they were satisfied with this clarification.

### **d) Exceptions to sole use of e-mail**

The responding member was asked to clarify whether they supported the proposed exceptions to sole use of e-mail under P159, since their organisation's consultation response appeared contradictory regarding the issue (see Section 6.1 above). This member clarified that they supported the requirement for certain 'formal' communications to be additionally issued by post or fax.

The consultation response stated that if both the sender and receiver of one of the identified exceptions agreed that a paper or fax follow-up was not required, then their organisation would be sympathetic to an e-mail-only route being available in such circumstances. However, the responding member and the other members of the GSMG accepted BSCCo's legal advice that post or fax copies of

these communications should be a Code requirement, due to the formal content of the communication or the need for a paper signature.

The consultation response also queried the process to be followed where the e-mail and 'official' post or fax copies contained inconsistent information, or the post or fax follow-up was not received. However, the responding member and other members of the GSMG accepted BSCCo's legal advice that only the post or fax copy would be actioned. BSCCo also clarified that, in such a situation, its working practice would be to contact the Party by telephone to confirm the situation – and that this process would also be required in any rare instances where two contradictory fax or post communications were received from a Party.

The responding member stated that this clarification had addressed their organisation's concerns.

### **e) Authenticity of e-mail communications**

The responding member reiterated the concerns of their organisation's consultation response that e-mail represented a less secure medium than those allowed by the current Code baseline, since post or fax communications were more durable and forgery-proof. However, the other members of the GSMG considered BSCCo's legal advice that e-mail communications are as 'authentic' in legal terms as those issued by post or fax – and disputed the suggestion that post or fax communications could not be issued maliciously. These members agreed that use of authorised signatures and the exceptions identified by the GSMG to sole use of e-mail would mitigate the most serious risks to Parties, but recognised that there would remain a degree of risk in any method of communication concerning whether a communication issued from the person it purported to be from. These members considered that the potential for malicious communications was a matter for Parties' own office and electronic security policies, and lay outside the scope of the Code.

However, these members agreed with BSCCo's suggestion that the P159 Code legal drafting contain the provision that, subject to any express security-checking requirements such as authorised signatures, the receiver of a communication would be entitled to rely on the content of that communication. These members noted that this would apply to all communications, whether issued by post, fax or e-mail, and would expressly confirm the authority of any action taken by the receiver.

The responding member agreed that the above clarifications and discussions had addressed their concerns, and stated that they therefore supported the solution developed by the GSMG to support P159. This member subsequently confirmed that their organisation was satisfied with the conclusions of the Group, and that the issues raised by their consultation response had been considered and resolved.

The GSMG agreed that all the new arguments raised by the consultation had been addressed.

## **6.3 Modification Group's summary of the impact assessment responses**

Nine responses were received to the P159 impact assessment. The GSMG noted that three responses represented organisations which had not responded to the Assessment Consultation.

A summary of these responses is provided below, and the GSMG's discussion of the issues raised by respondents can be found in Section 6.4.

**Table 5 – Summary of impact assessment responses**

<b>Q.</b>	<b>Impact assessment question</b>	<b>Yes</b>	<b>No</b>	<b>No comment</b>
1.	Any impact to responding organisation as a result of P159:	3	5	1
2.	Any cost to responding organisation as a result of P159:	1	7	1
3.	Any other comments provided:	5	3	1

#### **6.4 Comments and views of the Modification Group regarding impact assessment responses**

The GSMG noted that – of the three respondents who identified an impact upon their organisation – one had stated that P159 would have a positive impact with no additional cost, whilst one noted only a minimal impact upon their working practices.

The Group noted the comments of the other respondent that they could not accurately estimate the impact of P159, since this would depend upon the take-up of e-mail communications by other Parties as well as themselves. As the respondent had not indicated to what extent they already used e-mail, the GSMG noted that it was difficult to comment on the costs they suggested could be incurred by such a take-up. However, the Group noted that as the option of e-mail already informally exists and is used for the majority of BSCCo communications – and since P159 will still allow Parties to send communications by post or fax – a significant switch from post or fax to e-mail communications would be unlikely to occur as a direct result of P159.

