

4.5. MP Form

Modification Proposal – BSCP40/03	MP No: P268 <i>(mandatory by BSCCo)</i>
Title of Modification Proposal <i>(mandatory by originator):</i> Clarify the P/C status process for exempt BM Units	
Submission Date <i>(mandatory by originator):</i> 31 January 2011	
Description of Proposed Modification <i>(mandatory by originator)</i> <p>This proposal seeks to clarify the BSC text in relation to the process of changing the P/C flag status for exempt export BM Units to correct deficiencies in the existing drafting of K3.5.5. It would do so by ensuring that the process to be followed under the BSC is clear and eliminating a conflict with the CRA Service Description.</p> <p>In particular the proposed modification would ensure that the text in Section K of the Code makes clear that a P/C flag could only be changed for an exempt export BMU with the Lead Party's explicit agreement. The Lead Party's approval is essential in such circumstances owing to the potential impact on its trading/imbalance position.</p> <p>The proposed modification should also address a conflict with the procedure set out in the Central Registration Agent (CRA) Service Description (CSD) at para 5.1.9.</p> <p>Suggested changes are attached as Annex 1. It would place an explicit requirement on BSCCo to consult with the relevant Lead Party prior to determining the P/C flag pursuant to BSC K3.5.2 in circumstances where exempt export status had been granted. The modification group may consider that further changes are necessary to achieve the intent of the modification proposal. The provisions of CSD5.1.9 may also need to be revised in the light of the proposed changes to K3.5.5.</p> <p>The proposed change would be retrospective, to have effect from [the date of implementation of P100 or alternatively] 1 April 2010. The modification group may also wish to consider an alternative formulation of the change proposal on a prospective basis.</p>	
Description of Issue or Defect that Modification Proposal Seeks to Address <i>(mandatory by originator)</i> <p>The text of Section K3.5.5(b) enables BSCCo to determine P/C flag status in circumstances where a lead party does not make a flag election under K3.5.5(a). In such circumstances BSCCo and the CRA determine the flag by applying the provisions of K3.5.2, but they have operationalised this in a situation where a generator gains exempt export status by implementing an automated procedure that does not take into account the flag setting of an existing generator.</p> <p>As this power is exercised immediately on confirmation of exempt export status by the generator, this creates a conflict with para 5.1.9 of the CSD which expressly says that the CRA will take instruction from the lead party of a BMU in setting the P/C flag where a plant takes on exempt export status. This situation has [probably] arisen inadvertently because of flaws in the legal drafting of P100.</p> <p>Because of this defective drafting, it is possible that an existing exempt export generator's flag can be switched without the Lead Party's agreement. The automated procedure was followed in the case of Statkraft when it obtained exempt export status for its Rheidol power station in April 2010, which held P status. This was the subject of a recent Trading Dispute (DA375). In that instance Statkraft did not make an election under K3.5.5(a) but it made clear it wished to retain its existing P status. It did not make an election because it believed the flag had already been set (and an election made), and the CSD says expressly the flag can only be changed by the CRA once an instruction of the Lead Party has been received. However the automated procedure then changed its flag setting to C status overriding the requirements of CSD5.1.9. As the trading party's contract</p>	

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<p>authorisations were against its production account and it continued to make its nominations against the Production account, this had the effect of placing Rheidol into imbalance until the flag setting was changed back under the relevant provisions of BSCP15. The change back occurred some four weeks later.</p> <p>Any trading party reading the provisions of K3.5.5 and CSD 5.1.9 together would reasonably infer that BSCCo and the CRA would only switch the flag after following the procedure under CSD 5.1.9. This did not happen. At the time the BM units involved were the only assets being directly traded by the Lead Party. As the sums involved made a material difference to the small party's imbalance position, we believe the change should be retrospective to at least 1 April shortly before the default flag setting occurred.</p> <p>The modification therefore seeks to clarify the provisions of K3.5.5 so that a P/C flag can only be changed with the agreement or on the instruction of an exempt export generator. It may also be necessary to eliminate the conflict between K3.5.5 and CSD 5.1.9. In this context it should be noted that the Panel recently acknowledged there were inconsistencies in the Code documentation that needed to be addressed.</p> <p>A secondary issue is the drafting of K3.5.5 as it stands. This provides for BSCCo to switch the P/C flag in the absence of election by the Trading Party under K3.5.5(a). The systems solution applied by BSCCo and the CRA applies this power immediately on a BMU achieving exempt export status. This fails to provide the Lead Party with adequate time to make an election.</p>	
<p>Impact on Code (<i>optional by originator</i>) Section K of the BSC will need to be amended. The modification group may consider that there is an alternative means of address the defect.</p> <p>The provisions of CSD5.1.9 may need to be revised in the light of the proposed changes to K3.5.5.</p>	
<p>Impact on Core Industry Documents or System Operator-Transmission Owner Code (<i>optional by originator</i>) None identified</p>	
<p>Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties (<i>optional by originator</i>) None identified</p>	
<p>Impact on other Configurable Items (<i>optional by originator</i>) The modification group should review the CSDs which describe the P/C Flag Status process to remove all potential inconsistencies. CPs may be required subsequently.</p>	

