P227 – PROPOSED DRAFT LEGAL TEXT

SECTION P: ENERGY CONTRACT VOLUMES AND METERED VOLUME REALLOCATIONS

(version 14.0)

Amend paragraph 5 as follows:

5.   FAILURES OF THE ~~ECVAA~~ NOTIFICATION SYSTEM

5.1   Introduction

5.1.1   For the purposes of this Section P:

(a)   "**Volume Notification**" means an Energy Contract Volume Notification and/or a Metered Volume Reallocation Notification, and "**Volume Notification Agent**" means an Energy Contract Volume Notification Agent and/or a Metered Volume Reallocation Notification Agent;

(b)   the "**ECVAA System**" is the BSC Agent System of the ECVAA~~, which for the avoidance of doubt does not include hardware or software forming part of any relevant Communications Medium~~;

(c)   ~~an~~ the "**Notification System**" is (in aggregate)~~"ECVAA SystemFailure" is a failure or breakdown of the ECVAA System which has the effect that~~:

(i)   for every Trading Party (and its Notification Agents):

(1)   the Communications Mediums (and all parts of any system constituting any such medium) by which such Trading Party/its Volume Notification Agents sends and receives Communications to and from the ECVAA; and

(2)   any part of the relevant Party System from the ECVAA System to but not beyond the party system boundary; and

(ii)   any other system or part of a system (from the ECVAA System up to but not beyond the party system boundary) by which (1) and/or (2) are connected or Communications transmitted by (1) and/or (2) are processed or stored;

(and where 'system' includes telecommunications facilities, other equipment, hardware and software, and includes systems for redundancy, contingency and disaster recovery purposes);

(d)   "**party system boundary**" shall be as follows:

(i)   where the Communications Medium comprises dedicated telecommunications facilities (in accordance with the high grade service described in the Communications Requirements Document)

the party system boundary means and includes the 'router' which forms part of the Party System (and by which Communications are routed from and to the Party System) but not any source of power for the router; or

(ii) where the Communications Medium is internet-based (in accordance with the low grade service described in the Communications Requirements Document), the party system boundary means and includes the system (known as the 'internet portal') by which the ECVAA System is connected to the internet;

(e) a "**Notification System Incident**" is a failure, breakdown or unavailability of the Notification System or the EVCAA System (other than parts of either system not for the time being in use) which has, and for so long as it has, the effect:

(i) that all or any Notification Agents are unable to submit to the ECVAA, and/or the ECVAA is unable to receive from all or any such agents, Volume Notifications submitted to it by all or any Volume Notification Agents, and/or (as the case may be); to send

(ii) that the ECVAA is unable to send to all or any Volume Notification Agents, or all or any Volume Notification Agents are unable to receive from the ECVAA, confirmations of receipt by the ECVAA of Volume Notifications within 20 minutes after such receipt confirmations of such receipt to all or any such agents;

excluding (in respect of any Volume Notification Agent affected thereby, and in relation to parts of the Notification System other than the ECVAA Systems) such a failure, breakdown or unavailability which was within the reasonable control of that Volume Notification Agent;

(fd) the reference in paragraph 5.5.1(ee) to the ECVAA sending confirmations of receipt of Volume Notifications is without prejudice to the provisions of the Communications Requirements Document as to the deemed receipt of such notifications;

(ge) for the avoidance of doubt, no failure or breakdown of any Party System or any communications link not forming part of the ECVAA Notification System shall be counted as an ECVAA Notification System FailureIncident;

(hf) in relation to an ECVAA Notification System FailureIncident:

(i) the "system incident failure occurrence time" is the start of the ECVAA Notification System FailureIncident, or such earlier time as BSCCo may determine as being appropriate for the purposes described in paragraph (ig) below and notify to the ECVAA, Contract Trading Parties and Volume Notification Agents;

(ii) the "**resubmission deadline**" is the end of the Business Day following the day on which the ECVAA notified BSCCo (in accordance with paragraph 5.2.1(c)(i)) below that the ECVAA Notification System Failure Incident has ended, or such earlier time

(not being earlier than such ~~failure~~ incident ended) or later time as BSCCo may determine as being appropriate for the purposes described in paragraph (i~~g~~) and notify to the ECVAA, Contract Trading Parties and Volume Notification Agents;

(i~~g~~)   the purposes referred to in paragraph 5.5.1(h~~f~~) are to enable Contract Trading Parties and their Volume Notification Agents to take steps to put themselves, so far as is practicable, in the position (in~~as~~ respect~~s~~ of the submission of Volume Notifications) in which they would have been had the ~~ECVAA~~ Notification System ~~Failure~~ Incident not occurred.