The GSMG identified the following new arguments raised by the impact assessment responses:

##### **a) E-mail format conventions**

One respondent commented that e-mail should be used as a means of sending a communication via an attachment, and not to include the actual communication as free text. The GSMG agreed that where Code or BSCP provisions required a communication to be issued in a certain format – for example, BSCP forms – these should be returned in that format as an attachment. However, the Group considered that there was no reason why free text should not be allowed for more general communications, and considered that this flexibility would benefit smaller Parties who would be more likely to experience software compatibility problems. The GSMG agreed that this level of detail should remain at the level of working practices, and was not required as part of the P159 Code or BSCP drafting. The Group noted BSCCo's advice that its proposed 'advice document' for Parties would cover such potential queries regarding the format of e-mail communications (see Section 1.3.6.).

##### **b) Software compatibility**

The same respondent suggested that, where a recipient was unable to read an e-mail communication due to problems with its format, the recipient should be entitled to request a post or fax copy. The GSMG noted that this was already BSCCo's working practice, and agreed that it was not necessary for this to be included in the P159 drafting but could be covered in the BSCCo advice document.

This respondent also requested that BSCCo should provide around three months' notice to Parties of any change or upgrade to its software. The GSMG noted that BSCCo currently provides advance notification via an ELEXON Circular of any upgrades or changes which require consequential action by Parties.

The GSMG agreed that all the arguments raised by the impact assessment had been addressed.

## **7 SUMMARY OF TRANSMISSION COMPANY ANALYSIS**

### **7.1 Analysis**

A Transmission Company Analysis and Impact Assessment was commissioned during the Assessment Procedure for P159, and is summarised below:

- No impact was identified that would affect the ability of the Transmission Company to discharge its obligations under the Transmission Licence;
- No impact was identified upon any Transmission Company systems and processes; and
- No impact was identified upon any Core Industry Documents.

The Transmission Company expressed its opinion that P159 would better facilitate Applicable BSC Objective (d) by extending the scope for use of e-mail across further processes under the Code.

The Transmission Company confirmed that it supported the GSMG's recommendation that certain communications within Section F of the Code should form exceptions to sole use of e-mail under P159 (see Table 3 in Section 1.3.3 for a list of these communications).

A copy of the Transmission Company's response is attached as Annex 4.

### **7.2 Comments and views of the Modification Group regarding Transmission Company analysis**

The GSMG noted that no issues had been raised by the Transmission Company's analysis.

## **8 SUMMARY OF EXTERNAL ADVICE**

None commissioned.

## **9 IMPLEMENTATION APPROACH**

The GSMG agreed that P159 was an 'opportune' change, since it would confirm existing practice. The Group agreed that P159 should be implemented as part of an existing planned release in order to minimise implementation costs, and noted BSCCo's advice that the next available planned releases which could incorporate P159 would be February or June 2005.

The GSMG therefore agreed the following provisional Implementation Dates for P159:

- 23 February 2005 if an Authority decision is received on or before 1 September 2004; or
- 29 June 2005 if an Authority decision is received after 1 September 2004 but on or before 1 December 2004.

The Group noted BSCCo's advice that the February 2005 Release would be a particularly opportune release in which to deliver P159, since the changes could be delivered in parallel with the scheduled 're-badging' of all existing BSCPs for BETTA. The GSMG noted that this would ensure that e-mail was explicitly recognised as an acceptable form of communication within the Code and BSCPs at BETTA Go-Live. The Group suggested that this could be taken into account by the Authority in the timing of its decision regarding P159.

The GSMG agreed that no detrimental impact would result from not implementing P159 before February 2005 since, if P159 was approved, existing practice regarding use of e-mail would continue as currently prior to its formalisation on the Implementation Date.

