

ANNEX 3 – REPRESENTATIONS MADE BY PARTIES – FIRST CONSULTATION

Responses from P39 Assessment Report Consultation

Representations were received from the following parties:

No	Company	File Number
1.	London Electricity plc on behalf of: Sweb Ltd Sutton Bridge Power Jade Power Generation	P39_ASS_001
2.	SEEBOARD Energy Limited on behalf of: SEEBOARD Power Networks plc	P39_ASS_002
3.	British Energy	P39_ASS_003
4.	Scottishpower UK plc on behalf of: SP Energy Trading Ltd SP Generation Ltd Scottish Power Energy Retail Ltd Emerald Power Generation Ltd	P39_ASS_004
5.	Powergen UK plc	P39_ASS_005
6.	Innogy Group	P39_ASS_006
7.	Scottish & Southern Energy on behalf of: Southern Electric Keadby Generation Ltd SSE Energy Supply Ltd	P39_ASS_007

P39_ASS_001 – London Electricity**Modification Proposal P39: Improvements to the Administration of the Payment Default Process****Industry Consultation (Assessment Procedure) – Pro Forma for Responses****Respondent: Liz Anderson****Please list all Parties represented by Respondent: London Electricity plc, Sweb Ltd, Sutton Bridge Power and Jade Power Generation**

The following table summarises the issues raised in the P39 Modification Proposal. You are invited to provide a response with your views on the issues raised:

	Question	Yes/No	Rationale
A	P39 proposes that specific timescales relating to payment should be removed from the Code and replaced by a statement indicating that payments should be made on the Payment Date with the FAA checking that payments have been made at Close of Banking Business. Do you believe that the legal text accurately reflects this change?	Yes	
B	Please detail any comments you may have relating to the definition of Close of Banking Business.	N/A	
C	<p>P39 suggests that the concept of default thresholds should be introduced. Do you agree with the following revised default thresholds suggested by the Modification Group:</p> <ul style="list-style-type: none"> • A default would be progressed by D+2 for any party with a cumulative outstanding debt of greater than [£250,000]. • A default would be progressed by D+7 for any party with a cumulative outstanding debt of between [£20,00 and £250,000]. • A default would be progressed by D+15 for any party with a cumulative outstanding debt of less than [£20,000]. 	Yes	

	Question	Yes/No	Rationale
D	The Modification Group felt that the detailed procedures relating to each of the different thresholds should be documented within a new BSCP and ELEXON/FAA working procedures. Do you agree that the draft BSCP accurately reflects the changes required?	Yes	
E	The proposal suggests that an explicit statement should be added to the Code stating that the BSCCo will not pay any bank charges for payment transfers. Do you believe that the legal text accurately reflects this requirement?	Yes	
F	Please provide any other comments you have on Modification Proposal P39.	N/A	

Please send your responses by close of business on Wednesday 12th December 2001 to the following e-mail address:

Modifications@elexon.co.uk

Please entitle your e-mail 'P39 Consultation/Assessment'

Thank you.

P39_ASS_002 – SEEBOARD

Modification Proposal P39: Improvements to the Administration of the Payment Default Process

Industry Consultation (Assessment Procedure) – Pro Forma for Responses

Respondent: Dave Morton

Please list all Parties represented by Respondent: SEEBOARD Energy Limited and SEEBOARD Power Networks plc

The following table summarises the issues raised in the P39 Modification Proposal. You are invited to provide a response with your views on the issues raised:

	Question	Yes/No	Rationale
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P39 ASSESSMENT REPORT CONSULTATION RESPONSES

	Question	Yes/No	Rationale
A	P39 proposes that specific timescales relating to payment should be removed from the Code and replaced by a statement indicating that payments should be made on the Payment Date with the FAA checking that payments have been made at Close of Banking Business. Do you believe that the legal text accurately reflects this change?	Yes	
B	Please detail any comments you may have relating to the definition of Close of Banking Business.	N/A	No comments.
C	<p>P39 suggests that the concept of default thresholds should be introduced. Do you agree with the following revised default thresholds suggested by the Modification Group:</p> <ul style="list-style-type: none"> • A default would be progressed by D+2 for any party with a cumulative outstanding debt of greater than [£250,000]. • A default would be progressed by D+7 for any party with a cumulative outstanding debt of between [£20,00 and £250,000]. • A default would be progressed by D+15 for any party with a cumulative outstanding debt of less than [£20,000]. 	Yes	
D	The Modification Group felt that the detailed procedures relating to each of the different thresholds should be documented within a new BSCP and ELEXON/FAA working procedures. Do you agree that the draft BSCP accurately reflects the changes required?	Yes	
E	The proposal suggests that an explicit statement should be added to the Code stating that the BSCCo will not pay any bank charges for payment transfers. Do you believe that the legal text accurately reflects this requirement?	Yes	
F	Please provide any other comments you have on Modification Proposal P39.	N/A	No comments.

