



National Grid Company, BSC
Signatories and Other Interested
Parties

*Bringing choice and value
to customers*

Your Ref:
Our Ref: MP No P82
Direct Dial: 020 7901

30 January 2004

Dear Colleague,

**Modification to the Balancing and Settlement Code (“BSC”) – notice in relation to
Modification Proposal P82: “Introduction of Zonal Transmission Losses on an Average Basis”**

On 21 January 2004 the Gas and Electricity Markets Authority (the “Authority”)¹ submitted to judgment in judicial review proceedings, on the basis that its decision of 17 January 2003 approving Modification Proposal P82 was procedurally flawed, and could not stand. A quashing order in respect of the 17 January 2003 decision was made, and the matter was remitted back to the Authority for reconsideration.

The Authority has now reconsidered the Final Modification Report relating to P82 which recommended that: in the event that the Authority determined that P82 should be made, the Implementation Date should be 1 April 2004 where an Authority determination was received by 17 January 2003, and should be 1 October 2004 where an Authority determination was *received after 17 January 2003, but before 31 March 2003*. [emphasis added].

The effect of the quashing order is that the decision made on 17 January 2003 is void, and that, therefore, no Authority determination of P82 has been made. Accordingly, the timetable for an Authority decision and the Implementation Date set out in the Final Modification Report cannot now be met.

Having taken advice from Counsel, the Authority considers that, in these circumstances, Modification Proposal P82 as presented in the Final Modification Report cannot be implemented. Although Section F 2.11.7 BSC gives a power to amend an Implementation Date after a modification has been approved, the BSC does not permit the Authority to vary a timetable for implementation of the Modification Proposal prior to approval (it should be noted

¹ Ofgem is the office of the Authority. The terms “Ofgem” and “the Authority” are used interchangeably in this letter.

that Standard Licence Condition C3.4(c) appears to envisage that the Authority should have such a power, but that the BSC does not currently provide for it).

Accordingly, the Authority has decided formally to reject Modification Proposal P82, on the grounds that the timetable proposed for its implementation has been superseded, and without expressing an opinion as to whether the Proposal would or would not better facilitate achieving the applicable BSC objectives by comparison with the current provisions of the BSC.

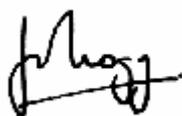
The Authority will in consequence of this decision direct NGC to remove the modifications made to the BSC pursuant to the 17 January 2003 decision on Modification Proposal P82.

A further Modification, P125 which was consequential on the approval of P82, was approved by the Authority on 8 August 2003. This Modification has not been quashed and formally still stands, although it will have no practical effect.

Any new Modification Proposal addressing the question of zonal charging for transmission losses, will be considered on its own merits, in accordance with an assessment against the Applicable BSC Objectives and the Authority's wider statutory duties.

In terms of its overall regulatory approach, the Authority continues to regard the adoption of cost-reflective charging as economically and environmentally beneficial in protecting the interests of consumers.

Yours faithfully

A handwritten signature in black ink, appearing to read 'John Mogg', written in a cursive style.

Sir John Mogg
Chairman, Gas and Electricity Markets Authority