21 September 2001

URGENT MODIFICATION DRAFT CONSULTATION

MODIFICATION PROPOSAL P37

To provide for the remedy of past errors in Energy Contract Notifications and in Metered Volume Reallocation Notifications

Prepared by ELEXON on behalf of the Balancing and Settlement Code Panel

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1 INTRODUCTION

This report has been prepared by ELEXON Ltd on behalf of the Balancing and Settlement Code Panel (the Panel), in accordance with the terms of the Balancing and Settlement Code (BSC). The BSC is the legal document containing the rules of the balancing mechanism and imbalance settlement process and related governance provisions. ELEXON is the company that performs the role and functions of the BSCCo, as defined in the BSC.

An electronic copy of this document can be found on the BSC website, at WWW.ELEXON.CO.UK.

This document seeks views on the Proposal.

Electronic responses should be sent to: Modifications@elexon.co.uk by close of play on the 27th of September, 2001 and responses by post should be addressed to the Modifications Department, ELEXON Ltd., 10th floor, 338, Euston Rd., NW1 3BP, again to arrive by close of play on the 27th of September, 2001. Responses should be marked 'Response to the P37 Consultation'.

If you have any queries about the issues raised in this consultation paper, please contact either David Warner, or Neil Cohen, at ELEXON (tel. (0207)-380-4100).

2 BACKGROUND AND TIMESCALES

Modification proposal P37 was submitted by London Electricity, on the 11th. of September, 2001. The proposal provides for the remedy of past notification errors in Energy Contract Volume Notifications and in Metered Volume Reallocation Notifications. The proposal seeks to enable this facility on a retrospective basis and hence the facility would be available for a fixed period, after which no further remedy for notification errors would be provided.

A copy of the Modification proposal is available on the ELEXON Website (www.ELEXON.co.uk) and is appended in Annex 1.

Two previous Modification proposals (Modification proposal P9 and Modification proposal P19) were concerned with a similar perceived defect, although neither was accepted by the Authority. However, in their determination rejecting Modification proposal P19, the Authority provided some views as to certain features associated with the general concept of remedying errors in Energy Contract Volume Notifications and Meter Volume Reallocation Notifications. The P37 Proposal refers to the P19 determination.

On the 13th. of September, 2001, The Authority agreed that this Modification proposal should be progressed as an Urgent Modification and the following timescales were also agreed:

- Initial meeting of the P37 Modification Group; 18/9/01
- Issue Consultation; 21/9/01
- Closing date for responses to consultation; 27/9/01
- Second meeting of the P37 Modification Group; 1/10/01
- Issue draft Urgent Modification Report to the Panel; 5/10/01
- Consideration of draft Report by the Panel; 9/10/01
- Issue final Urgent Modification Report to the Authority; 12/10/01

As part of the consultation exercise, relevant impact assessments will also be undertaken. Furthermore, the Authority's agreement will be sought to undertake two additional activities which are also required. Firstly, legal drafting additional to that in the proposal is likely to be required, particularly if the Modification Group consider that, in the light of consultation responses, an Alternative Modification proposal should be considered. This legal drafting would be consulted upon, prior to the draft Urgent Modification Report being submitted to the Panel. Secondly, legal opinions may need to be promulgated as to the relevance of certain NGC Transmission Licence Conditions referred to in the proposal. Subject to the Authority's agreement, it is anticipated that these activities would be undertaken on the 3rd of September, 2001, with responses to the consultation on legal drafting being received by 5pm on 5th of September, 2001.

Hence, the objective of this consultation is to receive views as to the merits, or otherwise of Modification proposal P37, including views on detailed aspects of the proposal. This will enable an Alternative Modification proposal to be formulated, if appropriate. In parallel,

impact assessments will be obtained such that, in combination with consultation responses, a draft Urgent Modification Report may be presented to the Panel for their consideration.

3 PROPOSER'S VIEW ON EXTENT TO WHICH THE PROPOSED MODIFICATION WOULD BETTER FACILITATE THE APPLICABLE BSC OBJECTIVES

The applicable BSC objectives are set out in Annex 2

The proposer states that the proposal would ensure that, as regards the period prior to the adoption of the proposal, settlement of imbalance obligations will be conducted by reference to Parties' true contract positions, as required by Condition 7A.2 (b) (ii) of NGC's transmission licence, rather than by reference to erroneously notified positions. When taken together with a separate modification in respect of future notification errors, the proposed modification would therefore promote the attainment of the objective specified in Condition 7A.3 (a) of that licence (the efficient discharge by NGC of its licence obligations).

The proposer further states that the retrospective effect of the proposed modification can be expected to promote effective competition in the generation and supply of electricity, by allowing the BSC Parties and new entrants in particular, to place reliance on the effectiveness of the BSC in addressing unfairness (Condition 7A.3 (c)). Going forward, to the extent that new entrants to the market may be more likely to make notification errors, then the proposed Modification may further serve to promote competition from new entrants by demonstrating that the BSC will not shrink from protecting Parties from the disproportionate consequences of such errors.

Finally, the proposer states that the proposed Modification can be expected to promote efficiency in the implementation of the balancing and settlement arrangements (Condition 7A.3 (d)) by reducing the risk to Parties of participating in the BSC and thereby reducing the risk-related costs of balancing and settlement activity.

It should be noted that the appropriateness of citing NGC's Licence Condition 7A.2 (b) (ii) has been questioned. Legal views on this particular issue will be promulgated by the 3rd. of September, 2001.

4 MODIFICATION GROUP DISCUSSIONS

In view of the fact that the proposal builds on remarks made in the Authority's determination on P19, a number of those remarks, alluded to in the P37 proposal, were discussed by the Modification Group. The Authority representatives noted three points which were pertinent to the P37 proposal, relating to the following areas: the cap on reimbursement, the impact of imbalance charges arising from an erroneous notification and the treatment of retrospective corrections on a case-by-case basis.

The Authority noted that they had suggested a cap on the amount that might be reimbursed, as a proportion of the value of a correction of an erroneous notification. However, it was noted that whilst the proposal does contain such a cap, by virtue of the error correction payment of 20%, the proposal contained an additional feature that limited the imposition of this cap to the first £1m of the value of a correction. The proposer suggested that the logic of this approach was that the worth of an error was more properly reflected in a capped payment than by an unlimited scaling of the reimbursement, since this would produce arbitrary effects.

The Authority also repeated their statement in the determination of P19 relating to the imbalance charges that might arise in respect of an erroneous notification. The Authority stated that they had said that imbalance charges may sometimes be disproportionate, relative to the incentive to correctly notify relevant quantities into the settlement systems rather than being disproportionate to the error, as suggested by the proposer.