Please send your responses by close of business on Wednesday 12th December 2001 to the following e-mail address:

Modifications@elexon.co.uk

Please entitle your e-mail 'P39 Consultation/Assessment'

Thank you.

P39_ASS_003 – British Energy

From: Ace Rachel[SMTP:rachel.ace@british-energy.com]
 Sent: 12 December 2001 14:22
 To: 'modifications@elexon.co.uk'
 Subject: P39 Consultation Response

British Energy has nothing further to add to the comments sent on 10th October 2001.

Regards

Rachel Ace

British Energy Generation
 British Energy Power and Energy Trading
 Eggborough Power Ltd

P39_ASS_004 – Scottishpower

Modification Proposal P39: Improvements to the Administration of the Payment Default Process

Industry Consultation (Assessment Procedure) – Pro Forma for Responses

Respondent: Man Kwong Liu

Please list all Parties represented by Respondent:

ScottishPower UK Plc.
 SP Energy Trading Ltd.
 SP Generation Ltd.
 Scottish Power Energy Retail Ltd.
 Emerald Power Generation Ltd.

The following table summarises the issues raised in the P39 Modification Proposal. You are invited to provide a response with your views on the issues raised:

Question Yes/No Rationale

A P39 proposes that specific timescales relating to payment should be removed from the Code and replaced by a statement indicating that payments should be made on the Payment Date with the FAA checking that payments have been made at Close of Banking Business. Do you believe that the legal text accurately reflects this change?

Yes For the most part, the legal text in Section N now reflects the intention to remove specific timescales for certain actions by BSC Debtors and the FAA in relation to settlement payments. However, please note that N8.1.1. does not refer to "by Close of Banking Business", making it inconsistent with other changes in Section N.

B Please detail any comments you may have relating to the definition of Close of Banking Business.

N/A We understand that, in almost all instances, this would be 15:30. However, in the absence of uniform practice amongst UK banks, a general (not time-specific) definition would be acceptable.

C P39 suggests that the concept of default thresholds should be introduced. Do you agree with the following revised default thresholds suggested by the Modification Group:

A default would be progressed by D+2 for any party with a cumulative outstanding debt of greater than [£250,000].

A default would be progressed by D+7 for any party with a cumulative outstanding debt of between [£20,00 and £250,000].

A default would be progressed by D+15 for any party with a cumulative outstanding debt of less than [£20,000].

yes The default thresholds suggested by the modification panel looks reasonable however after implementation a review date should be set to determine their appropriateness and any significant findings.

D The Modification Group felt that the detailed procedures relating to each of the different thresholds should be documented within a new BSCP and ELEXON/FAA working procedures. Do you agree that the draft BSCP accurately reflects the changes required?

yes Again, for the most part, the revised BSCP 301 appears to reflect the changes made to processes. However, there are some inconsistencies with Sec. N such as the deletion of "not later than" (3.3.9 & 3.3.10 of BSCP 301). 3.3.11 of the BSCP still specifies a time instead of "not later than Close of Banking business". Please check these inconsistencies and any others.

E The proposal suggests that an explicit statement should be added to the Code stating that the SCCo will not pay any bank charges for payment transfers. Do you believe that the legal text accurately reflects this requirement?

yes The legal text now supports the views of all respondents to the previous consultation that additional charges relating to payment transfers to and from banks outside the United Kingdom are to be paid by BSC Parties and not the BSC Clearer.

F Please provide any other comments you have on Modification Proposal P39.

N/A

Please send your responses by close of business on Wednesday 12 th December 2001 to the following e-mail address:

Modifications@elexon.co.uk

Please entitle your e-mail 'P39 Consultation/Assessment' Thank you.

