

Modification Proposal	MP No: 148 <i>(mandatory by BSCCo)</i>
Title of Modification Proposal <i>(mandatory by proposer):</i> Revision of the claims fee to avoid undue discrimination between classes of Party in their funding of the PNE claims process	
Submission Date <i>(mandatory by proposer):</i> 25 November 2003	
Description of Proposed Modification <i>(mandatory by proposer):</i> Elxon have recently published figures outlining the cost of the PNE claims process (£1.610m) and the total fee income (£225,000) ¹ based on charging a £5,000 claims fee. Without a change to the level of the claims fee set out in Section P of the Code the PNE costs less fee income shortfall of £1.385m will be recovered through BSCCo charges. This proposal would set the claims fee at £17,889 (roughly 50% of the cost of the PNE claims process). In so doing the proposal will balance the conflicting interests of claimants with those of non-claimants and new entrants.	
Description of Issue or Defect that Modification Proposal Seeks to Address <i>(mandatory by proposer):</i> Parties that have not made claims cannot be said to have directly 'caused' PNE costs, and therefore should not be expected to bear disproportionate share of such costs though higher than necessary BSCCo charges. A £5,000 fee does not result in an equitable sharing of the cost of the PNE process amongst BSC Parties. At the Panel meeting on 13 November 2003 the Panel considered under agenda item 60/017 whether to change the claims fee. They voted against considering such a change on the casting vote of the Panel Chairman who cited president as the reason for his decision to vote for the status quo, i.e. no change to the £5,000 fee. The Panel did not consider the merits of a particular fee level and how that level of fee might balance the conflicting interests of new entrants and non-claimants with those of claimants. Nevertheless, it is unclear whether the Panel did in fact act lawfully in making this decision – please refer to Counsel's opinion which is attached. This proposal will allow a full review of the claims fee with respect to both the Panel's obligations under B1.2.1(c) and the applicable objectives and also allow the Authority to consider the matter. Implementation of this proposal will ensure the interests of all BSC Parties with regard to PNE process costs are properly balanced. In the view of the proposer it represents a reasonable financial settlement between the various parties.	
Impact on Code <i>(optional by proposer):</i> Section P	
Impact on Core Industry Documents <i>(optional by proposer):</i>	
Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties <i>(optional by proposer):</i>	

¹ The actual fee income was only known on 12 November 2003 after the PNE Committee had made its determinations on single cause claims in accordance with P6.2.6 of the Code.

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Impact on other Configurable Items (optional by proposer):

Justification for Proposed Modification with Reference to Applicable BSC Objectives (mandatory by proposer):

Placing unreasonable cost burden on non-claimants and new entrants will tend to undermine those parties ability to compete in the market. By sharing the PNE costs more equitably between BSC Parties this proposal will help promote competition in the generation and supply of electricity (Applicable BSC Objective (c)).

Details of Proposer:

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Attachments: Yes

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

PNE Claims Fee Opinion, 25 November 2003