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DEFINITION REPORT
MODIFICATION PROPOSAL P35 –
'Qualified ECVNAs'

Prepared by the Contract Notification Modification
Group on behalf of the Balancing and Settlement
Code Panel

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b Distribution

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1 SUMMARY AND RECOMMENDATIONS

At its meeting of 20 September 2001, the BSC Panel reviewed the Initial Written Assessment of Modification Proposal P35 'Qualified ECVNAs', raised by Automated Power Exchange (APX). The Proposal seeks to introduce the concept of Energy Contract Volume Notification Agents (ECVNAs) who have met certain standards of independence, performance and auditability and are therefore granted 'Qualified' status. The Modification Proposal asserted that this 'Qualified' status would enable notifications received by the ECVNA by Gate Closure to be considered firm for Settlement purposes. The Modification Proposal also requires that 'Qualified ECVNAs' be subject to performance monitoring with appropriate penalties, including removal of 'Qualified' status levied for non-performance.

At the BSC Panel meeting of the 20 September 2001 it was determined that further definition of the Modification Proposal was required. ELEXON subsequently met with the Proposer to further define the Modification Proposal and with the Contract Notification Modification Group (CNMG) on the 15 October 2001 to finalise the amended definition.

A consultation was not undertaken on the Initial Written Assessment for Modification Proposal P35 as a consequence of the amendments to the definition since the IWA was drafted and finalised. Therefore the CNMG agreed the amended definition and provided this for industry consultation with a set of consultation questions. The responses from the consultation were received on 2 November 2001, and are presented in Section 8 and ANNEX 1 of this Definition Report.

The intent of the Modification Proposal is to introduce 'Qualified' Energy Contract Volume Notification Agents (ECVNAs), who, in the event of a failure of their systems and / or processes, will be able to submit notifications received by them to the Energy Contract Volume Aggregation Agent (ECVAA) after Gate Closure. The Modification Proposal requirement is that data received by 'Qualified' ECVNAs be considered firm for settlement purposes. This definition of the Modification Proposal enables the procedures required to support the Modification to effectively adopt those existing to support ECVAA System Failures.

On 5 November 2001 the Contract Notification Modification Group met to review and discuss the Consultation responses and to finalise the Definition Report for Modification Proposal P35 'Qualified ECVNAs'.

On the basis of the analysis, consultation and assessment undertaken in respect of this Modification Proposal during the Definition Phase, and the resultant findings of this report, the Contract Notification Modification Group recommends that the BSC Panel should:

- **AGREE the submission of the proposal to the Assessment Procedure;**
- **AGREE that the Assessment Report be submitted to the Panel meeting of the 17th January 2002; and**
- **DETERMINE that the membership of the Modification Group should be expanded to enable support from members of the Error Processing Modification Group.**

2 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

3 PURPOSE AND SCOPE OF THE REPORT

BSC Section F sets out the procedures for progressing proposals to amend the BSC (known as 'Modification Proposals'. These include procedures for proposing, consulting on, developing, evaluating and reporting to the Authority on potential modifications.

The BSC Panel is charged with supervising and implementing the modification procedures. ELEXON provides the secretariat and other advice, support and resource required by the Panel for this purpose. In addition, if a modification to the Code is approved or directed by the Authority, ELEXON is responsible for overseeing the implementation of that amendment (including any consequential changes to systems, procedures and documentation).

The Panel may decide to submit a Modification Proposal to the 'Definition Procedure'¹. In such cases, the Panel commissions a Modification Group to define the issues raised by a Modification Proposal in sufficient detail to enable the Panel to determine whether to:

- a) Refer the proposal back to the Modification Group for further analysis; or
- b) Submit the proposal to the Assessment Procedure²; or
- c) Proceed directly to the Report Phase³.

The Modification Group is therefore tasked with reviewing the Modification Proposal with a view to providing clarification and definition where there is insufficient detail in the proposal to allow the Panel to decide whether to proceed with a detailed evaluation. The Modification Group must prepare a written report for the Panel that sets out the following matters⁴:

- a) An assessment of the issues raised by the Modification Proposal with supporting information and data to explain the effect of such issues by reference to the Applicable BSC Objective(s)⁵ and a summary of such assessment;
- b) An analysis of and the views and rationale of the Modification Group as to whether (and, if so, to what extent) the issues raised by the Modification Proposal warrant further assessment and evaluation under the Assessment Procedure;
- c) A detailed summary of the representations made by Parties and interested third parties during any consultation undertaken by the Modification Group and the comments and views of the Modification Group in respect thereof;
- d) A summary of any analysis prepared by the Transmission Company and the comments and views of the Modification Group in respect thereof;
- e) A summary of the analysis prepared by relevant BSC Agents and the comments and views of the Modification Group in respect thereof;
- f) Where applicable, a copy of the terms of reference and a summary of any report or analysis of external consultants or advisers; and
- g) Such other matters as the Panel may require in the terms of reference of the relevant Modification Group.

¹ See BSC F2.5

² See BSC F2.6

³ See BSC F2.7

⁴ See BSC F2.5.4

⁵ As defined in the Transmission Licence

This Definition Report therefore addresses all of the above items to the extent relevant to the Modification Proposal in question.

4 MODIFICATION GROUP DETAILS

This Definition Report has been prepared by the Contract Notification Modification Group. The Membership of the Modification Group was as follows:

Member	Organisation
Chris Rowell / Justin Andrews (Chair)	ELEXON
Mandi Francis (Analyst)	ELEXON
Ian Moss	(P35 Proposer) Automated Power Exchange
Tim Johnson	PowerGen
Simon Hadlington	British Gas Trading
Ben Willis	Yorkshire Electricity
Sharif Islam	TotalFinaElf
Martyn Hunter	St Clements Services
Roy Dinsmore	Innogy
Chris Teverson	The European Power Source Company (UK) Ltd
Nicola Lea	TXU Europe Energy Trading
Paul Mott	London Electricity
Mike Edgar	Transmission Company (NGC)
Mark Simons	BP Gas Marketing
Adam Higginson	Ofgem

5 DESCRIPTION OF PROPOSAL

The intent of the Modification Proposal is to introduce 'Qualified' Energy Contract Volume Notification Agents (ECVNAs), who, in the event of a failure of their systems and / or processes, will be able to submit notifications received by them to the Energy Contract Volume Aggregation Agent (ECVAA) after Gate Closure. The Modification Proposal requirement is that data received by 'Qualified' ECVNAs be considered firm for settlement purposes. This definition of the Modification Proposal enables the procedures required to support the Modification to effectively adopt those existing to support ECVAA System Failures.

This type of ECVNA is to be referred to as a **Privileged ECVNA**. The term Privileged is used to avoid confusion as qualification has a specific meaning under the Code.

The ECVNA requiring Privileged ECVNA status will request the status from ELEXON on or at any time after their initial registration as an ECVNA. The requesting ECVNA will provide a signed undertaking that it considers its systems and procedures to be of a sufficient quality to support such Privileged status. ELEXON will grant the ECVNA the Privileged status and will (manually) hold and maintain the register of such Privileged ECVNA status. ELEXON will also log status information pertaining to these Privileged ECVNAs on the BSC Website.

Once these ECVNAs have been granted Privileged status, they will continue to operate as currently. However, in the event of any failure which prevents submission of notifications received by them to ECVAA in time for the associated Gate Closure, the Privileged ECVNA will be able to raise a query for recovery of that data with ECVAA, post Gate Closure (the recovery processing will be limited to operational hours only). All such events will be reported on the BSC Website. It should be noted that the duration of each query will be limited to 24 hours or less.

