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### SUMMARY OF IMPACTED PARTIES AND DOCUMENTS

As far as BSCCo and the GSMG have been able to assess, the following parties/documents are potentially impacted by Modification Proposal P159.

Parties	Sections of the BSC	Code Subsidiary Documents
Suppliers <input checked="" type="checkbox"/>	A <input checked="" type="checkbox"/>	BSC Procedures <input checked="" type="checkbox"/>
Generators <input checked="" type="checkbox"/>	B <input type="checkbox"/>	Codes of Practice <input type="checkbox"/>
Licence Exemptable Generators <input checked="" type="checkbox"/>	C <input type="checkbox"/>	BSC Service Descriptions <input type="checkbox"/>
Transmission Company <input checked="" type="checkbox"/>	D <input type="checkbox"/>	Service Lines <input type="checkbox"/>
Interconnector <input checked="" type="checkbox"/>	E <input type="checkbox"/>	Data Catalogues <input type="checkbox"/>
Distribution System Operators <input checked="" type="checkbox"/>	F <input type="checkbox"/>	Communication Requirements Documents <input type="checkbox"/>
<b>Party Agents</b>		
Data Aggregators <input type="checkbox"/>	G <input type="checkbox"/>	Reporting Catalogue <input type="checkbox"/>
Data Collectors <input type="checkbox"/>	H <input checked="" type="checkbox"/>	MIDS <input type="checkbox"/>
Meter Operator Agents <input type="checkbox"/>	J <input type="checkbox"/>	<b>Core Industry Documents</b>
ECVNA <input type="checkbox"/>	K <input type="checkbox"/>	Grid Code <input type="checkbox"/>
MVRNA <input type="checkbox"/>	L <input type="checkbox"/>	Supplemental Agreements <input type="checkbox"/>
<b>BSC Agents</b>		
SAA <input type="checkbox"/>	M <input type="checkbox"/>	Ancillary Services Agreements <input type="checkbox"/>
FAA <input type="checkbox"/>	N <input type="checkbox"/>	Master Registration Agreement <input type="checkbox"/>
BMRA <input type="checkbox"/>	O <input type="checkbox"/>	Data Transfer Services Agreement <input type="checkbox"/>
ECVAA <input type="checkbox"/>	P <input type="checkbox"/>	British Grid Systems Agreement <input type="checkbox"/>
CDCA <input type="checkbox"/>	Q <input type="checkbox"/>	Use of Interconnector Agreement <input type="checkbox"/>
TAA <input type="checkbox"/>	R <input type="checkbox"/>	Settlement Agreement for Scotland <input type="checkbox"/>
CRA <input type="checkbox"/>	S <input type="checkbox"/>	Distribution Codes <input type="checkbox"/>
Teleswitch Agent <input type="checkbox"/>	T <input type="checkbox"/>	Distribution Use of System Agreements <input type="checkbox"/>
SVAA <input type="checkbox"/>	U <input type="checkbox"/>	Distribution Connection Agreements <input type="checkbox"/>
BSC Auditor <input type="checkbox"/>	V <input type="checkbox"/>	<b>BSCCo</b>
Profile Administrator <input type="checkbox"/>	W <input type="checkbox"/>	Internal Working Procedures <input checked="" type="checkbox"/>
Certification Agent <input type="checkbox"/>	X <input type="checkbox"/>	<b>Other Documents</b>
MIDP <input type="checkbox"/>		Transmission Licence <input type="checkbox"/>
TLFA <input type="checkbox"/>		
<b>Other Agents</b>		
SMRA <input type="checkbox"/>		
Data Transmission Provider <input type="checkbox"/>		

## **1. DESCRIPTION OF PROPOSED MODIFICATION**

### **1.1 Background: current provisions under H 9.2**

Modification Proposal P159 'Extending the Scope of E-mail Communications under the Code' ('P159', Reference 1) was raised on 28 January 2004 by the Balancing and Settlement Code Panel ('the Panel') in accordance with paragraph F 2.1.1(d)(i) of the Balancing and Settlement Code ('the Code').<sup>2</sup>

P159 proposes to extend the current Code provisions regarding use of e-mail to authorise e-mail as an acceptable medium for all individual notices and communications given in accordance with paragraph H 9.2 of the Code. H 9.2 covers any communications between Parties, BSCCo (including BSC Clearer) and the Panel (including Panel Subcommittees and Modification Groups) under the Code and Code Subsidiary Documents which are not subject to express provisions elsewhere in the Code.

The Panel agreed to raise P159 on the recommendation of BSCCo, and on the grounds that expanding the Code's recognition of e-mail as a form of communication under H 9.2 may better facilitate Applicable BSC Objective (d):

'promoting efficiency in the implementation and administration of the balancing and settlement arrangements'.

In so doing, the Panel took account of the Authority's determination in respect of Approved Modification Proposal P113 'E-mail Communications under the Code' ('P113', Reference 4), which was implemented on 10 July 2003. P113 introduced provisions within H 9.2 that where a general communication is to be given by BSCCo, the Panel, a Panel Committee, a Modification Group, or their respective secretaries, to all Parties (or a class of Parties) simultaneously the communication may be given by e-mail. Prior to P113, H 9.2 only expressly provided for communications to Parties to be sent by post or fax.

