

## INITIAL WRITTEN ASSESSMENT for Modification Proposal P161 Enhancement of BSCCo Board Structure

Prepared by: ELEXON<sup>1</sup> Limited

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This document has been distributed in accordance with Section F2.1.10<sup>2</sup> of the Balancing and Settlement Code.

### RECOMMENDATIONS

On the basis of the initial assessment BSCCo recommends that the Panel:

- **DETERMINE that Modification Proposal P161 should be submitted to the Assessment Procedure;**
- **AGREE the Assessment Procedure timetable such that an Assessment Report should be completed and submitted to the Panel for consideration at its meeting on 8 April 2004; and**
- **DETERMINE that the Assessment Procedure should be undertaken by the Governance Standing Modification Group; and**
- **AGREE any refinement to the Modification Group Terms of Reference.**

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<sup>1</sup> ELEXON Ltd currently fulfils the role of the Balancing and Settlement Code Company ('BSCCo'), pursuant to Annex X-1 of the Balancing and Settlement Code (the 'Code').

<sup>2</sup> The current version of the Code can be found at [www.elexon.co.uk/ta/bscrel\\_docs/bsc\\_code.html](http://www.elexon.co.uk/ta/bscrel_docs/bsc_code.html)

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### SUMMARY OF IMPACTED PARTIES AND DOCUMENTS

As far as BSCCo has been able to assess the following parties/documents have been initially identified as being potentially impacted by Modification Proposal P161:

Parties	Sections of the BSC	Code Subsidiary Documents
Suppliers <input type="checkbox"/>	A <input type="checkbox"/>	BSC Procedures <input type="checkbox"/>
Generators <input type="checkbox"/>	B <input type="checkbox"/>	Codes of Practice <input type="checkbox"/>
Licence Exemptable Generators <input type="checkbox"/>	C <input checked="" type="checkbox"/>	BSC Service Descriptions <input type="checkbox"/>
Transmission Company <input type="checkbox"/>	D <input type="checkbox"/>	Service Lines <input type="checkbox"/>
Interconnector <input type="checkbox"/>	E <input type="checkbox"/>	Data Catalogues <input type="checkbox"/>
Distribution System Operators <input type="checkbox"/>	F <input type="checkbox"/>	Communication Requirements Documents <input type="checkbox"/>
<b>Party Agents</b>		
Data Aggregators <input type="checkbox"/>	G <input type="checkbox"/>	Reporting Catalogue <input type="checkbox"/>
Data Collectors <input type="checkbox"/>	H <input type="checkbox"/>	MIDS <input type="checkbox"/>
Meter Operator Agents <input type="checkbox"/>	J <input type="checkbox"/>	<b>Core Industry Documents</b>
ECVNA <input type="checkbox"/>	K <input type="checkbox"/>	Grid Code <input type="checkbox"/>
MVRNA <input type="checkbox"/>	L <input type="checkbox"/>	Supplemental Agreements <input type="checkbox"/>
<b>BSC Agents</b>		
SAA <input type="checkbox"/>	M <input type="checkbox"/>	Ancillary Services Agreements <input type="checkbox"/>
FAA <input type="checkbox"/>	N <input type="checkbox"/>	Master Registration Agreement <input type="checkbox"/>
BMRA <input type="checkbox"/>	O <input type="checkbox"/>	Data Transfer Services Agreement <input type="checkbox"/>
ECVAA <input type="checkbox"/>	P <input type="checkbox"/>	British Grid Systems Agreement <input type="checkbox"/>
CDCA <input type="checkbox"/>	Q <input type="checkbox"/>	Use of Interconnector Agreement <input type="checkbox"/>
TAA <input type="checkbox"/>	R <input type="checkbox"/>	Settlement Agreement for Scotland <input type="checkbox"/>
CRA <input type="checkbox"/>	S <input type="checkbox"/>	Distribution Codes <input type="checkbox"/>
Teleswitch Agent <input type="checkbox"/>	T <input type="checkbox"/>	Distribution Use of System Agreements <input type="checkbox"/>
SVAA <input type="checkbox"/>	U <input type="checkbox"/>	Distribution Connection Agreements <input type="checkbox"/>
BSC Auditor <input type="checkbox"/>	V <input type="checkbox"/>	<b>BSCCo</b>
Profile Administrator <input type="checkbox"/>	W <input type="checkbox"/>	Internal Working Procedures <input checked="" type="checkbox"/>
Certification Agent <input type="checkbox"/>	X <input type="checkbox"/>	<b>Other Documents</b>
MIDP <input type="checkbox"/>		Transmission Licence <input type="checkbox"/>
TLFA <input type="checkbox"/>		
<b>Other Agents</b>		
SMRA <input type="checkbox"/>		
Data Transmission Provider <input type="checkbox"/>		