It is proposed that the Privileged ECVNA be 'allowed' to raise up to [x] number of queries within a rolling period of [y] days⁶. If the Privileged ECVNA exceeds this quota, then they will be referred to the Panel in order to justify their performance, with the Panel determining whether to renew or revoke the Privileged ECVNA status. It is proposed that the Panel, with agreement from the Authority, set 'x' and 'y' and review the parameters in light of operational experience.

On receipt of the query from the Privileged ECVNA, ELEXON will verify that the ECVNA has current Privileged ECVNA status and that the submitting Privileged ECVNA is 'independent'⁷ to the affected notifications, i.e. the ECVNA is not an affiliate, parent or subsidiary of any of the Parties to the notification, nor is the ECVNA a counterparty to the notification, other than as a 'central party' (and is thus not taking a position from the trade, but acting as an intermediary). Where the query is accepted, ELEXON will authorise the processing of the data by ECVAA.

ELEXON will also log that the Privileged ECVNA has raised such a query on the BSC Website. Where the Privileged ECVNA has reached [x] number of incidents in the rolling period of [y] days, then ELEXON will refer the Privileged ECVNA to the Panel, or nominated sub-committee (e.g. the Performance Assurance Board), and will log this referral against the Privileged ECVNA on the BSC Website. Thereafter, the Privileged ECVNA will be responsible for providing evidence of their behaviour to support the Panel in making their decision.

Where the Panel believe the number of queries raised, or the number of referrals of the Privileged ECVNA to be unreasonable, then the panel may revoke the Privileged ECVNA status. The Privileged

⁶ With the values for [x] and [y] determined as part of the Assessment procedure for this Modification Proposal.

⁷ The exact definition of what constitutes 'Independence' to be determined as part of the Assessment procedure for this Modification Proposal.

ECVNA cannot then reapply for Privileged status for [three months]⁸ from the date of the revocation of status (the 'lock out' period). ELEXON will log the revocation of the status and the effective dates of such 'lock out' period on the BSC Website.

⁸ The exact length and nature of the 'lock out' period is to be determined as part of the Assessment procedure for this Modification Proposal.

6 ISSUES RAISED BY THE PROPOSED MODIFICATION

The CNMG determined, from discussion at their meeting of the 5 November 2001 and from the responses provided in the Consultation against Question 3, that the following issues should be considered as part of the Assessment Procedure:

1. Whether BSC Agent system functionality requires amendment to support this Modification.

During the Assessment procedure for Modification P1 'Extension of the Definition of ECVAA Systems Failure for Permitting Post Gate Closure Notification' the BSC Central Service Provider raised concerns about the continued usage of manual recovery procedures for partial ECVAA System Failures in the event of any increase in volumes of data requiring recovery. Manual recovery is time and resource intensive and can be prone to error resulting from the manual input of amended data.

Therefore the BSC Central Service Agent proposed the development and implementation of an automated recovery process. The P1 Modification Group determined as part of the Assessment procedure for P1 that they would not implement this automated solution as the Modification Group did not believe that volumes of data requiring recovery in ECVAA, would increase as a consequence of the implementation of the Modification. Therefore they determined to continue with the manual solution, with a view to monitoring any increase in volumes to determine whether it is necessary to implement the automated solution at a later date.

However, there are a number of Modifications at various stages of the Modifications process which have the potential to increase the amount of data recovery in ECVAA required, and therefore to necessitate the implementation of an automated solution. These are Modification Proposals:

- P1 'Extension of the Definition of ECVAA Systems Failure for Permitting Post Gate Closure Notification';
- P37 'To provide for the remedy of past errors in Energy Contract Volume Notifications and Metered Volume Reallocation Notifications';
- P35 'Qualified ECVNAs'; and
- P44 'Correction of Notification Errors where Parties are able to satisfy a Reasonable and Prudent Operator Test'.

The development and implementation costs of any automated solution could potentially be spread over more than one Modification, depending upon the Approval of these Modifications and this could be taken into consideration when assessing Modification Proposal P35.

2. Interaction with other Modifications.

For example:

It can be seen from point 1 above that there is an interaction with other Modifications as a consequence of there being a common system solution. There is also a further interaction with Modification Proposal P44 in that there is potentially a common manual solution for the extension of existing ELEXON processes and disputes processing which may provide a solution to both P35 and P44.

Modification Proposal P12 'Reduction of Gate Closure from 3.5 hours to 1 hour' may have an impact on the incentives around notification submission close to Gate Closure.

3. What constitutes 'Independence'.

Any definition of Independence should take into consideration fairness and equitability of such definition to ensure that the Modification Proposal provides maximum benefit to all Parties / Party Agents.

4. What, if any, accreditation, audit and performance monitoring requirements over and above those already defined should be placed on Privileged ECVNAs to prevent possible abuse of the Privileged status.

Such assessment should include a view as to the most appropriate documentation to define such additional requirements – for example, these requirements / obligations could be documented in a BSC Procedure, or documented in the Code. The cost benefits of introducing an accreditation / performance monitoring procedure should be assessed, as the costs of implementing and maintaining such processes may outweigh the benefit gained from such implementation.

7 THE NEED FOR FURTHER ASSESSMENT AND EVALUATION

The Contract Notification Modification Group (CNMG) believe that the Modification Proposal P35 'Qualified ECVNAs' is sufficiently well defined for submission to the Assessment procedure. The CNMG identified a number of issues which require specific consideration under the Assessment procedure for this Modification, and these are presented in Section 6 of this Definition Report.

The Assessment procedure for the Modification Proposal should take into consideration the provisions of the Code, Section F ANNEX F-1 with regards to the assessment and determination required to fulfil the obligations of the Code for the scope and content of the Assessment Report. The Assessment Procedure should, as a minimum, undertake the following:

- Assessment of the Modification Proposal against the Applicable BSC Objectives, as defined in Transmission Licence Condition 7(A) paragraph 3;
- Identification and description of any Alternative Modification which would better meet such Applicable BSC Objectives;
- Consideration of the individual issues identified with regards to this Modification Proposal, as defined in Section 6 of this Definition Report;
- Detailed Level Impact Assessment from the BSC Central Service Agent, Parties, Party Agents, the Transmission Company and ELEXON, including associated costs and timescales for development and implementation of the Modification; and
- Identification and documentation of the amendments to the Code, Code Subsidiary, and other industry documents.

8 REPRESENTATIONS BY PARTIES AND INTERESTED THIRD PARTIES

8.1 Summary of Representations

Eleven responses on behalf of forty parties were received in response to the consultation on the definition of the Modification Proposal, issued on behalf of the Contract Notification Modification Group. The full responses are provided in ANNEX 2 of this Definition Report. The questionnaire provided a high level definition of the Modification Proposal and requested responses to the following questions with further comments in all areas:

- Q1** Do you agree with the Modification Proposal?
- Q2** Do you believe that the Modification Proposal better facilitates the Applicable BSC Objectives, as defined in the Transmission Licence Condition 7A paragraph (3) (objectives listed)?
- Q3** Does the Modification Proposal raise any issues that should be considered as part of the assessment procedure?
- Q4** Do you agree that a qualification for granting Privileged ECVNA status should be based on a signed undertaking by the ECVNA with no further tests being applied?
- Q5** Do you agree that a qualification for having a query accepted (for data recovery in ECVA) should be that the Privileged ECVNA is independent to the notification?
- Q6** Do you agree with the posting of the occurrence of all incidents / referrals on the BSC Website?
- Q7** Do you have any preference for the limit to the number of queries [x] allowed to be raised and the specified rolling period [y] for them to be raised in, by the Privileged ECVNA?
- Q8** Do you agree that the obligation should be on the Privileged ECVNA to provide information regarding their performance to the Panel?
- Q9** Do you agree with the concept of the 'lock out' period preventing a Privileged ECVNA with that Privileged status revoked from reapplying for a specified period?
- Q10** Do you agree with the concept that a privileged ECVNA who has had the Privileged status revoked should be able to reapply?