### **1.2 Modification Proposal P113**

P113 confirmed BSCCo's existing practice regarding use of e-mail for general communications under the Code and Code Subsidiary Documents – examples of which include ELEXON Circulars, Modification/Change Proposal Circulars, Project Circulars, and notifications relating to Modification Proposals. The Panel, in its recommendation to the Authority regarding P113, agreed that e-mail represents the most efficient means of correspondence for such communications since it enables fast dissemination of information to large numbers of interested parties. The Panel also noted that if these communications were to be sent by means other than e-mail this would add considerably to administration costs for BSCCo, and lengthen the time between the issue and receipt of communications.

In its decision letter concerning P113, the Authority stated that the distribution of general notices by e-mail has demonstrated itself to be as reliable as post or fax, whilst delivering significant gains in administrative efficiency. The Authority also considered that the potential efficiency gains which might result from P113 would outweigh any perceived increase in risk to Parties from use of e-mail.

The Panel and the Authority noted that P113 did not seek at that time to alter the provisions within H 9.2 by which communications are given by BSCCo to individual Parties, as the issues relating to use of e-mail for individual communications were felt to be potentially less self-evident. P113 also did not cover communications from individual Parties to BSCCo, on the same grounds.

More information regarding P113 can be found in the P113 Initial Written Assessment (Reference 5), Modification Report (Reference 6) and Authority decision letter (Reference 7).

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<sup>2</sup> F 2.1.1(d)(i) allows BSCCo to recommend to the Panel any modification which in BSCCo's opinion would better facilitate Applicable Objective (d).

### **1.3 Modification Proposal P159**

P159 argues that, in the period of time following the submission of P113, e-mail has become even more widely acknowledged by Parties as an efficient and cost-effective form of communication – with no material e-mail performance issues being brought to BSCCo's attention following implementation of P113. BSCCo, in recommending that P159 be raised, therefore suggested that an opportune time has been reached at which to consider expanding H 9.2's provisions for e-mail to all other notices and communications between Parties under the Code and Code Subsidiary Documents – including communications sent both from and to BSCCo.

P159 notes that a number of Balancing and Settlement Code Procedures (BSCPs) already envisage individual e-mail communications between Parties, and that P159 would therefore confirm current practice in this regard. Some existing BSCP provisions regarding use of e-mail were carried over during conversion of the Agreed Procedures under the Pool into BSCPs, and thereby led to the inclusion of additional similar provisions under NETA. P159 argues that such provisions have become widely accepted by Parties since NETA Go-Live as an appropriate means of sending and receiving communications to and from BSCCo.

The Code is currently silent on use of e-mail for such individual communications. However, paragraph H 1.5.1 states that in the event of any conflict between the provisions of the Code and the provisions of any Code Subsidiary Document, the provisions of the Code shall take precedence. In recommending that P159 be raised, BSCCo noted the desirability of removing any perceived inconsistency between the Code and Code Subsidiary Documents by expressly confirming existing practice regarding use of e-mail within the Code.

However, P159 recognises that expansion of the current Code provisions to all notices and communications under the Code and Code Subsidiary Documents may also legitimise use of e-mail for communications which are not currently sent (or envisaged to be sent) by such means. The Proposal therefore suggests that a set of express exceptions be developed where it may be inappropriate for individual communications to be given by e-mail.

Finally, P159 considers that some additional rules for the governance of e-mail transmissions may be required in order to reflect the different kinds of communications under the Code and Code Subsidiary Documents. The Proposal suggests that these be included within an appropriate BSCP, such as BSCP38 'Authorisations'.

### **1.4 Process followed to date**

The P159 Initial Written Assessment (Reference 2) was presented to the BSC Panel at its meeting of 12 February 2004, where the Panel determined that P159 should be submitted to a three-month Assessment Procedure by the GSMG. The following section summarises the initial views and discussions of the GSMG at its meetings held on 19 February and 10 March 2004. It is the intention of the GSMG that a Detailed Level Impact Assessment in respect of Parties' own processes and e-mail systems will be requested following the Group's refinement of the solution as a result of the Assessment Consultation responses.

## **2. GSMG'S DISCUSSION OF ISSUES RAISED BY THE MODIFICATION PROPOSAL**

### **2.1 Scope of P159**

P159 seeks to allow use of e-mail for all notices and communications covered by paragraph H 9.2 of the Code. H 9.2 provides for any communications between the following parties under the Code and Code Subsidiary Documents which are not subject to express alternative provisions within the Code:

- BSCCo (including BSC Clearer);
- The Panel (including Panel Subcommittees, Modification Groups and respective secretaries); and
- BSC Parties (including the Transmission Company).

The express exceptions to the provisions of H 9.2 are located in Section O, paragraph O 1.2 – and the following table provides a summary of these exceptions.