P39_ASS_005 – Powergen UK plc**Modification Proposal P39: Improvements to the Administration of the Payment Default Process****Industry Consultation (Assessment Procedure) – Pro Forma for Responses****Respondent:****Please list all Parties represented by Respondent:**

The following table summarises the issues raised in the P39 Modification Proposal. You are invited to provide a response with your views on the issues raised:

	Question	Yes/No	Rationale
A	P39 proposes that specific timescales relating to payment should be removed from the Code and replaced by a statement indicating that payments should be made on the Payment Date with the FAA checking that payments have been made at Close of Banking Business. Do you believe that the legal text accurately reflects this change?	Yes	
B	Please detail any comments you may have relating to the definition of Close of Banking Business.	N/A	If possible it needs to reflect banking operations and be consistently understood.
C	P39 suggests that the concept of default thresholds should be introduced. Do you agree with the following revised default thresholds suggested by the Modification Group: <ul style="list-style-type: none"> • A default would be progressed by D+2 for any party with a cumulative outstanding debt of greater than [£250,000]. • A default would be progressed by D+7 for any party with a cumulative outstanding debt of between [£20,00 and £250,000]. • A default would be progressed by D+15 for any party with a cumulative outstanding debt of less than [£20,000]. 	Yes	Remembering that these are the maximum timescales and that ELEXON can take action earlier if particular circumstances dictate.
D	The Modification Group felt that the detailed procedures relating to each of the different thresholds should be documented within a new BSCP and ELEXON/FAA working procedures. Do you agree that the draft BSCP accurately reflects the changes required?	Yes	However I am concerned that a number of the processes which need to be completed by Close of Banking Business are also dependent on each other.

	Question	Yes/No	Rationale
E	The proposal suggests that an explicit statement should be added to the Code stating that the BSCCo will not pay any bank charges for payment transfers. Do you believe that the legal text accurately reflects this requirement?	Yes	
F	Please provide any other comments you have on Modification Proposal P39.	N/A	

P39_ASS_006 – Innogy Group

The Innogy Group do not have any comments on the P39 modification report. Without prejudice to any legal review, we support the modification.

Ben Willis
Senior Commercial Analyst
Npower Ltd.
Tel: 0113 289 5937
Mob: 07720 506882

P39_ASS_007 – Scottish & Southern

This response is sent on behalf of Southern Electric, Scottish and Southern Energy, Keadby Generation Ltd. and SSE Energy Supply Ltd.

B
A definition based on banking hours in the City of London would be appropriate.

C
Yes

Regards
Garth Graham

ANNEX 4 – REPRESENTATIONS MADE BY PARTIES – SECOND CONSULTATION

Responses from P39 Assessment Report Consultation

Responses from the Second P39 Assessment Consultation

Consultation issued 29 January 2002

Representations were received from the following parties:

No	Company	File Number	No. Parties Represented
8.	TXU Europe	P39_ASS2_001	14
9.	Intergen	P39_ASS2_002	4
10.	Powergen UK plc	P39_ASS2_003	4
11.	British Gas Trading	P39_ASS2_004	4
12.	LE Group	P39_ASS2_005	5
13.	Scottish & Southern Energy plc	P39_ASS2_006	4
14.	British Energy	P39_ASS2_007	3
15.	SEEBOARD	P39_ASS2_008	2
16.	ScottishPower UK plc	P39_ASS2_009	7
17.	Innogy Group	P39_ASS2_010	9

P39_ASS2_001 – TXU Europe**Respondent:** TXU Europe Companies**Please list all Parties represented by Respondent:** 14 TXU companies

The following table summarises the issues raised in the P39 Modification Proposal. You are invited to provide a response with your views on the issues raised:

	Question	Yes/No	Rationale
A	Do you believe that Modification Proposal P39 (as described in this consultation paper) better facilitates the BSC objective in Condition C3 (3)(d) of the Transmission Licence, i.e. promoting efficiency in the implementation and administration of the balancing and settlement arrangements.	Yes	The Code aligns with the practice.
B	Do you believe that the legal text accurately reflects the required changes documented in this consultation paper?	Yes	

P39_ASS2_002 – Intergen**Respondent:** Clara Anderson

Please list all Parties represented by Respondent: Coryton Energy Company Limited, InterGen Energy Trading and Shipping Ltd, Rocksavage Power Company Limited, Spalding Energy Company Limited.