5.2   **Consequences of ~~ECVAA~~ Notification System ~~Failure~~Incident**

5.2.1   Where an ~~ECVAA~~ Notification System ~~Failure~~ Incident occurs:

(a)   the ECVAA shall as soon as possible notify BSCCo of the failure and the time at which it started;

(b)   the ECVAA and BSCCo shall each use all reasonable efforts as soon as practicable to notify all Contract Trading Parties and Volume Notification Agents of the failure and the time at which it started;

(c)   as soon as practicable after the end of the ~~ECVAA~~ Notification System ~~Failure~~Incident:

(i)   the ECVAA shall notify BSCCo, Contract Trading Parties and Volume Notification Agents that the failure has ended;

(ii)   BSCCo will notify Contract Trading Parties and Volume Notification Agents that Volume Notifications may be submitted or resubmitted in accordance with paragraph 5.2.2.

5.2.2   Where an ~~ECVAA~~ Notification System ~~Failure~~ Incident has occurred, commencing at the end of such failure, and until the resubmission deadline, Volume Notifications may be submitted or resubmitted to the ECVAA in relation to any Settlement Period for which Gate Closure falls after the ~~system~~ incident ~~failure~~ occurrence time and before the resubmission deadline.

5.2.3   Where an ~~ECVAA~~ Notification System ~~Failure~~ Incident affects (as described in paragraph 5.1.1(e) above) the ability of one or more but not all Volume Notification Agents to submit Volume Notifications to the ECVAA or receive confirmation of the receipt thereof by the ECVAA, or the ability of the ECVAA to receive and/or confirm receipt of Volume Notifications ~~(as described in paragraph 5.1.1(e))~~ from or to ~~some~~ one or more but not all Volume Notification Agents:

(a)   the ECVAA shall inform BSCCo which Volume Notification Agent(s) are so affected, and references in paragraph 5.2.1 to Volume Notification Agents shall only be to those agent(s) so affected;

(b)   paragraph 5.2.2 shall apply only in relation to the affected Volume Notification Agent(s).

5.2.4 Any Volume Notification submitted or resubmitted in accordance with paragraph 5.2.2 shall specify the details (as provided in paragraph 2.3.2 or 3.3.2) which were or would (pursuant to commitments made before Gate Closure for any Settlement Period to which such notification relates) have been specified in such notification if it had been submitted before Gate Closure for any Settlement Period to which it relates (and if any question arises in relation to this paragraph 5.2.4, such question shall be decided by the Panel whose decision shall be final and binding on all Parties).

5.2.5 For the avoidance of doubt the existence of an ~~ECVAA~~ Notification System ~~Failure~~ Incident which is known to BSCCo shall constitute a material doubt as referred to in Section M3.4.3(a) in relation to all Trading Parties, except (in relation to a particular Trading Party) in a case where BSCCo is aware that such Party has not appointed any of the Volume Notification Agents affected thereby.

5.2.6 If any Contract Trading Party or Volume Notification Agent considers that:

(a) an ~~ECVAA~~ Notification System ~~Failure~~ Incident has occurred which has not been notified under paragraph 5.2.1(b), or

(b) the ECVAA has given notice under paragraph 5.2.1(c)(i) at a time at which the ~~ECVAA~~ Notification System ~~Failure~~ Incident has not ended, or

(c) (in the case of such an agent, where paragraph 5.2.3 applies) that it was not but should have been informed that it is affected as described in that paragraph;

such Party or agent may so notify BSCCo, as soon as reasonably practicable and in any event not later than the end of the Business Day following the day on which the Party or agent considers that the ~~ECVAA~~ Notification System ~~Failure~~ Incident occurred, or (in a case in paragraph (b)) after the day on which the ECVAA gave notice as therein mentioned.

