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21 October 2002

The National Grid Company, BSC Signatories and
Other Interested Parties

Our Ref: MP No P92

Dear Colleague,

Modification to the Balancing and Settlement Code ("BSC") - Decision and Direction in relation to Modification Proposal P92: "Replacement Energy Contract Volume Notifications (ECVNs) and Metered Contract Volume Notifications (MVRNs)"

The Gas and Electricity Markets Authority (the "Authority")¹ has carefully considered the issues raised in the Modification Report² in respect of Modification Proposal P92, "Replacement Energy Contract Volume Notifications (ECVNs) and Metered Contract Volume Notifications (MVRNs)".

The Balancing and Settlement Code Panel (the "Panel") recommended to the Authority that the Proposed Modification P92 be made with an Implementation Date of:

- 30 September 2002 if an Authority determination is made on or prior to 9 September 2002; or
- 15 Working Days after such Authority determination if that determination is made after 9 September 2002.

The Authority has decided to direct a Modification to the BSC.

This letter explains the background and sets out the Authority's reasons for its decision. In addition, the letter contains a direction to The National Grid Company plc ("NGC") to modify the Balancing and Settlement Code ("BSC") in line with Modification Proposal P92, as set out in the Modification Report.

This letter constitutes the notice by the Authority under section 49A Electricity Act 1989 in relation to the direction.

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

² ELEXON document reference P92RR, Version No. 2, dated 21 August 2002

Background

The Panel submitted Modification Proposal P92, "Replacement Energy Contract Volume Notifications (ECVNs) and Metered Contract Volume Notifications (MVRNs)" on 8 July 2002. The justification for the Modification Proposal was that it would better facilitate achievement of the Applicable BSC Objective³ C3 (3) (d), "promoting efficiency in the implementation and administration of the balancing and settlement arrangements".

The Panel considered the Initial Written Assessment at its meeting of 18 July 2002. Since ELEXON had presented a paper on the issue to the Panel on 13 June 2002, the Panel considered that the subject was sufficiently well understood that Modification Proposal P92 should be sent directly to the Report Phase.

The Modification Proposal

Sections P2.3.5 and P3.3.5 of the BSC detail how replacement ECVNs and MRVNs supersede existing notifications, but include the condition that the notification to be replaced remains "in force". This drafting has resulted in a number of queries being raised as to whether an initial notification must be "in force" before it can be replaced by a second notification. The consequence of such an interpretation would be that it might not be possible to replace a notification until Gate Closure for Settlement Periods affected by the first notification has passed. This interpretation is neither consistent with the operation of the ECVA systems nor is it the interpretation widely accepted by BSC Parties, and it is restrictive on business operations since it could lead to a Party incurring imbalance charges before the replacement notification takes effect.

Modification Proposal P92 seeks to modify the BSC so as to remove the condition that the notification to be replaced remains "in force". The Proposer considers that the adoption of this proposal would remove ambiguity in relation to replacement notifications and clarify the position as to when such replacement notifications come into effect.

During the course of drafting the legal text it was considered that Modification Proposal P92 should also seek to add more rigour to the use of the term "in force" in the context of replacement notifications, as covered in Sections P2.3.5 and P3.3.5. This has resulted in a proposed change to Section P1.3.2 to specify that a notification is "in force" from the first Settlement Period of the "effective from" date (subject to Gate Closure not having passed) until the last Settlement Period of the last Settlement Day for which a date is specified, or until replaced.

ELEXON published a draft Modification Report on 25 July 2002, which invited respondents' views by 1 August 2002.

³ The Applicable BSC Objectives, as contained in Condition C3 (3) of National Grid Company's Transmission Licence, are:

- a) the efficient discharge by the licensee of the obligations imposed upon it by this licence;
- b) the efficient, economic and co-ordinated operation by the licensee of the licensee's 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.

Respondents' views

ELEXON received eleven responses to the consultation on Modification Proposal P92. Nine responses (representing 38 Parties) expressed support for the proposed Modification and the remaining two (representing 3 Parties) replied with "No comment".

The respondents' views are summarised in the Modification Report for Modification Proposal P92, which also includes the complete text of all respondents' replies.

Panel's recommendation

The Panel met on 15 August 2002 and considered the Modification Proposal P92, the draft Modification Report and the consultation responses received.

The Panel recommended that the Authority should approve the Proposed Modification and that, if approved, the Proposed Modification should have an Implementation Date of:

- 30 September 2002 if an Authority determination is made on or prior to 9 September 2002; or
- 15 Working Days after such Authority determination if that determination is made after 9 September 2002.

Ofgem's view

Ofgem considers, having had regard to its statutory duties, that Modification Proposal P92 will better facilitate achievement of the Applicable BSC Objectives, since it clarifies how replacement ECVNs and MRVNs supersede existing notifications. This clarification is consistent with the most widely accepted interpretation of the current trading rules and so should have no adverse impact on industry trading systems and participants, while removing the degree of ambiguity that currently exists. It is Ofgem's view that the adoption of this clarification will, in turn, promote efficiency in the implementation and administration of the balancing and settlement arrangements.

Ofgem notes that the Modification Proposal also seeks to clarify the use of the term "in force" when used in respect of replacement notifications. The Initial Written Assessment of Modification Proposal P92 stated that this term occurs throughout Section P on 35 different occasions, but the legal text of the proposed modification only considers the effect of the change in 12 of these instances, ie where it specifically refers to replacement notifications. In the interest of providing prompt clarification of an ambiguity in the Trading Arrangements and because the issues were of a minor nature, Modification Proposal P92 was sent directly to the Report Phase. The potential impact of the proposed change on all 35 instances of the term "in force" was not assessed. Ofgem has approved this Modification Proposal on the grounds that it better facilitates achievement of the Applicable BSC Objectives, while acknowledging that rationalisation may be required as regard the other 23 occurrences of the term "in force" throughout Section P. Such an action should identify if any further ambiguities or inconsistencies exist.

Ofgem agrees with the Panel's recommendation that Modification Proposal P92 should be made and implemented.

The Authority's decision

The Authority has therefore decided to direct that the Proposed Modification P92, as set out in the Modification Report for Modification Proposal P92, should be made and implemented.

Direction under Condition C3 (5) (a) of NGC's Transmission Licence

Having regard to the above, the Authority, in accordance with Condition C3 (5) (a) of the licence to transmit electricity granted to NGC under Section 6 of the Electricity Act 1989 as amended (the "Transmission Licence"), hereby directs NGC to modify the BSC as set out in the Modification Report.

The Implementation Date for Modification Proposal P92 is 15 Working Days after the date of this decision letter, that being the day on which the Authority decided to approve the Modification Report.

In accordance with Condition C3 (5) (b) of NGC's Transmission Licence, NGC shall modify the BSC in accordance with this direction of the Authority.

If you have any questions, please contact me on the above number.

Yours sincerely,



David Edward

Head of Electricity Code Development

Signed on behalf of the Authority and authorised for that purpose by the Authority