Responses for P100 Assessment Consultation
Consultation issued 13 November 2002

Representations were received from the following parties:

No	Company	File Number	No. Parties Represented
1.	SmartestEnergy	P100_ASS_001	1
2.	NGC	P100_ASS_002	1
3.	Innogy	P100_ASS_003	8
4.	Aquila Networks	P100_ASS_004	1
5.	TXU	P100_ASS_005	1
6.	British Sugar	P100_ASS_006	0
7.	Scottish Power	P100_ASS_007	6
8.	Alcan Primary Metal	P100_ASS_008	1
9.	Powergen	P100_ASS_009	15
10.	British Gas Trading	P100_ASS_010	3
11.	Slough Energy Supplies Ltd	P100_ASS_011	4
12.	LE Group	P100_ASS_012	7
13.	Immingham CHP	P100_ASS_013	1

P100_ASS_001 – SmartestEnergy

Company: SmartestEnergy Limited, (Robert Owens).
Parties represented: 1

Question	Response
Q. If P100 were implemented, how would Parties and Licence Exemptible Generators be affected in practice?	**Views:** Parties who currently do not deal with LEGs would be unaffected. LEGs would have greater freedom to contract with a larger number of service providers (be they Suppliers, consolidators or other) or if they are a BSC Party, greater access to market without having to involve other Parties.
Q. Do you agree with the Proposer's view that there would be **no** dis-benefit for Suppliers as a result of P100?	**NO** Rationale: Suppliers would lose the position of market power that they enjoy. Suppliers could be seen as the middle point by which power gets from the generator to the ultimate consumer. Effectively the embedded benefits that they currently share (and claim as their own) are directly as a result of the existence of the consumers who generally receive no share of the embedded benefits that they help to create (in conjunction with the Generators). For example it could be that a particular Supplier collects the Triad benefit from a LEG and as a result pays a reduced amount to NGC for his Triad – the Customer generally still gets charged the full "cost" of his consumption at Triad. Suppliers may argue that their prices reflect this reduced cost as a whole, but there is little evidence to support this – and in any case this subsidy could give them an unfair advantage against small suppliers if they are able to reduce their prices as a result of their current control of embedded benefits. It is possible, therefore, to view embedded benefits as not in the first instance belonging to the Supplier but to the market. It is perhaps more appropriate to view embedded benefits as an incentive to provide all the recognised advantages of satisfying local

	demand with local generation. This leads to the call for the benefit to be assigned to the LEG who can be incentivised to generate and provide the benefit to the system as a whole, in a way that the Supplier never can (or indeed the Consumer, who for the most part has limited control over the demand side of the equation and indeed paying him embedded benefits may not be sending the appropriate signal, aside from the obvious contractual issues) If this situation were to lead to a massive expansion in the number of LEGs, to such an extent that the GSP group became a net exporter, the embedded benefits incentive would divert to Suppliers (who are now the opposite to the Trading Unit as whole, i.e. Consumption in a Production Trading Unit) which would remove the incentive from LEGs to expand leading to a natural equilibrium.
Q. Do you agree with the Proposer's view that Licence Exemptible Generators currently stand in a handicapped bargaining position with respect to large Suppliers? If so, do you believe that P100 would resolve this issue?	**YES** Rationale: There is often only a small number of Suppliers in any given GSP group that have the capacity, or are willing, to allow the LEG to realise the benefits available, hence restricting its contracting options. In addition as outlined above this effectively limits the access to embedded benefits and potentially distorts the market signals that they can provide
Q. Do you agree with the Proposer's view that (given the current baseline) small suppliers, consolidators and Licence Exemptible Generators face a competitive disadvantage against other suppliers and generators? If so, do you believe that P100 would resolve this issue?	**YES** Comments: Currently the Suppliers within a GSP group can use embedded benefits as a tool to exclude or restrict competition. Effectively they can cross subsidise the electricity price by offering a higher share of embedded benefits directly to the LEG than they do to other parties (Consolidators/small Suppliers) who would be unable to get the embedded benefits without the larger Suppliers Trading Unit and co-operation.
Q. Would you like to comment on the analysis undertaken by the P100 SSMG concerning embedded benefits?	**NO** Comments:

Q. Bearing in mind your previous replies and the arguments outlined in the draft Assessment Report (Section 4.5 and Annexes 2 & 3), do you believe that P100 would better facilitate BSC Objectives (c) and (d)?	**YES** Rationale: For the reasons stated above.

Would you like to make any further comments relevant to the Assessment Procedure for P100? YES

P100 is being mirrored in philosophy by NGC's Proposed Change to the TNUoS Liability Rules for Embedded License Exemptible Generation and Distribution Interconnectors (UoSCM-M-07). It is important that P100 is progressed at the same speed and in conjunction with the proposed NGC TNUoS charging methodology to ensure that LEGs are not disadvantaged in the interim by any inconsistency.

P100_ASS_002 – NGC

Company: National Grid
Parties represented: One (Transmission Company)

Question	Response
Q. If P100 were implemented, how would Parties and Licence Exemptable Generators be affected in practice?	**Views:** Our view is that Licence Exemptable Generators, depending upon other commercial factors, would be more likely to move from SVA to CVA to realise the full benefits of BSUoS, Transmission Losses and Elexon Charges.
Q. Do you agree with the Proposer's view that there would be **no** dis-benefit for Suppliers as a result of P100?	**NO** Rationale: If a LEG is in an existing trading unit with a single supplier then with P100 any (TNUoS) benefits will be reduced as it will be divided up between the many suppliers in the GSP group on a pro-rata basis rather than between the two parties as now.
Q. Do you agree with the Proposer's view that Licence Exemptable Generators currently stand in a handicapped bargaining position with respect to large Suppliers? If so, do you believe that P100 would resolve this issue?	**UNABLE TO COMMENT** Rationale: As we have no direct knowledge of the commercial arrangement between a Supplier and LEG, we feel it would be inappropriate to comment.
Q. Do you agree with the Proposer's view that (given the current baseline) small suppliers, consolidators and Licence Exemptable Generators face a competitive disadvantage against other suppliers and generators? If so, do you believe that P100 would resolve this issue?	**NO** Comments: The analysis provided in the draft assessment report is inconclusive. The total market data shows that there is an "intermediate" structure (consistent with an emerging market) where there is one dominant Supplier ID per GSP group and an number of other Supplier Ids with a market share over 10%. P100 may allow full realisation of the BSUoS, Transmission Loss and Elexon Charge benefits, but the argument given in the answer below applies for TNUoS.
Q. Would you like to comment on the analysis undertaken by the P100 SSMG concerning embedded benefits?	**YES** Comments: Whilst not strictly under the governance of the BSC, the analysis does not bring out the effects if P100 were to be introduced under the existing TNUoS charging baseline.

	For example, under P100 and existing charging methodology, the TNUoS benefits in a GSP group wide trading unit would be divided amongst all the supplier BM Units on a pro-rata basis according to the demand take. Therefore, the LEGs would still be required to enter negotiations with potentially many counter-parties to recover any TNUoS benefits.
Q. Bearing in mind your previous replies and the arguments outlined in the draft Assessment Report (Section 4.5 and Annexes 2 & 3), do you believe that P100 would better facilitate BSC Objectives (c) and (d)?	**NO** Rationale: Until we are convinced that there is a problem to be solved, we cannot support a re-balancing of the benefits distribution. Therefore, we are not persuaded that P100 better facilitates the BSC objectives.

Would you like to make any further comments relevant to the Assessment Procedure for P100?

The TNUoS Benefits as mentioned in the draft Assessment report are currently subject to a National Grid Charging modification proposal (UoSCM-M-07: "Proposed change to the TNUoS Liability Rules for Embedded Licence Exemptable Generation and Distribution Interconnectors"), which may have a decision from the Authority before P100 reaches the Report stage. This proposal would significantly alter the baseline for TNUoS and could affect the perceived defect the modification is intending to address.