<b>Communications outside scope of H 9.2 and P159</b>	<b>Location of provisions</b>
Communications to or from the Authority referenced within Code/Subsidiary Documents.	Not subject to H 9.2 or any other Code provisions regarding medium or deemed receipt.
Communications between Parties (including the Transmission Company) or Party Agents and BSC Agents. <sup>3</sup>	O 1.2.1, further provisions of Section O, Communications Requirements Document, NETA Data File Catalogue.
Communications between BSC Agents and/or Market Index Data Providers (MIDPs).	O 1.2.1(c), Communication Requirements Document, relevant BSC Service Descriptions, BSC Agent/MIDP Contracts, BSCPs etc.
Communications between the Transmission Company and a Party, as governed by the Grid Code.	O 1.2.1(b) and Section Q.
Data transfers between Suppliers, Supplier Agents, Supplier Meter Registration Agents, BSCCo, the Supplier Volume Allocation Agent and the Teleswitch Agent using the Data Transfer Network.	O 1.2.1(d), O 1.4, further provisions of Section O, SVA Data Catalogue and other SVA Code Subsidiary Documents.
Communications specified within Data Catalogues.	In accordance with provisions of relevant Data Catalogue.
Any express provision of the Code/Subsidiary Documents for a communication to be made via the Balancing Mechanism Reporting Service or BSC Website.	As expressly provided within the Code/Subsidiary Documents.

The GSMG therefore clarified that communications between Parties and Party Agents/BSC Agents, communications from and to the Authority, and communications via electronic data flows lie outside the scope of P159.

The GSMG also noted the advice contained within the P159 Modification Group Terms of Reference (Reference 3) that P159 is not intended to alter the provisions implemented for general communications under P113. Although some of the P113 provisions may require amendment in order to reflect additional e-mail communications under P159, assessment of P159 is therefore not intended to 'undo' or review any aspect of P113.

For reference, the current provisions of H 9.2 and exceptions contained in Section O are provided as Annex 1. The P113 provisions are contained in H 9.2.4 - 9.2.6.

The GSMG also recognised that there may be many 'day-to-day' communications between BSCCo and Parties (or between Parties) which fall outside the scope of notices and communications under the Code. These may be sent by e-mail or otherwise, and are not intended to be covered by P159 or by the Code/Subsidiary Documents.

## 2.2 Exceptions to use of e-mail under P159

At its meetings on 19 February and 10 March 2004, the GSMG discussed the suggestion of the Modification Proposal that an additional set of express exceptions should be developed for any individual communications under H 9.2 where use of e-mail would not be appropriate.

<sup>3</sup> The Balancing Mechanism Reporting Agent, BSC Auditor, Central Data Collection Agent, Central Registration Agent, Certification Agent, Energy Contract Volume Aggregation Agent, Funds Administration Agent, Profile Administrator, Technical Assurance Agent, Settlement Administration Agent, Supplier Volume Allocation Agent and Teleswitch Agent.

The GSMG noted that use of e-mail is not existing practice for the communications listed in the table below, and that P159 would therefore introduce use of e-mail for these communications unless express exceptions were made.

<b>Type of communication</b>	<b>Communications where use of e-mail not existing practice</b>
Communications from Parties to BSCCo, the Panel or Panel Subcommittees.	<b>Accession</b> Accession Agreement, Scheme Accession Agreement and Accession Form under Section A.
	<b>Accreditation</b> Communications under BSCP531 including Accreditation Application, Application letter, derogation applications, notification forms, re-certification application.
	<b>Authorised signatories</b> Nomination of authorised signatories under BSCP38.
	<b>BSC Annual Meeting</b> Submission of questions in advance of the meeting under Section B.
	<b>Panel elections</b> Nomination and voting forms under Section B.
	<b>Data disclosure</b> Party's statement to Panel Secretary under Section B that it believes data to be commercially sensitive and should not be disclosed.
	<b>Trading Disputes</b> Communications via BSCP11 forms, including raising a Trading Dispute and requests for escalation.
	<b>Manifest Error claims</b> Communications via BSCP14 forms, including Manifest Error claim form and claim for payment of Error Compensation Amount.
	<b>Supplier Charges</b> Supplier request for escalation of Supplier Charges query under BSCP536.
<b>Metering Dispensations</b> Applications for Metering Dispensations under BSCP32.	
Communications from BSCCo, the Panel or Panel Subcommittees to Parties.	<b>Accreditation</b> BSCCo notification to applicant of Accreditation decision under BSCP531.
	<b>Party Default</b> Default notices from BSCCo under Sections D and H; communications between the Panel and a Defaulting Party through administrators/receivers/liquidators under Section B.
	<b>Trading Disputes</b> Communications via BSCP11 forms, including requests for information and TDC findings. Results of TDC referrals to Panel under Section B.
	<b>Manifest Error claims</b> Communications via BSCP14 forms, including TDC Manifest Error finding form and TDC finding form for compensation claims.
	<b>Supplier Charges</b> BSCCo response to Supplier Charges query under BSCP536.
<b>Metering Dispensations</b> BSCCo acknowledgement of applications, and BSCCo notification of Panel decisions regarding Metering Dispensations under BSCP32.	

Type of communication	Communications where use of e-mail not existing practice
	<b>Invoices and financial statements</b> Invoices, financial statements and other requests for payment issued by BSCCo under Sections D and N, and BSCPs.
Communications from the Panel, Panel Subcommittees and Modification Groups to BSCCo.	<b>BSC Panel Members</b> Employer release letters, indemnity letters & acceptance letters, documents relating to Panel Member contracts, and any Panel vote by correspondence under Section B.
	<b>Panel Subcommittee members</b> Employer release letters and indemnity letters under Section B.
	<b>Modification Group Members</b> Employer release letters and nomination forms under Section F.

