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9 April 2002

The National Grid Company, BSC Signatories and
Other Interested Parties

Our Ref : MP No: P60

Dear Colleague,

Modification to the Balancing and Settlement Code (“BSC”) - Decision and Direction in relation to Modification Proposal P60: “Amendment To Obligation To Register Metering Systems In Relation to Trade Sales ”

The Gas and Electricity Markets Authority (the “Authority”)¹ has carefully considered the issues raised in Modification Proposal P60, “Amendment To Obligation To Register Metering Systems In Relation to Trade Sales ”

The Balancing and Settlement Code Panel (the “Panel”) recommended to the Authority that the Proposed Modification P60 be approved, with a ‘calendar day’ implementation effective from 2 Working Days after any Authority decision to approve the proposal.

The Authority has decided to direct a Modification to the BSC.

This letter explains the background to the Modification Proposal and sets out the Authority’s reasons for its decision. In addition, the letter contains a direction to The National Grid Company plc (“NGC”) to modify the Balancing and Settlement Code (“BSC”) as set out in Modification Proposal P60.

This letter constitutes the notice by the Authority under section 49A Electricity Act 1989 in relation to the direction.

Background to the Proposal

Modification Proposal P60 was submitted on 5 December 2001 by British Gas Trading Limited under the Applicable BSC Objectives set out at C3 3 (c) and (d) of National Grid Company’s Transmission Licence². The Panel endorsed the recommendation to progress

¹ Ofgem is the office of the Authority. The terms “Ofgem” and “the Authority” are used interchangeably in this letter.

² The Applicable BSC Objectives, as contained in Condition C3 (3) of National Grid Company’s Transmission Licence, are:

Modification Proposal P60 to the Assessment Procedure (as defined in section F2.6 of the Code). The Assessment Report for Modification Proposal P60 was submitted for consideration at the Panel meeting of 14 February 2002. The Panel endorsed the recommendations of the Modification Group and agreed to submit Modification Proposal P60 to the Report Procedure, with a recommendation that the proposed modification be approved with a 'calendar day' implementation effective from 2 Working Days after any Authority decision to approve Modification Proposal P60.

ELEXON published a Draft Modification Report on 18 February 2002. The Draft Modification Report, containing a provisional recommendation was consulted on, and subsequently provided to the Panel for consideration at their meeting of 14 March 2002. At that meeting, the Panel noted that there were no new, substantive arguments contained within the consultation responses, and reconfirmed their provisional recommendations to the Authority. ELEXON published the Final Modification Report on 18 March 2002.

The Modification Proposal

Modification Proposal P60 seeks, in the circumstances of a Trade Sale to a single Replacement Supplier, to remove the current obligation on the single Replacement Supplier to re-register Metering Systems and appoint Party Agents as soon as reasonably practicable and, in any event, within 3 months after the Appointment Day of that Replacement Supplier³.

The Modification Proposal places the responsibility on the single Replacement Supplier to decide whether they can best meet their other BSC obligations by re-registering their Metering Systems or not. The proposer further contends that in the circumstances of a Trade Sale involving a single Replacement Supplier, it may be unnecessary for the Replacement Supplier to re-register Metering Systems within 3 months. The proposer notes that a Trade Sale will normally mean that the Failing Supplier's assets are being transferred co-operatively.

The proposal states that the modification will ensure that the stability and integrity of the Supplier Volume Allocation (SVA) Trading Arrangements and Settlement data is maintained and is not unnecessarily undermined. The proposal also states that the original obligation to re-register Metering Systems within 3 months will also remain in place where multiple Replacement Suppliers exist. This, it is stated, is supported by the fact that there are constraints within the existing BSC Systems that will not permit separate reporting of SVA assets by Replacement Supplier in the circumstances of multiple Replacement Suppliers.

Respondents' views

In total, ELEXON received 12 responses to the consultation on Draft Modification Proposal P60. Of the responses, 9 (representing 39 parties) expressed support for the proposed Modification 2 (representing 5 parties) did not support the proposed Modification and one response was "no impact".

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- (a) the efficient discharge by the licensee of the obligations imposed upon it by this licence;
 - (b) the efficient, economic and co-ordinated operation by the licensee of the licensee's transmission system;
 - (c) promoting effective competition in the generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity;
 - (d) promoting efficiency in the implementation and administration of the balancing and settlement arrangements.

³ Section K 7.6.2 of the BSC.

One response not supportive of the proposal reiterated comments made against the first consultation on Modification Proposal P60 in the Assessment Procedure. Focusing on the issue of whether or not Modification Proposal P60 better facilitated the applicable BSC Objectives in NGC's Transmission Licence⁴, it stated that the current processes for re-registration of metering systems following a Trade Sale are sensible. In the consultation for the Assessment Report, this respondent noted, with respect to condition C3 (3) (c), that they did not see how this proposal better met this BSC objective. They stated that whichever method of operation exists is unlikely to prevent a Trade Sale being progressed. Further, having different arrangements for a Trade Sale to a single party and for Supplier of Last Resort situations or a Trade Sale to multiple parties could in their view be construed as being counter to this condition. If this proposal were progressed then Suppliers cannot follow a single method of operation in these cases. Allowing different processes also suggested that the efficiency in administering these arrangements could be compromised. This, it was noted, suggested that condition C3 (3) (d) would not be better facilitated by the proposal.