Finally, the Authority noted that, although they had intimated that retrospective correction of erroneous notifications may need to be treated on a case-by-case basis, no method for this approach had been prescribed. Hence, it would be possible to contemplate a number of options in this respect. Three possibilities were considered:

- A separate modification for each claim, each therefore requiring an Ofgem determination;
- As in P37, the Panel considering and deciding each claim;
- As in P37, except that the Panel would make a recommendation to Ofgem for their determination.

The Modifications Group supported this particular aspect of P37 as currently defined (i.e. the Panel considering and deciding on each claim).

The Modification Group also considered the use of the term 'error correction penalty' used in the Proposal itself. It was recognised that clarification would be needed as to whether, or not, the use of the term 'penalty' was appropriate. In the meantime, it was agreed that the term 'error correction payment' would be used.

Finally, the Modification Group considered a number of detailed elements of the process by which the proposal could operate. Firstly, the Modification Group accepted that effecting both the correction of the notification and the payment for the error correction via changes to the notification volume itself would be extremely complex. The reason for this was that, whilst a notified volume would be common to the Party and the counterparty, the error correction payment would differ, by virtue of the dual cash-out arrangements. Hence, the Modification Group concluded that it would be easier if the correction to notifications were made purely to reflect the correct notification volume. Appropriate reimbursements would then flow in the normal course of events, as

subsequent runs of settlement picked up the revised notification data. The error correction payment could then be made as an explicit, separate payment.

The Modification Group then considered the basis on which the error correction payment could be calculated. Firstly, it was acknowledged that, being a payment, the error correction payment should be equal to or greater than zero. In other words, the error correction payment should not result in money being paid out to a claimant. Furthermore, it was recognised that some notifications relate to one Party (where trades are taking place between energy accounts), whilst others involve two Parties. If the error correction payment were to be based on a percentage of the value of a correction for a Party, this would imply a net value for a trade involving a single Party, but a gross value for a trade involving two Parties. The Modification Group took the view that the error correction payment should, therefore be levied in respect of any energy account associated with a claim for which some reimbursement is remitted.

Another issue that was considered was that of which run of settlement should be used to establish the error correction payment. The Modification Group were of the view that early settlement of the error correction payment was of greater importance than a precise calculation (which would require a final reconciliation run of settlement involving both the erroneous and the corrected notification volumes and could only be undertaken 14 months after the relevant day). The preference of the Modification Group was that as soon as practical, after a claim is approved, appropriate settlement runs for the settlement days to which a claim relates should be used to establish the value of the correction, from which the error correction payment could be calculated. No further reconciliations would be undertaken in respect of this error correction payment.

There was also some discussion concerning what the value of a correction should be and the basis on which the error correction payment should be calculated. This error correction value could relate purely to energy imbalance charges, or could include secondary cash-flows in settlement such as Residual Cashflow Reallocation Cashflow (RCRC) and BSCCo charges. In order to enable a simple and robust approach to be adopted, the Modification Group considered that the value of an error correction (for the purposes of calculating the error correction payment) should derive solely from energy imbalance charges.

The Modification Group also considered what should be done with the collected error correction payments. The Group concluded that the error correction payments should be disbursed to all Parties, in accordance with their RCRC accruals for the settlement day in question. One refinement to this approach that the Modification Group accepted was that the errant Parties should not receive any of the disbursement of error correction payment (which they themselves will have paid in the first place). Hence, the allocation of error correction payment would be adjusted accordingly.

5 CONSULTATION QUESTIONS

Introduction

Your views are invited on the generality of the proposal and the issues related to it, as presented in this consultation. However, in order to facilitate a structured approach to the progression of this Modification, it would be helpful for such views to be given via a series of questions. The questions fall into four categories. Firstly, two questions seek to elicit views as to the overall merit of the proposal and of its general thrust. Secondly, a series of questions invite views in relation to the detailed elements of the proposal. Then, there are a series of questions which arise from a consideration of process issues, as discussed by the Modification Group in their initial consideration of the proposal. Finally, two questions seek to elicit views as to the impact of the proposal, both prospectively and in hindsight.

General Questions

The full proposal is given in Annex 1 to this consultation.

Q1: Do you support Modification Proposal P37? Please support your answer by explaining why P37 better achieves the applicable BSC Objectives, or not, as the case may be?

Q2: Do you believe that the ability to make retrospective adjustments of notifications (within a fixed period, following some effective date) would better achieve applicable BSC Objectives? If your answer is yes, but your answer to Q.1 was no, please give reasons.

Detailed Questions

Within the proposal, a number of key features underpin the approach described.

Q3: Do you agree with the way in which an erroneous notification is defined and circumscribed (as described, generally within Modification proposal P37, but more specifically given in clause 6.1.1 of the legal drafting within the above proposal)? If your answer is no, please

a. Identify any features of the definition which you regard as inappropriate or inadequate, and why.
b. Identify any additional features you believe should be included, and why.

Q4: Do you agree that the time limit for making claims, following implementation, should be 5 working days? If not, what should the time limit be, and why?

Q5: Do you agree that the administration fee for making a claim should be £5,000? If not, what should it be and why?

Q6: Do you agree that a sufficient level of assurance is afforded by a claim being supported in writing by the counterparty? If not, what other assurance would be required?

Q7: Do you agree that the evidence to support a claim should be at the discretion of the Panel? If your answer is no, what specific evidence should be provided?

Q8: Do you agree with the scope and definition of the following circumstances where the Panel may exercise discretion in declining to rectify a claimed notification error? If your answer is no for any of these circumstances, please give views as to what the deficiencies are:

- Where the relevant Contract Trading Party (or its Agent) did not, at the time that the past notification error occurred, have in place prudent systems and processes for the checking of volume notifications (the question of whether such systems and processes were prudent to be judged in the light of circumstances then prevailing).
- Where the relevant Contract Trading Party (or its Agent) did not, following discovery of the error, promptly take all appropriate steps in relation to relevant systems and processes to avoid a repetition of the said error.

Q9: So long as the circumstances described in Q8 have been satisfied, then the Panel may not decline to rectify a notification error under the following further circumstances:

- Where the past notification error was directly attributable to BSC Systems.
- Where the past notification error and/or the magnitude of the loss suffered by the relevant Contract Trading Parties as a result arose from a combination of circumstances that could not have been reasonably foreseen.
- Where the magnitude of the loss suffered by one or more of the relevant Contract Trading Parties as a result of the said past notification error was wholly disproportionate to the fault or error committed by that Party.