## 1 DESCRIPTION OF PROPOSED MODIFICATION

### 1.1 Modification Proposal

Modification Proposal P161 "Enhancement of BSCCo Board Structure" (P161) was raised by National Grid Transco (the Proposer) on 30 January 2004. P161 proposes that two new 'executive director' positions should be added to the BSCCo Board of Directors (the Board) to improve the corporate governance of BSCCo.

According to the Proposer, the current Board structure is not in line with the "best practice model" for corporate governance in that its membership does not include the BSCCo Chief Executive or a senior commercial/financial post holder from within BSCCo.

Under the proposal, the BSCCo Chief Executive and a senior BSCCo executive, holding a commercially and financially orientated position, would be added to the Board as Directors. The latter would be described in the Code as the 'Commercial and Finance Director' and would be provided and nominated by BSCCo (subject to consultation with the Panel). It is proposed that these executive directors would have the same rights and obligations as Industry Directors and Other Directors.

The Proposer is aware of the review that was undertaken into the structure of BSCCo's Board and executive. The review concluded that the present structure, which is prescribed by the Code, does not meet the best practice in corporate governance. Furthermore, the Proposer endorses the recommendations of that review. Namely that adding two 'executive director' positions to the Board would better facilitate the following:

- **communication** between the Board and BSCCo's Executive team; and
- **commercial challenge** (i.e. scrutiny of performance and costs by non-executive directors).

According to the Proposer, a move to the proposed new Board structure would assist the company in addressing and responding to stakeholder concerns about the effectiveness of commercial drivers and cost control in BSCCo. In addition, a majority of non-executive members, and the associated advantages (i.e. independent scrutiny), would be retained.

The Proposer believes that P161 would improve the efficiency of the administration of the trading arrangements (i.e. better facilitate achievement of Applicable BSC Objective (d)), through a reduction in the costs and an increase in the efficiency of BSCCo, and thereby enhance competition through a reduction in barriers to entry (i.e. better facilitate achievement of Applicable BSC Objective (c)).

### 1.2 Current Board Membership

Currently, the Code requires that the Board shall comprise five 'Directors' as follows:

- Chairman of the Board (who shall be the Panel Chairman);
- 2 Industry Directors (Industry Panel members nominated by the Panel); and
- 2 Other Directors (persons nominated by the Panel Chairman after consultation with the Panel).

The nomination processes and terms of office for the Industry Directors and Other Directors are contained in paragraphs C4.2 and C4.3 of the Code respectively.

Under paragraph C4.6 of the Code, the BSCCo Chief Executive is entitled to attend and speak at all meetings of the Board. However, the Chief Executive is explicitly prohibited from being a Director (C4.6.1 and C4.6.3).

