

## Modification Proposal

**MP No: 111**  
(mandatory by BSCCo)

### **Title of Modification Proposal** (mandatory by proposer):

Procedure to allow the BSC Panel to refuse to accept Contingent Modification Proposals

### **Submission Date** (mandatory by proposer): 27 November 2002

### **Description of Proposed Modification** (mandatory by proposer):

As a matter of good practice all modification proposals submitted to the BSC Panel should be 'stand-alone' proposals that are not dependent on other pending or yet to be developed proposals. This proposal requires the BSC Panel to refuse to accept any new proposal where the Proposer (or his/her representative/alternate) has failed to demonstrate beyond reasonable doubt that such a proposal is not contingent on one or more future or pending modification proposals being approved by the Authority. For example, under this approach a phasing proposal would be allowed provided it was combined with a full description of the change it is seeking to phase in.

This 'contingency test' shall be set against the legal text of the Balancing and Settlement Code (BSC) prevailing at the time the BSC Panel considers such test. No account would be taken of any contingency on arrangements outside the BSC, such as CUSC Amendment Proposals or changes to NGC's transmission charges. Decisions as to whether to refuse to accept a proposal under these procedures would normally be made at the BSC Panel meeting when the proposal is first considered. The BSC Panel however, would on implementation of this proposal be required, as soon as is reasonably practicable, to apply the 'contingency test' to all existing proposals that are still subject to the Definition or Assessment Procedures. Should they determine that any of these 'work-in-progress' proposals are contingent in nature the BSC Panel shall refer such proposals to the Report Phase and recommend their rejection (including any alternatives that may have been developed).

In theory it may be possible for a proposal that was initially 'stand-alone' in character to become contingent on other proposals, if the BSC 'baseline' changes. Under such circumstances the proposal would continue to follow the normal modification process.

For avoidance of doubt nothing in this proposal would prevent the BSC Panel or Modification Groups considering the implications of the possible implementation of other pending modifications on a particular proposal.

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

A modification proposal (P109) is currently being considered that attempts to anticipate the possible implementation of another pending modification proposal. It is also possible that other BSC Parties may also seek to submit other 'contingent' modifications to attempt to insure against the risk of future changes to the code. Such proposals undermine the existing flexible BSC governance arrangements, which were designed to facilitate incremental reform of trading arrangement rules consistent with the Applicable BSC Objectives. Permitting 'contingent' modification proposals could potentially limit the beneficial effects of future modification proposals.

Consideration of such proposals wastes the BSC Panel's, Elexon's, and BSC Parties' time, and in the unlikely event that such proposals were to be implemented, could require expenditure on new systems and process that may never be used. At the very least expensive legal costs would be incurred in redrafting the BSC.

Any rule changes that attempt to anticipate future changes are in any event futile as subsequent proposals that are impeded by such rules will simply seek to strike out the offending clauses in the BSC.

To address the above issues/defects BSC Parties should be required to submit only stand-alone' modifications.

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A procedure that allows the BSC Panel to refuse to accept any 'contingent' modification proposals will encourage this.

**Impact on Code** *(optional by proposer):*

Changes to Section F.

**Impact on Core Industry Documents** *(optional by proposer):*

None

**Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties** *(optional by proposer):*

None

**Impact on other Configurable Items** *(optional by proposer):*

None

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

By avoiding unnecessary costs in terms of the BSC Panel's, Elexon's, and BSC Parties' time and expenditure on processes and systems that may never be used, it promotes efficiency in the implementation of the balancing and settlement arrangements.

It also will indirectly help promote Applicable BSC Objectives (a), (b) and (c) by preventing existing and possible future 'contingent' modifications hindering the path of future modifications that are subsequently approved by the Authority.

**Details of Proposer:**

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### Details of Representative's Alternate:

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**Attachments:** No