P100_ASS_003 – Innogy

Company: Innogy plc
Parties represented: Npower Ltd, Innogy Cogen Ltd, NP Cogen Trading Ltd, Npower Direct Ltd, Npower Northern Ltd, Npower Northern Supply Ltd, Npower Yorkshire Ltd, Npower Yorkshire Supply Ltd.

Question	Response
Q. If P100 were implemented, how would Parties and Licence Exemptable Generators be affected in practice?	**Views:** To gain benefit from being (a) embedded and (b) within a P100 TU, a LEG would offer volume to individual suppliers, hoping competition between those suppliers would increase the LEG share of the embedded benefits above current levels. However, this percentage will not go above a certain level, since, at some point the costs and overheads involved in contracting with the LEGs will outweigh the benefit retained at supplier end. There may also be a consequential impact on the energy prices that LEGs face. By reducing the benefits retained by suppliers, the costs of dealing with embedded generators will have to be recovered through other means. The trading choice facing suppliers at this point would be to contract with LEGs, with all the associated costs, or to contract with larger generators OTC on pre-negotiated terms, i.e. GTMA, with no imbalance risk and the only incremental costs being that of notification. The latter entails costs of non-standard contracts with individual terms and associated negotiation costs. Consequently, since the cost of contracting is higher, the energy price may well be discounted, in order to maintain prices facing customers.
Q. Do you agree with the Proposer's view that there would be **no** dis-benefit for Suppliers as a result of P100?	**NO** Rationale: The practical outcome of P100 is currently achievable through an, admittedly complex, P7-style Trading Unit. However, the reason that no application of this kind has been made is that the costs must outweigh the benefits. Consequently, it stands to reason that, if

	implemented, additional costs would be incurred by Suppliers and ultimately their customers.
Q. Do you agree with the Proposer's view that Licence Exemptable Generators currently stand in a handicapped bargaining position with respect to large Suppliers? If so, do you believe that P100 would resolve this issue?	**NO** Rationale: It is generally acknowledged that the industry has an oversupply of generation assets. Licence Exempt Generators are unfortunately part of that oversupply. However, we do not believe the P100 would resolve this issue, it could only be resolved through a more fundamental review of the structure of the industry, which is not within the remit of the BSC, and is not addressed by this modification.
Q. Do you agree with the Proposer's view that (given the current baseline) small suppliers, consolidators and Licence Exemptable Generators face a competitive disadvantage against other suppliers and generators? If so, do you believe that P100 would resolve this issue?	**No (for the second question)** Comments: Again, whilst it may be true that problems with the current market structure impact certain parties differently, these problems will not be resolved through this modification.
Q. Would you like to comment on the analysis undertaken by the P100 SSMG concerning embedded benefits?	**YES** Comments: The analysis states that there may actually be fewer suppliers available for contractual arrangements, due to multiple supplier Ids being combined into a single commercial entity. Whilst this may very well be true, it is worth noting that this would not be addressed through P100, but is due to the reasons stated ion previous answers. On a smaller matter, the analysis on the number of potential suppliers does not contain any dates pertaining to the data.
Q. Bearing in mind your previous replies and the arguments outlined in the draft Assessment Report (Section 4.5 and Annexes 2 & 3), do you believe that P100 would better facilitate BSC Objectives (c) and (d)?	**NO** Rationale: P100 does not actually address the defect as described within the Modification. We do not believe that an appropriate solution to the perceived defect is actually within the *vires* of the BSC.

Would you like to make any further comments relevant to the Assessment Procedure for P100?

The current sharing of embedded benefits underwrites the cost to suppliers of dealing with embedded generators. Under P100, CVA LEGs will in effect be offering their energy at the forward curve price in competition with all other players. In practice the TNUoS payment may erode the forward curve since a certain category of player is effectively receiving a subsidy.

P100_ASS_004 – Aquila Networks

Please find that Aquila Networks Plc response to P100 Assessment Consultation is 'No Comment'.

regards
Rachael Gardener

Deregulation Control Group &
Distribution Support Office
AQUILA NETWORKS

P100_ASS_005 – TXU

Respondee: Philip Russell
Parties represented:

Question	Response
Q. If P100 were implemented, how would Parties and Licence Exemptable Generators be affected in practice?	**Views:** See below
Q. Do you agree with the Proposer's view that there would be **no** dis-benefit for Suppliers as a result of P100?	Depends on your view of "disbenefit". From a Supplier's perspective the effect of P100 would be that they may have to pay more money for the same volume of purchases. From the Exempt Generators perspective there is no disbenefit to Suppliers collectively as they will all be in the same position.
Q. Do you agree with the Proposer's view that Licence Exemptable Generators currently stand in a handicapped bargaining position with respect to large Suppliers? If so, do you believe that P100 would resolve this issue?	**YES** Rationale: The data in the draft Assessment report would appear to indicate that this is true in relation to the largest Exempt Generators in a GSP Group. It is less certain in respect of the small Exempt Generators.
Q. Do you agree with the Proposer's view that (given the current baseline) small suppliers, consolidators and Licence Exemptable Generators face a competitive disadvantage against other suppliers and generators? If so, do you believe that P100 would resolve this issue?	Comments: Do not really understand the relevance of this question in the context of P100 given the previous question.
Q. Would you like to comment on the analysis undertaken by the P100 SSMG concerning embedded benefits?	**YES / NO** Comments: It is factually correct.
Q. Bearing in mind your previous replies and the arguments outlined in the draft Assessment Report (Section 4.5 and Annexes 2 & 3), do you believe that P100 would better facilitate BSC Objectives (c) and (d)?	**YES** in respect of c) not sure what relevance d) has. Rationale: By providing a clear route by which the Exempt Generators can access the value of the avoided charges themselves without requiring a Supplier to register their Metering Systems it is likely to result in a greater amount of generation from these sources being available to the market (in terms of trading energy) and hence promote competition in the generation of electricity.

Would you like to make any further comments relevant to the Assessment Procedure for P100? Yes, on Implementation Issues – see 2 below.

1. There are a number of plausible scenarios. It maybe that Suppliers will be willing to offer the Embedded Gens almost all of the value of their avoided charges and a market based price for the energy. In this case the Exempt Generators will continue to be registered in SVA by Suppliers and no changes will be seen at all.

   At the other extreme it may well be that Suppliers do not reach agreement with these Exempt Generators for the purchase of energy (of which the Embedded Benefits is only part) in which case the LEGs will have no alternative but either to join the Code themselves and transfer their Metering Systems from SMRS to CMRS (because they are not allowed to register them themselves in SMRS without a Supply Licence) or create an "umbrella company" to do this and trade energy for them collectively.

   A third scenario would be a half way house where the larger Non Renewable Exempt Generators would accede to the Code and transfer their Metering Systems to CMRS whilst the small Non Renewable ones would stay with Suppliers in SMRS in order to avoid the hassle and the Renewable Exempt Gens would accrue sufficient value from ROCs or LECs within their energy price to remove any incentive they may have to join the Code themselves.

   In summary, P100 would facilitate a better deal for some LEGs but will not guarantee it.

2. In order for the Central Systems to allocate the relevant TLM to the output from the LEGs it needs to know the Total Trading Unit Metered Volume. In order to know this the Central Systems must know which BM Units are in the Base Trading Unit. As the Base Trading Unit is defined in the Mod Proposal as the GSP Group it is necessary to know the relationship between BM Unit ID, the BM Unit Type and its GSP Group. As the only BM Units that can constitute a Base Trading Unit are Supplier BM Units and LEG BM Units and these types of BM Units are already recorded in CRA along with the GSP Group to which they relate, the necessary data exists though the creation of the BTU does need to be done. The definition used in the Mod effectively excludes Embedded Station Demand BM Units and embedded customer demand associated with a (normal) Trading Unit. As Supplier BM Units are either Base BM Units or Additional BM Units, both types will need to be included in the setup together with a process for ensuring that new Supplier BM Units in the GSP Group are added and/or removed when new Supplier Parties are established or Withdrawn.