### 1.3 Issues raised by the Modification Proposal

An initial assessment of P161 has identified the following potential areas of impact and issues which will need to be considered and addressed in progressing the Modification Proposal:

- BSC Parties will need to be consulted on the proposal to add the two 'executive director' positions to the Board;
- the appointment and removal processes and the terms of office for the executive directors will need to be established; and
- the proposed Code rights and obligations of the new executive directors need to be assessed.
- a BSCCo impact assessment of the proposed new Board structure will be required; and
- an assessment of the proposed new Board structure against the Applicable BSC Objectives will need to be undertaken.

These issues are to be put into the Modification Group's Terms of Reference.

## 2 COSTS<sup>3</sup>

### PROGRESSING MODIFICATION PROPOSAL

<b>Demand Led Cost</b>	£0
<b>ELEXON Resource</b>	43 Man days (equating to approximately £10,880)

## 3 INITIAL ASSESSMENT OF IMPACTS OF MODIFICATION PROPOSAL

### 3.1 Impact on BSC Systems and processes

An initial assessment has been undertaken in respect of all BSC Systems and processes and no impacts have been identified.

### 3.2 Impact on other systems and processes used by Parties

An initial assessment has been undertaken in respect of systems and processes used by Parties and no impacts have been identified.

### 3.3 Impact on documentation

#### 3.3.1 Impact on Balancing and Settlement Code

An initial assessment has been undertaken in respect of all Sections of the Code and the following Sections have been identified as potentially being impacted by the Modification Proposal.

Item	Potential Impact of Proposed Modification
Section C: BSCCo and its Subsidiaries	Implementation of P161 would require amendments to C4 "Management of BSCCo". These amendments

<sup>3</sup> Clarification of the meanings of the cost terms in this section can be found in annex 3 of this report  
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	<p>might include:</p> <ul style="list-style-type: none"> <li>• Amendment of C4.1 "Board of Directors" to include the two new 'Executive Director' positions on the Board;</li> <li>• A new sub-section inserted to cover the appointment process for and tenure of the 'Executive Directors'; and</li> <li>• Removal of the prohibition on the BSCCo Chief Executive being a Director.</li> </ul>
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**3.3.2 Impact on Code Subsidiary Documents**

An initial assessment has been undertaken in respect of all Code Subsidiary Documents and no impacts have been identified.

**3.3.3 Impact on BSCCo Memorandum and Articles of Association**

The Memorandum and Articles of Association of BSCCo would require modifications consistent with those made to the Code.

**3.4 Impact on Core Industry Documents**

An initial assessment has been undertaken in respect of Core Industry Documents and no impacts have been identified.

**3.5 Impact on other configurable items**

An initial assessment has been undertaken in respect of other configurable items and [the following/no areas] have been identified as potentially being impacted by the Modification Proposal.

Item	Potential Impact of Proposed Modification
BSCCo Business Process Model (BPM)	The BSCCo BPM would need to be amended to reflect the revised Board structure and membership.

**4 IMPACT ON BSCCO**

An initial assessment has been undertaken in respect of BSCCo and the following have been identified as potentially being impacted by the Modification Proposal.

Area of Business	Potential Impact of Proposed Modification
BSCCo Systems	The BSC Website, and associated corporate literature, would need to be amended to reflect revised Board Structure and membership.
BSCCo Contracts (Excluding BSC Agent Contracts)	The statutory BSCCo auditors would be required to audit the operation of the revised Board structure.
Other (e.g. costs, staffing, etc.)	The 'Executive Directors' might be entitled to reimbursement by BSCCo of any costs/expenses incurred through Board business (C4.4.1).

## 5 IMPACT ON BSC AGENT CONTRACTUAL ARRANGEMENTS

An initial assessment has been undertaken in respect of BSC Agent contractual arrangements and no impacts have been identified.

## 6 RATIONALE FOR BSCCO'S RECOMMENDATIONS TO THE PANEL

BSCCo recommends that P161 should be submitted to a two-month Assessment Procedure to assess the proposed changes against the Applicable BSC Objectives. The following activities would need to be carried out as part of that Assessment Procedure:

1. The Code rights/obligations, the appointment/removal process and the terms of office for the new 'executive directors' will need to be established;
2. BSC Parties will need to be consulted on the proposal to add the two 'executive director' positions to the Board; and
3. a BSCCo impact assessment of the proposed new Board structure will be required.