## 10 DOCUMENT CONTROL

### 10.1 Authorities

Version	Date	Author	Reviewer	Change Reference
0.1	27/04/04	Kathryn Coffin	Roger Salomone	For chairman review
0.1	27/04/04	Kathryn Coffin	GSMG	For GSMG review
0.1	27/04/04	Kathryn Coffin	Finance	For Finance review
0.2	28/04/04	Kathryn Coffin	Change Delivery/Finance	For technical review
0.3	05/05/04	Kathryn Coffin	Change Delivery	For technical review
0.4	06/05/04	Kathryn Coffin	Change Delivery	For quality review
1.0	07/05/04	Change Delivery		For Panel decision

### 10.2 References

Ref	Document	Owner	Issue date	Version
1	Modification Proposal P159 'Extending the Scope of E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/P159/p159.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/P159/p159.pdf</a> )	BSCCo	28/01/04	1.0
2	Modification Proposal P113 'E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113.pdf</a> )	BSCCo	27/11/02	1.0
3	Initial Assessment of Modification Proposal P113 'E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113_IWA.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113_IWA.pdf</a> )	BSCCo	06/12/02	1.0
4	Modification Report: Modification Proposal P113 'E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113_final_mod_report.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113_final_mod_report.pdf</a> )	BSCCo	22/01/03	1.0
5	Authority Decision and Direction in relation to Modification Proposal P113 'E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113_Ofgem%20Decision.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113_Ofgem%20Decision.pdf</a> )	Ofgem	09/04/03	1.0
6	Initial Written Assessment for Modification Proposal P159 'Extending the Scope of E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/P159/P159_IWA.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/P159/P159_IWA.pdf</a> )	BSCCo	06/02/04	1.0
7	Assessment Consultation for Modification Proposal P159 'Extending the Scope of E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/P159/P159AC10.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/P159/P159AC10.pdf</a> )	BSCCo	15/03/04	1.0
8	Requirements Specification for Modification Proposal P159 'Extending the Scope of E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/P159/P159AS10.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/P159/P159AS10.pdf</a> )	BSCCo	15/04/04	1.0

## ANNEX 1 DRAFT LEGAL TEXT

Draft legal text for P159 is included as Annex 1A, and is attached as a separate document.

## ANNEX 2 MODIFICATION GROUP DETAILS

Attendee	Organisation	Member	Meetings Attended:		
			19/02/04	10/03/04	07/04/04
Roger Salomone	ELEXON (P159 chairman)	Y	✓	✓	✓
Kathryn Coffin	ELEXON (lead analyst)	Y	✓	✓	✓
Terry Ballard	Innogy	Y	✓	✓	
Joanne Ellis	Cornwall Consulting	Y	✓		
Mark Manley	British Gas Trading	Y	✓	✓	✓
James Nixon	Scottish Power	Y	✓		✓
Neil Smith	Powergen	Y	✓		
John Sykes	Scottish and Southern	Y			✓
David Ahmad	ELEXON (legal advisor)	N			✓
Jerome Williams	Ofgem	N	✓	✓	✓
Ijeoma Obi	ELEXON	N	✓		

### GSMG Terms of Reference (Version 1.0) – Annex for Modification Proposal P159

Modification Proposal P159 will be considered by the Governance Standing Modification Group (GSMG) in accordance with the GSMG Terms of Reference.

P159 – Extending the Scope of E-mail Communications under the Code.

#### ASSESSMENT PROCEDURE

- a) The Modification Group will carry out an Assessment Procedure in respect of Modification Proposal P159 pursuant to section F2.6 of the BSC.
- b) The Modification Group will produce an Assessment Report for consideration at the BSC Panel Meeting on 13 May 2004.
- c) The Modification Group shall consider and/or include in the Assessment Report as appropriate:
  - the examination of current references to use of e-mail for individual communications to identify whether any of these communications should be excluded from being sent by e-mail;
  - a review of current references to post or fax to establish if these should also include e-mail;
  - whether Parties would voluntarily elect to use email;
  - the establishment of a rule to determine what kinds of communication should be excluded from being sent by e-mail;

- whether the identified exclusions would provide sufficient reassurance to Parties or the remaining communications could be sent by post, fax or e-mail at BSCCo's discretion;
- an examination of any current differences in security provisions for individual communications under the Code/Subsidiary Documents which result from the type of communication concerned;
- any security risks which are felt to be particular to e-mail (as opposed to post or fax);
- whether any individual notices or communications under P159 should form minority exceptions to the deemed receipt rules introduced by P113 and whether any additional provisions are required for communications from Parties to BSCCo;
- whether there are currently any communications under the Code/Subsidiary Documents where BSCCo is not either the sender or the receiver – since any communications between other Parties would be difficult to govern;
- an examination of the provisions of Code Subsidiary Documents, other than BSCPs, to confirm that there is no inadvertent impact from P159 on any electronic data flows referred to in documents such as the Data Transfer Catalogue;
- an assessment of any consequential impact of P159 upon Parties' own e-mail systems; and
- an assessment of the e-mail facilities available to Parties and whether smaller players would be disadvantaged by ELEXON's discretion to use e-mail.