At a high level, in response to Questions 1 and 2 regarding the agreement with the principle of the Modification Proposal and the belief as to whether the Modification Proposal better meets the Applicable BSC Objectives:

- Seven responses on behalf of fourteen Parties agreed with the Modification Proposal and, Of those, six responses on behalf of thirteen Parties believed that it better met the Applicable BSC Objectives (one response did not have an opinion); and
- Four responses on behalf of twenty-six Parties did not agree with the Modification Proposal and did not believe that it better met the Applicable BSC Objectives.

General comments made in support of the Modification Proposal were:

- Reduction of notification risk is beneficial to the industry;
- The Modification Proposal will increase the confidence to trade in the spot market and will therefore increase liquidity and transparency in the market;

- It is expected that this Modification Proposal would result in lower notification charges made by Privileged ECVNAs as a consequence of reduced risk / liability; and
- The Modification Proposal would allow trading to take place closer to Gate Closure without risk of non-notification.

General comments made to support the assertion that the Modification Proposal better achieved the Applicable BSC Objectives were:

- Reduction of notification risk is likely to improve market liquidity by removal of some of the risks associated with market processes, especially in the day ahead and within day markets;
- Privileged third party ECVNA services will allow immediate access into the ELEXON systems for new entrants, thus promoting effective competition in the market and promoting effective competition in the market and promoting efficiency in the implementation and administration of the balancing and settlement systems;
- The Modification Proposal may increase liquidity in the market, thus promoting effective competition, however, the Modification will increase liquidity only on the exchanges that are granted Privileged status. A greater increase in liquidity would occur if all ECVNAs were allowed to notify contracts 'late'; and
- Facilitation of bilateral trades closer to Gate Closure and reduced notification risk on independent exchanges is the main benefit assisting effective competition, and this probably outweighs the anti-competitive privileged position given to certain 'independent' ECVNAs.

General comments made in rejection of the Modification Proposal were:

- The Modification Proposal would allow one class of ECVNA to reduce its insurance costs, but not parties who take on the role themselves, thus this is inequitable;
- Deemed imbalance charges under the GTMA (Grid Trade Master Agreement) and the equivalent provisions within third party service contracts should provide sufficient assurance to parties, as they are reimbursed for imbalance charges resulting from a failure to notify, or an incorrect notification;
- The introduction of a two tiered structure will lead to a distortion of the market for notification services because it will reduce the risk to a third party Notification Agent significantly;
- The Modification Proposal moves ex-post trading into a 'normal' situation, as opposed to the other methods of error correction, which preserves the abnormality of such events but enables them to be corrected under certain circumstances;
- It seems paradoxical that an Agent who claims privileged status through having quality systems and robust procedures does so for the sole purposes of being able to correct a mistake with impunity;
- It is believed that the Privileged status is an attempt by power exchanges to remove competition; and
- It would be better to address the issues that are creating fear of notification within day for all parties though the changes suggested for Modification Proposal P44 'Correction of

Notification Errors where Parties are able to satisfy a Reasonable and Prudent Operator Test'. The recent emergence of separate notified and un-notified prices for power close to Gate Closure indicate that there is a problem to be fixed, but creating a situation in which some ECVNAs are able to claim the spread with no risk when other cannot is not the solution.

General comments made to reject the assertion that the Modification Proposal better achieved the Applicable BSC Objectives were:

- It is not believed that creating a two tiered ECVNA system is appropriate and nor will it further objectives (c) increasing competition in the market or (d) efficiency in the implementation and administration of the BSC; and
- Effective competition will be promoted by encouraging parties to have access to robust notification systems. This Modification Proposal moves the problem to the link between the party and its third party ECVNA, with the danger that parties are lulled into using less robust links to their ECVNAs which potentially create bigger problems when they go wrong.

A General comment made in response to Questions 1 and 2, but which was not specific to the support / rejection of the Modification Proposal or to the Applicable BSC Objectives, was that a 3.5 hour Gate Closure for contract notifications is artificially restrictive and should be abolished (the physical notification Gate Closure should remain in place for NGC use).

Issues for consideration in the Assessment Procedure

The following issues were raised in the responses to the Consultation Question 3, for consideration as part of the assessment procedure:

- System functionality, particularly that of the BSC Central Service Agent, may need to be amended to support re-notification after Gate Closure;
- The opportunities for possible abuse of the Privileged ECVNA status should be examined by the Modification Group. The main safeguard of the Privileged ECVNA having to be independent of Parties involved is key;
- Guidelines as to the nature of acceptable behaviour and the reasons for not notifying are required;
- Privileged ECVNAs should be incentivised to notify trades prior to Gate Closure where possible, and within a limited period to be specified after Gate Closure and before the half-hour of delivery. Notifications after this time should be subject to "error correction" provisions covered by other Modification Proposals;
- Provisions should be built in to protect against abuse of the Privileged status;
- Consideration should be given as to the extent of any initial accreditation to be required of Privileged ECVNAs, and as to whether such accreditation process is outlined in the BSC or in subsidiary documentation;
- Consideration should be given as to whether Privileged ECVNAs require separate system functionality to accommodate 'fast tracking' of late notifications;
- Consideration should also be given as to how Privileged ECVNAs would be audited and judged in terms of their performance (i.e. some Performance Assurance Framework);

- The definition of what constitutes a Query; and
- The definition of what constitutes 'Independent'.

Questions 4 to 10 inclusive were process questions. The following comments were received on these questions:

Q4 Do you agree that a qualification for granting Privileged ECVNA status should be based on a signed undertaking by the ECVNA with no further tests being applied?

Six responses, on behalf of fourteen parties indicated agreement to the provision of a signed undertaking as the only requirement for granting of Privileged status. One response on behalf of eleven parties did not provide any comment, as they did not agree with the Modification Proposal. Four responses, on behalf of fifteen parties did not agree with this. Comments provided were:

Agreement:

- It is in the commercial interest of the Privileged ECVNA to have robust systems in place, if they have a record of system failure, then they should be disqualified;
- The signed undertaking should be sufficient, but if a Privileged ECVNA causes a contract notification not to be accepted they should be liable for the cost of this. This should help to ensure that they have adequate systems and processes in place, as it may be a large financial incentive; and
- Monitoring and clear incentives to encourage proper use and penalise misuse promptly and severely. It is expected that only fully independent exchanges and Notification Agents with no net physical position to qualify.

Disagreement:

- An Accreditation process would be preferred;
- It is not believed that such an undertaking would provide comfort to other parties, and a certification / accreditation process would be too costly, therefore there should not be a Privileged status; and
- Believed that the Privileged status is an attempt by power exchanges to remove competition.

Q5 Do you agree that a qualification for having a query accepted (for data recovery in ECVA) should be that the Privileged ECVNA is independent to the notification?

Six responses, on behalf of eleven parties indicated agreement to Independence. One response on behalf of eleven parties did not provide any comment, as they did not agree with the Modification Proposal and another response, on behalf of three parties did not comment as they were unsure of the intent. Three responses, on behalf of fifteen parties did not agree with this. Comments provided were:

Agreement:

- Important to avoid allegations of bias in relation to which notifications are selected to query; and
- Independence prevents any opportunity for abuse of the Privileged ECVNA status.

Disagreement:

- Certain types of trades would not be eligible, which is not equitable; and
- The benefit of the Modification Proposal only arises when it applies to all ECVNAs.

