

Responses P84 Second Assessment Consultation

Consultation issued 24 May 2002

Representations were received from the following parties:

No	Company	File Number	No. Parties Represented
1.	SEEBOARD Energy	P84_ASS2_001	1
2.	Scottish and Southern Energy	P84_ASS2_002	4
3.	Edison Mission Energy	P84_ASS2_003	1
4.	EdF Trading Ltd	P84_ASS2_004	2
5.	Innogy Group	P84_ASS2_005	9
6.	Scottish Power	P84_ASS2_006	5
7.	Dynergy	P84_ASS2_007	1
8.	BP Gas Marketing	P84_ASS2_008	1
9.			
10.			
11.			

P84_ASS2_001 – SEEBOARD Energy

With respect to final consultation on urgent modification P84. Although we have never considered that changes in this section of BSC do better facilitate BSC objectives now that it is within code we need to ensure that it does work efficiently. With that in mind we feel that changes to place decision making in hands of BSC Panel, as described within amended legal text, is best way of ensuring claims in this area are dealt with fairly and effectively. Magnitude of fee was set to discourage minor claims but its application should not be seen to cause problems for claims under this process.

Dave Morton
SEEBOARD Energy Limited

P84_ASS2_002 – Scottish and Southern Energy

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

In relation to the Urgent Modification Consultation on Modification Proposal P84, contained in your note of 13:08 on 22nd May 2002 and your note of 17:44 on 24th May 2002, and in view of the linkage with P37, we wish to make the following comment.

We believe, in regard to the Administration Fee, that Section 6.2 of the BSC is clear and that the Fee arrangements, as defined in Section 6.2, should not be changed by the inclusion of the proposed paragraphs 6.2.6 and 6.2.7. We believe that the Fee, as currently defined, provides an incentive to BSC Parties to be Reasonable and Prudent Operators irrespective of the notification strategy they freely chose to adopt, the systems they freely chose to specify and procure along with the internal procedures they freely develop and operate under. Furthermore, for the avoidance of doubt, we do not consider the Fee to be penal in nature.

Accordingly we do NOT support the proposed Alternative Modification concerning adjusting the basis of the application of the Fee in the event of relevant mistakes resulting from the same cause. We believe that with the full Consultation that was undertaken in respect of P37, that there has been plenty of time for these concerns to have been raised and fully (and unhurriedly) debated. We note the comments in the "Background" part of the Elexon note of 16:54 on 22nd May 2002, that:-

"The size and nature of the Fee was discussed during the consideration of Modification Proposal P37 (which led to the modification of the BSC to include Paragraph 6, Section P). The size and nature of the Fee was addressed in a consultation question, consultation responses, Modification Group discussions and by the BSC Panel. These discussions are noted in the P37 Urgent Modification

Report submitted to the Authority [which the Authority considered in coming to its decision on P37]."

For the Authority to now decide to alter its P37 decision (after the original implementation date), would have serious implications in respect of the regulatory uncertainty that this implies. Market participant need to know that the BSC consultation and decision making process is robust. Having allowed market participants, the Panel and the Authority plenty of time to raise, review and debate issues associated with P37 (including the Fee arrangements), for this to then be overwritten based on a hasty review and a truncated debate is unsettling for all concerned. What is required is certainty, and the process being followed with regard to P84 (and P83) is in danger of discrediting the process and indeed the original decision on P37.

As we indicated in our response to the earlier Consultation on the original P84 Modification Proposal, whilst we do have some sympathy with the circumstance being described in Modification Proposal P84, it is clear that P37 was based around a single incident. If this affects more than one ECVN, then so be it, but it has to be a single occurrence. In this respect we believe that the Alternative Modification goes against the spirit of the P37 discussions as it seeks to permit a Party to claim a whole series of ECVNs as being affected by a single mistake (or even worse, a repeat of the same mistake), and seeks to permit them to pay one Administration Fee for their failure to specify and procure a robust system and / or operate within appropriate internal procedures.

Where such system or procedural deficiencies occur a Reasonable and Prudent Operator should have arrangements in place to identify such incidents and quickly deal with them. If there is a multiplicity of mistakes over a period of time which results from a single cause, (or a repeat of same) then the BSC Party is not demonstrating due care or adopting satisfactory working practices.