The GSMG expressed its desire for use of e-mail provisions to be consistent, and therefore for exceptions to these provisions to be kept to a minimum.

The initial view of the GSMG is that exceptions should be made only where for legal reasons it would not be appropriate to send particular communications solely by e-mail. The Group noted the advice of BSCCo's Legal Department that there is no restriction in law regarding the use of e-mail for any specific notices or communications. However, the Group also noted BSCCo's legal view that it would not be appropriate for some formal notices under the Code/Subsidiary Documents which grant rights or impose obligations, or which require paper signatures, to be sent solely by e-mail.

The following table therefore outlines those communications where the GSMG and BSCCo have provisionally agreed that sole use of e-mail may not be appropriate, and summarises the rationale for each exception.

Exceptions to sole use of e-mail under P159	Rationale for exception
<b>Accession</b> Accession Agreement and Scheme Accession Agreement under Section A.	Represent legal contracts; hard copy signatures required.
<b>Authorised signatories</b> Nomination of authorised signatories under BSCP38.	First nomination of Authorised Persons requires hard copy of signatures for BSCCo's records. Thereafter, authorised signatures may be used by post, fax or e-mail by these Authorised Persons.
<b>Panel elections</b> Nomination and voting forms under Section B.	Post or fax preferable for security, and to enable ease of validation and vote-counting.
<b>Party Default</b> Default notices from BSCCo under Sections D and H; communications between the Panel and a Defaulting Party through administrators/receivers/liquidators under Section B.	Hard copy needed as required to be sent to Party's official address, and addressed to the Party as a company rather than an individual.  These notices impose obligations and their receipt marks the commencement of a default rectification period.
<b>BSC Panel/Panel Subcommittees/Modification Group members</b> Indemnity letters, acceptance letters, documents relating to Panel Member contracts, and any Panel vote by correspondence under Section B.	Hard copy of signatures required for BSCCo's records; represent contract terms/obligations.

The GSMG agreed that, although it would not be appropriate for the above exceptions to be sent solely by e-mail, e-mail could be used providing that the sender additionally issued the communication by post or fax. The Group agreed that, although this would provide the advantage of being able to take any necessary

actions on receiving the e-mail copy, the deemed receipt of such communications (and therefore the timetable of any resulting processes) should be tied to receipt of the 'official' post or fax copy and not the e-mail version.

The GSMG asked BSCCo to clarify whether its intention would be to introduce use of e-mail for invoices and other financial statements as part of the implementation of P159. BSCCo clarified that P159 will introduce the option for BSCCo to send invoices by e-mail at a future point, but that it does not currently intend to do so. The Group noted that any future switch to e-mail invoicing would be appropriately notified to Parties by BSCCo, and that including this option under P159 would remove the inefficiency and costs of any future Modification Proposal being raised to introduce such an option.

The GSMG also asked BSCCo to clarify whether its intention would be to introduce use of e-mail for raising, and communications regarding, Trading Disputes as part of the implementation of P159. BSCCo clarified that BSCP11 already contains existing provisions (since Go-Live) for use of e-mail, including an authorised signatory in BSCP38 for raising Trading Disputes, but that this option is not currently used since use of e-mail is not expressly provided for by the Code. P159 would therefore confirm the option for senders of communications regarding Trading Disputes to use e-mail, in accordance with these existing provisions. BSCCo confirmed that it would welcome this option, since many Parties had previously requested to use e-mail for such communications.

The GSMG therefore agreed that P159 should allow the option of using e-mail for financial communications, including invoices, and communications regarding Trading Disputes.

Respondents are requested to indicate whether they agree with the initial approach of the GSMG that exceptions to sole use of e-mail should only be made for those communications which BSCCo's legal advice indicates should be issued by post or fax. Views of respondents are also requested regarding the GSMG's agreement that such exceptions may be sent by e-mail providing they are additionally sent by post or fax.

Respondents are invited to specify, with supporting rationale, any communications not considered by the GSMG where they believe that sole use of e-mail may be inappropriate.

Respondents are also invited to specify, with supporting rationale, any communications considered by the GSMG as requiring exceptions where respondents believe that sole use of e-mail would in fact be appropriate.

## **2.3 Choice of communications medium under P159**

The GSMG also discussed whether use of e-mail to send and receive notices and communications under P159 should be voluntary by Parties.

The GSMG agreed that an option for Parties to opt in or out of receiving e-mail communications on a 'per communication' basis would outweigh the efficiency benefits of use of e-mail, since it would require BSCCo to put in place additional resources to maintain a register of Parties' preferences for each communication. The Group therefore agreed that this option would not better facilitate the Applicable BSC Objectives.

The GSMG considered an alternative solution whereby Parties could opt in or out of receiving e-mail communications as a whole under P159 (with the exception of those general e-mail communications covered by P113). However, the Group noted that this would still require the maintenance and checking of a register of Parties' preferences, and therefore incur administrative costs.

The GSMG discussed whether use of e-mail for communications under P159 (apart from the express exceptions developed by the Group) could therefore either be mandatory or at BSCCo's discretion. However, the Group noted that Parties might have concerns that this approach would impose use of e-mail on Parties

for issuing communications, and that allowing BSCCo to choose the format for both issue and receipt (and thereby removing this choice for Parties) could potentially be viewed as discriminatory.