### ANNEX 3 CONSULTATION RESPONSES

Attached as separate document Annex 3A.

### ANNEX 4 TRANSMISSION COMPANY ANALYSIS

Q	Question	Response
1	Please outline any impact of the Proposed Modification (and, if applicable, any Alternative Modification) on the ability of the Transmission Company to discharge its obligations efficiently under the Transmission Licence and on its ability to operate an efficient, economical and co-ordinated transmission system.	No impact has been identified on the ability of the Transmission Company to discharge its obligations under the Transmission Licence resulting from this proposed modification.
2	Please outline the views and rationale of the Transmission Company as to whether the Proposed Modification (and, if applicable, any Alternative Modification) would better facilitate achievement of the Applicable BSC Objectives.	We believe that the proposed modification better facilitates BSC applicable objective d) to promote efficiency in the implementation and administration of the Balancing and Settlement Arrangements by extending the scope of the use of email across further processes/practices under the BSC.
3	Please outline the impact of the Proposed Modification (and, if applicable, any Alternative Modification) on the computer systems and processes of the Transmission Company, including details of any changes to such systems and processes that would be required as a result of the implementation of the Proposed Modification (and, if applicable, any Alternative Modification).	No impact has been identified on the systems and processes of the Transmission Company resulting from the proposed modification.
4	Please provide an estimate of the development, capital and operating costs (broken down in reasonable detail) which the Transmission Company anticipates that it would incur in, and as a result of, implementing the Proposed Modification (and, if applicable, any Alternative Modification).	None identified.
5	Please provide details of any consequential changes to Core Industry Documents that would be required as a result of the implementation of the Proposed Modification (and, if applicable, any Alternative Modification).	None identified.

Q	Question	Response
6	Any other comments on the Proposed Modification (and Alternative Modification if applicable).	In line with established custom and practice and as advised by Elexon, the Transmission Company will continue to communicate Notice of Authority Directions to modify/not to modify the Code via the dual route of both email and fax to the Modification Secretary. As such we would support that the obligations on the Transmission Company pertaining to Authority Directions referenced under sections F1.1.2, F1.1.4 4. And F1.7.2 of the Code form exceptions to the sole use of e-mail under P159 being additionally provided by fax and/or post.

## ANNEX 5 PARTY, PARTY AGENT AND CORE INDUSTRY DOCUMENT OWNER IMPACT ASSESSMENT RESPONSES

Organisation	Comments
Sue Calvert YEDL NEDL	<p>Would the Proposed Modification, as outlined in the attached Requirements Specification, impact your organisation? <b>No</b></p> <p>Any other comments:</p> <p><b>Re BSCP 38 CE Electric welcome the use of email, after the initial signatories have been put in place.</b></p>
Andy Taylor Intergen UK.	<p>Would the Proposed Modification, as outlined in the attached Requirements Specification, impact your organisation? <b>Yes</b></p> <p>If yes, please provide a description of the impact, any costs incurred, and the implementation timescale required:</p> <p><b>Positive impact, no additional cost.</b></p>
Tony Harris EDF Energy Networks	<p>Would the Proposed Modification, as outlined in the attached Requirements Specification, impact your organisation? <b>No</b></p>