The following table summarises the issues raised in the P39 Modification Proposal. You are invited to provide a response with your views on the issues raised:

	Question	Yes/No	Rationale
A	Do you believe that Modification Proposal P39 (as described in this consultation paper) better facilitates the BSC objective in Condition C3 (3)(d) of the Transmission Licence, i.e. promoting efficiency in the implementation and administration of the balancing and settlement arrangements.	Yes	Clarity of responsibilities. Reduces exposure to increased trading charges from a defaulting party.

	Question	Yes/No	Rationale
B	Do you believe that the legal text accurately reflects the required changes documented in this consultation paper?	Yes	No comments.

P39_ASS2_003 – Powergen UK plc

Respondent: Geoff Allen

Please list all Parties represented by Respondent: Powergen UK plc, Powergen Retail Ltd, Diamond Power Generation Ltd, Cottam Development Centre Ltd

The following table summarises the issues raised in the P39 Modification Proposal. You are invited to provide a response with your views on the issues raised:

	Question	Yes/No	Rationale
A	Do you believe that Modification Proposal P39 (as described in this consultation paper) better facilitates the BSC objective in Condition 7A(3)(d) of the Transmission Licence, i.e. promoting efficiency in the implementation and administration of the balancing and settlement arrangements.	Yes	
B	Do you believe that the legal text accurately reflects the required changes documented in this consultation paper?	Yes	

P39_ASS2_004 – British Gas Trading

Respondent:

Please list all Parties represented by Respondent: BGT, Accord, CKL, CPL

The following table summarises the issues raised in the P39 Modification Proposal. You are invited to provide a response with your views on the issues raised:

	Question	Yes/No	Rationale
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	Question	Yes/No	Rationale
A	Do you believe that Modification Proposal P39 (as described in this consultation paper) better facilitates the BSC objective in Condition C3 (3)(d) of the Transmission Licence, i.e. promoting efficiency in the implementation and administration of the balancing and settlement arrangements.	Yes	
B	Do you believe that the legal text accurately reflects the required changes documented in this consultation paper?	Yes	

P39_ASS2_005 – LE Group

Respondent: Liz Anderson

Please list all Parties represented by Respondent: London Electricity, South Western Electricity, Jade Power, Sutton Bridge Power and TXU Europe West Burton Ltd

The following table summarises the issues raised in the P39 Modification Proposal. You are invited to provide a response with your views on the issues raised:

	Question	Yes/No	Rationale
A	Do you believe that Modification Proposal P39 (as described in this consultation paper) better facilitates the BSC objective in Condition C3 (3)(d) of the Transmission Licence, i.e. promoting efficiency in the implementation and administration of the balancing and settlement arrangements.	Yes	This clarifies the Code and allows participants to meet the payment deadlines by making them more realistic.
B	Do you believe that the legal text accurately reflects the required changes documented in this consultation paper?	Yes	

P39_ASS2_006 – Scottish & Southern Energy plc

This response is sent on behalf of Scottish and Southern Energy, Southern Electric, Keadby Generation Ltd. and SSE Energy Supply Ltd.

In relation to the two questions listed in the Industry Consultation

(Assessment Procedure) within your note of 29th January 2002 concerning Modification P39, our comments are as follows:

- A. We do believe that Modification P39 does better facilitate the BSC objective.
- B. We have no particular comment on the accuracy or otherwise of the legal text. However, we are apprehensive about the concern regarding VAT and it is not clear that this has been addressed in this consultation and we would ask that this matter be specifically addressed at the next stage of the consultation process for this Modification.

Regards
Garth Graham
Scottish & Southern Energy plc

P39_ASS2_007 – British Energy

Respondent: British Energy

Please list all Parties represented by Respondent:

British Energy Power & Energy Trading Ltd

British Energy Generation Ltd

Eggborough Power Ltd

Unfortunately, we have not been able to give detailed attention to this latest consultation in the time available. These comments represent our overall view of the items described in "Modification P39 Second Assessment Consultation" and the attached pro-forma.