   If a LEG BM Unit elects to opt out of the BTU and does not establish its own TU then the LEG BMU would be treated like any other delivering TU. I am less clear what happens if it wants to / is allowed to create its own TU in the GSP Group. Does the demand that is associated with the LEG that has opted out get excluded from the BTU Metered Volume?

P100_ASS_006 – British Sugar

Company: British Sugar
Parties represented: None. We are a LEG, and not part of a large vertically integrated electricity company. We buy electricity for 200 sites.

Question	Response
Q. If P100 were implemented, how would Parties and Licence Exemptable Generators be affected in practice?	Different parties will be affected in different ways: **Exemptable generators** like us will clearly benefit from this mod in that we will be able to get closer to the NETA markets without being held to ransom by the large vertically integrated companies who dominate the supply market in our GSPG. We had to re-contract two plants last week. There appeared (we cannot know until/unless P102 is passed) to be three companies who we could trade with and still realise embedded benefits. These companies all have large generation portfolios and largely buy from themselves. Indeed, one refused to buy our output on any terms and another gave an offer well below market rates. Without P100 we had to carry out artificial and complex negotiations to access embedded benefits with these companies whilst selling our output to someone who was prepared access the NETA markets on our behalf. With P100 we will be able to get our power to the market without this problem. This will mean that independent consolidators will be able to compete with the large supply companies on more equal terms to buy power from LEGs. Inevitably this will mean that LEGs will be able to contract with parties other than the dominant supply companies to a greater extent. **Non Physical trading parties**: should have more ability to trade output from LEGs who would otherwise be forced to sell direct to supply companies. This should increase liquidity at the smaller volume end of the NETA markets significantly over time. Smaller suppliers will be able to contract power

	with people like us without being beholden to the large companies (their competitors!) due to the embedded benefits rules. Large Suppliers will be exposed to more competition. In our case, three potential counterparties (and their behaviour) demonstrated a market with too much concentration (which is increasing post TXU) and P100 will free this off (with regards to embedded benefits – although the imbalance pricing system still distorts competition). Large Generators will be impacted in a very minimal way as there will be increasing competition from small generators. The biggest effect on them will be because most of them are actually large suppliers as well.
Q. Do you agree with the Proposer's view that there would be **no** dis-benefit for Suppliers as a result of P100?	Large players will lose some of their ability to lever power out of small generators at below the market price, but this is acceptable because it furthers competition in both generation and supply. If being exposed to competition is a "dis benefit" then YES, but this is a good thing which must be promoted by the BSC.
Q. Do you agree with the Proposer's view that Licence Exemptable Generators currently stand in a handicapped bargaining position with respect to large Suppliers? If so, do you believe that P100 would resolve this issue?	**YES** P100 does address one part of the issue. In our case it will increase the competitiveness of the small companies ("independent consolidators") which we can deal with. They would be able to give us the market price - currently they have to give money away to the dominant companies which are not contributing to the deal and which are supplying their customers with their own in-house generation – and yet still demanding a significant share of the embedded benefits! P100 resolves the embedded benefit issue but not the issue with the imbalance system inherently penalising small players (how do we contract for 0.5MW?)
Q. Do you agree with the Proposer's view that (given the current baseline) small suppliers, consolidators and Licence Exemptable Generators face a competitive disadvantage	**YES** P100 is one step towards addressing this. Given the position of the people we could

against other suppliers and generators? If so, do you believe that P100 would resolve this issue?	contract with, we must have smaller NETA players who are prepared to deal with us. P100 makes these players slightly less uncompetitive. These small players could easily be wiped out (or be prevented from coming into being by the possibility of being wiped out) by the larger players. With the current market (ONE independent consolidator) this is dangerously close to happening now. It is obvious that these "consolidators" suffer a competitive disadvantage – that is why there is still only one despite five or six companies having investigated the prospects. P100 addresses half the problem. A move to single price will address the other half.
Q. Would you like to comment on the analysis undertaken by the P100 SSMG concerning embedded benefits?	**YES** The economic value of embedded benefits is well documented (see DTI paper "The costs and benefits of embedded generation" which was authored by ILEX). P100 will allow LEGs to realize a commercial value for embedded benefits which more closely matches their economic worth by removing the cross subsidy which exists when suppliers keep a share of embedded benefits in exchange for taking output. The argument which large supply companies put forward that the embedded benefits only exists where our embedded generation meets (their) contracted demand was demonstrated to be flawed when they by refused to buy any output from our plants. In this case they wanted to supply all their own customers in the GSPG from their transmission connected power stations and yet still take a share of the embedded benefits which are created when our plants run. It is therefore clear that the embedded benefits appear irrespective of who has contracted the local demand.
Q. Bearing in mind your previous replies and the arguments outlined in the draft Assessment Report (Section 4.5 and Annexes 2 & 3), do you believe that P100 would better facilitate BSC Objectives (c) and (d)?	**YES** As noted above it increases competition to the large VIPs which will benefit both the market through increased number of viable, competitive parties, and customers. It is difficult to imagine how there could be any effective new entrants to the NETA markets until both P100 and the penal dual imbalance

	cashout system are addressed.
Would you like to make any further comments relevant to the Assessment Procedure for P100? **No.**	

P100_ASS_007 – Scottish Power

Name: Man Kwong Liu
Company: Calanais Ltd.
Parties represented: Scottish Power plc; ScottishPower Energy Trading Ltd.; Scottish Power Generation plc.; ScottishPower Energy Retail Ltd.; SP Transmission plc; SP Manweb plc

Question	Response
Q. If P100 were implemented, how would Parties and Licence Exemptable Generators be affected in practice?	Views: The effect would be to allow LEGs to obtain, and retain, all the embedded benefits for themselves. LEGs ought to be entitled to a share of the benefits they provide but, ultimately, the embedded benefits ought to find their way back to customers in the shape of lower charges, and that is only possible if the supplier also gets a share of the benefits. This proposal can only increase suppliers' costs and therefore impact adversely on customers.
Q. Do you agree with the Proposer's view that there would be no dis-benefit for Suppliers as a result of P100?	NO. Rationale: See above. Suppliers would find it more difficult, or impossible, to obtain a share of embedded benefits and that would put up their costs.
Q. Do you agree with the Proposer's view that Licence Exemptable Generators currently stand in a handicapped bargaining position with respect to large Suppliers? If so, do you believe that P100 would resolve this issue?	NO. Rationale: Previous modifications have already provided LEGs with the means to counteract any "handicapped bargaining position" and obtain a fair share of the embedded benefits associated with their plant.
Q. Do you agree with the Proposer's view that (given the current baseline) small suppliers, consolidators and Licence Exemptable Generators face a competitive disadvantage against other suppliers and generators? If so, do you believe that P100 would resolve this issue?	NO. Comments: See previous answer.
Q. Would you like to comment on the analysis undertaken by the P100 SSMG concerning embedded benefits?	NO Comments: No comment.
Q. Bearing in mind your previous replies and the arguments outlined in the draft Assessment Report (Section 4.5 and Annexes 2 & 3), do you believe that P100 would better facilitate BSC Objectives (c) and (d)?	NO. Rationale: The means to achieve a fair deal for LEGs already exist by virtue of earlier modifications. P100 provides no additional benefit. In fact, P100 would allow LEGs to obtain a disproportionate share of embedded

	benefits without the need to undertake normal commercial negotiations, to the detriment of the end customer. This doesn't seem to be enhancing either competition or the efficiency of the trading arrangements.
Would you like to make any further comments relevant to the Assessment Procedure for P100? NO.	