Do you agree with the scope and definition of the above circumstances? If your answer is no for any particular circumstance, please give views as to what the deficiencies are.

Q10 (A): Do you agree that an error correction payment, in the form of a percentage of the value of the rectification, should be levied?

Q10 (B): If your answer to Q10(A) was yes, do you agree with the level of error correction payment being 20%. If your answer was no, what level do you believe would be appropriate

Q10(C): If your answer to Q10(A) was yes, do you agree that that the payment should be capped?

Q10 (D): If your answer to Q10(C) was yes, do you agree that the payment should be capped at £200,000. If your answer was no, what level do you believe would be appropriate.

Q10 (E): If your answer to Q10 (A) was no, what other form, if any, should the error correction payment take?

Q11: Do you agree with the approach to credit cover taken within the proposal? If your answer is no, please give reasons.

Q12: What body do you believe should decide on whether a claim should be allowed?

- The Panel, as described in the proposal
- The Authority, taking into account the views of the Panel
- Some other body (please specify)

Process

A number of points were raised in the Modification Group discussions, as described above. The following questions seek views on the key elements of these points.

Q13: Do you agree that, if an error correction is allowed, there should be a full correction of the notified volumes and that the error correction payment should be separately dealt with? If your answer is no, please give reasons.

Q14: Do you agree that the error correction payment should be based on energy imbalance charges and levied in respect of any energy account where a reimbursement arises? If your answer is no, please give reasons.

Q15: Do you agree that error correction payments should be disbursed to all Parties, pro-rata on credited energy, adjusted to exclude those Parties making the error correction payments themselves? If your answer is no, please give reasons.

Impact

The proposal may have an impact on participants, once implemented. Furthermore, had the proposal been anticipated, the actions and behaviour of participants may have been different. The following questions seek views on the key elements of these points.

Q16: What period of notice, if any, would be required before the proposal should take effect?

Q17: Would your actions and behaviour have been different, had the proposal been anticipated at or before Go-Live? If yes, please identify which of the following would have been carried out differently and why:

a. Development and testing of systems and processes
b. Operation of systems and processes
c. Trading and notification strategies
d. Other

ANNEX 1 MODIFICATION P37

Attached Letter

Mr Nicholas Durlacher
Chairman, BSC Panel
c/o Elexon Ltd
Third Floor, 1 Triton Square
London NW1 3BX

RB/MVB

11 September 2001

Dear Mr Durlacher

RETROSPECTIVE REMEDY OF NOTIFICATION ERRORS

When London Electricity ('London') put forward the BSC modification proposal known as P19 earlier this year, we covered our submission with a public letter, addressed to you and other members of the BSC Panel. In that letter, we revealed that, after making notification errors in relation to its contract position for the day of 3 April, London's net financial liability for that particular day was increased by £7.5 million above the level corresponding to its true contract position.

As the Panel was well aware of the magnitude of the losses we had suffered, by virtue of the way in which settlement liabilities are currently calculated under the BSC, its members will not be surprised to know that we were disappointed both by their decision not to recommend P19 to Ofgem and, of course, even more by Ofgem's subsequent decision to reject P19.

However, in considering our options in the light of that determination, we have found Ofgem's P19 decision document to be very helpful. This is particularly the case where it articulates ideas or principles which point towards a form of BSC modification which Ofgem would be content to adopt, and which could be applied retrospectively in such a way as to allow us to recover some, if not substantially all, of the sums which we have lost.

Paragraphs 25, 36, and 37 of the decision document are especially pertinent in these respects, since in combination they point to features which Ofgem has indicated should form part of any acceptable BSC modification designed to deal with the correction of notification errors. Following a meeting with Ofgem to clarify its approach to such modifications in the light of that document, London is now submitting a specific proposal (herewith) in respect of past notification errors. We request that this be dealt with on an urgent basis, in advance of a separate proposal designed to address future errors.

In formulating our proposal, we have used what finally came to be known as P19 Optimised as the basis, with necessary adaptations, for the legal drafting of this modification. To the extent possible in relation to retrospective claims, we have tried our best to reflect, and we hope satisfy, Ofgem's concerns at a number of points in its decision document that parties should have sufficient incentives to submit accurate notifications.

We also argue that the circumstances giving rise to our proposal clearly warrant a retrospective rule change, having regard to paragraph 36 of the Ofgem decision document and, also, to retrospective modifications approved by Ofgem in relation to the early Gas Network Code. As for the requirement for a 'more stringent cap' on retrospective recovery (see Ofgem's paragraph 37), we believe that this would be properly satisfied by allowing only 80 per cent of the value of correction claims up to the £1 million level to be recoverable (that is, the maximum unrecovered, or penalty, amount would be £200,000). Above £1 million, having first incurred that penalty, full recovery would then, in principle, be permitted.

This letter seeks to add background to the modification now proposed, which we have submitted separately in the prescribed manner, and should be treated by the Panel as an integral part of the modification proposal. As with the original P19 proposal, the ultimate justification for this new

modification is that, under present arrangements, the requirements set out in Condition 7A.2 of the NGC licence are not achieved. Remedying this defect would, therefore, facilitate the better achievement of the applicable BSC objectives.

For the avoidance of doubt, I confirm that we will wish to make a retrospective claim to rectify the consequences of London's notification error in respect of its contract position for the day of 3 April, if this modification is adopted.

We are ready to assist the Panel and its advisers as much as we can to process this proposal in an efficient and timely manner.

Yours sincerely

Roger Barnard

Regulatory Lawyer

London Electricity Group

Modification Proposal – F76/01	**MP Number:**

Title of Modification Proposal

To provide for the remedy of past errors in Energy Contract Volume Notifications and in Metered Volume Reallocation Notifications.

Submission Date

11 September 2001

Date Logged

[ ]

Description of Proposed Modification

London Electricity ('London') proposes a modification which would amend the BSC to enable past (but not, under this proposal, future) errors in Energy Contract Volume Notifications and Metered Volume Reallocation Notifications to be remedied on an ex-post basis.

This proposal follows Modification Proposal P19, which addressed both past and future notification errors but which was rejected by the Gas and Electricity Markets Authority (the 'Authority') in its decision document dated 1 August 2001. Following a meeting with the Authority to clarify its approach to notification error modifications, London is submitting this proposal in respect of past notification errors in advance of a separate proposal that will address future notification errors. This approach will enable past notification errors to be dealt with on an urgent basis (if that is thought appropriate) and considered separately from the issue of future notification errors.