Organisation	Comments
Sue Macklin Scottish and Southern Energy; Southern Electric; Keadby Generation Ltd; and SSE Energy Supply Ltd	<p>Would the Proposed Modification, as outlined in the attached Requirements Specification, impact your organisation? <b>No</b></p> <p>Any other comments:</p> <ol style="list-style-type: none"> <li><b>1. Where email is used as the sole means, the convention will be to attach the relevant document in the format prescribed in the BSCP etc, or the standard layout, if one exists. The body of the email should not be used as a free format mechanism other than to include instructions, explanations, etc.</b></li> <li><b>2. In the event that a recipient cannot read or open the attachments, or if the content is illegible, he should be entitled to request (by email) a paper copy by post or fax.</b></li> <li><b>3. Elexon should notify recipients, giving sufficient (3 months?) notice, when any change or upgrade to attachment software is due to take place.</b></li> </ol>
Dave Morton EDF Energy	<p>Would the Proposed Modification, as outlined in the attached Requirements Specification, impact your organisation? <b>Yes</b></p> <p>If yes, please provide a description of the impact, any costs incurred, and the implementation timescale required:</p> <p><b>Impact cannot accurately be estimated, as this will depend upon take up of e-mail communication by other parties as well as ourselves. In each case where e-mail becomes used in preference to existing mechanisms changes to processes and possible new generic e-mail accounts could be required. This will depend upon the particular process and range of internal people requiring access to that information. We would estimate that each such occurrence could take up to 20 days to implement, particularly if generic e-mail accounts need to be set-up.</b></p>
John Russell Scottish Power UK plc ScottishPower Energy Management Ltd. ScottishPower Generation Ltd. ScottishPower Energy Retail Ltd. SP Manweb plc. SP Transmission Ltd.	<p>Would the Proposed Modification, as outlined in the attached Requirements Specification, impact your organisation? <b>Yes</b></p> <p><b>The proposed Modification will only have a minimal impact on current working practices within our organisation.</b></p> <p>If yes, please provide a description of the impact, any costs incurred, and the implementation timescale required:</p> <p><b>The impact will be procedural with minimal costs and we would require at least 10 working days notification of implementation.</b></p> <p>Any other comments:</p> <p><b>It is important that any changes to the Code provide for the use of multiple email addresses for Parties. Simply changing Section A 3.1.1 (b) to place an obligation on Parties to provide and, by default under 3.2.1 (b) maintain, these email addresses could be administratively onerous if it then required Parties to submit individual BSCP65/4.1 forms for each email address they wished to use from time to time.</b></p>

<b>Organisation</b>	<b>Comments</b>
Deborah Hayward Central Networks West PLC	<b>Central Networks would like to return a response of 'No Comment' to MC00083 - DLIA of P159.</b>
Roslyn Bucknall Npower Ltd, Npower Direct Ltd, Npower Yorkshire Ltd, Npower Yorkshire Supply Ltd	Would the Proposed Modification, as outlined in the attached Requirements Specification, impact your organisation? <b>No</b>
Edward Coleman Powergen	Would the Proposed Modification, as outlined in the attached Requirements Specification, impact your organisation? <b>No</b>

## ANNEX 6 CLARIFICATION OF COSTS

There are several different types of costs relating to the implementation of Modification Proposals. ELEXON implements the majority of Approved Modifications under its CVA or SVA Release Programmes. These Programmes incur a base overhead which is broadly stable whatever the content of the Release. On top of this each Approved Modification incurs an incremental implementation cost. In order to give Stakeholders a feel for the estimated cost of implementing an Approved Modification the templates shown in Attachment 1 have three columns:

- **Stand Alone Cost** – the cost of delivering the Modification as a stand alone project outside of a CVA or SVA Release, or the cost of a CVA or SVA Release with no other changes included in the Release scope. This is the estimated maximum cost that could be attributed to any one Modification implementation.
- **Incremental Cost** - the cost of adding that Modification Proposal to the scope of an existing release. This cost would also represent the potential saving if the Modification Proposal was to be removed from the scope of a release before development had started.
- **Tolerance** – the predicted limits of how certain the cost estimates included in the template are. The tolerance will be dependent on the complexity and certainty of the solution and the time allowed for the provision of an impact assessment by the Service Provider(s).

The cost breakdowns are shown below:

PROGRESSING MODIFICATION PROPOSAL	
<b>Demand Led Cost</b>	This is the third party cost of progressing a Modification Proposal through the Modification Procedures in accordance with Section F of the Code. Service Provider Impact Assessments are covered by a contractual charge and so the Demand Led cost will typically be zero unless external legal assistance or external consultancy is required.
<b>ELEXON Resource</b>	This is the ELEXON Resource requirement to progress the Modification Proposal through the Modification Procedures. This is estimated using a standard formula based on the length of the Modification Procedures.