Q6 Do you agree with the posting of the occurrence of all incidents / referrals on the BSC Website?

Nine responses, on behalf of twenty-eight parties indicated agreement to such posting. One response on behalf of eleven parties did not provide any comment, as they did not agree with the Modification Proposal. One response did not agree with this. Comments provided were:

Agreement:

- Important to ensure transparency and market awareness of the process;
- Such posting promotes self regulation as Privileged ECVNAs will maintain their systems to ensure that they are providing the highest levels of service to the industry;
- The resolution of such queries should also be documented; and
- Although, further assessment of costs and benefits are required.

Disagreement:

- Not sure of the relevance, as the Panel should be trusted to police the arrangement.

Q7 Do you have any preference for the limit to the number of queries [x] allowed to be raised and the specified rolling period [y] for them to be raised in, by the Privileged ECVNA?

Nine responses, on behalf of thirty-two parties expressed no preference for [x] or [y]. Comments provided were:

- Requires a clearly visible and realistic maximum, which incentivises Privileged ECVNAs to raise a query only when absolutely necessary;
- [x] and [y] could vary by ECVNA and could be linked to the size of the business, e.g. number of trades per day, or other appropriate measure; and
- Should be set to nominal values, amended by the BSC Panel.

Two responses, on behalf of eight parties, expressed a preference, as follows:

- Should be no limit; and
- Three in three months.

Q8 Do you agree that the obligation should be on the Privileged ECVNA to provide information regarding their performance to the Panel?

Nine responses, on behalf of twenty-two parties indicated agreement to such obligation. One response on behalf of eleven parties did not provide any comment, as they did not agree with the Modification Proposal. One response, on behalf of seven parties provided a no comment response. Comments provided were:

Agreement:

- This obligation should be part of the criteria for becoming a Privileged ECVNA;
- The process should be auditable, therefore this information should be provided to the Panel;
- Only after reaching the threshold for further investigation; and
- There should be a process for independent monitoring and audit.

Q9 Do you agree with the concept of the 'lock out' period preventing a Privileged ECVNA with that Privileged status revoked from reapplying for a specified period?

Eight responses, on behalf of eighteen parties indicated agreement to such lock out. One response on behalf of eleven parties did not provide any comment, as they did not agree with the Modification Proposal. Two responses, on behalf of eleven parties provided a no comment response. Comments provided were:

Agreement:

- Should incentivise the ECVNAs to minimise the number of queries raised;
- If a Privileged ECVNA is re-appointed and then the Privileged status revoked for a second time then a longer lock out period should apply;
- "Guidelines" may be required; and
- This is a suitable form of deterrent to the Privileged ECVNA to ensure appropriate compliance, however, the period of the lock out should be the subject of further assessment.

Q10 Do you agree with the concept that a privileged ECVNA who has had the Privileged status revoked should be able to reapply?

Eight responses, on behalf of eighteen parties indicated agreement to such re-application. One response on behalf of eleven parties did not provide any comment, as they did not agree with the Modification Proposal. Two responses, on behalf of eleven parties provided a no comment response. Comments provided were:

Agreement:

- Only if the Privileged ECVNA can show that steps have been taken to address the problems which caused the initial queries to occur;
- "Guidelines" may be required;
- There should not be an indefinite period of exclusion but much would depend on the circumstances leading to the original revocation of Privileged ECVNA status. This underlines the need for a robust initial process to activate Privileged ECVNA status.

8.2 Comments and Views of the Modification Group

The Contract Notification Modification Group (CNMG) reviewed the consultation responses and noted that Questions 1, 2 and 3 were applicable to the Assessment procedure of the Modification and therefore did not require any specific response from the Modification Group at this (Definition) stage. The CNMG determined that any issues raised by respondents to the consultation would be flagged for further consideration as part of the Assessment procedure, and consequently such issues are presented in Section 6 of this Definition Report.

The CNMG reviewed the responses to Questions 4 to 10 inclusive, which were 'process' questions, and noted that the responses provided a good deal of information which would be useful in fine tuning the definition. The CNMG also noted that the majority of responses support the definition that the CNMG have already proposed and that therefore provide a good indication that deliberations and definition have progressed in an appropriate direction.

9 SUMMARY OF TRANSMISSION COMPANY ANALYSIS

The Contract Notification Modification Group determined that no analysis was required from the Transmission Company as part of the Definition procedure, as a consequence of the CNMG believing that this Modification Proposal has no impact on the Transmission Company.

Therefore the CNMG did not commission such analysis, but intend to get such analysis from the Transmission Company as part of the Assessment Procedure.

10 BSC AGENT ANALYSIS

The Contract Notification Modification Group determined that no analysis was required from the BSC Agents as part of the Definition procedure.

11 EXTERNAL ADVICE

The Contract Notification Modification Group determined that no external advice was required as part of the Definition procedure.

ANNEX 1 – DEFINITION CONSULTATION RESPONSES

Responses from P35 Definition Consultation

Representations were received from the following parties:

No.	Company	File Reference
1.	Williams Energy Marketing and Trading Europe Ltd	P35_DEF_001
2.	Conoco U.K. Limited	P35_DEF_002
3.	PowerEx Limited	P35_DEF_003
4.	TXU Europe Energy Trading Ltd	P35_DEF_004
5.	SEEBOARD	P35_DEF_005
6.	Scottish and Southern	P35_DEF_006
7.	Innogy Group	P35_DEF_007
8.	London Electricity plc	P35_DEF_008
9.	British Energy	P35_DEF_009
10.	Calanais Ltd	P35_DEF_010
11.	Powergen	P35_DEF_011

P35_DEF_001 – Williams Energy Marketing and Trading Europe Ltd

Attachment 1: Modification Proposal P35 'Qualified ECVNAs' Consultation Questions

Name: Tim Hammond

Organisation: Williams Energy Marketing and Trading Europe Ltd

Response provided on behalf of (BSC Parties):

Question	Response
<p>Q1 Do you agree with the Modification Proposal?</p>	<p>YES</p> <p>Comments: Reduction of notification risk I think is beneficial to the industry.</p>
<p>Q2 Do you believe that the Modification Proposal better facilitates the Applicable BSC Objectives, as defined in the Transmission Licence Condition 7A paragraph (3)?</p> <p>(a) The efficient discharge by the Transmission Company of the obligations imposed under the Transmission Licence;</p> <p>(b) The efficient, economic and co-ordinated operation by the Transmission Company of the Transmission System;</p> <p>(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;</p> <p>(d) Promoting efficiency in the implementation and administration of the balancing and settlement arrangements.</p>	<p>YES</p> <p>Comments: A reduction in notification risk is likely to improve market liquidity by removing some of the risks in the market process. This would especially have an impact on the day ahead/within day market.</p>

Question	Response
<p>Q3 Does the Modification Proposal raise any issues that should be considered as part of the Assessment Procedure?</p>	<p>YES</p> <p>Comments: Systems might need to be adjusted for the re-notification after gate closure.</p>
<p>Q4 Do you agree that a qualification for granting Privileged ECVNA status should be based on a signed undertaking by the ECVNA with no further tests being applied?</p>	<p>YES</p> <p>Comments:</p>
<p>Q5 Do you agree that a qualification for having a query accepted (for data recovery in ECVA) should be that the Privileged ECVNA is independent to the notification (see paragraph 2.6)?</p>	<p>YES</p> <p>Comments: I think this is very important to avoid allegations of bias in regard of which notifications are selected to query.</p>
<p>Q6 Do you agree with the posting of the occurrence of all incidents / referrals on the BSC Website?</p>	<p>YES</p> <p>Comments: It is important to keep the process transparent.</p>
<p>Q7 Do you have any preference for the limit to the number of queries [x] allowed to be raised and the specified rolling period [y] for them to be raised in, by the Privileged ECVNA?</p>	<p>No</p> <p>Comments: So long as there is a clearly visible and realistic maximum noted which provides for a real constraint on the number of queries raised.</p>
<p>Q8 Do you agree that the obligation should be on the Privileged ECVNA to provide information regarding their performance to the Panel (see paragraph 2.7)?</p>	<p>YES</p> <p>Comments: This should be part of gaining the "Privileged status"</p>
<p>Q9 Do you agree with the concept of the 'lock out' period (paragraph 2.8) preventing a Privileged ECVNA with that Privileged status revoked from reapplying for a specified period?</p>	<p>YES</p> <p>Comments: There should be an incentive to minimise the number of queries raised.</p>