This Modification Proposal is based upon 'P19 Optimised', that being the version of P19 that was preferred by the BSC Panel in its consideration of that proposal. It additionally incorporates the features which the Authority indicated in its decision on P19 should form part of an acceptable notification error correction modification. In particular, it includes features that Ofgem has said would be applicable to modifications that have retrospective effect.

Under this proposal, where a notification made prior to the adoption of this modification failed to reflect the true trading positions of one or more parties, the party/parties concerned would be entitled to submit a claim for the notification error to be rectified. Parties would have five business days from the adoption of this proposal in which to make such claims.

It would be for the parties to prove to the satisfaction of the Panel that they had a demonstrably settled and (where appropriate) shared commitment to notify accurately the true trading position, and that there had been a mistake in giving effect to that commitment.

The Panel would have discretion to decline to rectify a notification error if it considered that the party or parties concerned did not at the relevant time have prudent systems and processes in place for checking notifications and/or had failed to take appropriate steps to improve such systems and processes once the error had been discovered. Moreover, the Panel could refuse to rectify a notification error in circumstances other than where**:**

- the notification error was directly attributable to BSC Systems;
- the notification error or loss suffered as a result of the error arose from a combination of circumstances that could not have been reasonably foreseen; or
- the magnitude of the loss suffered was wholly disproportionate to the fault or error committed.

Where the Panel decided that a notification error should be rectified, it would be required to determine that appropriate adjustments be made to the erroneous notification. These adjustments would bring the notification into line with the true trading position, but would also subject the parties to a financial penalty equivalent to 20 per cent of the value to the parties of having the notification error rectified (the maximum penalty for each claim being capped at £200,000). The adjusted notification would then be used for the purposes of calculating settlement liabilities.

A non-refundable administration fee (initially set at £5,000 but subject to revision by the Panel, with the approval of the Authority) would be payable to BSCCo in respect of each claim.

Description of Issue or Defect that the Modification Proposal Seeks to Address

The defect in the Code that this Modification Proposal seeks to address is the same as that which P19 sought to address, although the proposal relates only to notification errors made prior to its adoption**:** future notification errors will be the subject of a separate modification proposal.

Condition 7A.1 of the NGC transmission licence requires NGC to have in force a document (the Balancing and Settlement Code) setting out the terms of the balancing and settlement arrangements. Those arrangements are defined in condition 7A.2(b)(ii) to include arrangements for the settlement of obligations between the BSC Parties**:**

> '*arising by reference to the [physical quantities of electricity allocated to BSC Parties], including the imbalances **...** between such quantities and the quantities of electricity <u>contracted</u>* [our emphasis] *for sale and purchase between BSC Parties'.*

The Modification Proposal (together with the separate proposal now envisaged in respect of future notification errors) is designed to ensure that the BSC does, in fact, fulfil the requirements of condition 7A.2(b)(ii) of NGC's licence, by providing for each Party's imbalance position to be settled by reference to its true contract position, rather than by reference to a notified position which turns out to have been erroneous.

The BSC places on the contracting Parties the onus of notifying to the Energy Contract Volume Aggregation Agent details of their contractual position in respect of each Settlement Period. Once Gate Closure has been reached for any given Settlement Period, there is no facility for Parties to correct any errors in their contract notifications. This means that, in cases where an erroneous notification has been made, and has not been corrected before Gate Closure, the settlement of imbalances will be effected by reference to the difference between the Party's physical production (or consumption) and the notified amount, rather than by reference to the difference between the Party's physical production (or consumption) and the contract amount. The actual requirements described in Condition 7A.2 are therefore not, in fact, achieved, and the affected Party may consequently suffer substantially higher imbalance charges than would apply if the correct contract volumes had been used to calculate settlement liabilities.

In order to achieve full and final settlement, the BSC must provide an effective mechanism for the Settlement Administration Agent to collate information as to each Party's contract position for each Settlement Period, and to calculate settlement liabilities accordingly. In practice, the contracting Parties are best placed to provide information as to their contract position, and it is appropriate that they should be required and incentivised to provide accurate information.

However, there is no good reason why Parties should be denied the opportunity to correct erroneous

notifications, including those which have occurred already, provided that**:**

(a) the Parties do so sufficiently soon to avoid any delay in final settlement;

(b) the opportunity for Parties to rectify erroneous notifications does not unduly diminish incentives to provide accurate notifications in the first place; and

(c) the opportunity to rectify erroneous notifications is used for its proper purpose – namely, to rectify erroneous notifications of Parties' true trading positions, and not to effect and notify changes in a Party's contract position which occur after Gate Closure.

The Proposed Modification is designed to introduce into the BSC a provision enabling Parties to rectify notification errors within these limits, in this case with retrospective effect. In particular, the proposal incorporates, to the extent relevant, those features which the Authority has indicated (at paragraph 25 of its decision in respect of P19) should form part of any notification error correction modification. Taking the elements of paragraph 25 in turn**:**

(a) **Authority's paragraph 25(i): an appropriate and material charge for any party seeking to correct a notification error**

This would initially be set at £5,000, being an estimate of the average administrative cost that the BSCCo would incur in investigating a claim of notification error (it is also the fee charged for investigating claims of manifest error under Section Q of the Code). The Panel would have the discretion to vary this charge, following consultation with the parties and with the approval of the Authority. The need to obtain the Authority's approval would guard against the charge being set at a level that could be prohibitive to smaller players.

(b) **Authority's paragraph 25(ii): a fixed percentage limit on recovery of a claim**

This is given effect by imposing a 20 per cent financial penalty on parties that make a successful claim of notification error. The maximum size of the financial penalty is capped at £200,000. This is because, notwithstanding that a notification error can result in losses running into many millions of pounds, whether such an error results in a large or a small loss is largely a consequence of chance and bears little, if any, relationship to the scale or nature of the error committed by the party concerned. It would be arbitrary to impose very widely varying financial penalties on such a basis, for example by setting a fixed discount on the total value of the claim at any level. We believe that a cap of £200,000 on the penalty to be incurred addresses these considerations, while providing BSC Parties with sufficient incentive to submit accurate notifications.

(c) **Authority's paragraph 25(iii): a short claim period**

This element of the Authority's decision is directed more at claims for future notification errors, rather than at claims for notification errors falling within the scope of this Modification Proposal. However, parties will have only five days from the date that this proposal comes into effect in which to make their claims of past notification error.

