

1 July 2003



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Dear Mr Durlacher

Urgent Modification to the Balancing and Settlement Code: Modification Proposal P134 'The halting of unnecessary and inefficient work and expenditure associated with approved BSC Modification P82'

Thank you for your letter addressed to Nick Simpson in regard to Modification Proposal P134: 'The halting of unnecessary and inefficient work and expenditure associated with approved BSC Modification P82'.

In your letter you support ELEXON's recommendation that Modification Proposal P134 raised by British Energy Power & Energy Trading Ltd on 30 June 2003 should be treated as an Urgent Modification Proposal for the purposes of section F2.9 of the Balancing and Settlement Code ("BSC"). Also included was a proposed procedure and timetable for Modification Proposal P134.

The Authority considers that Modification Proposal P134 should not be treated as an Urgent Modification Proposal for the purposes of section F2.9 of the BSC. The Authority will continue to treat each proposal on its own merits. However, in all cases, the Authority believes that a modification should only be treated as urgent if the modification could not appropriately be treated as non-urgent. It is currently the view of the Authority that, in general, urgent modifications are likely to exhibit at least one of the following characteristics:

- ◆ There is a very real likelihood of significant commercial impact upon NGC, industry parties, or customers if a proposed modification is not urgent;
- ◆ Safety and Security of the network is likely to be impacted if a proposed modification is not urgent; and
- ◆ The proposal is linked to an imminent date related event.

The Authority considers that Modification Proposal P134 does not exhibit these characteristics.

Further, the Authority is of the opinion that the issuing of a “minded to” statement by the Secretary of State regarding potential future GB wide trading arrangements should not affect its decision with regard to the processes concerning the modification of an England and Wales code. You will be aware that on the 17 January 2003 the Authority wrote to the Chairmen of all of the code Panels and explained that until such time as the E(TT) Bill attained a significant step on the road to legal certainty, modifications to England and Wales codes would continue to be processed and assessed on their appropriateness to England and Wales.¹ The Authority noted that a significant level of legal certainty would be attained at second reading of the Bill when it could be said that Parliament had signalled its support (in principle) for the Bill. Until that time the prospective BETTA legislation should not influence the Authority’s good regulatory practice which must be based upon the current legislative and regulatory framework of the industry.

Modification Proposal P134 should therefore be subject to the normal modification procedures as detailed in section F of the BSC.

Please call me on the above number if you would like to discuss any of the issues in this letter further.

Yours sincerely

A handwritten signature in black ink, appearing to read "Sonia Brown".

Sonia Brown

Director of Electricity Trading Arrangements

Signed on behalf of the Authority and authorised for that purpose by the Authority

¹ A copy of that letter from N Simpson is annexed to this letter for your convenience.