Question	Response
Q10 Do you agree with the concept that a Privileged ECVNA who has had the Privileged status revoked should be able to reapply?	YES Comments: Only if they can show that steps have been taken to address the system problems which caused the initial queries to occur.
Further Comments:	

P35_DEF_002 – Conoco U.K. Limited

Attachment 1: Modification Proposal P35 'Qualified ECVNAs' Consultation Questions

Name: Hannah McKinney

Organisation: Conoco U.K. Limited

Response provided on behalf of (BSC Parties): Immingham CHP Limited

Please note that YES, NO answers are requested for clarity, however, the reasoning behind these responses is also sought to enable a greater understanding of the issues and opinions.

Question	Response
Q1 Do you agree with the Modification Proposal?	YES Comments: Reducing notification risk is a positive step overall as it is generally considered an inherent problem of NETA.
Q2 Do you believe that the Modification Proposal better facilitates the Applicable BSC Objectives, as defined in the Transmission Licence Condition 7A paragraph (3)?	NO/YES - Undecided Comments:
Q3 Does the Modification Proposal raise any issues that should be considered as part of the Assessment Procedure?	YES Comments: Possible changes to system requirements (Logica in particular) in order to carry out the proposed post gate closure notifications.
Q4 Do you agree that a qualification for granting Privileged ECVNA status should be based on a signed undertaking by the ECVNA with no further tests being applied?	YES Comments: No additional systems or testing required from a counterparty point of view (shouldn't make any difference in respect of

Question	Response
	their system requirement needs).
<p>Q5 Do you agree that a qualification for having a query accepted (for data recovery in ECVA) should be that the Privileged ECVNA is independent to the notification (see paragraph 2.6)?</p>	<p>YES</p> <p>Comments: Reduce/avoid counterparty bias with regard to which notifications are selected to query.</p>
<p>Q6 Do you agree with the posting of the occurrence of all incidents / referrals on the BSC Website?</p>	<p>YES</p> <p>Comments: Information provision should improve overall market awareness and price transparency</p>
<p>Q7 Do you have any preference for the limit to the number of queries [x] allowed to be raised and the specified rolling period [y] for them to be raised in, by the Privileged ECVNA?</p>	<p>NO</p> <p>Comments: Provided that a maximum limit is established, clearly visible and realistic. The appropriate level should be such that is incentivises privileged ECVNA to only raise a query when absolutely necessary</p>
<p>Q8 Do you agree that the obligation should be on the Privileged ECVNA to provide information regarding their performance to the Panel (see paragraph 2.7)?</p>	<p>YES</p> <p>Comments: Appropriate as part of the qualification criteria to become and maintain the 'privileged' ECVNA status</p>
<p>Q9 Do you agree with the concept of the 'lock out' period (paragraph 2.8) preventing a Privileged ECVNA with that Privileged status revoked from reapplying for a specified period?</p>	<p>YES</p> <p>Comments: Should incentivise privileged ECVNAs to minimise the number of queries made</p>

Question	Response
Q10 Do you agree with the concept that a Privileged ECVNA who has had the Privileged status revoked should be able to reapply?	YES Comments: Provided they clearly demonstrate that they have taken action to address the system problems or failures that caused the initial notification error to occur.
Further Comments:	

P35_DEF_003 – PowerEx Limited

Attachment 1:Modification Proposal P35 'Qualified ECVNAs' Consultation Questions

Name: Murray Dyer

Organisation: PowerEx Limited

Response provided on behalf of (BSC Parties): POWEREX

Question	Response
Q1 Do you agree with the Modification Proposal?	<p>YES</p> <p>Comments: As it will increase the markets confidence to trade in the spot market upto gate closure and therefore increase liquidity and transparency in the market.</p>
Q2 Do you believe that the Modification Proposal better facilitates the Applicable BSC Objectives, as defined in the Transmission Licence Condition 7A paragraph (3)?	<p>YES</p> <p>Comments: Privileged 3rd party ECVNA services will allow immediate access into the Elexon system for new entrants, thus promoting effective competition in the market and promoting efficiency in the implementation and administration of the balancing and settlement systems.</p>
Q3 Does the Modification Proposal raise any issues that should be considered as part of the Assessment Procedure?	<p>No</p> <p>Comments: Privileged ECVNA's will already be BSC parties and have qualified with the Elexon systems testing procedures and prove that they are completely independent and therefore not in a position to benefit.</p>
Q4 Do you agree that a qualification for granting Privileged ECVNA status should be based on a signed undertaking by the ECVNA with no further tests being applied?	<p>YES</p> <p>Comments: It is in the commercial interest of the privileged ECVNA to have robust systems in place if they are taking on the role of a</p>

Question	Response
	privileged ECVNA. If they have a record of system failure then they should be disqualified.
Q5 Do you agree that a qualification for having a query accepted (for data recovery in ECVA) should be that the Privileged ECVNA is independent to the notification (see paragraph 2.6)?	YES Comments: If the privileged ECVNA is not completely independent this presents an opportunity for abuse of the privileged ECVNA status.
Q6 Do you agree with the posting of the occurrence of all incidents / referrals on the BSC Website?	YES Comments: Posting of incidents/ referrals will promote self regulation as the independent privileged ECVNA's will maintain their systems to ensure they are providing the highest levels of service to the industry.
Q7 Do you have any preference for the limit to the number of queries [x] allowed to be raised and the specified rolling period [y] for them to be raised in, by the Privileged ECVNA?	No Comments: This needs to be balanced in line with the historical level of service of the Elexon systems to date.
Q8 Do you agree that the obligation should be on the Privileged ECVNA to provide information regarding their performance to the Panel (see paragraph 2.7)?	YES Comments: However the Elexon central systems must also have the ability to log any performance issues with a privileged ECVNA.
Q9 Do you agree with the concept of the 'lock out' period (paragraph 2.8) preventing a Privileged ECVNA with that Privileged status revoked from reapplying for a specified period?	YES Comments: And I also believe that if the Privileged ECVNA is reappointed and then revoked for a second time that a longer lock-out period should occur.

Question	Response
Q10 Do you agree with the concept that a Privileged ECVNA who has had the Privileged status revoked should be able to reapply?	YES Comments: The Privileged ECVNA should be able to reapply after the lockout period but must be able to prove that the appropriate actions have been taken to ensure the required level of service will be provided.
Further Comments:	

P35_DEF_004 – TXU Europe Energy Trading Ltd

Attachment 1: Modification Proposal P35 'Qualified ECVNAs' Consultation Questions

Name: Nicola Lea

Organisation: TXU Europe Energy Trading Ltd

Response provided on behalf of (BSC Parties): TXU Europe Energy Trading Ltd; TXU Europe Energy Trading BV; TXU Energi Ltd (formerly Eastern Electricity Ltd); Eastern Energy Ltd; Norweb Energi Ltd; TXU Europe Merchant Generation Ltd; TXU Europe Drakelow Ltd; TXU Europe High Marnham Ltd; TXU Europe West Burton Ltd; Citigen; Shotton CHP Ltd.