SERVICE PROVIDER <sup>14</sup> COSTS	
<b>Change Specific Cost</b>	Cost of the Service Provider(s) Systems development and other activities relating specifically to the Modification Proposal.
<b>Release Cost</b>	Fixed cost associated with the development of the Service Provider(s) Systems as part of a release. This cost encompasses all the activities that would be undertaken regardless of the number or complexity of changes in the scope of a release. These activities include Project Management, the production of testing and deployment specifications and reports and

<sup>14</sup> A Service Provider can be a BSC Agent or a non-BSC Agent, which provides a service or software as part of the BSC and BSC Agent Systems. The Service Provider cost will be the sum of the costs for all Service Providers who are impacted by the release.

<b>SERVICE PROVIDER<sup>14</sup> COSTS</b>	
	various other standard release activities.
<b>Incremental Release Cost</b>	Additional costs on top of base Release Costs for delivering the specific Modification Proposal. For instance, the production of a Test Strategy and Test Report requires a certain amount of effort regardless of the number of changes to be tested, but the addition of a specific Modification Proposal may increase the scope of the Test Strategy and Test Report and hence incur additional costs.

<b>IMPLEMENTATION COSTS</b>	
<b>External Audit</b>	Allowance for the cost of external audit of the delivery of the release. For CVA BSC Systems Releases this is typically estimated as 8% of the total Service Provider Costs, with a tolerance of +/- 20%. At present the SVA Programme does not use an external auditor, so there is no External Audit cost associated with an SVA BSC Systems Release.
<b>Design Clarifications</b>	Allowance to cover the potential cost of making any amendments to the proposed solution to clarify any ambiguities identified during implementation. This is typically estimated as 5% of the total Service Provider Costs, with a tolerance of +/- 100%.
<b>Additional Resource Costs</b>	<p>Any short-term resource requirements in addition to the ELEXON resource available. For CVA BSC Systems Releases, this is typically only necessary if the proposed solution for a Modification Proposal would require more extensive testing than normal, procurements or 'in-house' development.</p> <p>For SVA BSC Systems Releases, this will include the management and operation of the Acceptance Testing and the associated testing environment.</p> <p>This cost relates solely to the short-term employment of contract staff to assist in the implementation of the release.</p>
<b>Additional Testing and Audit Support Costs</b>	Allowance for external assistance from the Service Provider(s) with testing, test environment and audit activities. Includes such activities as the creation of test environments and the operation of the Participant Test Service (PTS). For CVA BSC Systems Releases, this is typically estimated as £40k per release with at tolerance of +/-25%. For SVA BSC Systems Releases this is estimated on a Modification Proposal basis.

<b>TOTAL DEMAND LED IMPLEMENTATION COSTS</b>	
<p>This is calculated as the sum of the total Service Provider(s) Cost and the total Implementation Cost. The tolerance associated with the Total Demand Led Implementation Cost is calculated as the weighted average of the individual Service Provider(s) Costs and Implementation Costs tolerances. This tolerance will be rounded to the nearest 5%.</p>	

### ELEXON IMPLEMENTATION RESOURCE COSTS

Cost quoted in man days multiplied by project average daily rate, which represents the resources utilised by ELEXON in supporting the implementation of the release. This cost is typically funded from the "ELEXON Operational" budget using existing staff, but there may be instances where the total resources required to deliver a release exceeds the level of available ELEXON resources, in which case additional Demand Led Resources will be required.

The ELEXON Implementation Resource Cost will typically have a tolerance of +/- 5% associated with it.

### ONGOING SUPPORT AND MAINTENANCE COSTS

<b>ELEXON Operational Cost</b>	Cost, in man days per annum multiplied by project average daily rate, of operating the revised systems and processes post implementation.
<b>Service Provider Operation Cost</b>	Cost in £ per annum payable to the Service Provider(s) to cover staffing requirements, software or hardware licensing fees, communications charges or any hardware storage fees associated with the ongoing operation of the revised systems and processes.
<b>Service Provider Maintenance Cost</b>	Cost quoted in £ per annum payable to the Service Provider(s) to cover the maintenance of the amended BSC Systems.