The majority of the GSMG therefore agreed that the most efficient approach would be to allow the choice of medium for communications under P159 (i.e. a choice between post, fax or e-mail) to be at the discretion of the sender. P159 would therefore allow the option of issuing communications by e-mail, rather than mandating its use. The GSMG recognised that this approach, unlike those considered above, would largely confirm BSCCo and Parties' existing practices and would therefore have least impact upon BSCCo and Parties' systems and processes.

One member of the GSMG stated that they would prefer the Code and Code Subsidiary Documents to provide certainty as to what medium would be used. However, this member recognised the difficulties involved in allowing Parties or BSCCo to choose a preferred medium for each communication. This member also noted that changing the Code and BSCPs to specify one medium per communication, rather than providing the option of several mediums, would be outside the scope of P159.

Respondents are therefore requested to indicate whether they agree with the initial view of the GSMG that use of e-mail for individual communications under P159 should be at the sender's discretion.

## 2.4 Deemed receipt rules

The intention of P159 is that the provisions for use of e-mail for individual communications follow the existing deemed receipt rules introduced by P113 for general communications.

Under P113, e-mail communications are deemed to be received one hour after being sent or, where the end of this hour falls after 5pm, at 9am the next day – and this is consistent with the provisions for fax communications. Communications regarding Urgent Modification Proposals form a current exception to this rule, and are deemed to have been received one hour after being sent regardless of whether this falls outside of working hours.

To date, the GSMG has not identified any communications covered by P159 which would require exceptions to the existing H 9.2 provisions for deemed receipt.

Respondents are therefore requested to specify any communications under P159 which they believe may require exceptions or additions to the existing e-mail deemed receipt provisions contained in H 9.2.

## 2.5 Additional e-mail governance rules

P159 suggests that expansion of the existing provisions in H 9.2 to cover all notices and communications under the Code and Code Subsidiary Documents may require additional governance rules for e-mail communications to be documented within an appropriate BSCP, such as BSCP38.

### 2.5.1 Existing P113 governance rules

The GSMG clarified that the following areas of e-mail governance had been previously discussed under P113:

- a) Contingency provisions in the event of e-mail failure:
  - i) That in the event of an outage of BSCCo's e-mail system, BSCCo will deploy alternative methods of communication for the duration of the difficulties;
  - ii) That where a Party notifies BSCCo of problems with its own e-mail system, BSCCo will arrange alternative methods of communication with that Party for the duration of the difficulties;

- iii) That the provisions of H 9.2 for e-mail communications were drafted to be consistent with those for post or fax, which do not specify a process to be followed should these communications not be successfully delivered; and
  - iv) That where an e-mail undeliverable receipt is received by BSCCo, BSCCo will undertake best endeavours to contact the Party concerned to verify its address details and arrange an alternative method of communication.
- b) Use of delivery receipts:
- i) That delivery receipts cannot be relied upon as a means of determining receipt of e-mail communications, since they may or may not be generated according to the particular configuration and operation of Party's e-mail systems; and
  - ii) That it remains the responsibility of each Party to maintain the functionality of its e-mail system and advise BSCCo of any changes to its nominated e-mail addresses.
- c) Lack of distinction in H 9.2 between Working and non-Working Days:
- i) That the provisions for e-mail communications were drafted to be consistent with those for post and fax (as drafted at NETA Go-Live), which do not currently make a distinction between a Working and non-Working Day – and that a separate Modification Proposal could be raised by a Party if it was felt that this distinction is required; and
  - ii) That BSCCo's existing practice is that, wherever possible, communications are not issued outside of normal working hours.

The GSMG noted that, during preparation of legal drafting for P113, BSCCo's external legal advisors had confirmed that the P113 Code provisions were consistent with normal industry practice regarding electronic communications. More information can be found in the P113 Modification Report.

The GSMG agreed that the above governance rules should also apply to individual communications under P159.

### **2.5.2 P159 governance rules relating to e-mail undeliverable receipts**

The GSMG queried BSCCo's current practice with regard to undeliverable e-mail receipts received for individual, rather than general, communications. BSCCo clarified that existing practice is to resend the communication by either post or fax, and to contact the Party concerned to advise them of the alternative medium and to verify their e-mail address details. The Group considered whether this existing practice should be included as an obligation within a BSCP, but noted that placing the same obligation in every BSCP or creating a new 'e-mail governance' BSCP seemed an inefficient approach. The GSMG therefore agreed that a caveat should be placed in the existing H 9.2 deemed receipt rules as part of the P159 legal drafting, whereby e-mail communications would be deemed to have been received within the existing P113 timescales providing that an undeliverable receipt was not received by the sender. The Group clarified that this provision should apply regardless of when the undeliverable receipt was received, and therefore include instances where a receipt was returned to the sender after the initial deemed receipt period had passed.

