

08 June 2001

The National Grid Company, BSC Signatories and
Other Interested Parties

Your Ref:

Our Ref : BSC/Cod/ModP9

Dear Colleague,

Modification to the Balancing and Settlement Code ("BSC") – Decision and Notice in relation to Modification Proposal P9: Correction of Technical Error In Respect of ECVNs under Section P.2.3 and Adjustment of Settlement Data under Section U.2.5

The Gas and Electricity Markets Authority (the "Authority") has carefully considered the issues raised in Modification Proposal P9: Correction of Technical Error In Respect of ECVNs and the Urgent Modification Report submitted to it by the BSC Panel ("the Panel") which recommended to the Authority that Modification Proposal P9 should be rejected. It has also considered representations made to it by Scottish Power.

The Authority has decided not to direct modification to the BSC.

This letter explains the background to the modification proposal and sets out the Authority's reasons for its decision.

Background to the proposal

On 4 May Scottish Power lodged a Modification Proposal P9 to the BSC to allow for correction of technical errors in respect of the Energy Contract Volume Notifications

(ECVN). In its submission Scottish Power stated that 'at present there has accrued and continued to exist a risk that the Total System Residual Cashflow can be distorted by trades which are notified erroneously through a no fault technical error in the software used by Participants'. The particular circumstance had occurred where trades which took place between production and consumption accounts in order to match off the trading position against the physical flow were affected by a 'technical error' that undermined the position to create a distorted Total System Residual Cashflow. The modification sought to correct the problem by giving parties who suffer such error the ability to correct (retrospectively or otherwise) the data submitted.

An ECVN is effectively a registration with the central systems of an energy trade from one energy account to another and is a fundamental facility of NETA. By trading and notifying the electricity energy volumes into these electricity energy accounts, Parties can schedule generation to match sales and purchase electricity energy to match expected demand. Parties can notify their trades many days in advance and most do so in order to register the bulk of the electricity energy they expect to trade. If parties recognise that there has been an error in contract notification then they have time and the opportunity to refine their position, correct errors and continue with any trimming of their position prior to gate closure.

Prior to the introduction of the New Electricity Trading Arrangements (NETA) there were a number of consultations¹ concerning Manifest Error provisions for Parties placing and accepting bids and offers in the balancing mechanism and Parties' notifications of energy to the Energy Contract Volume Aggregation Agent (ECVA). The conclusions from these resulted in the BSC having no provision for ECVN errors to be disputed or changed once gate-closure has passed.

When a Party has both an active production and consumption account (a vertically integrated generator and supplier) and it wishes to sell energy from the production

¹ Manifest Errors in Balancing Mechanism Transactions, October 2000; Special Provisions for Computing Systems Failures, November 2000; Conclusions Paper February 2001

account to its consumption account, it is necessary to create an internal trade between the accounts so that both can balance. If an internal trade were made in error both accounts would be out of balance even though this would have no impact on physical flows.

Scottish Power requested that the Modification Proposal P9 should be treated as urgent. The Chairman of the Panel agreed with this recommendation. The Authority granted the modification urgent status for the purposes of Section F2.9 of the BSC on 4 May 2001. The Authority also agreed the process and the timescale.

The Modification Proposal

Modification Proposal P9 seeks to modify the BSC so as "to permit BSC Parties to correct submission of ECVNs (retrospectively or otherwise) which are incorrect due to no fault technical error."

The issue or defect sought to be addressed is described variously in the Modification Proposal. For example, the description of the issue refers to "no fault" technical errors, although the concept of "no fault" is not addressed in the drafting proposed. The justification for the modification suggests that the modification should operate to permit amendment only when "there is no physical imbalance resulting from such fault".

ELEXON published a Draft Modification Report on 11th May 2001, which invited respondents' views by 16th May 2001.

Respondents' views

In total, ELEXON received sixteen responses to the consultation on Modification Proposal P9. Of the responses, four expressed support for the proposed modification and ten respondents opposed the proposed modification. Two respondents neither supported nor rejected the modification proposal but called for a broadening of the scope of manifest errors under the BSC and for the proposal to

define a set of circumstances which allows a party to change its ECVNs submissions. Of these two respondents one was opposed to retrospective implementation.

The respondent's views are comprehensively summarised in the Urgent Modification Report for P9 dated 23rd May 2001.

Panel's Recommendation

On 18th May 2001 the Panel considered the Modification Proposal P9, the Draft Modification Report, the views of the Modification Group and the consultation responses received.

The Panel recommended that the Authority should reject the Proposed Modification and issued its urgent Modification Report to Ofgem on 23 May 2001, including its reasons for that recommendation.

Ofgem's view

In most markets, the principle is that losses resulting from errors will lie where they fall. However, there may be very limited situations in which the rules of the market permit corrective action. Generally this must be initiated within a very short period from the error occurring. Section Q of the BSC deals with particular types of error, defined as Manifest Errors. Under the provisions of Section Q notification must be given as soon as practicable. The longest period for notification of an error is 4 hours. This treatment of error notifications is consistent with that adopted in other markets.

Ofgem recognises that, in the initial period of operation of the BSC, errors may have been made by BSC Parties which may have had differing degrees of culpability and effect for the Party concerned and for other Parties. In general and to retain appropriate incentives on Parties to carry out proper checks, Ofgem believes the normal principle as stated above should apply. However, Ofgem does not consider that it would necessarily be incompatible with the BSC Objectives or its statutory

duties for a modification to be made which would add to the categories of error addressed by the BSC or their consequences in a clearly defined manner and which properly delineates the nature of errors to which, and the circumstances in which, it would apply. The period within which remedial action must be initiated would need to be appropriately defined in a manner reflecting the BSC objectives and taking account of the effect on the market of any such provision. The possibility that the concepts may be difficult to address by legal drafting of a suitable modification would not, of itself, be a reason to reject a proposal.