(d) **First part of Authority's paragraph 25(iv): the responsibility for establishing the nature of the error must rest on the claimant**

It is for the party claiming a notification error to demonstrate to the Panel that it had a settled and (where appropriate) shared commitment to accurately notify the true trading position, and that there had been a mistake in giving effect to that commitment;

(e) Second part of Authority's paragraph 25(iv): the claimant must show that it had acted prudently in checking its notifications

The Panel would have discretion to refuse to rectify a notification error if it considered that the party at fault did not, at the time that the error occurred, have in place prudent systems and processes for the checking of notifications. The effect of the drafting is that the Panel would have to judge whether such systems and processes were prudent in the light of the circumstances prevailing at the time, rather than with the benefit of hindsight.

(f) **Third part of Authority's paragraph 25(iv): the claimant must promptly put in place**

steps to avoid repetition of the error

The Panel would have discretion to refuse to rectify a notification error if it considered that the party at fault had not, following discovery of the error, promptly taken all appropriate steps to avoid repetition of the error.

In addition, because this Modification Proposal is directed to the rectification of past notification errors, it also incorporates those features which the Authority has indicated are appropriate to modifications which have retrospective effect.

At paragraph 36 of its decision in respect of P19, the Authority outlined a non-exhaustive list of categories of 'particular circumstances' which could give rise to the need for a retrospective rule change. The Modification Proposal incorporates these categories of particular circumstances into the notification error correcting mechanism so that the Panel is bound to have regard to them in deciding whether to allow rectification of a notification error. If a notification error falls outside the specified categories of circumstances, the Panel may decline to rectify that error. Those particular circumstances are**:**

- where the notification error was directly attributable to BSC Systems;
- where the notification error and/or the magnitude of the loss suffered by the party or parties concerned arose from a combination of circumstances that could not have been reasonably foreseen; or
- where the magnitude of the loss suffered by the party or parties concerned was wholly disproportionate to the fault or error committed by that party.

It can be seen that, where necessary, appropriate changes have been made to the categories of particular circumstances described in paragraph 36 of the P19 decision to reflect the fact that the Modification Proposal is concerned with retrospective notification errors rather than with a more general type of retrospective change. For example, the category comprising the third bullet point under Ofgem's paragraph 36 ('where the possibility of a retrospective action had been clearly flagged to the participants in advance, allowing the detail and process of the change to be finalised with retrospective effect') has not been included, since those particular circumstances are not applicable to notification errors under the BSC.

Moreover, the Modification Proposal includes a category of circumstances (our third bullet point above) that did not appear in paragraph 36 of the Authority's decision. In its broader context, this additional category can best be defined as**:**

> 'where the magnitude of the loss suffered by a party is wholly disproportionate to the fault or error committed by that party, provided that the fault or error had no detrimental effect on the efficient operation of the balancing and/or settlement systems'

In the context of notification errors, the reference to 'no detrimental effect on the efficient operation of the balancing and/or settlement systems' can be omitted since notification errors by their nature are incapable of having any such detrimental effect.

In common with the three categories of circumstance identified by the Authority in paragraph 36 of its P19 decision, this 'fourth' category is derived from modifications approved by the regulator in respect of the Gas Network Code, including, in particular, modification reference number 0064.

In that specific case, the Authority's predecessor, the Director General of Gas Supply, approved a retrospective modification which had the effect of redistributing millions of pounds of imbalance charges that had been incurred by certain (but by no means all) shippers of gas. The shippers concerned had incurred significant imbalance charges as a direct result of their failure to provide zero nominations to Transco, the system operator. It was accepted that zero nominations (which were in relation to gas deliveries to sub-terminals) were of no importance or value to Transco in its operation of the system. Nevertheless, those who failed to provide the zero nominations incurred significant imbalance charges, whereas those who provided zero nominations did not (and, indeed, benefited from a redistribution of the imbalance charges incurred by others). Despite opposition from the system operator, the Director General of Gas Supply directed that the Network Code be modified with retrospective effect to reverse the imbalance charges incurred by those of the gas shippers who had omitted to provide zero nominations.

London submits that this precedent from the Gas Network Code justifies the incorporation of a 'fourth' category of particular circumstances into the Proposed Modification.

At paragraph 37 of its decision in respect of P19, the Authority stated that a more stringent cap should apply to the retrospective recovery of monies lost through notification errors. The size of the financial penalty under this Modification Proposal (20 per cent, up to a maximum of £200,000) already incorporates this more stringent cap. A lesser financial penalty would be appropriate in relation to future notification errors (which will the be the subject of a separate proposal).

The proposed modification also embodies a similar modification to deal with the correction of past erroneous notifications of Metered Volume Reallocation Notifications.

Impact on Code

The following text shall be inserted in Section P.

6. PAST NOTIFICATION ERRORS

6.1 Meaning of Past Notification Error

6.1.1 For the purposes of this Section P**:**

(a) a **'Past Notification Error'** has occurred in relation to the notification of Energy Contract Volume Data or Metered Volume Reallocation Data for a Settlement Period where and only where there was an error in the submission of a Volume Notification on the part of the Volume Notification Agent and/or the relevant Contract Trading Parties which was not rectified prior to Gate Closure for the relevant Settlement Period and where Gate Closure for such Settlement Period has occurred prior to the date on which this paragraph 6 comes into effect;

(b) references in this paragraph 6 to the submission of a Volume Notification**:**

(i) mean the submission of a particular Volume Notification, and

(ii) include a failure to submit a Volume Notification,

and the provisions of this paragraph 6 shall be construed accordingly;

(c) for the purposes of paragraph (a), an error in the submission of a Volume Notification will be considered to have occurred only where**:**

(i) the relevant Contract Trading Parties had, at the time of such submission, a demonstrably settled and (save in the case of paragraph 1.4.1) shared commitment to notify particular ascertained Volume Data for the Settlement Period in question, and

(ii) it is clear that a mistake occurred in giving effect to that commitment;

(d) in relation to a claim of Past Notification Error**:**

(i) the **'relevant'** Volume Notification is the Volume Notification in respect of which the Past Notification Error has occurred,

(ii) the **'relevant'** Volume Notification Agent is the Volume Notification Agent which submitted or failed to submit (as the case may be) the relevant Volume Notification,

(iii) the **'relevant**' Settlement Period is the Settlement Period in respect of which the Past Notification Error has occurred,

(iv) a **'relevant**' Contract Trading Party is a Contract Trading Party in relation to which the Past Notification Error has occurred, and

(v) the **'rectified Volume Notification**' is the Volume Notification which would have been made had the Past Notification Error not occurred;

(e) in relation to a relevant Contract Trading Party, references to a Past Notification Error are to the Error which has (or is alleged to have) occurred in respect of such Party;

(f) **'Volume Data**' means Energy Contract Volume Data or Metered Volume Reallocation Data,

as the case may be.