### **2.5.3 P159 governance rules for communications between Parties other than BSCCo**

The GSMG noted that BSCCo has identified provisions within some BSCPs for communications between Parties other than BSCCo or the Panel/a Panel Subcommittee, and which fall within the scope of P159. The Group recognised that some of these provisions already include the option to use e-mail. The GSMG noted that the Parties issuing such communications would be required to comply with the P159 deemed receipt provisions in the Code (and any existing Code/BSCP provisions regarding the content or format of specific communications), but agreed that no additional e-mail governance rules would be required for these communications under P159. The Group considered that this would be consistent with provisions for use of post or fax, which have no additional governance rules for communications between Parties other than

BSCCo or the Panel/Panel Subcommittees. The GSMG noted that such communications form part of processes requiring a large degree of dialogue between two Parties (e.g. a change of Supplier or transfer of a Metering System) – and that it should therefore be for the Parties themselves to arrange the most convenient method of communication and the e-mail address(es) to be used.

#### **2.5.4 GSMG's approach to BSCP changes required by P159**

The GSMG also agreed the following approach with regard to BSCP provisions under P159:

- That (aside from the small number of exceptions to sole use of e-mail agreed by the GSMG) e-mail should be added as an available communication method within all BSCP step tables where this option is not currently provided;
- That BSCP step table references to interfaces such as 'electronic method' or 'electronic or as agreed' should remain unchanged since these incorporate use of e-mail;
- That, where a BSCP requires post or fax authorised signatures for submission of BSCP forms, a process for using an e-mail authorised signature should be introduced if such a process does not already exist; and
- That no new authorised signatories would be required for communications under P159.

The existing governance rules requiring authorised signatories for certain BSCP forms can be found in BSCP38, and a summary of these rules is provided as Annex 2 for reference.

The GSMG agreed that scanned signatures could be used for other communications which were required to be signed, whilst electronic company headers could be used for letters sent by e-mail. The Group agreed that this level of detail was not required as part of the P159 legal drafting/BSCP changes, since BSCCo could advise Parties of the requirements for specific communications upon request or as part of the implementation of P159.

A list of all impacted BSCPs, and a brief summary of the changes required to each, will be provided as part of the P159 Requirements Specification. This Requirements Specification will be issued for impact assessment by Parties, following the GSMG's consideration of the Assessment Consultation responses.

Respondents are therefore requested to specify any additional e-mail governance rules which they believe should be considered by the GSMG for individual communications under P159.

### **3. GSMG'S INITIAL ASSESSMENT OF P159 AGAINST THE APPLICABLE BSC OBJECTIVES**

#### **3.1 Cost and efficiency benefits of P159**

##### **3.1.1 BSCCo**

The GSMG considered that, since P159 would largely confirm existing practice for individual communications between BSCCo and Parties, the cost and efficiency benefits to BSCCo of the *implementation* of P159 would be relatively small. Likewise, the Group noted that the costs of implementing the Modification would be limited to Code legal text and any BSCP changes required to document current practice. The GSMG noted BSCCo's intention to implement P159 with other changes as part of a planned release, in order to minimise these costs.

However, the GSMG recognised that were P159 not made – and existing practice required to change in order to send individual communications by post or fax only – this would both remove efficiency benefits of use of e-mail for BSCCo and result in increased BSCCo administrative costs. The Group noted BSCCo's advice that extra resources would need to be put in place to handle the issue and receipt of all communications by post

or fax, and that such a requirement could result in increased timescales for BSCCo processes such as logging Modification/Change Proposals and consultation responses.

The GSMG also noted that if the option of using e-mail was removed for individual communications which are currently sent by such means, any necessary removal of existing Code Subsidiary Document provisions for e-mail via a Change Proposal would itself incur implementation costs.

### **3.1.2 Parties**

The GSMG considered that the above rationale could additionally be applied to Parties since, whilst implementation of P159 would largely confirm Parties' existing practice with regard to use of e-mail, a requirement to alter existing practice to use of post or fax could result in costs and inefficiencies for Parties. As one example, the Group noted that an insistence on use of post or fax for consultation responses could effectively result in reduced consultation timescales for Parties – since deadlines might need to be brought forward to allow BSCCo to compile response tables using hard copies of responses.

The GSMG recognised that P159 would not alter the number of communications sent to and from Parties under the Code and Code Subsidiary Documents. However, the Group noted that P159 would result in a slight increase in e-mail communications and a corresponding decrease in communications by post or fax, since P159 would introduce use of e-mail for some communications not currently sent by such means (see Section 2.2 above). The GSMG therefore agreed to consult with Parties regarding whether use of e-mail under P159 could result in any additional costs or e-mail system performance issues for Parties.

### **3.1.3 Smaller market participants**

In addition to the benefits identified above, the initial view of the GSMG is that use of e-mail would result in specific cost and efficiency gains to small Parties. The Group noted that e-mail would provide the benefit of receiving communications when off-site, reduce the administrative resource required to handle communications by post or fax, and thereby deliver a potential time-saving between the issue and reading of communications sent to Parties with less administrative resources.

However, the GSMG also recognised a Panel Member's concern that the e-mail systems of smaller Parties might not be equipped to handle large numbers of e-mail communications. The Group noted that this Panel Member had questioned whether e-mail represented an efficient medium for such Parties, and whether any increase in e-mail communications under P159 could potentially disadvantage smaller players through performance issues or costs of upgrading systems. As requested by the Panel in its Terms of Reference for P159, the GSMG therefore agreed to specifically seek consultation responses from small Parties regarding the efficiency of e-mail.