- A. Do you believe that Modification Proposal P39 (as described in this consultation paper) better facilitates the BSC objective in Condition C3 (3)(d) of the Transmission Licence, i.e. promoting efficiency in the implementation and administration of the balancing and settlement arrangements.**

Prescription of Payment Timescales

We support the intention to make the legal description of the payment process more realistic and representative of the actual process used to date.

Payment Default Thresholds

Avoidance of investigation and action in relation to small amounts remaining unpaid for a short period of time would probably better achieve the BSC Objectives, by reducing administrative overhead to the benefit of all parties. It is disappointing that this aim does not seem achievable. We would support specification of the threshold levels in the BSC, and a clause protecting Elexon from legal challenge in respect of exercising its discretion in this area.

Letters of Credit

We support changes to make the BSC consistent with standard practice for calling of Letters of Credit, and urge Elexon and EPFAL to take reasonable measures to expedite such payments when required.

Payment Transfers to and from Foreign Banks

We note the belief that the BSC already covers the issue of currency exchange and other bank charges. Mention is made of payments made in full to the BSC Clearer, with the payee implicitly paying charges, but not of payments made by the BSC Clearer, where we assume payments are made with any charges incurred deducted from the amount due to be paid?

B. Do you believe that the legal text accurately reflects the required changes documented in this consultation paper?

We have not checked the accuracy of the legal text. We note that the level of cross-referencing of clauses used in the drafting does not allow the intent and effect to be easily established, and wonder if further re-drafting into plain English or re-ordering would render the text more readily understandable. We note some minor errors in section labelling and cross-referencing, and hope these will be corrected in final drafting (eg. sub-clauses of N4.6.3, of N8.5.1(c) and reference to 8..2 in N8.5.4).

P39_ASS2_008 – SEEBOARD

Respondent: Dave Morton

Please list all Parties represented by Respondent:

**SEEBOARD Energy Limited
SEEBOARD Power Networks plc**

The following table summarises the issues raised in the P39 Modification Proposal. You are invited to provide a response with your views on the issues raised:

	Question	Yes/No	Rationale
A	Do you believe that Modification Proposal P39 (as described in this consultation paper) better facilitates the BSC objective in Condition C3 (3)(d) of the Transmission Licence, i.e. promoting efficiency in the implementation and administration of the balancing and settlement arrangements.	Yes	
B	Do you believe that the legal text accurately reflects the required changes documented in this consultation paper?	Yes	

P39_ASS2_009 – ScottishPower UK plc

Respondent: Man Kwong Liu

Please list all Parties represented by Respondent: For and on behalf of: -

ScottishPower UK Plc.; SP Manweb Plc.; ScottishPower Energy Trading Ltd.; ScottishPower Generation Ltd.; Scottish Power Energy Retail Ltd.; Emerald Power Generation Ltd.; SP Transmission Ltd.

The following table summarises the issues raised in the P39 Modification Proposal. You are invited to provide a response with your views on the issues raised:

	Question	Yes/No	Rationale
A	Do you believe that Modification Proposal P39 (as described in this consultation paper) better facilitates the BSC objective in Condition C3 (3)(d) of the Transmission Licence, i.e. promoting efficiency in the implementation and administration of the balancing and settlement arrangements.	YES	
B	Do you believe that the legal text accurately reflects the required changes documented in this consultation paper?	YES*	*There is a minor change required to the legal drafting (Sec. N 4.6.3 (c) instead of Sec. N 4.6.3 (a)).

P39_ASS2_010 – Innogy Group

Respondent: Ben Willis

Please list all Parties represented by Respondent:

Innogy, Innogy Cogen Ltd, Innogy Cogen Trading Ltd, Npower Ltd, Npower Direct Ltd, Npower Yorkshire Ltd, Npower Yorkshire Supply Ltd, Npower Northern Ltd & Npower Northern Supply Ltd.

The following table summarises the issues raised in the P39 Modification Proposal. You are invited to provide a response with your views on the issues raised:

	Question	Yes/No	Rationale
A	Do you believe that Modification Proposal P39 (as described in this consultation paper) better facilitates the BSC objective in Condition C3 (3)(d) of the Transmission Licence, i.e. promoting efficiency in the implementation and administration of the balancing and settlement arrangements.		Yes

	Question	Yes/No	Rationale
B	Do you believe that the legal text accurately reflects the required changes documented in this consultation paper?		Yes