6.2 Claiming Past Notification Errors

6.2.1 Where a relevant Contract Trading Party considers that there has been a Past Notification Error, such Party may make a claim to that effect by giving notice of such claim to BSCCo, identifying the Past Notification Error(s) and the relevant Settlement Period(s), provided that no claim of Past Notification Error may be made after the expiry of five days after the date on which this paragraph 6 comes into effect.

6.2.2 Where a relevant Contract Trading Party makes a claim of Past Notification Error, such Party shall pay a fee to BSCCo for each such claim (provided that, for the purposes of this paragraph 6.2.2, and subject to paragraph 6.2.4, a claim may relate to more than one Past Notification Error in respect of the same Volume Notification), the amount of which shall be £5,000, or such other amount as the Panel may from time to time, after consultation with Parties and with the approval of the Authority, determine upon not less than 30 days' notice to Parties, and which shall not be reimbursed in any circumstances.

6.2.3 Where a relevant Contract Trading Party makes a claim of Past Notification Error (other than one to which paragraph 1.4.1 applies), the claim shall be accompanied by a statement in writing from the other relevant Contract Trading Party (addressed to BSCCo for the benefit of all Contract Trading Parties) confirming that it considers that the Past Notification Error has occurred.

6.2.4 A claim of Past Notification Error may not be made in relation to a Volume Notification in respect of which a previous claim has been made (and, accordingly, if a relevant Contract Trading Party wishes to claim Past Notification Errors in relation to more than one Settlement Period, a single claim must be made for all such errors).

6.2.5 A claim of Past Notification Error may be made in relation to a Volume Notification, notwithstanding that the Volume Notification was treated as rejected (in relation to the relevant Settlement Period) or refused, in accordance with paragraph 2.4 or 3.4, where the rectified Volume Notification (if submitted as described in paragraph 6.4.5) would not have been so treated, but without prejudice to paragraph 6.6.2.

6.3 Flagging Past Notification Errors

6.3.1 Where a Party gives notice of a claim of Past Notification Error under paragraph 6.2.1, BSCCo shall within one Business Day after receiving such notice notify the claim to the Energy Contract Volume Aggregation Agent, all Contract Trading Parties, and the relevant Volume Notification Agent.

6.4 Determination of Past Notification Errors

6.4.1 The Panel shall consider claims of Past Notification Error in accordance with this paragraph 6.4.

6.4.2 For the avoidance of doubt, the Panel may establish or appoint a Panel Committee to discharge its functions under this paragraph 6, and (notwithstanding Section W2.2) the Panel may appoint the Trading Disputes Committee, and (if so appointed) that Committee shall have the ability and competence, to do so.

6.4.3 Where a claim of Past Notification Error is made**:**

(a) the Panel Secretary shall arrange for the claim to be placed on the agenda of a meeting of the Panel (consistently with paragraph (c)), and shall request**:**

(i) the Party claiming the Past Notification Error to provide evidence and information supporting its claim,

(ii) the other relevant Contract Trading Party (if any) to provide evidence and

information supporting the claim, and

(iii) the relevant Volume Notification Agent and the ECVAA to provide comments in relation to the claim;

(b) the Panel shall determine in its opinion whether there was a Past Notification Error and, if so, what it was;

(c) the relevant Contract Trading Parties and the relevant Volume Notification Agent shall**:**

(i) provide the Panel with such further information as it may reasonably request to assist it in making its determination, and

(ii) confirm to the Panel that the evidence and information provided to the Panel are complete and not misleading;

(d) the Panel Secretary shall notify the Panel's determinations to all Contract Trading Parties and the relevant Volume Notification Agent;

(e) BSCCo shall give such instructions to the ECVAA, SAA, and FAA as are necessary to give effect to any such rectification;

(f) the fee under paragraph 6.2.2 shall be invoiced as and included in determining BSCCo Charges for the relevant Party for the next month for which BSCCo Charges are invoiced following the notification of the Panel's determination under paragraph (d), and shall be paid accordingly.

6.4.4 The determination of the Panel (or any Panel Committee established or appointed under paragraph 6.4.2) as to whether there was a Notification Error and, if so, what it was shall be final and binding on all Parties.

6.4.5 Rectification of a Past Notification Error shall not be made if the rectified Volume Notification would have been invalid (pursuant to paragraph 2.3.4 or 3.3.4) or treated as rejected (in relation to the relevant Settlement Period) or refused (pursuant to paragraph 2.4 or 3.4) if such rectified Volume Notification had been submitted**:**

(a) at the time at which the relevant Volume Notification was submitted; or

(b) where the Past Notification Error is a failure to submit, immediately prior to Gate Closure for the relevant Settlement Period.

6.4.6 The Panel may decline to rectify a Past Notification Error**:**

(a) where it considers that the Contract Trading Party and/or Energy Contract Volume Notification Agent that made the error in the submission of the relevant Volume Notification did not**:**

(i) at the time that the Past Notification Error occurred, have in place prudent systems and processes for the checking of Volume Notifications (the question of whether such systems and processes were prudent to be judged in the light of the circumstances then prevailing), or

(ii) following discovery of the error, promptly take all appropriate steps in relation to such systems and processes to avoid a repetition of the said error; and

(b) in circumstances other than where**:**

(i) the said Past Notification Error was directly attributable to BSC Systems,

(ii) the said Past Notification Error and/or the magnitude of the loss suffered by the relevant Contract Trading Parties as a result arose from a combination of circumstances that could not have been reasonably foreseen, or

(iii) the magnitude of the loss suffered by one or more of the relevant Contract Trading Parties as a result of the said Past Notification Error was wholly disproportionate to the fault or error committed by that party.

6.5 Rectification of Past Notification Errors

6.5.1 Where the Panel determines that a Past Notification Error has occurred**:**

(a) the Panel shall determine what adjustments are required to the relevant Account Bilateral Contract Volumes, Metered Volume Fixed Reallocations, and/or Metered Volume Percentage Reallocations (as the case may be) to achieve the following effects**:**

(i) to put the relevant Contract Trading Parties into the position that they would have been in had the Past Notification Error not occurred (subject to paragraph (ii) below), and

(ii) to impose on each of the relevant Contract Trading Parties in respect of each claim an Error Correction Penalty determined in accordance with paragraph 6.5.2; and

(b) such adjustments shall be made as soon as is practicable, and shall be taken into account in the next Settlement Run for the relevant Settlement Period.