Question	Response
Q1 Do you agree with the Modification Proposal?	YES / NO Comments:
Q2 Do you believe that the Modification Proposal better facilitates the Applicable BSC Objectives, as defined in the Transmission Licence Condition 7A paragraph (3)?	YES / NO Comments: We do not believe that creating a two-tier ECVNA system is appropriate, and do not believe that it will further objectives c or d.
Q3 Does the Modification Proposal raise any issues that should be considered as part of the Assessment Procedure?	YES / NO Comments: N/A
Q4 Do you agree that a qualification for granting Privileged ECVNA status should be based on a signed undertaking by the ECVNA with no further tests being applied?	YES / NO Comments: N/A
Q5 Do you agree that a qualification for having a query accepted (for data recovery in ECVA) should be that the Privileged ECVNA is independent to the notification (see paragraph 2.6)?	YES / NO Comments: N/A
Q6 Do you agree with the posting of the occurrence of all incidents / referrals on the BSC Website?	YES / NO Comments: N/A

Question	Response
<p>Q7 Do you have any preference for the limit to the number of queries [x] allowed to be raised and the specified rolling period [y] for them to be raised in, by the Privileged ECVNA?</p>	<p>YES / NO Comments: N/A</p>
<p>Q8 Do you agree that the obligation should be on the Privileged ECVNA to provide information regarding their performance to the Panel (see paragraph 2.7)?</p>	<p>YES / NO Comments: N/A</p>
<p>Q9 Do you agree with the concept of the 'lock out' period (paragraph 2.8) preventing a Privileged ECVNA with that Privileged status revoked from reapplying for a specified period?</p>	<p>YES / NO Comments: N/A</p>
<p>Q10 Do you agree with the concept that a Privileged ECVNA who has had the Privileged status revoked should be able to reapply?</p>	<p>YES / NO Comments: N/A</p>
<p>Further Comments: TXU do not support this proposal, it would allow one class of ECVNA to reduce its insurance costs, but not parties who take on the role themselves. This is inequitable as the costs of failure for a party could be equal to or greater than those of a 3rd Party ECVNA. Deemed Imbalance Charges under the GTMA and the equivalent provisions within 3rd Party Service contracts should provide sufficient assurance to parties as they are reimbursed for imbalance charges resulting from a failure to notify, or an incorrect notification.</p>	

P35_DEF_005 – SEEBOARD

Attachment 1: Modification Proposal P35 'Qualified ECVNAs' Consultation Questions

Name: Sue Fraser

Organisation: SEEBOARD

Response provided on behalf of (BSC Parties):

Question	Response
Q1 Do you agree with the Modification Proposal?	YES Comments:
Q2 Do you believe that the Modification Proposal better facilitates the Applicable BSC Objectives, as defined in the Transmission Licence Condition 7A paragraph (3)?	YES Comments: Seaboard Energy is in broad agreement with the reasons given in the proposal. In addition we would expect to see lower notification charges made by Privileged ECVNA's due to reduced risk/liability.
Q3 Does the Modification Proposal raise any issues that should be considered as part of the Assessment Procedure?	YES Comments: The opportunities for possible abuse of the Privileged ECVNA status should be examined by the Modification Group. The main safeguard of the Privileged ECVNA having to be independent of the parties involved is key. What additional safeguards would be in place to eliminate trading post gate closure? The use of x and y parameters limit but do not stop trades post gate closure.
Q4 Do you agree that a qualification for granting Privileged ECVNA status should be based on a signed undertaking by the ECVNA with no further tests being applied?	NO Comments: Seaboard Energy would prefer to see an accreditation process.

Question	Response
<p>Q5 Do you agree that a qualification for having a query accepted (for data recovery in ECVA) should be that the Privileged ECVNA is independent to the notification (see paragraph 2.6)?</p>	<p>YES Comments:</p>
<p>Q6 Do you agree with the posting of the occurrence of all incidents / referrals on the BSC Website?</p>	<p>NO Comments: Not sure of the value in doing this. Surely we can trust the judgement of the panel to police the arrangement.</p>
<p>Q7 Do you have any preference for the limit to the number of queries [x] allowed to be raised and the specified rolling period [y] for them to be raised in, by the Privileged ECVNA?</p>	<p>NO Comments: Seeboard Energy is happy for the Modification Group to consider the issues in detail and make some proposals. We would suggest that x could vary by ECVNA and might be linked to the size of the business e.g. trades per day or some appropriate measure.</p>
<p>Q8 Do you agree that the obligation should be on the Privileged ECVNA to provide information regarding their performance to the Panel (see paragraph 2.7)?</p>	<p>YES Comments:</p>
<p>Q9 Do you agree with the concept of the 'lock out' period (paragraph 2.8) preventing a Privileged ECVNA with that Privileged status revoked from reapplying for a specified period?</p>	<p>YES Comments:</p>
<p>Q10 Do you agree with the concept that a Privileged ECVNA who has had the Privileged status revoked should be able to reapply?</p>	<p>YES Comments:</p>
<p>Further Comments: There should be an obligation on Privileged ECVNA's to provide their clients with details of any queries raised concerning them.</p>	

P35_DEF_006 – Scottish and Southern

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

We do not support this proposed modification for the following reasons:-

We think it is a dangerous precedent to have a two tier structure. It will lead to a distortion in the market for Notification Services because it will reduce the risks to a third party Notification Agent significantly, hence its proposal by a Power Exchange. It is an odd way to go about introducing ex-post trading - and moves such activity into a "normal" situation as opposed to the other methods (which we have supported) of error correction, which preserves the abnormality of such events but enables them under certain circumstances to be corrected.

The term privileged implies that there will always be unprivileged agents. Presumably there is nothing to stop every agent from becoming privileged, in which case the modification is not about two classes of agent, but all about allowing ex-post trading and error correction to reduce notification risk. No mention is made of the issue of certification/accreditation that "privileged" status would entail. The experience of the 1998 arrangements for certification and accreditation resulted in rejection of such a process for NETA, and the business processes were designed so that agent performance was a commercial risk between the counterparties. You really only need certification/accreditation when the actions of one supplier's agent can impact on others with whom he has no contractual relationship. Whilst this is true in Supplier Allocation, it is not the case in a bilateral (or trilateral) contractual framework. To be effective, an accreditation / certification framework will cost BSC Parties, individually and collectively a great deal of money, time and effort. The benefit of hindsight says this should not be under-estimated, and that it is dubious value for money. We do find it paradoxical that an Agent who claims Privileged Status through having quality systems and robust procedures, does so for the sole purpose of being able to correct a mistake with impunity !!

In regard to the specific questions our answers are as follows:-

Q1. NO

Q2. NO on (c) as per points 1 and 2 above on (d) as per 3 above.

Q3. YES It is really about ex post notification not privileged agents.

Q4. NO Such an undertaking gives no comfort to other parties. However, we do not believe that a certification / accreditation process should be set up either because it is too costly. There should not be a privileged status.

Q5. NO This means that certain types of trades would be ineligible which is not equitable.

Q6. through 10 Given that we are not for the modification, the answers to these questions are academic, BUT if the modification were to be adopted, these would be our preferences.

Q6. YES

Q7. NO it should be set at a nominal values but be changeable by the BSC Panel.

Q8. YES - see note 4 above

Q9. YES

Q10. YES

Regards
Garth Graham

P35_DEF_007 – Innogy Group

Please find attached the response on behalf of the Innogy Group of companies (Innogy plc, Innogy Cogen Ltd, Innogy Cogeneration Trading Ltd, Npower Ltd, Npower Direct Ltd, Npower Northern Ltd, and Npower Yorkshire Ltd).