Respondents' views are therefore sought as to whether e-mail represents a cost-effective and efficient medium for communications under H 9.2.

Respondents are also invited to provide views as to the costs or cost-benefits associated with use of e-mail for communications under the Code.

In particular, small Parties are invited to provide views as to the efficiency of e-mail communications for smaller market participants.

## **3.2 Applicable BSC Objectives**

The initial unanimous view of the GSMG is that e-mail represents an efficient and cost-effective medium for communications between individual Parties under H 9.2 of the Code, and that P159 would therefore better facilitate Applicable Objective (d).

Respondents' views are therefore sought as to whether P159 would better facilitate the Applicable BSC Objectives.

For reference the Applicable BSC Objectives are;

- (a) The efficient discharge by the Transmission Company of the obligations imposed under the Transmission Licence;
- (b) The efficient, economic and co-ordinated operation by the Transmission Company of the Transmission System;
- (c) Promoting effective competition in the generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity;
- (d) Promoting efficiency in the implementation and administration of the balancing and settlement arrangements.
- (e) without prejudice to the foregoing objectives and subject to paragraph 3A, the undertaking of work by BSCCo (as defined in the BSC) which is:
  - (i) necessary for the timely and effective implementation of the proposed British Electricity Trading and Transmission Arrangements (BETTA); and
  - (ii) relevant to the proposed GB wide balancing and settlement code;
 and does not prevent BSCCo performing its other functions under the BSC in accordance with its objectives.

## 4. DOCUMENT CONTROL

### 4.1 Authorities

Version	Date	Author	Reviewer	Change Reference
0.1	04/03/04	Kathryn Coffin	Roger Salomone	Chairman review
0.2	05/03/04	Kathryn Coffin	GSMG	Modification Group review
1.0	15/03/04	GSMG		For industry consultation

### 4.2 References

Ref.	Document Title	Owner	Issue Date	Version
1	Modification Proposal P159 'Extending the Scope of E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/P159/p159.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/P159/p159.pdf</a> )	BSCCo	28/01/04	1.0
2	Initial Written Assessment for Modification Proposal P159 'Extending the Scope of E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/P159/P159_IWA.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/P159/P159_IWA.pdf</a> )	BSCCo	06/02/04	1.0
3	Terms of Reference for Modification Proposal P159 'Extending the Scope of E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/stand_group/s/gsmg/current/P159TERMSOFREFERENCE.PDF">http://www.elexon.co.uk/docs/ta/modifications/stand_group/s/gsmg/current/P159TERMSOFREFERENCE.PDF</a> )	BSCCo	24/02/04	1.0
4	Modification Proposal P113 'E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113.pdf</a> )	BSCCo	27/11/02	1.0

<b>Ref.</b>	<b>Document Title</b>	<b>Owner</b>	<b>Issue Date</b>	<b>Version</b>
5	Initial Assessment of Modification Proposal P113 'E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113_IWA.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113_IWA.pdf</a> )	BSCCo	06/12/02	1.0
6	Modification Report: Modification Proposal P113 'E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113_final_mod_report.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113_final_mod_report.pdf</a> )	BSCCo	22/01/03	1.0
7	Authority Decision and Direction in relation to Modification Proposal P113 'E-mail Communications under the Code' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113_Ofgem%20Decision.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/hP113/P113_Ofgem%20Decision.pdf</a> )	Ofgem	09/04/03	1.0

## **ANNEX 1 – CURRENT PROVISIONS FOR COMMUNICATIONS UNDER THE CODE**

*The following extracts, taken from the current versions of Section H and Section O, are included for reference regarding the Code's existing communication provisions. They therefore reflect the current Code baseline, and do not represent legal text in respect of P159.*

### **Section H (version 6.0)**

#### **9.2 Notices**

- 9.2.1 Save as otherwise expressly provided in the Code any notice or other communication to be given by one Party to another under or in connection with the matters contemplated by the Code or the Framework Agreement shall be addressed to the recipient and sent to the address or facsimile number of such other Party provided under Section A.
- 9.2.2 Such notice or other communication, shall be in writing and shall be given by letter delivered by hand or sent by first class prepaid post (airmail if overseas) or facsimile, and shall be deemed to have been received:
- (a) in the case of delivery by hand, when delivered; or
  - (b) in the case of first class prepaid post, on the second day following the day of posting or (if sent airmail overseas or from overseas) on the fifth day following the day of posting; or
  - (c) in the case of facsimile, on acknowledgement of the addressee's facsimile receiving equipment (where such acknowledgement occurs before 1700 hours on the day of acknowledgement) and in any other case on the day following the day of acknowledgement.
- 9.2.3 The provisions of this paragraph 9.2:
- (a) extend to any notice or other communication to be given by or to the Panel, any Panel Committee, any Modification Group or any secretary to the Panel, any Panel Committee or a Modification Group; and
  - (b) apply, mutatis mutandis, to any notice or communication to be given under any Code Subsidiary Document; and
  - (c) are subject to Section O.
- 9.2.4 Notices and communications to be given to all Parties or a class of Parties by BSCCo or any person or body referred to in paragraph 9.2.3(a) may be sent by e-mail in accordance with the relevant BSC Procedure(s).
- 9.2.5 Any notice or communication which may be sent by e-mail shall be deemed to have been received one hour after being sent.
- 9.2.6 Other than in relation to a notice or communication sent by e-mail in respect of an Urgent Modification Proposal, if the time at which a notice or communication sent by e-mail is deemed to have been received falls after 1700 hours on a day, the notice or communication shall be deemed to have been received at 0900 hours on the following day.