The respondent felt that where possible there is a need to maintain consistency in processes so that the industry knows how each situation will be handled. If the proposal was progressed then a Supplier could re-register at any time or not at all. This could give problems for Supplier Meter Registration Service providers because they lose the knowledge of a specific timeline for these issues to be solved and how to resource specific areas of operation accordingly. This in the respondent's view would certainly not facilitate BSC objectives in respect to competition.

The other negative respondent (and also one positive respondent) sought clarification of the Performance Assurance Framework requirements described by the proposal. The clarification relates to one of the legal issues which were raised from the consultation on the Draft Modification Report for P60. Clarification was requested to ensure that the requirements of the Performance Assurance Framework were transferred to the Replacement Supplier in respect of all Metering Systems. The Final Modification Report notes that this issue was consulted on and the practicalities of this transfer have now been reflected in the legal drafting proposed for the P60. The Final Modification Report notes that the issue has been discussed with the respondent who raised the issue in consultation and they are now happy with the amended text.

For completeness, the other legal issue was raised from the consultation on P60 following the Assessment Procedure. It related to the fact that currently the Replacement Supplier Registration Date is defined under paragraph K7.6 of the BSC. If this paragraph does not apply in the circumstances described by Modification Proposal P60, then it was recognised that ambiguity is introduced into paragraphs K7.4.5, K7.4.6 and K7.4.7, which use the Replacement Supplier Registration Date. Revised legal drafting dealing with this issue was attached to the draft Modification Report for P60 and was subject to consultation.

The respondents' views are contained in the Final Modification Report for Modification Proposal P60 dated 18 March 2002.

Panel's Recommendation

The Panel met on 14 March 2002 and considered the Modification Proposal P60, the Draft Modification Report, the views of the Modification Group and the consultation responses received.

The Panel recommended that the Authority should approve the Proposed Modification and that, if approved, the Proposed Modification should be implemented with a 'calendar day' implementation effective from 2 Working Days after any Authority decision to approve Modification Proposal P60.

Ofgem's view

Ofgem considers, having had regard to its statutory duties, that Modification Proposal P60 will better facilitate achievement of the Applicable BSC Objectives, since it will remove a potentially unnecessary operational constraint on a Replacement Supplier in the circumstances of a single party Trade Sale and protect the integrity of the SVA process.

Ofgem notes the views raised by the respondent not supportive of Modification Proposal P60 on the grounds that it does not better facilitate achievement of applicable BSC Objectives (c) or (d), however Ofgem disagrees with this claim. The re-registration of the Failing Supplier's metering points within a three month period is a potentially onerous administrative task. Removing this obligation potentially increases the likelihood of prompt completion of a Trade Sale to prevent a supplier failure, thereby better facilitating the achievement of applicable Objective (c).

Ofgem is also aware that the change of supplier process is subject to potential complications, particularly in the areas of agent appointments and transfer of standing data. Such problems can result in deterioration of the quality of data which enters the SVA process. The systems of the Failing Supplier may be better placed to administrate the transferred metering points than those operated by the Replacement Supplier. Such an outcome would seem to better facilitate Objective (d) and possibly prevent any degradation of the quality of service provided to customers by the Replacement Supplier. In instances where the systems of the Failing Supplier hub were performing below BSC standards, then we would expect the matter to be addressed by the BSC Performance Assurance Framework, the Replacement Supplier taking responsibility for all necessary corrective action.

Ofgem notes the concerns raised by respondents on a possible adverse impact on the effectiveness of the Performance Assurance Framework (PAF) as a result of this modification. We have also noted the amended legal text in Annex 2 and are content that it addresses those concerns.

The Authority's decision

The Authority has therefore decided to direct that the Proposed Modification P60, as set out in Modification Report MR060 (dated 18 March 2002) should be made and implemented.

Direction under Condition C3 (5) (a) of NGC's Transmission Licence

Having regard to the above, the Authority, in accordance with Condition C3 (5) (a) of the licence to transmit electricity granted to NGC under Section 6 of the Electricity Act 1989 as

amended (the "Transmission Licence"), hereby directs NGC to modify the BSC as set out in Modification Report MR060.

The Modification is to take effect from 2 Working Days after this decision to approve Modification Report MR060.

In accordance with Condition C3 (5) (b) of NGC's Transmission Licence, NGC shall modify the BSC in accordance with this direction of the Authority.

If you have any queries in relation to the issues raised in this letter, please feel free to contact me on the above number.

Yours sincerely,

Iain Osborne
Director of Supply

Signed on behalf of the Authority and authorised for that purpose by the Authority