P100_ASS_008 – Alcan Primary Metal

Company: **Alcan Primary Metals – Europe Ltd**
Parties represented: Alcan Primary Metals – Europe Ltd **(Licence-Exempt Generator)**

Question	**Response**
Q. If P100 were implemented, how would Parties and Licence Exemptable Generators be affected in practice?	**Views:** It would increase the market for embedded benefits by permitting all suppliers within a GSP Group (irrespective of demand) to contract for the benefit that the generator affords that GSP Group. LEGs would have more counter-parties with which to trade embedded benefits, improving the likelihood of fairer terms. Smaller suppliers would be able to contract with more and larger LEGs than at present (P7 would only permit this is the competing suppliers agreed to share the export). Larger suppliers would face more competition for embedded benefits. As such this Mod would better facilitate Objective C of the BSC, to facilitate competition.
Q. Do you agree with the Proposer's view that there would be **no** dis-benefit for Suppliers as a result of P100?	**YES** / ~~NO~~ Rationale: Yes, larger suppliers may face more competition, but this is not a disadvantage as defined by the BSC Objectives. Smaller suppliers would be enabled to compete for embedded benefits. No supplier can face greater charges than if the LEG was not present in the GSP Group. Embedded benefits arise from the offsetting of demand by exempt export. Nothing in this principle relates to a supplier. Provided there is sufficient total demand in the GSP Group, the embedded benefit should be realisable. Individual suppliers should not have a right to that benefit unless they contract explicitly for it. P100 would enable embedded benefit to be traded as a commodity and would improve competition for embedded benefits.
Q. Do you agree with the Proposer's view that Licence Exemptable Generators currently stand	**YES** / ~~NO~~ Rationale: Yes, at present if a contractual

in a handicapped bargaining position with respect to large Suppliers? If so, do you believe that P100 would resolve this issue?	agreement for the sharing of embedded benefits between a supplier and generator is not reached – all that benefit is transferred to suppliers in the GSP Group via the GSP Group Correction Factor. Larger suppliers gain the largest share of this smeared benefit. The current arrangements are not therefore – balanced. A LEG stands to lose all benefit, if it does not agree to share on a suppliers terms, whereas a supplier will still gain a share, if no agreement is reached. This situation is exaggerated in GSP Groups dominated by one large supplier, as there may be no viable alternative supplier with which a generator can share embedded benefits.
Q. Do you agree with the Proposer's view that (given the current baseline) small suppliers, consolidators and Licence Exemptable Generators face a competitive disadvantage against other suppliers and generators? If so, do you believe that P100 would resolve this issue?	**YES** / ~~NO~~ Comments: As the realisation of embedded benefits requires that the LEGs export is offset by supplier's demand, there is an advantage for larger participants. Participation in NETA markets require substantial investment in infrastructure which, by the nature of fixed costs, place a greater burden on smaller participants. These fixed costs act as a barrier to participation in these markets. P100 would redress the balance between small and large suppliers by allowing any supplier to earn the full embedded benefit irrespective of size.
Q. Would you like to comment on the analysis undertaken by the P100 SSMG concerning embedded benefits?	**YES** / ~~NO~~ Comments: The Elexon analysis of market shares grossly underestimates the extent of dominance by one or two commercial entities, by failing to aggregate Supplier Ids. Three companies in particular, Innogy, Powergen and LE Group hold multiple supplier Ids, each of which command substantial market shares. For example, supply in the Northern GSP Group, in which Alcan is located, is dominated by npower, npower Northern and npower Yorkshire – all subsidiaries of Innogy. The market share analysis was unhelpfully presented in an anonymous format, on the

	grounds of '*commercial sensitivity*'. As the metered volumes of all BM Units are available to all BSC Parties this is nonsensical. The P100 Assessment Report makes multiple reference (Sections 4.1, 4.3) to a Trading Unit being a set of BM Units that are close to each other. This is misleading and may unhelpfully prejudice responses to the consultation. It must be noted that the BSC states (K4.4.1) that: *Exempt Export BM Units shall belong to the Trading Unit, irrespective of the in Annex K-2*. Further as Supplier BM Units may consist of metered demand throughout a GSP Group, any deemed proximity requirement for a Trading Unit should be no less than the GSP Group.
Q. Bearing in mind your previous replies and the arguments outlined in the draft Assessment Report (Section 4.5 and Annexes 2 & 3), do you believe that P100 would better facilitate BSC Objectives (c) and (d)?	**YES** / ~~NO~~ Rationale: Yes, P100 would better the Objectives of the BSC by facilitating competition for embedded benefits. It would place generators and suppliers on an equal footing in negotiations and all suppliers on an equal basis, irrespective of size. P100 would also remove the present default arrangements where, in the absence of registration embedded benefits default to suppliers (with large suppliers gaining the greatest share) and would redress the balance in negotiations for the sharing of embedded benefits by ensuring that both supplier and generator face losing all benefit in the absence of agreement.
Would you like to make any further comments relevant to the Assessment Procedure for P100? In determining the appropriate recovery of the cost of BSC Modifications that encompass LEGs and other smaller organisations, due account should be taken of the proportionality of those costs for those organisations. It is not appropriate for these organisations to bear the entirety of costs to modify the BSC where such changes are to address inequities, inefficiencies or omissions in the original development of the BSC. Such costs can act as a barrier to entry and participation and as such run counter to Objective C of the BSC, to promote competition.	

P100_ASS_009 – Powergen

Company: Powergen UK plc

Parties represented: Powergen UK plc, Powergen Retail Limited, Diamond Power Generation Limited, Cottam Development Centre Limited, TXU Europe Drakelow Limited, TXU Europe Ironbridge Limited, TXU Europe High Marnham Limited, Midlands Gas Limited, Western Gas Limited, TXU Europe (AHG) Limited, TXU Europe (AH Online) Limited, Citigen (London) Limited, Severn Trent Energy Limited (known as TXU Europe (AHST) Limited), TXU Europe (AHGD) Limited and Ownlabel Energy Limited

Question	**Response**
Q. If P100 were implemented, how would Parties and Licence Exemptable Generators be affected in practice?	**Views:** Under the present regime, LEGs and suppliers avoid certain charges for the use of the transmission system by trading with each other. P100 effectively seeks to remove the suppliers' benefits and pass these to the LEG or the party which registers it. The effect will be that charges are over recovered from suppliers as a whole, and some money will be passed to LEGs (so that the net recovery of money is correct). There is nothing that LEGs have provided in return for these payments other than non usage of the transmission network for which they avoid charges anyway. This represents an arbitrary redistribution of money from suppliers to LEGs, or a cross subsidy. A simple example of this cross subsidy is to consider a situation where there are equal amounts of LEG generation and demand in a GSP Group. In this circumstance under P100, suppliers would be charged based on 100% of their gross demand and the subsequent revenue would be passed to LEGs, even though there had not been any net cost recovery. It has been argued that we do not need to worry about this sort of effect as there is presently far more demand than generation. However, this is a dangerous principle to adopt as if the cost or charging signals to LEGs are distorted then this will encourage more LEGs to come onto the system which would make this situation more likely. This would then require a reconsideration of the charging policy which would change the cost assumptions under which these projects were developed,

	potentially making them less viable. Therefore, it is important that the charging methodology is robust to all scenarios so that the correct messages are given to the market. In practice we believe that this modification has the potential to act against the interests of LEGs. LEG energy as a product on its own is less attractive to suppliers as they are exposed to the imbalance risk for non delivery of that generation, which is not the case if they buy generation through the market. Therefore, there have to be other reasons to buy it. The decision to contract with LEGs takes into account a number of factors including cash-out risk, embedded benefits, market energy price, LEC/ROC benefits and administrative burden. The concern is that by effectively removing embedded benefits from suppliers, then they might consider it not worthwhile contracting with LEGs at all, especially those who cannot provide environmental benefits. However, the detrimental effects of P100 could even be significant enough for some suppliers that they opt to cash-out under the renewable obligation in order to avoid the hassle of dealing with LEGs.
Q. Do you agree with the Proposer's view that there would be **no** dis-benefit for Suppliers as a result of P100?	**NO** Rationale: In the short term there is likely to be a disadvantage to suppliers. Some contracts with LEGs factor the anticipated embedded benefits into the energy price offered to LEGs and these contracts will therefore become uneconomic. Other contracts will need renogotiation, which does not come without cost. However, we believe that in the longer term as contracts expire and suppliers start to work under the new regime, this has the potential to work against the interests of LEGs, by reducing their attractiveness to suppliers and impeding their route to market.
Q. Do you agree with the Proposer's view that Licence Exemptable Generators currently stand in a handicapped bargaining position with respect to large Suppliers? If so, do you believe that P100 would resolve this issue?	**NO** Rationale: The bargaining position argument has not yet been proven. The figures only show the position for BSC Party IDs and a conclusion should not be reached without similar work being done for groups of related Party Ids which form a larger supply business.