## 7 PROCESS, TIMETABLE AND COST FOR PROGRESSING THE MODIFICATION PROPOSAL

BSCCo recommends that P161 should be submitted to the Governance Standing Modification Group (GSMG) for further assessment. The GSMG should be tasked with completing and providing an Assessment Report to the Panel by 8 April 2004.

BSCCo estimates that two meetings of the GSMG will be required as part of the Assessment Procedure and that 43 Man Days of BSCCo effort will be required to progress P161 through the entire Modification Procedure.

A Gantt chart depicting the proposed timescales for the activities required to complete the Assessment Procedure on schedule is attached as Annex 3.

## 8 DOCUMENT CONTROL

### 8.1 Authorities

Version	Date	Author	Reviewer	Reason for Review
0.1	03/02/04	Roger Salomone	Dave Warner	Proposed P161 Modification Group Chair
0.2	04/02/04	Roger Salomone	Chris Rowell	Initial Change Delivery Review
0.3	06/02/04	Roger Salomone	Richard Clarke	Final Change Delivery Review
1.0	06/02/04	Roger Salomone	BSC Panel	Decision

### 8.2 References

Ref No.	Document Title	Owner	Issue Date	Version
N/a	Modification Proposal P161 "Enhancement of BSCCO Board Structure"	N/a	30/01/04	N/a

**ANNEX 1 MODIFICATION PROPOSAL**

<b>Modification Proposal</b>	<b>MP No: P161</b> <i>(mandatory by BSCCo)</i>
<b>Title of Modification Proposal</b> <i>(mandatory by proposer):</i> Enhancement of BSCCo Board Structure	
<b>Submission Date</b> <i>(mandatory by proposer):</i> 30 January 2004	
<b>Description of Proposed Modification</b> <i>(mandatory by proposer):</i> It is proposed to add two new executive positions to the BSCCo Board of Directors ("the Board") – (1) that of the BSCCo Chief Executive and (2) that of a senior executive of the BSCCo who holds a commercially and financially orientated position within the company. The other existing positions on the Board shall remain unchanged.  It is proposed that the senior executive shall be a person nominated and provided by BSCCo to the Board. The Board shall, before any senior executive nominated by BSCCo is appointed to the Board, first consult with the Panel.  It is proposed that these new positions have the same rights and obligations as the Industry Directors and Other Directors.	
<b>Description of Issue or Defect that Modification Proposal Seeks to Address</b> <i>(mandatory by proposer):</i> The current BSCCo Board structure, as specified in the BSC Section C4, does not include the BSCCo Chief Executive nor a commercial/financial post holder within BSCCo as executive directors. This does not fit the best practice model for corporate governance.	
<b>Impact on Code</b> <i>(optional by proposer):</i> Section C4 of the BSC will require modification to provide for the two additional members of the Board. It will also be necessary to remove the existing prohibition on the Chief Executive of BSCCo being a Director of the Board (contained in Section C4.6.1 and C4.6.3).  The first new post will be defined by explicit reference to the Chief Executive of BSCCo.  The Code shall specify the second post as being that of a Commercial and Finance Director.  The Memorandum and Articles of Association of BSCCo will also require consequential and consistent modifications.	
<b>Impact on Core Industry Documents</b> <i>(optional by proposer):</i> No impact	
<b>Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties</b> <i>(optional by proposer):</i> No impact	
<b>Impact on other Configurable Items</b> <i>(optional by proposer):</i> No Impact	