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<p>Justification for Proposed Modification with Reference to Applicable BSC Objectives <i>(mandatory by originator)</i></p> <p>A Trading Party with an exempt export BMU entering the trading arrangements would not necessarily have authorisations to register contracts against both Production and Consumption accounts. In situations where BSCCo determines the flag it should only be with the explicit agreement of the Trading Party. This defect should be addressed owing to the trading/imbalance impacts that changes to the flag setting can have on the trading party.</p> <p>The current drafting of the Code is ambiguous and there is a conflict with the provisions of the CSD. Variances in the interpretation of the Code and CSDs create inefficiency and uncertainty in the settlement and administration of the BSC arrangements potentially creating significant costs for trading parties. The proposed modification will therefore deliver real benefits under Applicable Objective (d) by providing certainty in the interpretation of the Code.</p> <p>These risks disproportionately impact new entrants who may not be fully familiar with the procedures operated by the BSC Agents and administered by BSCCo. The proposed change provides certainty to both BSC Parties and BSCCo as to their obligations and the process to be followed, and so avoid this inefficiency and these costs. This could also enhance competition and therefore better facilitate Applicable Objective (c).</p> <p>With regard to retrospection, the financial consequences of the ambiguity for the impacted party in the case of Statkraft and DA375 were significant in absolute terms (£70,000) but especially relevant to its small trading base. The trading disputes process is itself per force retrospective, and the ambiguities between code documentation only became apparent after the event. We are confident that no other party would be impacted through retrospective rectification and there is no risk of a disorderly market as a consequence.</p> <p>We also believe that enabling retrospective implementation would not breach various principles highlighted in the past by the Authority in its consideration of retrospection (most notably in the case of P210, which also arose from a trading dispute), as:</p> <ul style="list-style-type: none"> ▪ the situation occasioning the loss to the Lead Party was directly attributable to central arrangements; ▪ the interaction of the circumstances could not have been reasonably foreseen. Indeed the mismatch between the CSD5.1.9 and BSC K3.5.5 seems to have arisen as a result of faulty legal drafting for P100. 	
<p>Is there a likely material environmental impact? <i>(optional by originator)</i></p> <p>No</p>	
<p>Urgency Recommended: No <i>(delete as appropriate) (optional by originator)</i></p>	

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Justification for Urgency Recommendation <i>(mandatory by originator if recommending progression as an Urgent Modification Proposal)</i>	
Self-Governance Recommended: / No	
Justification for Self-Governance Recommendation <i>(mandatory by originator if recommending progression as Self-Governance Modification Proposal)</i>	
Should this Modification Proposal be considered exempt from any ongoing Significant Code Reviews? <i>(optional by originator in order to assist the Panel decide whether a Modification Proposal should undergo a SCR Suitability Assessment)</i> It has no impact on the current gas SCR.	

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Details of Proposer:	
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Details of Representative's Alternate:	
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Attachments: Yes / (delete as appropriate) (mandatory by originator)	
If Yes, Title and No. of Pages of Each Attachment: Annex 1: Suggested legal text – 1 page only	

Annex 1

Proposed legal text for Pxxx: Clarify the P/C status process for exempt BM Units

The following legal text (additions in bold) is suggested to Section 3.5.3:

Subject to 3.5.5, the P/C Status of a BM Unit shall be redetermined on each occasion on which:

And to Section K3.5.:

“In the case of an Exempt Export BM Unit, irrespective of the Trading Unit to which the BM Unit belongs, the Lead Party may from time to time elect, by notice to BSCCo and the CRA, whether the P/C Status of the BM Unit is to be Production or Consumption, provided that:

- (a) no such election shall be effective until 28 days (or if later the effective date requested by the Lead Party) after such notice was given to BSCCo and the CRA;
- (b) in the absence of such an election, **and following consultation by BSCCo with the Lead Party,** the the P/C Status of the BM Unit shall be determined in accordance with paragraph 3.5.2.
- (c) **For the avoidance of doubt, should, following such consultation with BSCCo, the Lead Party elect not to re-determine the P/C Status of the BM Unit, the status shall not change and 3.5.2 will not apply.”**