6.5.2 In relation to a claim of Past Notification Error (provided that, for the purposes of this paragraph 6.5, and subject to paragraph 6.2.4, a claim may relate to more than one Past Notification Error in respect of a single Volume Notification covering more than one Settlement Period), an Error Correction Penalty is the lesser of**:**

(a) a sum equal to 20 per cent of the cash equivalent of the value (if any) to the relevant Contract Trading Party of being put into the position that it would have been in had the Past Notification Error(s) to which the claim relates not occurred; and

(b) £200,000.

For the avoidance of doubt, the maximum Error Correction Penalty applicable in respect of any claim shall be the amount provided for in this paragraph 6.5.2, regardless of the number of Past Notification Errors to which any particular claim relates.

6.6 Credit arrangements

6.6.1 Where a Past Notification Error is rectified, the rectification shall be taken into account for the purposes of the determination of the relevant Contract Trading Parties' Credit Cover Percentages in relation to Settlement Periods for which Gate Closure occurs after, but not earlier than, the time of the rectification.

6.6.2 In accordance with paragraph 6.6.1**:**

(a) where, in accordance with Section M, a relevant Contract Trading Party was treated before the time of the rectification as being in Credit Default and would not have been so treated had the rectified Volume Notification been submitted**:**

(i) Section M3.5 shall not apply, and such Party shall not be entitled to any

right or remedy in respect of being so treated, and

(ii) to the extent that, as a result of such Party being so treated, any other Volume Notification was treated as rejected (in relation to any Settlement Period) or refused in accordance with paragraph 2.4 or 3.4, such refusal or rejection shall not be affected or prejudiced by the rectification of the Past Notification Error and Section M4 shall not apply in relation thereto;

(b) where, in accordance with Section M, a relevant Contract Trading Party would have been treated before the time of the rectification as being in Level 2 Credit Default had the rectified Volume Notification been submitted, and was not so treated, the rectification of the Past Notification Error shall not affect or prejudice any other Volume Notification which was not treated as refused before, or rejected as to Settlement Periods for which Gate Closure was before, the time of the rectification.

6.6.3 For the purposes of this paragraph 6.6, the time of the rectification of a Past Notification Error is the time with effect from which the ECVAA enters into its BSC Agent System the adjustments determined under paragraph 6.5.1.

Section D

The following text shall be inserted in Section D4.1(a)(v):

'(v) any amounts paid to BSCCo by way of fee pursuant to Section P6.2.2 or Section Q7.2.3;'

Section G

The following text shall be inserted as a new Section G1.1.2(b) and the existing Section G1.1.2(b) and remaining paragraphs of Section G1.1.2 shall be renumbered accordingly:

'(b) Section P6, which addresses the possibility of notification errors in the submission of Volume Notifications;'

Section M

The following text shall be inserted as a new Section M3.5.2 and the title of Section M3.5 shall be amended to read 'Result of Trading Dispute, etc':

'3.5.2 This paragraph 3 and paragraph 4 are subject to the provisions of Section P6.'

Annex X–1

The following new definitions shall be inserted in Annex X–1:

'Past Notification Error'	has the meaning given to that term in Section P6.1.1(a);
'Volume Data'	has the meaning given to that term in Section P6.1.1(f);
'Error Correction Penalty'	has the meaning given to that term in Section P6.5.2

Impact on Core Industry Documents
None

Impact on BSC Systems and other Relevant Systems and Processes used by Parties
None

Justification for Proposed Modification with Reference to Applicable BSC Objectives

The Proposed Modification is justified on the following principal grounds**:**

1. It would ensure that, as regards the period prior to the adoption of the Modification Proposal, settlement of imbalance obligations will be conducted by reference to Parties' true contract positions, as required by Condition 7A.2(b)(ii) of NGC's transmission licence, rather than by reference to erroneously notified positions. When taken together with a separate modification in respect of future notification errors, the Proposed Modification would therefore promote the attainment of the objective specified in Condition 7A.3(a) of that licence (the efficient discharge by NGC of its licence obligations).

2. The Proposed Modification is intended to allow Parties who have already made notification errors in respect of past Settlement Periods to submit claims for correction of those errors.

At paragraph 36 of its decision in respect of P19, the Authority outlined a non-exhaustive list of categories of 'particular circumstances' that could give rise to the need for rule changes having a retrospective effect. These categories (with appropriate amendments) have been incorporated into the notification error correction mechanism so that the Panel is bound to have regard to them in deciding whether to allow rectification of a notification error. If a notification error falls outside the specified circumstances, the Panel may decline to rectify that error.

Such an approach to retrospection is consistent with general principles of law as to when retrospection may be justified. Generally, retrospective changes are presumed to be unfair because**:**

(a)the retrospective application of new rules may be unfair to parties who would have acted differently, if they had known that the new rules would apply;

(b)the retrospective application of new rules on one occasion may create a perception among present and future participants that there will be other occasions where new rules are adopted and applied retrospectively to the detriment of parties, thereby causing them to regard participation in the arrangements as carrying additional risk, which will feed through into higher prices; or

(c) the retrospective application of rules may re-open settled financial transactions.

Taking these three issues in turn**:**

The first of these issues does not arise in this case**:** there is no evidence that any Party would (and no Party has claimed that it would) have conducted itself differently in the balancing market if it had known that erroneous contract notifications could be rectified, since balancing trades are based on notifications of physical positions, and not of contract positions. (This also means that, where some BSC Parties have benefited from errors in others' notifications, that benefit has been a windfall.)

The second issue is of a more general nature, and is based on a common concern that *all* retrospective application of new rules creates increased risk. This is a misconception. It may equally be argued that a refusal to implement retrospective changes to address unfairnesses is a risk factor which participants must factor into their decision-making. Indeed, London submits that, in this case, the BSC has caused unnecessary unfairness by exposing Parties to substantial imbalance settlement liabilities which were not, and could not reasonably have been, foreseen at the time when the BSC was concluded.

If the BSC is now amended to provide for retrospective correction of such unfairnesses, that would send a signal to participants that Parties are protected from unforeseen unfairnesses in the operation of the BSC. Parties can therefore be expected to regard a retrospective application of the Proposed Modification as in fact decreasing, rather than increasing, the risks associated with participation in the BSC.

The third of these issues need not be of concern in the present case because**:**

(a) the retrospective application of the Proposed Modification will not interfere with transactions which have been finally settled, since final settlement in respect of any given Settlement Period is not completed until 14 months after its close;

(b)there is no absolute rule of law prohibiting the re-opening of transactions which have be fully settled**:** see, for example, *Kleinwort Benson Ltd v Lincoln City Council* [1998] 4 All ER 5 (HL);

(c) the retrospective application of the Proposed Modification should therefore be permitted if the benefits of retrospective application (as outlined above) are likely to outweigh any detriments.