**Section O (version 2.0)****1.2 Communications**

1.2.1 Subject to any other specific provision of the Code, and subject to paragraph 1.2.2 and 1.2.3, the arrangements and requirements (including terms as to when the sending or receipt of a Communication is effective) which apply in relation to the various kinds of Communications are as follows (in each case where applicable to any Communication) :

- (a) Communications between (1) any Party and (2) the Panel, BSC Clearer (but not the FAA on its behalf) or subject to paragraph 1.2.3 BSCCo, are to be made in accordance with Section H9.2;
- (b) Communications between the Transmission Company and a Party pursuant to Section Q are governed by the Grid Code as provided in Section Q;
- (c) Communications between (1) Parties (including for the avoidance of doubt the Transmission Company pursuant to Section Q) or Party Agents and (2) BSC Agents (not including SVA Communications except as provided in paragraph 2.1.1(b)) are to be made in accordance with the further provisions of this Section O;
- (d) SVA Communications are to be made in accordance with paragraph 1.4 (and with the further provisions of this Section O, if and to the extent applicable in accordance with paragraph 2.1.1(b));
- (e) the arrangements for making communications between BSC Agents and/or between BSC Agents and Market Index Data Providers shall be contained in the relevant BSC Service Descriptions, BSC Agent Contracts, Market Index Data Provider Contracts and/or BSC Procedures or otherwise as established or approved by the Panel;
- (f) unless otherwise provided in the Code, any other Communications between Parties are to be made in accordance with Section H9.2.

1.2.2 A Communication may be made by being posted on the BMRS or (where to be made by BSCCo or the Panel) by being placed on the BSC Website, in a case where any other provision of the Code expressly so provides.

1.2.3 BSCCo may arrange with any BSC Agent to send and receive Communications by any of the Communications Mediums by which Communications are made between that BSC Agent and Parties.

**1.3 Data Catalogue**

1.3.1 Unless the Panel otherwise approves, any Communication which is specified in a Data Catalogue shall be sent and received in the form and format and using the Communications Medium (where specified) and otherwise in accordance with the requirements set out in that Data Catalogue (or where the Data Catalogue provides options, in accordance with one of the options), but subject as provided in paragraph 1.2.3.

**1.4 SVA Communications**

1.4.1 For the purposes of the Code:

- (a) the "**SVA Data Catalogue**" is the Data Catalogue of that title (including a data interfaces document) relating to certain Communications between SVA data parties;
- (b) "**SVA Communication**" means any Communication which is specified in the SVA Data Catalogue or another Code Subsidiary Document as a Communication to be

made using the Managed Data Network or an alternative approved method of SVA data transfer;

- (c) "**SVA data parties**" means Suppliers, Supplier Agents, SMRAs, BSCCo, the SVAA and the Teleswitch Agent (but does not include the Certification Agent, the Profile Administrator or the TAA for SVA Metering Systems);
- (d) the "**Managed Data Network**" is any third party service approved as such from time to time by the Panel for the purposes of transfers of data relating to Supplier Volume Allocation between inter alia SVA data parties;
- (e) references to an alternative approved method of SVA data transfer are to such alternative method or methods of data transfer as the Panel may approve for the purposes of transferring data to and from SVA data parties in connection with Supplier Volume Allocation and/or SMRS.

1.4.2 SVA Communications shall be sent and received by the relevant SVA data parties using the Managed Data Network or an alternative approved method of SVA data transfer.

## **ANNEX 2 – CURRENT BSCP PROVISIONS FOR AUTHORISED SIGNATURES**

*The following extract, taken from the current version of BSCP38, is included for reference regarding the existing provisions for authorised signatories. This extract therefore reflects the current baseline, and does not represent drafting in respect of P159.*

*A list of the BSCPs which currently require authorised signatories for submission of forms can be found in paragraph 1.6 of BSCP38.*

### **BSCP38 'Authorisations' (version 6.0)**

#### 1.3 Authentication Guidance

Whenever a BSCP form is submitted to BSCCo or a BSC Agent, including those contained in this BSCP38, the level of authentication that is required will depend on the medium by which the form is submitted:

- |            |   |
|------------|---|
| Post       | Forms submitted by post will require passwords and authorised signatures for authentication purposes.   |
| Fax        | All forms submitted by fax will require passwords and authorised signatures, and in addition should be followed up by hard copies delivered by post, if requested.  |
| Email      | All forms submitted by email will require a password and must only originate from the email address registered to the relevant Authorised Person via this BSCP. Any email submissions that contain a correct password but an incorrect originating address will fail validation.  |
| Electronic | Passwords are required when submitting information via Electronic Data File Transfer as required by the specified structure of each flow in the NETA Data File Catalogue. A valid password, together with the access control to a participant's transfer system, will be used to validate electronic data flows. Therefore, each Authorised Person is responsible for ensuring that there is no unauthorised use of the participant's data transfer system. |