<b>Modification Proposal</b>	<b>MP No: P161</b> <i>(mandatory by BSCCo)</i>
<p><b>Justification for Proposed Modification with Reference to Applicable BSC Objectives</b> <i>(mandatory by proposer):</i></p> <p>BSCCo has undertaken a review of the structure of the senior management levels of BSCCo. This included consultancy advice on the structure of the BSCCo Board. One of the resulting findings was that BSCCo should move if possible to a Board structure with both Executive and non-Executive membership. Such a structure will enable BSCCo to function more effectively at Executive level and be subject to more effective non-Executive challenge.</p> <p>Separately, but contemporaneously, BSCCo also sought views of stakeholders relating to the performance of BSCCo. One of the findings of this exercise was that there was concern about the effectiveness of commercial drivers and cost control in BSCCo. A move to the proposed new Board structure would be one measure that would assist the company in addressing and responding to the stakeholder concerns.</p> <p>The review also considered the BSCCo Board structure in the light of BSCCo's role and the recent developments in corporate governance (the Higgs and Smith reviews). It was concluded that the present arrangements do not fit any best practice model, are un-commercial, constrict communication and understanding between the Board and the Executive team and contribute to weaknesses in challenging both performance and costs.</p> <p>Expanding the BSCCo Board to include the BSCCo Chief Executive and another senior executive from BSCCo would address the concerns about communication and commercial challenge while maintaining a majority non-Executive presence that would be both consistent with revised Combined Code on Corporate Governance (which takes into account the reviews undertaken by Higgs and Smith) and appropriate for BSCCo.</p> <p>The justification for such a modification is that the efficiency of the administration of the Balancing Mechanism and Imbalance Settlement, to which BSCCo makes a significant contribution, will be improved (thus better facilitating the achievement of Applicable BSC Objective (d)). Furthermore, the new structure will better facilitate cost reductions and improvements in the efficiency of BSCCo, thereby reducing costs to participants and hence reducing barriers to entry and thereby enhancing competition in the generation and supply of electricity (thus better facilitating the achievement of Applicable BSC Objective (c)).</p>	
<p><b>Details of Proposer:</b></p> <p style="padding-left: 40px;"><b>Name:</b> Kevin Rendell</p> <p style="padding-left: 40px;"><b>Organisation:</b> National Grid Transco</p> <p style="padding-left: 40px;"><b>Telephone Number:</b> 01926 656365</p> <p style="padding-left: 40px;"><b>Email Address:</b> Kevin.rendell@ngtuk.com</p>	
<p><b>Details of Proposer's Representative:</b></p> <p style="padding-left: 40px;"><b>Name:</b> Kevin Rendell</p> <p style="padding-left: 40px;"><b>Organisation:</b> National Grid Transco</p> <p style="padding-left: 40px;"><b>Telephone Number:</b> 01926 656365</p> <p style="padding-left: 40px;"><b>Email Address:</b> Kevin.rendell@ngtuk.com</p>	

<b>Modification Proposal</b>	<b>MP No: P161</b> <i>(mandatory by BSCCo)</i>
<b>Details of Representative's Alternate:</b>	
<b>Name:</b> Clare Talbot	
<b>Organisation:</b> National Grid Transco	
<b>Telephone Number:</b> 01926 656377	
<b>Email Address:</b> Clare.talbot@ngtuk.com	
<b>Attachments: NO</b>	
<b>If Yes, Title and No. of Pages of Each Attachment:</b>	

## ANNEX 2 CLARIFICATION OF COSTS

PROGRESSING MODIFICATION PROPOSAL	
<b>Demand Led Cost</b>	This is the third party cost of progressing a Modification Proposal through the Modification Procedures in accordance with Section F of the Code. Service Provider Impact Assessments are covered by a contractual charge and so the Demand Led cost will typically be zero unless external Legal assistance or external consultancy is required.
<b>ELEXON Resource</b>	This is the ELEXON Resource requirement to progress the Modification Proposal through the Modification Procedures. This is estimated using a standard formula based on the length of the Modification Procedure.