Regards,

Terry Ballard

The Innogy Group welcomes the opportunity to comment on modification P35: 'Qualified ECVNAs'.

Having considered the options outlined in the 'Modification Consultation', Innogy does not support this modification.

No	Question	Response
1.	Do you agree with the Modification Proposal?	No
2.	Do you believe that the Modification Proposal better facilitates the Applicable BSC Objectives, as defined in the Transmission Licence Condition 7A paragraph (3)?	No
3.	Does the Modification Proposal raise any issues that should be considered as part of the Assessment Procedure?	Yes. See Question 4
4.	Do you agree that a qualification for granting Privileged ECVNA status should be based on a signed undertaking by the ECVNA with no further tests being applied?	No We believe the 'Privileged' status is an attempt by Power Exchanges to remove competition.
5.	Do you agree that a qualification for having a query accepted (for data recovery in ECVA) should be that the Privileged ECVNA is independent to the notification (see paragraph 2.6)?	No This will rule out queries by none independent ECVNAs.

6.	Do you agree with the posting of the occurrence of all incidents / referrals on the BSC Website?	Yes
7.	Do you have any preference for the limit to the number of queries [x] allowed to be raised and the specified rolling period [y] for them to be raised in, by the Privileged ECVNA?	N/A
8.	Do you agree that the obligation should be on the Privileged ECVNA to provide information regarding their performance to the Panel (see paragraph 2.7)?	N/A
9.	Do you agree with the concept of the 'lock out' period (paragraph 2.8) preventing a Privileged ECVNA with that Privileged status revoked from reapplying for a specified period?	N/A
10.	Do you agree with the concept that a Privileged ECVNA who has had the Privileged status revoked should be able to reapply?	N/A

P35_DEF_008 – London Electricity plc

Attachment 1: Modification Proposal P35 'Qualified ECVNAs' Consultation Questions

Name: Liz Anderson

Organisation: London Electricity

Response provided on behalf of (BSC Parties): London Electricity plc, Sweb Ltd, Sutton Bridge Power, and Jade Power Generation

Question	Response
<p>Q1 Do you agree with the Modification Proposal?</p>	<p>YES / NO We agree with the principle of the modification</p> <p>Comments: It allows trading to take place nearer to Gate Closure without risking non-notification, however we believe that a 3.5 hour Gate Closure for contract notifications is artificially restrictive and should be abolished. The physical notification Gate Closure should remain in place for NGC use.</p>
<p>Q2 Do you believe that the Modification Proposal better facilitates the Applicable BSC Objectives, as defined in the Transmission Licence Condition 7A paragraph (3)?</p>	<p>YES / NO Yes</p> <p>Comments: This may increase liquidity in the market, which would promote effective competition in the generation and supply of electricity. However it will only increase liquidity on the exchanges that are granted privileged status. A greater increase in liquidity would occur if all ECVNAs were allowed to notify contracts 'late'. Removing the unnecessary Gate Closure for contract notifications would further enhance liquidity, as contract notifications are not needed that early as they do not impact on the balance of the system.</p>
<p>Q3 Does the Modification Proposal raise any issues that should be considered as part of the Assessment Procedure?</p>	<p>YES / NO Yes</p> <p>Comments: We would question as to whether a gate closure is needed for notifications at all. If we assume there is a gate closure, guidelines would be useful as to the nature of acceptable behaviour</p>

Question	Response
	and reasons for not notifying. Clarification is required as to what happens to notifications if they are queried (notified after Gate Closure). Are they still processed?
<p>Q4 Do you agree that a qualification for granting Privileged ECVNA status should be based on a signed undertaking by the ECVNA with no further tests being applied?</p>	<p>YES / NO Yes</p> <p>Comments: This should be enough but if a Privileged ECVNA causes a contract notification not to be accepted (related to comment 3) they should be liable for the cost of this. This will help to ensure they have adequate systems and processes in place as it may be a large financial incentive.</p>
<p>Q5 Do you agree that a qualification for having a query accepted (for data recovery in ECVA) should be that the Privileged ECVNA is independent to the notification (see paragraph 2.6)?</p>	<p>YES / NO No</p> <p>Comments: This benefit of this modification only occurs if it applies to all ECVNAs.</p>
<p>Q6 Do you agree with the posting of the occurrence of all incidents / referrals on the BSC Website?</p>	<p>YES / NO Yes</p> <p>Comments: For the sake of openness and transparency. Also the resolution of any queries should be documented.</p>
<p>Q7 Do you have any preference for the limit to the number of queries [x] allowed to be raised and the specified rolling period [y] for them to be raised in, by the Privileged ECVNA?</p>	<p>YES / NO No limit</p> <p>Comments:</p>
<p>Q8 Do you agree that the obligation should be on the Privileged ECVNA to provide information regarding their performance to the Panel (see paragraph 2.7)?</p>	<p>YES / NO Yes</p> <p>Comments: This should be an auditable process and so the ECVNA should be able to provide this information to the Panel.</p>
<p>Q9 Do you agree with the concept of the 'lock out' period (paragraph 2.8) preventing a Privileged ECVNA with that Privileged status revoked from reapplying for a specified period?</p>	<p>YES / NO</p> <p>Comments: We believe that all ECVNAs should be able to make use of this 'late' notification facility.</p>

Question	Response
Q10 Do you agree with the concept that a Privileged ECVNA who has had the Privileged status revoked should be able to reapply?	YES / NO Comments: All ECVNAs should be able to post contract notifications inside of the current 3.5 hour Gate Closure.
Further Comments:	

P35_DEF_009 – British Energy

Attachment 1: Modification Proposal P35 'Qualified ECVNAs' Consultation Questions

Name: Rachel Ace

Organisation: British Energy

Response provided on behalf of (BSC Parties): British Energy Power & Energy Trading Ltd, British Energy Generation Ltd, Eggborough Power Ltd

Question	Response
<p>Q1 Do you agree with the Modification Proposal?</p>	<p>YES, in principle</p> <p>Comments: The modification as raised requires further development to ensure its proper use. The work to date appears to recognize this requirement.</p>
<p>Q2 Do you believe that the Modification Proposal better facilitates the Applicable BSC Objectives, as defined in the Transmission Licence Condition 7A paragraph (3)?</p>	<p>YES, in principle</p> <p>Comments: Facilitation of bilateral trades closer to gate closure and reduced notification risk on independent exchanges is the main benefit assisting objective (c), which probably outweighs the anti-competitive privileged position given to certain "independent" ECVNAs.</p>
<p>Q3 Does the Modification Proposal raise any issues that should be considered as part of the Assessment Procedure?</p>	<p>YES</p> <p>Comments: The modification should be viewed as facilitating bilateral trading right up to gate closure, and the Privileged ECVNA as being an "extension" of central systems. We would expect only the independent exchanges and notification service providers to qualify. The privileged ECVNAs should be incentivized to notify trades prior to gate closure where possible, and within a limited period to be specified after gate closure and before the half-hour of delivery. Notifications after this time should be subject to "error correction" provisions covered by other</p>