As noted above, Modification Proposal P9 describes the issue or matter which it seeks to address and the nature and purpose of the proposal in several different ways, which could produce different effects both for the person seeking to correct the error and for the other BSC Parties. This lack of clarity could not be resolved by remitting Modification Proposal P9 back to the Panel for legal drafting. It also seeks to allow, without any constraint in time, retrospective correction of such errors.

Ofgem considers that Modification Proposal P9 is insufficiently clear in its purpose, drafting and effect to enable it to be satisfied that it would better facilitate achieving the BSC objectives. Ofgem further considers that lack of a time limit for correction of such errors would not promote efficiency in the administration of the BSC.

Ofgem must be satisfied that the Modification Report which it receives complies with the provisions of Part F of the BSC and that the Panel has followed the appropriate procedure, in this case being the urgent modification procedure agreed with Ofgem and published by Elexon on its Website. Where this has not occurred, Ofgem will, if the failure is material, normally expect to reject the Modification Report (but not the Modification Proposal) and require the failure to be remedied before deciding whether or not to approve the Modification Proposal to which it relates. Once a Modification Proposal has been made, the powers of the Authority in relation to the procedures in Part F are limited to consideration of that issue as described by the Proposer. The scope for any alternative Modification is also limited to that issue.

While no alternative Modification was considered or developed by the Panel, Ofgem considers that, in the light of its view of the lack of clarity as to the issue, the representations made by consultees and the efficient operation of the modification process and notwithstanding the urgency of the matter, it is more appropriate now to reject Modification Proposal P9. Even if it were possible (which we do not believe to the case), now to amend the Urgent Modification Proposal procedure which Ofgem had approved so as to enable a wider Alternative Modification to be developed, the process would be unlikely to be more effective in resolving the issue than the bringing forward of a fresh proposal should such a proposal be forthcoming.

The Authority's decision

The Authority has therefore decided not to direct that Modification Proposal P9 should be made and implemented.

Having regard to the above, the Authority, in accordance with Section F1.1.4 of the BSC, hereby notifies NGC that it does not intend to direct NGC to modify the BSC as set out in Modification Proposal P9, a copy of which is attached to this letter.

Yours sincerely,

Callum McCarthy
Chairman and Chief Executive
of the Gas and Electricity Markets Authority

Modification Proposal

MP No: P9
(mandatory by BSCCo)

Title of Modification Proposal (mandatory by proposer):

Correction Of Technical Error In Respect Of The Energy Contract Volume Notifications Under Section P.2.3 And Adjustment Of Settlement Data Under Section U.2.5.

Submission Date (mandatory by proposer): 04 May 2001

Description of Proposed Modification (mandatory by proposer):

Modification to Section P.2.3 and U.2.5 to permit BSC Parties to correct submission of ECVNS (retrospectively or otherwise) which are incorrect due to no fault technical error.

Description of Issue or Defect that Modification Proposal Seeks to Address (mandatory by proposer):

The Total System Residual Settlement Cashflow under Section T of the BSC is calculated with reference to the imbalance charges arising due to the mis-match of the physical balance of the system as against the trades notified under the BSC.

At present there has accrued and continues to exist a risk that the Total System Residual Settlement Cashflow can be distorted by trades which are notified erroneously through a no fault technical error in the software used by Participants. The position being that where trades have taken place between production and consumption accounts in order to match off the trading position against the physical flow the technical error undermines the position to create a distorted Total System Residual Settlement Cashflow. In order to correct this problem the ability should be given to parties who suffer such error to correct (retrospectively or otherwise) the data submitted to ensure that the correct calculation of the Total System Residual Settlement Cashflow is made.

Impact on Code (optional by proposer):

Paragraph 2.3.6 in Section P.2.3 should be amended by the addition of a new Paragraph 2.3.6A as follows:-

"2.3.6A

Where the Relevant Contract Party has submitted an erroneous Energy Contract Volume Notification due to a technical fault then it shall be entitled to:

(a) amend or vary the Energy Contract Volume Notification (retrospectively or otherwise) under Paragraph 2.3.6 and

(b) the data in respect of such Energy Contract Volume Notification shall be treated as manifestly erroneous pursuant to Paragraph 2.5.6 of Section U.2.5. and the relevant BSC Agent or Relevant Party shall be permitted to correct such data for the purposes of Settlement in relation only to the Settlement Days identified by the Relevant Contract Party and shall inform BSC Co. accordingly. The effect being to permit such corrected data to be taken into account for the purposes of Settlement (retrospectively or otherwise) under Paragraph 2.5.7 of Section U.2.5.

Modification Proposal

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Impact on Core Industry Documents (optional by proposer):

None

Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties (optional by proposer):

None

Impact on other Configurable Items (optional by proposer):

Justification for Proposed Modification with Reference to Applicable BSC Objectives (mandatory by proposer):

The modification is made pursuant to Transmission Licence Condition 7A (3) (d) - promoting efficiency in the implementation and administration of the balancing and settlement arrangements. The Applicable BSC Obligation is fulfilled as it is addressing the general issue of technical fault and is the correction of the position where (i) latent IT fault beyond the control of the BSC Party has caused an incorrect Settlement to occur and (ii) there is no physical imbalance resulting from such fault. It is not the purpose of the balancing and settlement arrangement to be implemented in a manner which imposes, and neither it should be possible for a technical error to result in, a penal charge on a BSC Party and grant other BSC Parties a substantial and disproportionate benefit where there has been no physical imbalance on the GB system and no costs or loss occurring to such other Participants.

Details of Proposer:

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Attachments: NO

If Yes, Title and No. of Pages of Each Attachment: