Draft Legal Text for Modification Proposal P128

Section P (*version 8.0*)

Add new sub- paragraph 6.1(h) as follows:

(h)   an **"ECVNPNE Error Window**" is the period commencing with the first Settlement Period for the Settlement Day for the first ECVN between the Production Energy Account and the Consumption Energy Account of a Party and concluding with the last Settlement Period for the Settlement Day 28 consecutive days later and the "**relevant** ECVNPNE Error Window" is the ECVNPNE Error Window in respect of which the Past Notification Error occurred.

Amend sub-paragraph 6.2.1 as follows

6.2   Claming Past Notification Errors

6.2.1   Subject to paragraph 6.2.2, where a relevant Contract Trading Party considers that there has been a Past Notification Error, such Party may make a claim to that effect by giving written notice of such claim to BSCCo, identifying the Past Notification Error and the relevant Settlement Period, provided that no claim of Past Notification Error may be made after the expiry of ten Business Days after the date on which this paragraph 6 comes into effect.

Add new sub-paragraph 6.2.2 and amend and/or re-number remaining existing sub-paragraphs of 6.2 as follows:

6.2.2   Where a Past Notification Error occurred in relation to the notification of Energy Contract Volume Data only for a Settlement Period falling within the relevant ECVNPNE Error Window of a single Trading Party, which was not rectified prior to Gate Closure for the relevant Settlement Period, such Party may make a claim to that effect by giving written notice of such claim to BSCCo, identifying the Past Notification Error and the relevant Settlement Period, provided that no claim of Past Notification Error is made either:

(a)   after the expiry of 5 Business Days after the end of the relevant ECVNPNE Error Window where the commencement of the relevant ECVNPNE Error Window falls after the date on which this paragraph 6.2.2 comes into effect; or

(b)   after the expiry of 5 Business Days after the date on which this paragraph 6.2.2 comes into effect, where the commencement of the ECVNPNE Error Window occurred after 31 May 2002 and prior to the date on which this paragraph 6.2.2 comes into effect.

6.2.3   Subject to paragraph 6.2.7, where a relevant Contract Trading Party makes a claim of Past Notification Error, such Party shall pay a fee to BSCCo for each such claim, the amount of which (for each such claim, provided that, for the purposes of this paragraph 6.2.3 and subject to paragraph 6.2.5, claims of Past Notification Error made by a Party in respect of the same Volume Notification shall be treated as a single claim) shall be £5,000, or such other amount as the Panel may from time to time after consultation with Parties and the approval of the Authority, determine upon not less than 30 days notice to Parties, and which shall not be reimbursed in any circumstances.

6.2.4   Where a relevant Contract Trading Party makes a claim of Past Notification Error (other than one to which paragraph 1.4.1 applies), the claim shall be accompanied by a statement in writing from the other relevant Contract Trading Party and, where the relevant Volume

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¶
(a)   after the expiry of 5 Business Days after the end of the relevant ECVNPNE Error Window where the commencement of the relevant ECVNPNE Error Window falls after the date on which this paragraph 6.2.2 comes into effect; or ¶
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(b)   after the expiry of 5 Business

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Notification Agent is not one of the relevant Contract Trading Parties, from the relevant Volume Notification Agent (addressed, in each case, to BSCCo for the benefit of all Contract Trading Parties) confirming that it considers that the Past Notification Error has occurred.

6.2.5   A claim of Past Notification Error may not be made in relation to a Volume Notification in respect of which a previous claim has been made (and, accordingly, if a relevant Contract Trading party wishes to claim Past Notification Errors in relation to more than one Settlement Period, a single claim must be made for all such errors).

6.2.6   A claim of Past Notification Error may be made in relation to a Volume Notification, notwithstanding that the Volume Notification was treated as rejected (in relation to the relevant Settlement Period) or refused, in accordance with paragraph 2.4 or 3.4, where the rectified Volume Notification (if submitted as described in paragraph 6.4.5) would not have been so treated, but without prejudice to paragraph 6.6.2.

6.2.7   For the purposes of paragraph 6.2.3, where:

> (a)   a Contract Trading Party has submitted a number of claims of Past Notification Error, and
>
> (b)   in relation to any two or more of such claims ("the **relevant claims**") of Past Notification Error, the Panel is satisfied that, for each such Past Notification Error, the relevant mistake resulted from the same cause (whether consisting of a particular defect in systems or procedures or of a particular act or omission of a person or otherwise)

the relevant claims shall be treated as a single claim.

6.2.8   For the purposes of paragraph 6.2.3, where:

> (a)   the relevant mistake in relation to a Past Notification error is the mistake (as referred to in paragraph 6.1.1(c)(ii)) by reason of which such Past Notification Error occurred;
>
> (b)   the relevant Contract Trading Party shall notify BSCCo (by a time to be specified by BSCCo for the purposes of this paragraph) if it wishes the Panel to consider whether any claims should be treated as a single claim under paragraph 6.2.7 and (when requested to do so by the Panel Secretary) shall provide such evidence and other information as the Panel may reasonably require in connection therewith;
>
> (c)   the Panel may consider the matter at the same time or at a different time as considering the relevant claims for the purposes of paragraph 6.4 (but in any event no later than the time when the fee is invoiced to the relevant Contract Trading Party under 6.4.4(g));
>
> (d)   the decision of the Panel (as to whether and what relevant claims are to be treated as a single claim) shall be final and binding.

Add new sub-paragraph 6.2.9 as follows:

6.2.9   For the purposes of any claim made pursuant to paragraph 6.2.2 only, the provisions of Section U2.2.4 shall apply excluding any express restriction that may apply in relation to paragraph 6.5.1(c).

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Amend sub-paragraph 6.3.1 as follows:

6.3.1   Where a Party gives notice of a claim of Past Notification Error under paragraph 6.2.1 and 6.2.2, BSCCo shall within one Business Day after receiving such notice notify the claim to the Energy Contract Volume Aggregation Agent, all Contract Trading Parties, and the relevant Volume Notification Agent.

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Amend sub- paragraph 6.4.4(g) as follows:

6.4.4……

(g)   the fee under paragraph 6.2.3 shall be invoiced as and included in determining BSCCo Charges for the relevant Party for the next month for which BSCCo Charges are invoiced following the notification of the Panel's determination under paragraph (e), and shall be paid accordingly.

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Section D (*version 5.0*)

Amend Section D4.1(a) as follows:

4.1   Net Annual BSC Costs

For each BSC Year:

(a)   "**Annual Net Main Costs**" is the amount of the Annual BSC Costs, less:

(i)   all amounts payable by Parties by way of Main Specified Charges and specified NETA Funding Charges;

(ii)   all amounts payable to BSCCo by any BSC Agent or Market Index Data Provider by way of credit, damages or liquidated damages or otherwise (unless deducted from amounts payable to such BSC Agent or Market Index Data Provider before the latter amounts were counted as BSC Costs), other than amounts falling within paragraph (b)(ii);

(iii)   the amount of the Annual SVA Costs (or if greater, the aggregate amount paid by Trading Parties by way of SVA Specified Charges);

(iv)   any amount recovered by BSCCo from any insurer;

(v)   any amounts paid to BSCCO by way of fee pursuant to Section P6.2.3, Section P6.7.2 or Section Q7.2.3;

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