5.2.7 Upon any Party or Volume Notification Agent giving notification to BSCCo in accordance with paragraph 5.2.6:

(a) BSCCo shall:

(i) notify the ECVAA,

(ii) promptly investigate the matter, and

(iii) determine whether an ~~ECVAA~~ Notification System ~~Failure~~ Incident occurred, or whether the failure had ended, or whether such agent was affected, each as referred to in paragraph 5.2.6;

(b) the ECVAA and upon request any Party or Notification Agent shall provide reasonable assistance to BSCCo in such investigation;

(c) BSCCo shall promptly notify its findings to all Contract Trading Parties and Volume Notification Agents;

(d) BSCCo's determination of such matters shall be final and binding for the purposes of this paragraph 5.2;

(e)   where BSCCo determines that an ~~ECVAA~~ Notification System ~~Failure~~ Incident has occurred, BSCCo may determine and notify the resubmission deadline at any time at which it appears to BSCCo that the ~~ECVAA~~ Notification System ~~Failure~~ Incident has ended.

5.3   ECVAA System Withdrawal

5.3.1   Where:

(a)   there occurs or has occurred ~~any partial~~:

(i)   any Notification System Incident involving the failure, breakdown or unavailability of the ECVAA System ~~Failure (that is, such a failure affecting~~ which affects some but not all Volume Notification Agents, and/or affects ~~ing~~ only the ability of the ECVAA to receive or its ability to confirm receipt (as described in paragraph 5.1.1(~~e~~e) above) of Volume Notifications~~)~~; and/or

(ii)   any failure, ~~or~~ breakdown or unavailability of the ECVAA System affecting the ability of the ECVAA to provide information of invalidity of Volume Notifications within the timescales contemplated in paragraph 2.3.9(b) and 3.3.9(b), and

(b)   the ECVAA or BSCCo determines (in its reasonable opinion) that, in order to minimise disruption to the smooth and efficient implementation of Contract Trading Parties' operations under this Section P and of Settlement, it is necessary:

(i)   to withdraw the ECVAA System from operation in order to remedy such failure, ~~or~~ breakdown or unavailability and/or to implement the provisions of paragraph 5.2 (in the case of an ~~ECVAA~~ Notification System ~~Failure~~ Incident giving rise to the application of such provisions); and

(ii)   to do so earlier than might otherwise be done by way of planned BSC Agent downtime in accordance with the Communications Requirement Document

then the ECVAA shall withdraw the ECVAA System from operation, for the purposes of remedying the failure, ~~or~~ breakdown or unavailability and/or implementing the provisions of paragraph 5.2.

5.3.2   Where the ECVAA withdraws the ECVAA System from operation pursuant to paragraph 5.3.1:

(a)   the ECVAA shall, not later than the time of such withdrawal, give notice thereof to BSCCo specifying the time of such withdrawal;

(b)   the ECVAA shall restore the ECVAA System to operation as soon as reasonably practicable, having regard to the purposes (described in paragraph 5.3.1(b)) for which it was withdrawn from operation;

<p style="margin-left: 2em;">(c)   in order to enable Volume Notifications to be submitted to the ECVAA in respect of the period of withdrawal, paragraphs 5.1.1(h~~f~~) and 5.2 (excluding paragraphs 5.2.1(a), 5.2.3, 5.2.6 and 5.2.7) shall apply as if references in those paragraphs:</p>

<p style="margin-left: 4em;">(i)   to the ~~ECVAA~~ Notification System ~~Failure~~ Incident (or the start of such ~~failure~~incident) were to the withdrawal from operation of the ECVAA System;</p>

<p style="margin-left: 4em;">(ii)   to the end of the ~~ECVAA~~ Notification System ~~Failure~~ Incident were to the restoration to operation of the ECVAA System.</p>

SECTION X: Annex X-1: GENERAL GLOSSARY

(version 38.0)

Insert the definition set out below as follows:

Notification System Incident:	has the meaning given to that term in Section P 5.1.1(e)
Notification System:	has the meaning given to that term in Section P 5.1.1(c)