Question	Response
	modification proposals. Provisions should be built in to protect against abuse of the privileged status. The mod group appears to be working with most of these issues in mind.
<p>Q4 Do you agree that a qualification for granting Privileged ECVNA status should be based on a signed undertaking by the ECVNA with no further tests being applied?</p>	<p>YES</p> <p>Comments: Innocent until proved guilty, but with monitoring and clear incentives to encourage proper use and penalise misuse promptly and severely. We would expect only fully independent exchanges and notification agents with no net physical position to qualify.</p>
<p>Q5 Do you agree that a qualification for having a query accepted (for data recovery in ECVA) should be that the Privileged ECVNA is independent to the notification (see paragraph 2.6)?</p>	<p>Unsure of intent.</p> <p>Comments: Exchanges are likely candidates as Privileged ECVNAs and are likely to be one of the two parties to which a notification by them refers. If I have understood correctly, a limitation such as suggested by this question could undermine the proposal. Other tests of validity of queries may need to be found.</p>
<p>Q6 Do you agree with the posting of the occurrence of all incidents / referrals on the BSC Website?</p>	<p>YES</p> <p>Comments: Transparency is an effective method of assisting with monitoring. Timing may be an issue, and anonymity in reporting until after the event may be preferred.</p>
<p>Q7 Do you have any preference for the limit to the number of queries [x] allowed to be raised and the specified rolling period [y] for them to be raised in, by the Privileged ECVNA?</p>	<p>NO</p> <p>Comments: Not at this stage. I await further analysis by the modification group.</p>
<p>Q8 Do you agree that the obligation should be on the Privileged ECVNA to provide information regarding their performance to the Panel (see paragraph 2.7)?</p>	<p>YES</p> <p>Comments: This is only after reaching the threshold for further investigation.</p>

Question	Response
Q9 Do you agree with the concept of the 'lock out' period (paragraph 2.8) preventing a Privileged ECVNA with that Privileged status revoked from reapplying for a specified period?	YES Comments: "Guidelines" may be required.
Q10 Do you agree with the concept that a Privileged ECVNA who has had the Privileged status revoked should be able to reapply?	YES Comments: "Guidelines" may be required.
Further Comments:	

P35_DEF_010 – Calanais Ltd

Attachment 1: Modification Proposal P35 'Qualified ECVNAs' Consultation Questions

Name: Man Kwong Liu

Organisation: Calanais Ltd

Response provided on behalf of (BSC Parties): ScottishPower/Manweb/Emerald Power Ltd.

Question	Response
<p>Q1 Do you agree with the Modification Proposal?</p>	<p>YES</p> <p>Comments: In principle, the approach suggested by the proposal is worthy of further consideration.</p>
<p>Q2 Do you believe that the Modification Proposal better facilitates the Applicable BSC Objectives, as defined in the Transmission Licence Condition 7A paragraph (3)?</p>	<p>YES</p> <p>Comments: The proposal, once its detailed nature has been agreed, is likely to better promote efficiency in the trading arrangements.</p>
<p>Q3 Does the Modification Proposal raise any issues that should be considered as part of the Assessment Procedure?</p>	<p>YES</p> <p>Comments: There are a number of detailed areas to be considered, e.g. the extent of any initial accreditation to be required of Privileged ECVNAs; whether this accreditation process is outlined in the BSC or in subsidiary documentation; whether Privileged ECVNAs would require separate system functionality to accommodate any 'fast-tracking' of late notifications; and how Privileged ECVNAs would be audited and judged in terms of their performance (some Performance Assurance framework).</p>
<p>Q4 Do you agree that a qualification for granting Privileged ECVNA status should be based on a signed undertaking by the ECVNA with no further tests being applied?</p>	<p>NO</p> <p>Comments: It is unclear whether the signed undertaking would constitute a robust process. Some further form of accreditation may be</p>

Question	Response
	appropriate and this needs to be assessed.
Q5 Do you agree that a qualification for having a query accepted (for data recovery in ECVA) should be that the Privileged ECVNA is independent to the notification (see paragraph 2.6)?	YES Comments: It is appropriate that the Privileged ECVNA should remain independent of any Party to a notification.
Q6 Do you agree with the posting of the occurrence of all incidents / referrals on the BSC Website?	YES in principle. Further assessment of costs and benefits is needed. Comments:
Q7 Do you have any preference for the limit to the number of queries [x] allowed to be raised and the specified rolling period [y] for them to be raised in, by the Privileged ECVNA?	NO Comments: This should be the subject of further assessment but a robust approach would strictly limit both the number of queries and the period in which they are raised.
Q8 Do you agree that the obligation should be on the Privileged ECVNA to provide information regarding their performance to the Panel (see paragraph 2.7)?	YES Comments: The burden of proof should certainly be on the Privileged ECVNA. There should a process for independent monitoring and audits.
Q9 Do you agree with the concept of the 'lock out' period (paragraph 2.8) preventing a Privileged ECVNA with that Privileged status revoked from reapplying for a specified period?	YES Comments: This is a suitable form of deterrent to the Privileged ECVNA to ensure appropriate compliance, but the period of the 'lock out' should be the subject of further assessment.
Q10 Do you agree with the concept that a Privileged ECVNA who has had the Privileged status revoked should be able to reapply?	YES Comments: There should not be an indefinite period of exclusion but much would depend on the circumstances leading to the original revocation of Privileged ECVNA status. This underlines the need for a robust initial process to activate Privileged ECVNA status.

P35_DEF_011 – Powergen

Attachment 1: Modification Proposal P35 'Qualified ECVNAs' Consultation Questions

Name: Tim Johnson

Organisation: Powergen

Response provided on behalf of Powergen UK plc, Powergen Energy plc, Diamond Power Generation Limited and Cottam Development Centre Limited

Question	Response
<p>Q1 Do you agree with the Modification Proposal?</p>	<p>NO</p> <p>Comments: it would be better to address the issues that are creating fear of notification within-day for all parties through the changes suggested in MP44. The recent emergence of separate notified and un-notified prices for power close to gate closure indicate that there is a problem to be fixed, but creating a situation in which some ECVNAs are able to claim the spread with no risk when others can't is not the solution</p>
<p>Q2 Do you believe that the Modification Proposal better facilitates the Applicable BSC Objectives, as defined in the Transmission Licence Condition 7A paragraph (3)?</p>	<p>NO</p> <p>Comments: Effective competition will be promoted by encouraging parties to have access to robust notification systems. This proposal merely moves the problem to the link between the party and its 3rd party ECVNA, with the danger that parties are lulled into using less robust links to their ECVNAs that create bigger problems when they go wrong.</p>
<p>Q3 Does the Modification Proposal raise any issues that should be considered as part of the Assessment Procedure?</p>	<p>YES</p> <p>Comments: Definition of a query</p>

Question	Response
<p>Q4 Do you agree that a qualification for granting Privileged ECVNA status should be based on a signed undertaking by the ECVNA with no further tests being applied?</p>	<p>YES Comments:</p>
<p>Q5 Do you agree that a qualification for having a query accepted (for data recovery in ECVAA) should be that the Privileged ECVNA is independent to the notification (see paragraph 2.6)?</p>	<p>YES Comments: The modification group should define 'independent'.</p>
<p>Q6 Do you agree with the posting of the occurrence of all incidents / referrals on the BSC Website?</p>	<p>YES Comments:</p>
<p>Q7 Do you have any preference for the limit to the number of queries [x] allowed to be raised and the specified rolling period [y] for them to be raised in, by the Privileged ECVNA?</p>	<p>YES Comments: 3 in 3 months (but what is the definition of a query?)</p>
<p>Q8 Do you agree that the obligation should be on the Privileged ECVNA to provide information regarding their performance to the Panel (see paragraph 2.7)?</p>	<p>YES Comments:</p>
<p>Q9 Do you agree with the concept of the 'lock out' period (paragraph 2.8) preventing a Privileged ECVNA with that Privileged status revoked from reapplying for a specified period?</p>	<p>YES Comments:</p>
<p>Q10 Do you agree with the concept that a Privileged ECVNA who has had the Privileged status revoked should be able to reapply?</p>	<p>YES Comments:</p>
<p>Further Comments:</p>	