	This may show a less concentrated or more concentrated picture as the smaller Party IDs may add up to a supplier with a more significant demand size to rival the largest supplier, or the largest dominant parties may be shown to be more dominant. Additionally, the figures also show demand sizes which presumably will be net of SVA LEG generation. Therefore, a supplier which has been actively contracting with SVA generation will look as if it has a smaller amount of demand. It does not need to be demonstrated that there are a large number of alternative suppliers in the group. Rather, one or two alternative suppliers with enough demand will be sufficient to provide the competitive pressure required. If there are areas with insufficient numbers of suppliers, P100 is still not necessary as P7 was implemented to allow smaller suppliers to get together and achieve embedded benefits if it is in their commercial interest to do so.
Q. Do you agree with the Proposer's view that (given the current baseline) small suppliers, consolidators and Licence Exemptable Generators face a competitive disadvantage against other suppliers and generators? If so, do you believe that P100 would resolve this issue?	**NO** Comments: The issue here is whether there is undue disadvantage. In many markets larger companies attain advantage due to cost or risk reductions that size affords. P100 does not level the playing field, but creates a distortion which disadvantages suppliers and ultimately could disadvantage LEG generation.
Q. Would you like to comment on the analysis undertaken by the P100 SSMG concerning embedded benefits?	**NO** Comments:
Q. Bearing in mind your previous replies and the arguments outlined in the draft Assessment Report (Section 4.5 and Annexes 2 & 3), do you believe that P100 would better facilitate BSC Objectives (c) and (d)?	**NO** Rationale: P100 produces a distortion in the transmission charging arrangements and therefore in the market. It is not conducive to better competition in supply or generation. We believe that this has the potential to ultimately harm the LEG sector most of all.

Would you like to make any further comments relevant to the Assessment Procedure for P100?

Yes. We would like to make some comments on the paper which puts forward the case for P100.

The paper asserts that the debate is about whether embedded benefits are earned by suppliers or by embedded generators. We believe that the debate has been whether embedded benefits are earned by embedded generators and suppliers, or embedded generators on their own. We argue that it is the former whereas the basis of the argument for P100 appears to be that embedded benefits are realised unilaterally somehow by LEGs.

For instance, the argument is made that the supplier has no role in creating embedded benefits because "customers create demand, not suppliers". The supplier is the contractual representative of customers in the wholesale market. A customer could if it wished self supply and sign up to the BSC/CUSC etc. In these circumstances the party "creating" the demand would be the same registering the BMU but would still be detrimentally affected by P100. P100 is not about allowing customers access to embedded benefits, it is about claiming a disproportionate share for the registrant of LEGs.

Another argument is that embedded benefits are a physical phenomenon and therefore contracts should not determine them. This in itself is an acceptable argument if you then accept that all suppliers bring demand to the market and should therefore realise embedded benefits in proportion to the amount of demand they bring. However, the position at present is that there is a contractual route to allow suppliers to obtain more of the embedded benefit than this by contracting exclusively with an embedded generator. This is what allows the embedded generator to claim that it helped a supplier realise the embedded benefit. If you lose the contractual link and rely on the physical argument, then this relationship ceases to be exclusive. In this instance, suppliers should have their charges reduced in proportion to the demand brought to the market. It is not an argument to pay them to LEGs.

The licensing regime is not relevant to the payment of embedded benefits. The fact that suppliers have certain responsibilities in respect of customers is a matter of statutory customer protection. As mentioned above, nothing except normal economics or apathy prevents customers from supplying themselves. Below a certain threshold they do not require a licence.

It is stated that the supplier's central role is to contract for generation and bill customers. To this we would add the role of procuring services to deliver that energy to the customer including paying transmission charges and distribution charges, and to do so as economically as possible. P100 is certainly not conducive to this last element.

It is true that nothing in P100 prevents suppliers from procuring transmission services. This isn't really the point. What P100 does is make suppliers pay too much for transmission services.

P100_ASS_010 – British Gas Trading

Company: British Gas Trading Limited
Parties represented: Accord Energy Ltd, Centrica KL Ltd & Centrica PB Ltd

Question	Response
Q. If P100 were implemented, how would Parties and Licence Exemptable Generators be affected in practice?	We believe that in practise a Suppliers demand could be netted off within a trading unit without the Supplier receiving any benefit. The benefit would accrue to the registrant of the LEG BMU. This is an obvious cross subsidy as for any embedded benefit to accrue in the first place, generation and demand must be matched within a GSP group.
Q. Do you agree with the Proposer's view that there would be **no** dis-benefit for Suppliers as a result of P100?	**NO** Rationale: As stated above, a supplier's demand could be netted off without them receiving any embedded benefit.
Q. Do you agree with the Proposer's view that Licence Exemptable Generators currently stand in a handicapped bargaining position with respect to large Suppliers? If so, do you believe that P100 would resolve this issue?	**NO** Rationale: In order to realise embedded benefits there has to be a match between demand and generation. If LEGs want to contract with a Supplier to realise their share of the embedded benefits then this is purely a matter for commercial negotiation, with both parties able to gain from the embedded benefits. There is currently a glut of generation resulting in all generators having a weak bargaining position, this issue is not unique to LEGs. With the consolidation of the market, there are likely to be a small number of large Suppliers in a specific GSP group, however, these are likely to be the same Suppliers across the majority of GSP groups.
Q. Do you agree with the Proposer's view that (given the current baseline) small suppliers, consolidators and Licence Exemptable Generators face a competitive disadvantage against other suppliers and generators? If so, do you believe that P100 would resolve this issue?	**NO** Comments: We do not believe that smaller suppliers, LEGs or consolidators face an inappropriate competitive disadvantage against other suppliers and generators. We suggest that a larger supplier will want to negotiate with the largest embedded generators from a purely commercial aspect. They will want to net off the largest percentage of their load with

	the smallest amount of work (negotiation), this is not specific to this industry and is usual commercial behaviour. It is this "normal" behaviour that results in lower value contracts for smaller LEGs as they have a smaller net benefit to the Supplier (additional admin/negotiation costs).
Q. Would you like to comment on the analysis undertaken by the P100 SSMG concerning embedded benefits?	**YES** Comments: It would be useful to see the actual number of Commercial entities across GSP groups. We believe that there will be little difference in the Commercial entities between or within GSP groups.
Q. Bearing in mind your previous replies and the arguments outlined in the draft Assessment Report (Section 4.5 and Annexes 2 & 3), do you believe that P100 would better facilitate BSC Objectives (c) and (d)?	**NO** We believe that P100 introduces a cross subsidy within a GSP group, this is due to the mandatory nature of P100. As such we do not believe that this modification further promotes competition (objective c), nor is it efficient is the implementation and administration of the balancing and settlement arrangements (objective d).
Would you like to make any further comments relevant to the Assessment Procedure for P100? No	

P100_ASS_011 – Slough Energy Supplies Ltd

Company:	*Name SLOUGH ENERGY SUPPLIES LIMITED*
Parties represented	*Slough Energy Supplies Limited (the respondent); Fibrepower Slough Limited (generator); Slough Energy Contracts Limited (exemptable generator); Slough Utility Services Limited (exemptable generator).*