Regards

Garth Graham
Scottish & Southern Energy plc

P84_ASS2_003 – Edison Mission Energy

Under Para 6.2.7, it would be useful to have an avoidance of doubt statement to clarify that where claims of Past Notification Errors are approved to attract a single fee, they will still be assessed separately by the Panel and therefore may not all have the same outcome. This was discussed and agreed at the Mod meeting on Friday 24 May and should be reflected in the legal drafting.

Libby Glazebrook
Edison Mission Energy

P84_ASS2_004 – EdF Trading Ltd

On behalf of EdF Trading Ltd and EdF (Generation), I would like to confirm that we support the Alternative Amendment as proposed and the legal drafting as provided.

The Amendment furthers the BSC Objectives by avoiding undue discrimination in this instance and for some Parties will reduce the number of claims and so aid efficiency.

As a party who have made claims in accordance with the current procedures and in the timescales previously laid down, it is now unclear as to what is required to bring to the BSC Panel's attention that two or more of our claims should be treated as a single event. Could it please be made clear in the determination as to whether a letter, seeking consideration of claims at the same time, to Elexon would suffice or whether further work is required to combine the claims into a single claim?

Steve Drummond
Adviser to EdF Energy Merchants Ltd

P84_ASS2_005 – Innogy Group

The following comments are on behalf of Innogy Group (Innogy plc, Innogy Cogen Limited, Innogy Cogen Trading Limited, Npower Limited, Npower Direct Limited, Npower Northern Limited, Npower Northern Supply Limited, Npower Yorkshire Limited and Npower Yorkshire Supply Limited).

1) It may need to be clarified in 6.2.7(b) that the Panel/BSCCo should request Parties to say whether they consider that claims are related to the same error and that some prima facie evidence/statement of the way claims might be linked should be provided when Parties respond to this (but without precluding asking for further information to substantiate this, probably as part of the investigation). Could 6.2.7(b) be clarified to make it clear that this will be the process?

2) To minimise uncertainty for Parties seeking linkage of claims, the wording of 6.2.6(b) is key. Would it be worth adding at the end of this paragraph: "... and related to a common set of circumstances"?

Best regards,

Richard Harrison
Npower Finance - Commercial Services
NETA & BSC Issues Manager

P84_ASS2_006 – Scottish Power

Response to Urgent Final Consultation on P84

This response is submitted on behalf of Scottish Power UK Plc, Scottish Power Generation Limited, ScottishPower Energy Trading Limited, ScottishPower Energy Retail Limited and Emerald Power Generation Ltd.

ScottishPower fully supports the Alternative Modification Proposal P84 and believes that the proposed legal drafting goes a long way to removing any potential discriminatory treatment of claims of past notification errors under section P6 of the BSC. We do however believe that two improvements could be made.

First, paragraph 6.2.7(b) requires the relevant Contract Trading Party to notify BSCCo *by the time specified by BSCCo for the purposes of this paragraph*, but no time has been specified in the paragraph. We would prefer “by a time to be specified by BSCCo for the purposes of this paragraph”, which also removes any implication that a party which has already lodged a claim might be disadvantaged relative to those which have yet to do so.

Second, paragraph 6.2.7(c) leaves open the time of consideration of whether the claims have a single underlying cause. The claim fees will be invoiced under paragraph 6.4.4(g) in the month following the Panel's determination of the claim of past notification error. It is important that the question of whether the claims relate to a single underlying cause is determined before these charges are invoiced, as they cannot be reimbursed. We would suggest that the following be added to the end of paragraph 6.2.7(c): “...but in any event no later than the charges are invoiced under 6.4.4(g).”

Mike Harrison
Commercial Manager, Trading Arrangements

P84_ASS2_007 – Dynergy

MODIFICATION PROPOSAL P84: Amendment to Process for Past Notification Errors (2)

Dynergy supports the implementation of the proposed alternative modification P84. The alternative modification proposal better facilitates the BSC objective (d) of “promoting efficiency in the implementation and administration of the balancing and settlement arrangements”. This proposal will simplify the work involved in reviewing error claims by reducing the number of circumstances to be reviewed.

Yours sincerely

Sarah Maud
UK Regulatory Analyst

P84_ASS2_008 – BP Gas Marketing

BP Gas Marketing Ltd. does NOT support Alternative Modification Proposal P84 as it does NOT support the Applicable BSC Objectives under condition C3, Paragraph 3 (c) of the Licence "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"

Best regards,

Ian M. Mullins
Regulatory Advisor

BP Gas, Power & Renewables