

ANNEX 5 – LEGAL TEXT TO GIVE EFFECT TO THE PROPOSED MODIFICATION

The following text shall be amended in paragraph 6.2. of 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**" 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 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 Notificationand 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 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 occurred;
 - (iv) a "**relevant**" Contract Trading Party is a Contract Trading Party in relation to which the Past Notification Error occurred; and

- (v) the "**rectified Volume Notification**" is the Volume Notification which would have been made had the Past Notification Error not occurred;
- (vi) the "**relevant**" Settlement Run, in relation to a claim or claims for Past Notification Error, is the next Settlement Run as referred to in paragraph 6.5.1(b);
- (e) in relation to a relevant Contract Trading Party, references to a Past Notification Error are to the Past Notification 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;
- (g) "**Relevant Account Energy Imbalance Cashflow**" means the Account Energy Imbalance Cashflow of an Energy Account of a relevant Contract Trading Party in relation to a relevant Settlement Period or, if claims for more than one Past Notification Error in respect of the same Volume Notification are made, the net aggregate amount of such Account Energy Imbalance Cashflows for all relevant Settlement Periods.

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 written notice of such claim to BSCCo, identifying the Past Notification Error and the relevant Settlement Period, provided that no claim of Past Notification Error may be made after the expiry of five Business Days after the date on which this paragraph 6 comes into effect.
- 6.2.2 ~~Subject to paragraph 6.2.6, w~~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, the amount of which (for each such claim, provided that, for the purposes of this paragraph 6.2.2 and subject to paragraph 6.2.4, claims of Past Notification Error made by a Party in respect of the same Volume Notification shall be treated as a single claim) shall be £5,000, or such other amount as the Panel may from time to time after consultation with Parties and 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 and, where the relevant Volume Notification Agent is not one of the relevant Contract Trading Parties, from the relevant Volume Notification Agent (addressed, in each case, 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.

6.2.6 For the purposes of paragraph 6.2.2, where:

- (a) a Contract Trading Party has submitted a number of claims of Past Notification Error, and
- (b) in relation to any two or more of such claims (“the **relevant claims**”) of Past Notification Error, the Panel is satisfied that, for each such Past Notification Error, the relevant mistake resulted from the same cause (whether consisting of a particular defect in systems or procedures or of a particular act or omission of a person or otherwise)

the relevant claims shall be treated as a single claim.

6.2.7 For the purposes of paragraph 6.2.6:

- (a) the relevant mistake in relation to a Past Notification error is the mistake (as referred to in paragraph 6.1.1(c)(ii)) by reason of which such Past Notification Error occurred;
- (b) the relevant Contract Trading Party shall notify BSCCo (by a time to be specified by BSCCo for the purposes of this paragraph) if it wishes the Panel to consider whether any claims should be treated as a single claim under paragraph 6.2.6, and (when requested to do so by the Panel Secretary) shall provide such evidence and other information as the Panel may reasonably require in connection therewith;
- (c) the Panel may consider the matter at the same time or at a different time as considering the relevant claims for the purposes of paragraph 6.4 (but in any event no later than the time when the fee is invoiced to the relevant Contract Trading Party under 6.4.4(g));
- (d) the decision of the Panel (as to whether and what relevant claims are to be treated as a single claim) shall be final and binding.