Question	**Response**
Q1. If P100 were implemented, how would Parties and Licence Exemptable Generators be affected in practice?	**Views:** The reaction of trading parties will change to optimise their positions in the new situation. Different parties will be affected differently. The trading parties and LEGs will see the following potential effects: Non-physical trading parties: No impact Non-exempt generators: Negligible impact. A few may seek to meter share or consolidate with LEGs, which will be allowed if the P/C Flag of the LEG BMU is set to "P" (which P100 allows without the loss of embedded benefits). This will facilitate competition in generation but is probably only a minor effect in practice. Smaller suppliers: These will be advantaged by P100 in that they will be able to contract with more embedded generation on a competitive basis because their lack of size will not cause loss of embedded benefit. This clearly facilitates competition in supply. Larger suppliers: Under the current arrangements, such suppliers have a competitive advantage due to their size because, as the analysis provided in the Draft Assessment Report suggests, only relatively few of them will have enough demand in certain GSP groups (and in the "average" GSP group) to fully realise embedded benefits. Therefore, P100 will increase competition between such suppliers in the procurement of embedded benefits and they

	will lose their local monopsony power. They will be relatively disadvantaged due to the increase in competition in supply facilitated by P100; but only to the extent of reducing the excessive market power which they enjoy under the current system. Exemptable generators (both Party and Non-party): These will be advantaged by the ability to trade with more parties without loss of embedded benefits. Therefore, they will be able to negotiate more competitive generation contracts. They will benefit from P100 because there will consequently be increased competition for their output – all LEGs will be able to trade competitively with the full range of suppliers. In addition, LEGs will be able to trade with all potential consolidators (either on the Production or, more normally, the Consumption side) without loss of embedded benefit. Consolidators: These parties will be able to register BMUs with exemptable generation included without having to register demand meters sufficient to cover the level of generation. This significant impediment to consolidation will therefore be removed.
Q2. Do you agree with the Proposer's view that there would be **no** dis-benefit for Suppliers as a result of P100?	**YES** **Rationale:** The only reason for forming a Trading Unit on the demand-side is to be able to accrue embedded benefits. Forming an automatic Trading Unit should not affect any existing bilateral contract made between a supplier and LEGs and will not restrict the forming of such contracts in the future. In fact, as more suppliers will be able to form such contracts, this facilitates contracting between suppliers and such generators. As explained in the response to question 1, larger suppliers will lose some market power in forming contracts for embedded generation due to the increased competition which P100 would facilitate for LEGs in the realisation of the value of the embedded benefits. The Proposer emphasises that any

	such reduction in supplier market power is merely correcting the excessive market power which they currently enjoy. The case put in Annex 3 against P100 is misleading on several important points, as is fully explained in the answer to question 7. In particular, the Proposer wishes to address the issue of supposed "cross-subsidy" between suppliers if a particular supplier does not contract for sufficient demand in the relevant GSP group. At the root of this misconception is the belief that suppliers "own" the demand on which embedded benefits are currently calculated and so are the only parties entitled to be paid embedded benefit. The reality is that any embedded generation procured avoids the use of the transmission system in supplying local customers and so relevant transmission charges should not be applied, regardless of who has contracted for that generation. This is illustrated by the statement in Annex 3: *"… the reduction in supplier charges … can be realised by suppliers as a whole without any contractual relationship between the LEG and the supplier. If the generator is not registered in BSC systems the generation will reduce the amount of GSP Group Take in an area, which will result in lower metered volumes for suppliers. However, this effect is smeared across all suppliers in an area through the GSP Group Correction Factor in proportion to their share of the GSP Group's Non Half Hourly metered customers' demand.*" In other words, the contract determines who gets embedded benefit but not the level of embedded benefit. P100 merely reduces the contractual advantage given by the suppliers' monopsony position.

Q3. Do you agree with the Proposer's view that Licence Exemptable Generators currently stand in a handicapped bargaining position with respect to large Suppliers? If so, do you believe that P100 would resolve this issue?	**YES** **Rationale:** LEGs currently stand in a handicapped bargaining position, both in relation to the sale of their output itself and the trading of embedded benefits, for a number of reasons, as explained below. Although the great majority of LEGs, not being BSC parties, do not have imbalance charges imposed on them directly, suppliers trading with LEGs are subject to imbalance charges in respect of the LEG's output or consumption. In practice, however, LEGs have imbalance risk imposed via the contract with their supplier as explained below; and as the majority of LEGs are not BSC parties, they are unable to manage or offset this risk by participating in the NETA markets. This tends to make LEGs unattractive counterparties to the suppliers negotiating to buy their output. As a result, suppliers are either reluctant to contract with LEGs at all or will do so only on terms which effectively pass the entire imbalance risk back to the LEGs, in the form of a substantial price reduction. A key element to this weak bargaining position is that LEGs lack any real alternative than to sell to the few suppliers within their GSP group who have the necessary consumer demand there and are willing to contract with them. The effect is that the market for dealing in the value of LEGs' embedded benefits is very narrow; and this restriction means they are in practice prevented from realising the true value of their generation output. Elexon's own findings, reported in the draft Assessment Report on P100, confirm this view: "the analysis is deemed sufficient to corroborate the Proposer's view that a number of large Suppliers dominate the Supply market within their respective GSP group". There is a considerable body of evidence to support the Proposer's contention that LEGs are in a handicapped bargaining position with regard to large suppliers. The evidence produced by respondents to the DTI's consultation

	of 1st November 2001 included 14 responses from the smaller generator market, including representations from trade associations, which describe the weak position in which LEGs find themselves under the current market structure. It is apparent from those responses that the presence of imbalance charges which LEGs cannot manage is a principal cause of this weak bargaining position. The evidence presented in the responses to the DTI's consultation is corroborated by the Ilex Report "Contractual and Administrative Barriers facing Licence-Exempt Generators under NETA". The Report notes the argument that "suppliers recognise LEGs as being distressed sellers, given that there are limited alternative contracting options open to them". In addition to the number of suppliers under each GSP group, Ilex identify another factor which exacerbates the situation, namely that "the cost and complexity for suppliers in striking deals with LEGs can itself be a disincentive for suppliers". The report concludes that "… it is likely that in many cases, contracting complexity is a dominant factor in terms of restricting the number of supplier offers that LEGs receive to less than might otherwise be the case. This is consistent with anecdotal evidence of contracting negotiations that Ilex has handled on behalf of small generators". It is important to emphasize a point made repeatedly at meetings of the P100 Modification Group, namely that the Proposer is not seeking to allege any abuse of a dominant position or any other anti-competitive behaviour on the part of suppliers, or any other BSC party. As has been pointed out, that would be a matter for investigation by Ofgem, rather than a modification to the BSC. Instead, what has been experienced by LEGs under NETA is suppliers acting in a way which simply reflects the structure of the market in which they and LEGs are operating under NETA. The fault lies with the market structure, rather than any of the participants in that structure and it is this fault in the market which P100 seeks to address (see below). <u>If so, do you believe that P100 would resolve this issue?</u>

	The implementation of P100 would directly address LEGs' handicapped bargaining position as described above and consequently help LEGs to realise the value of their embedded benefits. P100 would give LEGs with embedded output the opportunity to reach agreement with any meter registrant to acquire its embedded benefits, enabling LEGs to sell these benefits to a much wider market, in contrast to the current situation where LEGs can only trade embedded benefits with licensed suppliers with sufficient consumer demand under the relevant GSP group. By widening the number of potential counterparties in this way, it will follow that P100 would create the economic conditions under which competition for the sale of embedded benefits is able to increase, thereby enabling LEGs to realise the true value of their output in the absence of the current market constraint which prevents that value being realised. The Proposer therefore believes that P100 would better facilitate applicable BSC objective (c), by promoting effective competition in the generation and supply of electricity – please see the response to question 6. Rationale:
Q4. Do you agree with the Proposer's view that (given the current baseline) small suppliers, consolidators and Licence Exemptable Generators face a competitive disadvantage against other suppliers and generators? If so, do you believe that P100 would resolve this issue?	**YES** **Comments:** This question deals with a number of issues, which the Proposer would address as follows: (a) <u>Competitive disadvantage of Licence Exemptable Generators against suppliers</u> This issue is dealt with in our response to question 3 above. (b) <u>Competitive disadvantage of smaller suppliers or consolidators against other suppliers and generators</u> The P100 proposal was drafted to address specifically the particular

	difficulties being experienced by LEGs with embedded output under NETA. Whilst there may well be issues relating to the competitive position of small suppliers and consolidators, this is not an issue which is intended to be addressed in P100 and the Proposer does not therefore feel it appropriate to comment on this. (c) <u>Competitive disadvantage of Licence Exemptable Generators against other generators</u> As against other generators, LEGs face specific competitive disadvantages which fall into the following categories: (i) inability to realise the value of their embedded benefits outside the relevant GSP group. This disadvantage is addressed in the answer to question 3 above. As explained, LEGs are at a competitive disadvantage as regards the realisation of the value of their embedded benefits and also in the sale of their generation output itself; (ii) inability to manage their own imbalance risk. The underlying causes are the administrative barriers which make it impractical for many LEGs to participate in the NETA markets, and the lack of liquidity in the markets in respect of the power trades which such LEGs could otherwise make in the course of balancing their position. LEGs therefore have greater difficulty than other generators in managing their imbalance risk. This places LEGs at a competitive disadvantage in selling their generation output, as explained in question 3 above. The administrative barriers and market liquidity difficulties concerned may be summarised as follows: *Administrative Barriers:* There are administrative barriers such as set up costs and

	resourcing requirements which restrict LEGs' access to the NETA markets. For example, the costs of establishing a fully fledged trading desk in the UK Power Exchange are estimated at £1 million to £5 million, with ongoing costs of up to £1 million per annum, in addition to brokerage and settlement fees and credit costs. Together, illiquidity and administrative barriers prevent all but the largest LEGs from trading other than with suppliers in their GSP group. Clearly, this constitutes a competitive disadvantage faced by LEGs as against other generators who are not affected by these constraints. These barriers are described in more detail in the paper by Ilex Energy Consulting – "Contractual and Administrative Barriers facing Licence-Exempt Generation under NETA." *Market Liquidity:* Research carried out on behalf of the Proposer as well as the experience of numerous respondents to the DTI's November 2001 consultation and the Ilex Report "An Objective Assessment of NETA on Small Generators", corroborates the lack of liquidity for LEGs in the relevant markets. The barrier is also referred to in the Ilex report referred to above regarding contractual and administrative barriers. This lack of liquidity for small parcels of power affects LEGs disproportionately to other, larger generators and therefore constitutes a further competitive disadvantage faced by LEGs. The lack of liquidity for LEGs' output contributes to the lack of any real alternative for most LEGs to selling their output to a supplier with consumer demand under the relevant GSP group. As explained above, that is an important cause of LEGs' weak bargaining position with suppliers; and

	(iii) the cost to LEGs of imbalance under the prevailing circumstances of non cost reflective imbalance prices, is in practice greater to LEGs. The lack of cost reflectivity in imbalance charges is explained in a report by Ilex Energy Consulting – "Cost Reflectivity of Imbalance Charges". The additional financial burden on LEGs flowing from non cost reflective imbalance prices is attributable to the following: – LEGs are unable to manage their imbalance risk or to do so as effectively as other generators; and they face disproportionate costs in attempting accurately to predict their output to avoid imbalances (see Ilex Report – "Cost Reflectivity of Imbalance Charges"); and – the economic impact of non - cost reflective pricing is also greater for LEGs (see the paper by Campbell Carr presented to the P95 Modification Group, entitled – "Impact of non-cost reflective pricing on LEGs". If so, do you believe P100 would resolve this issue? As explained in the response to question 3(ii), the implementation of P100 would directly address LEGs' weak bargaining position, by widening the market for the sale of the value of LEGs' embedded benefits and with it their generating output. The implementation of P100 would also indirectly address each of the three additional market barriers identified above (and, in turn, further assist in addressing LEGs' weak bargaining position) as follows: (i) Cost Reflectivity: although P100 would not make imbalance charges any more cost reflective, the wider market for LEGs' embedded benefits would improve LEGs' bargaining position with suppliers, by widening the market into which they can sell. P100 would therefore assist in alleviating the consequences of non cost reflective balancing prices.

	(ii) Illiquidity: by enabling LEGs to sell their output (including the associated embedded benefits) to parties other than those with the required consumer demand under the LEG's GSP group, P100 should improve the terms obtained by LEGs in their negotiations with suppliers and thereby reduce the impact on LEGs of the lack of liquidity for small parcels of power in the NETA market. Therefore, there would be less need to have access to the NETA markets; and (iii) Administrative Barriers: as with the illiquidity barrier discussed above, P100 would not remove the administrative barriers themselves, but would, by enabling LEGs to trade with suppliers more effectively, reduce the effects of these administrative barriers on LEGs.
Q5. Would you like to comment on the analysis undertaken by the P100 SSMG concerning embedded benefits?	**YES** **Comments:** The analysis demonstrates the following: 1. The Proposer's view that there is a lack of competition in the procurement of embedded generation would seem to be amply born out even before the concentration of suppliers through the formation of affiliations between BSC parties is taken into account. P100 will reduce the monopsony advantage that this has conferred on large suppliers. 2. The different embedded benefits, while mostly out of the direct scope of the BSC, would be treated more efficiently from the LEGs' point of view, allowing them to realise a value which better reflects the intrinsic value of their embedded output.
Q6. Bearing in mind your previous replies and the arguments outlined in the draft Assessment Report (Section 4.5 and Annexes 2 & 3), do you believe	**YES**

that P100 would better facilitate BSC Objectives (c) and (d)?	**Rationale:** BSC Objective (c) P100 promotes competition in the generation and supply of electricity, in that: (i) it removes the unjustified and discriminatory barrier under the current system, whereby LEGs can only trade in embedded benefits (and thereby realise the true value of their output) by trading with licensed suppliers with sufficient consumer demand under the generator's GSP group. This is an unjustifiable barrier, given the nature of embedded benefits, as explained in the response to question 2. This leads to a weak bargaining position for LEGs given that there is an artificially limited number of potential counterparties with whom they may trade; (ii) the effect of P100 is to address LEGs' weakened bargaining position by widening the market for their embedded benefits, by enabling LEGs to reach agreement with any meter registrant to acquire these benefits and the associated output. This enables LEGs to sell their embedded benefits into a national market, rather than the current limited market existing under the relevant GSP group. Widening the market for any product puts in place the economic conditions whereby increased competition can occur; and this should therefore lead to LEGs being able to obtain better terms from suppliers, in contrast to the current position where contracts with suppliers reflect the unjustified constraints within which LEGs with embedded output are operating; (iii) the current barrier to LEGs selling their embedded benefits into a wider market is one of a range of barriers faced by LEGs under NETA, as explained in the response to question 4. The effect of these barriers and the resulting disproportionate and damaging effects

	which NETA has had upon LEGs, are well documented. These effects have included withdrawals from the LEG sector and extreme financial consequences for that sector which threaten its continued participation in the generation market. It is hardly in the interests of competition that the LEG sector, which constitutes up to an estimated 8% of the electricity generating market in England and Wales should be placed at risk in this way. By addressing this barrier and its anti-competitive effects, P100 would therefore be promoting competition in generation; (iv) although P100 is a Modification which would distinguish LEGs from other generators, it cannot be said to discriminate against any BSC parties, either unduly or otherwise. It does not discriminate against other generators because it simply removes an existing unjustified barrier relating to LEGs and does not affect the situation for other generators. Likewise, its effect on suppliers cannot be said to be discriminatory. As is explained in the response to question 2, its only effect on suppliers is to remove the unjustified market power which they currently enjoy as a result of an unjustifiable restriction on the parties with whom LEGs may trade their embedded benefits. (v) P100 has the effect of introducing a change to the BSC which assists in causing it to be consistent with: • the duty of Member States under Articles 3(g), 10 and 81 of the EC Treaty not to take any measures which could jeopardise the effectiveness of the rules of competition; • the requirements of Directive 96/92 (the Electricity Directive) that Member States "ensure that electricity undertakings are operated in accordance with the principles of this Directive, with a view to achieving a competitive market in electricity and shall not discriminate between these