London submits that, in this case, retrospective effect of the Proposed Modification will be bene overall. Any detriments can be avoided by ensuring that the rationale for the retrospective applicati the Proposed Modification is fully and clearly explained in any report or decision document, so as to concerns that new rules might be applied retrospectively in other, materially different, cases.

The retrospective effect of the Proposed Modification can therefore, on this analysis, be expected to:

(a) promote effective competition in the generation and supply of electricity, by allowing the BSC Parties, and new entrants in particular, to place reliance on the effectiveness of the BSC in addressing unfairnesses (Condition 7A.3(c)). To the extent that new entrants to the market may be more likely to make Notification Errors, then the Proposed Modification may further serve to promote competition from new entrants, by protecting them from the disproportionate consequences of such Errors; and

(b) promote efficiency in the implementation of balancing and settlement arrangements (Condition 7A.3(d)), by reducing the risk to Parties of participating in the BSC, and thereby reducing the risk-related costs of balancing and settlement activity.

3. It may be argued (as it was in the context of Modification Proposal P9) that the balance of fairness lies in favour of making no Code modification with retrospective effect because Parties had an opportunity to address these considerations before the BSC was signed. London submits that such an argument would be incorrect because:

(a) discussions of the proposed terms of the BSC prior to its signature expressly contemplated that the question of notifications post Gate Closure would be reconsidered in the light of the operation of the BSC, and also that Parties would be free to make a modification proposal post Go-Live to address errors in Energy Contract Volumes or in Metered Volume Reallocation (see, respectively, page 48 of the Ofgem/DTI 'conclusions document'on NETA dated October 1999, and pages 2 and 3 of the joint NETA Programme/Elexon working group paper dated October 2000 on Manifest Errors in Balancing Mechanism Transactions);

(b) discussions before signature of the BSC focused on whether Parties should be allowed to notify trades conducted after Gate Closure, whereas the Proposed Modification relates only to the notification after Gate Closure of trades effected (but not correctly notified) before Gate Closure;

(c) experience of the operation of the BSC shows that, in the weeks immediately after the commencement of the BSC, it was more difficult than might previously have been expected for Parties to validate contract notification data, because of the large numbers of unrelated errors in the data put to them for validation, so that any conclusion on these issues reached through discussions conducted prior to the start date of the BSC may properly be re-opened in the light of experience; and

(d) discussions as to the terms on which the BSC should be adopted focused on the adoption of terms which would be appropriate to cater for the normal functioning of the market, and were not addressed to the exceptional circumstances which would apply in the period immediately following the introduction of NETA. There should therefore be no objection to adopting a modification with retrospective effect to cater for the exceptional difficulties arising from the exceptional circumstances of the period immediately following Go-Live.

Details of Proposer

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Attachments

For completeness, London details in its letter covering this application a recent instance of contract

notification error in respect of which it will wish to make a retrospective claim for rectification, if the Proposed Modification is adopted. London asks that that letter be treated as an integral part of this Modification Proposal.

ANNEX 2 APPLICABLE BSC OBJECTIVES

The Applicable BSC Objectives are set out in paragraph 3 of Condition 7A of the NGC Transmission Licence, as follows:

(a) The efficient discharge by the Transmission Company of the obligations imposed under the Transmission Licence;

(b) The efficient, economic and co-ordinated operation by the Transmission Company of the 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; and

(d) Promoting efficiency in the implementation and administration of the balancing and settlement arrangements.

ANNEX 3 ERROR PAYMENT CALCULATION

Because the Settlement Administration Agent (SAA) system provides no mechanism for calculating or settling Error Correction Payments, the following mechanism is proposed for rectifying Past Notification Errors:

1. The Energy Contract Volume Notification (ECVN) or Metered Volume Reallocation Notification (MVRN) data in the settlement system will be amended to correct the notification error. The following Settlement Run will then have the effect of restoring all Parties to the position they would have been in, had the notification error not been made.
2. Following this Settlement Run, and outside the scope of the SAA system, an Error Correction Payment (ECP_a) will be calculated for those Energy Account(s) for which the correction of the error reduced the Energy Imbalance Charge. The amount of this Error Correction Payment will be as follows:

$$ECP_a = \min\{0.2 * \max(\Sigma_j (NQAEI_{aj} - QAEI_{aj}), 0), MECP\}$$

where:

- Σ_j is the sum over all Settlement Periods j affected by the notification error;
- $QAEI_{aj}$ is the Account Energy Imbalance Cashflow determined by the Settlement Run for Energy Account a and Settlement Period j;
- The Non-Corrected Account Energy Imbalance Cashflow ($NQAEI_{aj}$) is the value which would have been the value of $QAEI_{aj}$ for Energy Account a and Settlement Period j, had the notification error not been corrected; and
- MECP is the Maximum Error Correction Penalty, which is £200,000.

3. The Energy Correction Payment(s) will then be distributed amongst Trading Parties (excluding those paying the Energy Correction Payments) in the same proportion as Residual Reallocation Cashflow. The amount payable to Energy Account a for a given notification error is the Energy Correction Payment Reallocation ($ECPR_a$), which will be calculated (again outside the scope of the SAA system) as follows:

(a) If the correction of the error reduced the Energy Imbalance Charge for Energy Account a, then:

$$ECPR_a = 0$$

(b) else

$$ECPR_a = \Sigma_a (ECP_a) * ARCRP_a / \Sigma_{a'} (ARCRP_a)$$

where:

- The Average Residual Cashflow Reallocation Proportion ($ARCRP_a$) is the average over all Settlement Periods j affected by the notification error of the Residual Cashflow Reallocation Proportion ($RCRP_{aj}$) for Energy Account a and Settlement Period j;
- Σ_a is the sum over all Energy Accounts a for which the correction of the notification error reduced the Energy Imbalance Charge in Settlement Period j; and
- $\Sigma_{a'}$ is the sum over all Energy Accounts a for which the correction of the notification error did not reduce the Energy Imbalance Charge in Settlement Period j.

It should be noted that:

- Further consideration is needed of the most appropriate mechanism for invoicing Trading Parties for the values of ECP_a and $ECPR_a$ determined by the above process.
- Once calculated, the values of ECP_a and $ECPR_a$ will not be re-calculated to allow for any changes to system prices in subsequent Settlement Runs.