

## Summary of Correspondence between ELEXON and DTI regarding Issue 24

### Initial ELEXON Enquiry to the DTI (31 July 2006)

ELEXON provided an outline of Issue 24 and a potential solution, noting that the solution involves an Exemptable Generating Plant or a Party acting on its behalf, which is not a Licensed Supplier, taking responsibility for Reactive Import, which the BSC does not currently permit. ELEXON asked if the DTI could provide confirmation that the proposed solution is consistent with the Electricity Act.

### DTI Clarification Request (14 August 2006); ELEXON Response (22, 24 August 2006)

The DTI requested clarification of a number of points. ELEXON provided the DTI with technical clarification, an explanation of the proposed solution, an outline of ELEXON's understanding of the possible problem and the ELEXON legal analysis.

### DTI Advice (4 September 2006)

The DTI identified the key aspect of the query as whether, given that the term "electricity" is not defined in the Act, there is any basis for excluding reactive power from the scope of the term; the DTI stated that there was no basis for such exclusion. The DTI's Legal Team explained that, on the basis of the description (provided by ELEXON to the DTI in its above referenced correspondence) of what constitutes "active" and "reactive" power and how these concepts operate in practice, '...the interpretation of the 1989 [Electricity] Act does not depend on any distinction between different uses of power and it would seem that both "reactive power" and "active power" come within the scope of the term "electricity" as that term is commonly understood.'

### ELEXON Further Questions to the DTI (7 December 2006)

ELEXON sought elaboration from the DTI on behalf of the Group. Further explanation of Issue 24 and potential solution were supplied to the DTI, and the following questions asked:

1. Is the proposed solution consistent with the Act; specifically would it be consistent with the Act if a BSC Party that does not hold an Electricity Supply Licence took responsibility for Reactive Energy Import associated with Active Energy Export.
2. For confirmation of the DTI view as to whether, for the purposes of the Act:
  - 2.1 Active Power **and** Reactive Power together form a 'unified flow' which constitutes 'electricity'; or
  - 2.2 'Electricity' is either Active Power **or** Reactive Power – i.e. Active Power and Reactive Power are each 'single' (and distinct) flows which constitute two separate flows of 'electricity' in their own right.

### DTI Response to Further Questions (1 February 2007)

1. The proposed solution is in our view inconsistent with the Act for the reasons stated in advice of 4 September 2006. We have checked your attached note to see whether it contains any additional information which might impact on our earlier advice but it does not.
2. You ask whether Active Power and Reactive Power together form a unified flow or whether they constitute distinct flows of electricity. This is a technical rather than a legal question. However, it seems to us that, regardless of the answer to the question, the solution outlined in your note still involves the supply of one or more flows of electricity which is unlicensed and that is a matter which you will have to take up with Ofgem.
3. We fully understand that, from a policy perspective, there might be support for the view that the assumption of responsibility for reactive power **shouldn't** constitute a supply but this does not affect the legal analysis of whether, in fact, it does.

**Ofgem Position:** Ofgem is not in a position to provide an opinion on the perceived defect raised under this Issue until it is formally raised as a modification. The Group must decide if there is a defect, and if so determine a solution. If Issue 24 enters the Modification process then Ofgem can provide input, e.g. via provisional thinking.