	undertakings as regards either rights or obligations"; and • the duties of the Secretary of State and Ofgem pursuant to Section 3A of the Electricity Act 1989. This modification is also consistent with the compliance of the EC with its duties as to competition under the terms of its licence, under the laws of England and Wales and of the European Union. <u>BSC Objective (d)</u> By reducing the number of Trading Units on the demand side to only those necessary to ensure the sole function of such Trading Units is fulfilled, the balancing and settlement arrangements are implemented and administered more efficiently.
Q7. Would you like to make any further comments relevant to the Assessment Procedure for P100?	**Rationale:** These comments relate to the case put in Annex 3 to the Draft Assessment Report, which is seriously misleading. In this section, the headings in that Annex are largely replicated for ease of reference. 1. Gross Charging and Net Charging The distinction made is artificial. NGC is currently consulting on a Gross Charging methodology for TNUoS, whose effect will be "Net". The distinction is false because it concentrates on the application of charges rather than on what is being charged for. What is being charged for is use of the transmission system. If generation is procured locally then the transmission system is avoided and should not be charged for. On a gross charging basis, the embedded generation is treated as negative demand in order to measure the extent of avoided use of the system and on a net charging basis, it is subtracted from demand before applying charges to the residual. A distinction should not be made as to the nature of embedded benefits on the basis of the methodology of applying

	charges. What seems to be implied by "Gross Charging" is that the act of generating necessarily calls for transmission services such as services to provide stability and security. This is putting the case that no embedded benefit exists and so should not be allowed at all. However this is not argued elsewhere in the Annex on the basis that, apparently, suppliers avoid use of the system by procuring embedded generation and so should be allowed to net it off their registered offtake. In fact, the industry has been discussing the issue for 12 years or more and has come to a general consensus that there is a benefit from embedded generation and that NGC should not be charging for services which they do not supply because of the existence of that embedded generation. This benefit includes transmission losses and network capacity, which are not mentioned in the Annex. 2. What are embedded benefits? The statement that "*Embedded benefits only exist under a net charging regime*" is plainly incorrect as the same Annex goes on to demonstrate. If the absence of any contract would cause embedded benefit to accrue to all NHH demand in a GSP group (as quoted from the Annex in answer to an earlier question above), then the netting process is surely simply a means of calculating the embedded benefit charges and does not determine the nature of the embedded benefit. Ofgem defined embedded benefits in the P7 Decision as follows: "*The rationale behind permitting access to embedded benefits is based on the fact that embedded generation is deemed to net off local demand and does not utilise the transmission system.*" This is valid regardless of the existence of a contract with a supplier or whether it is calculated net or gross. 3. Who creates embedded benefits?

	Whilst the Annex correctly points out that embedded generation only avoids use of the transmission system because of the existence of demand, this is not the same as saying that it only exists because that demand is contracted to the same supplier as contracts for the embedded generation. That is what is implied (although not actually stated), in this section of the Annex.

P100_ASS_012 – LE Group

Company: LE Group
Parties represented: LE Group Plc, London Electricity Plc, Jade Power Generation Ltd, Sutton Bridge Power Ltd, West Burton Power, London Power Network Plc, and Eastern Power Network Distribution Ltd, ECS

Question	Response
Q. If P100 were implemented, how would Parties and Licence Exemptable Generators be affected in practice?	**Views:** P100 will have an impact on our settlement system, but the cost is not expected to be material.
Q. Do you agree with the Proposer's view that there would be **no** dis-benefit for Suppliers as a result of P100?	**NO** Rationale: It seems likely that in a number of situations the proposal will alter the balance of advantage between two contracting parties. Therefore we do not agree with the Proposer's view.
Q. Do you agree with the Proposer's view that Licence Exemptable Generators currently stand in a handicapped bargaining position with respect to large Suppliers? If so, do you believe that P100 would resolve this issue?	**NO** Rationale: LEGs can contract with any of the suppliers with enough demand to be able to absorb their output: for all but the largest LEGs, there should be enough potential offtakers for the market to be competitive.
Q. Do you agree with the Proposer's view that (given the current baseline) small suppliers, consolidators and Licence Exemptable Generators face a competitive disadvantage against other suppliers and generators? If so, do you believe that P100 would resolve this issue?	Comments: It is statistically true that larger suppliers, other things being equal, should have a smaller demand forecasting error than smaller suppliers. Similarly, larger consolidators should have an advantage over smaller consolidators. The output of a generator will be more or less controllable depending on a number of circumstances – size is probably not overwhelmingly significant; but generation should usually be more controllable than demand. The question cannot therefore be answered in a simple yes/no way. It is not necessarily appropriate to suggest a 'fix' to the market to correct impacts that are an inherent feature of its design.
Q. Would you like to comment on the analysis undertaken by the P100 SSMG concerning	**NO**

embedded benefits?	
Q. Bearing in mind your previous replies and the arguments outlined in the draft Assessment Report (Section 4.5 and Annexes 2 & 3), do you believe that P100 would better facilitate BSC Objectives (c) and (d)?	**NO** Rationale: We agree with the analysis in Annex 3 of the draft Assessment Report which shows that P100 can lead to cross subsidy between different suppliers, or between suppliers and embedded generators.
Would you like to make any further comments relevant to the Assessment Procedure for P100?	

P100_ASS_013 – Immingham CHP

P100 Assessment Consultation

Thank you for the opportunity to comment on the P100 Assessment Consultation. A response from Immingham CHP is attached.

We strongly support P100, which we believe better facilitates Applicable Objective (c). We also consider that the current rules are discriminatory, in most cases effectively tying LEGs to a local dominant supplier. Embedded generators would be much better able to achieve fair value for embedded benefits if they could access a wider market.

Please let me know if you would like clarification on our comments.

Regards

Barry King

Company: **Andrew Murray, ConocoPhillips**
Parties represented: **Immingham CHP**

Question	Response
Q. If P100 were implemented, how would Parties and Licence Exemptable Generators be affected in practice?	**Views:** P100 would enable LEGs with embedded output to sell these benefits to a much wider market than currently. This would create the economic conditions under which competition for the sale of embedded benefits should increase, enabling LEGs to realise greater value without the existing market constraints.
Q. Do you agree with the Proposer's view that there would be **no** dis-benefit for Suppliers as a result of P100?	**YES**
Q. Do you agree with the Proposer's view that Licence Exemptable Generators currently stand in a handicapped bargaining position with respect to large Suppliers? If so, do you believe that P100 would resolve this issue?	**YES** Analysis of the market share of Suppliers within each GSP Group carried out by Elexon shows that the number of Suppliers with sufficient demand to net off a LEG's generation is extremely limited. In most GSP Groups, there are one or two dominant Suppliers. The number of counter-parties with which to trade embedded benefits is therefore limited. This places the one or two dominant suppliers

	per GSP group in a strong bargaining position which they are utilising. As noted above, P100 would resolve this issue by allowing LEGs to sell into an increased market, increasing competition and thus improving a LEG's bargaining position.
Q. Do you agree with the Proposer's view that (given the current baseline) small suppliers, consolidators and Licence Exemptable Generators face a competitive disadvantage against other suppliers and generators? If so, do you believe that P100 would resolve this issue?	The answer to the first question is "yes". P100 would resolve the problem at least in part. That said, a handful of large suppliers will retain a position of dominance in the wider trading market. Comments: see reasons detailed above
Q. Would you like to comment on the analysis undertaken by the P100 SSMG concerning embedded benefits?	**NO** Comments:
Q. Bearing in mind your previous replies and the arguments outlined in the draft Assessment Report (Section 4.5 and Annexes 2 & 3), do you believe that P100 would better facilitate BSC Objectives (c) and (d)?	**YES** P100 would enable LEGs with embedded output to sell these benefits to a much wider market than currently. This would create the economic conditions under which competition for the sale of embedded benefits should increase, enabling LEGs to realise greater value. This would better facilitate Applicable BSC Objective (c), by promoting effective competition in the generation and supply of electricity.
Would you like to make any further comments relevant to the Assessment Procedure for P100? There is a potential interaction between this modification and NGC charging modifications currently in play (especially UoSCM-M-07). It is recognised that these modifications are not within the current baseline of this modification. However, the identification of any further benefits resulting from the NGC charging modifications could result in lower costs for implementing this modification.	