

Modification Proposal

MP No: 166
(mandatory by BSCCo)

Title of Modification Proposal (mandatory by proposer):

Removal of unintentional effects of P123 to allow Supplier BM unit DC values to be revised downwards during a BSC Season.

Submission Date (mandatory by proposer): 26 March 2004

Description of Proposed Modification (mandatory by proposer):

When P123 was implemented the legal text included a loophole that will not let a Supplier decrease the value QMij for a BM unit (and hence DC) in a BSC Season if the QMij value has already been achieved. The reason for this is that the tolerances are applied both prospectively and retrospectively across a BSC Season.

This modification seeks to remove this effect by allowing the tolerances in section 3.4.3 (b) to be applied for the remainder of the BSC Season if the changes to QMij for a Supplier BM unit have been made in accordance with paragraph 3.4.2A (ie the changes introduced by P123).

This will put the intention of P123 into full effect.

Description of Issue or Defect that Modification Proposal Seeks to Address (mandatory by proposer):

Currently clause K3.4.5 places an obligation on the Lead Party of a BM Unit to notify a revised value of QMij where they become aware that they have exceeded tolerances in paragraphs K3.4.3(a) or (b), or on an occasion where they choose to exercise their right under K3.4.2A, as introduced by P123.

Modification P123 amended section K3.4.5 to allow revisions to QMij in accordance with K3.4.2A, which allows a Supplier to notify decreases in the value of QMij for the remainder of the BSC Season. However, as was highlighted in Panel paper 71/023, an oversight was made and clause K3.4.3(b) was not changed. Currently K3.4.3(b) sets out negative QMij tolerances applicable throughout the relevant BSC season. The issue here is that these tolerances are to be applied 'in the relevant BSC Season'. Where the Lead Party of a Supplier BM Unit has exercised their right under K3.4.2A to downwardly revise the magnitude of their negative QMij declaration within the relevant BSC Season, the tolerances in K3.4.3(b) will be applied to establish whether their QMij has exceeded their new declaration at any point within the BSC Season, not simply during that proportion of the BSC Season during which a new QMij declaration is effective.

This means that the Lead Party of a Supplier BM Unit exercising their right to reduce the magnitude of their negative QMij during a BSC Season, pursuant to K3.4.2A, may immediately accrue an obligation to notify a revised value of negative QMij, pursuant to the interaction between K3.4.3(b) and K3.4.5. This would occur if their revised reduced negative QMij value (applicable for the remainder of the relevant BSC Season) was exceeded during the earlier part of the BSC Season before their portfolio change.

The only clear method by which this new obligation could be discharged would be by increasing the magnitude of their negative QMij up to a level equivalent to the peak negative QMij value experienced prior to their reduction in portfolio

It is clear from the P123 Modification Report that the Modification Group wished for the accuracy tolerances detailed in K3.4.3(b) to remain in place unchanged, in order to provide assurance against a Party under-declaring QMij values for the remainder of the season but it was our understanding that this was based on an assumption that these existing tolerances would only be applied for the remainder of the BSC season, therefore allowing DC values to be decreased within season as was the intent of P123.

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Impact on Code <i>(optional by proposer):</i> Section K will require minor amendments	
Impact on Core Industry Documents <i>(optional by proposer):</i> None identified	
Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties <i>(optional by proposer):</i> None identified	
Impact on other Configurable Items <i>(optional by proposer):</i> None identified	
Justification for Proposed Modification with Reference to Applicable BSC Objectives <i>(mandatory by proposer):</i> This modification seeks to promote the efficient operation of the BSC (objective d) by removing the obligation on Parties and BSCCo to revise QMij/DC in a circular fashion when trying to use the provisions implemented by P123.	
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Attachments: NO

If Yes, Title and No. of Pages of Each Attachment: