



URGENT MODIFICATION REPORT for Modification Proposal P181 NGC Emergency Instruction re Damhead Creek 19.5.04: Deferral of Settlement Process

Prepared by: ELEXON on behalf of the BSC Panel (the 'Panel')

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RECOMMENDATIONS

Having considered and taken into due account the contents of draft P181 Urgent Modification Report, the Balancing and Settlement Code Panel recommends:

- **that Proposed Modification P181 should not be made;**
- **in the event the Authority determines Proposed Modification P181 should be made; an Implementation Date of 2 Working Days following an Authority Decision²; and**
- **the proposed text for modifying the Code, as set out in the Urgent Modification Report.**

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¹ The current version of the Balancing and Settlement Code (the 'Code') can be found at <http://www.elexon.co.uk/bscrelateddocs/BSC/default.aspx>

² In order to implement P181 at the R3 Run, an Authority decision would be required 3 Working Days before the 15 December 2004 (in order to allow the BSC Agent sufficient notice of the change to the contents of the R3 Run) i.e. by close of business 9 December 2004. If a decision is received after this date P181 will have not practical effect.

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SUMMARY OF IMPACTED PARTIES AND DOCUMENTS

The following parties/documents have been identified as being potentially impacted by Modification Proposal P181.

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

1 DESCRIPTION OF PROPOSED MODIFICATION AND ASSESSMENT AGAINST THE APPLICABLE BSC OBJECTIVES

1.1 Proposed Modification

Modification Proposal P181 'NGC Emergency Instruction re Damhead Creek 19.5.04: Deferral of Settlement Process' (P181) was raised on 16 November 2004 by Economy Power. P181 seeks to defer the processing within Settlement of the Emergency Instruction issued on the 19 May 2004, such that the associated Acceptance Data would not be included in Settlement until the Final Reconciliation Run (RF) scheduled for July 2005.

Under the current baseline, in accordance with Section Q5.1.3 (b) of the Code, an Emergency Instruction issued in respect of a BM Unit under the Grid Code is classed as an Acceptance for the purpose of Settlement. Currently Acceptances resulting from Emergency Instructions are not distinguished within Settlement; therefore the Acceptance Volume resulting from an Emergency Instruction will have the following effect:

- The Lead Party of the affected BM Unit will be paid (or pay) for the Acceptance at the prevailing Bid or Offer price via the Period BM Unit Cashflow;
- As a result of the impact on the Period BM Unit Cashflow for the Lead Party of the affected BM Unit, there will be an impact on Balancing System Use of System (BSUoS) charges for all Parties; and
- The Acceptance Volume will feed into the Imbalance Price calculation at the prevailing Bid or Offer price. This may, subject to the existing tagging rules, impact imbalance payments, and consequentially Residual Cashflow Reallocation Cashflow (RCRC), for all Parties.

The first Emergency Instruction was issued under NETA on 19 May 2004, details of this incident were outlined in ELEXON Circular (EL01201) and are summarised here.

On 19 May 2004, it was determined that a piece of high voltage equipment was showing signs of distress and needed to be taken out of service as soon as possible in order to prevent an unsafe situation. The location of the distressed equipment meant that it was necessary to stop Damhead Creek Power Station exporting to the Transmission System. At 12:51 BST on 19 May 2004, NGC issued an Emergency Instruction to Damhead Creek Power Station to perform a controlled shutdown and desynchronise the BM Unit as quickly as possible. The power station complied with the instruction and the equipment was isolated safely.

In this case, the prevailing Bid Price for a large proportion of the Acceptance Volume was £-9,999/MWh. NGC initially postponed submitting the Acceptance Data (into Settlement) due to the likely Settlement implications for Market Participants. A Trading Dispute was eventually raised by Damhead Creek Power Station in order to include the Acceptance in Settlement.

The Trading Disputes Committee (TDC) heard the Trading Dispute on 19 August 2004 and agreed that a Settlement Error had occurred. In accordance with paragraph W4.1.1, of the Code, the TDC directed that a Bid Acceptance should be entered into Settlement in the R3 Reconciliation Run on 15 December 2004. Inclusion of the Acceptance Data will impact the calculation of System Sell Price (SSP) for the relevant periods. ELEXON's initial estimate of the revised SSPs which will result from the inclusion of the Bid Acceptance was:

- -£96.68/MWh in Settlement Period 27³; and

³ NB: A negative SSP will mean that a Party who was 'long' during the Settlement Period will pay the absolute value of SSP for its imbalance volume (rather than receive it).

- -£5,870.87/MWh in Settlement Period 28.

NGC has also indicated that the £3.55M cost of the Bid Acceptance and the associated impact on Incentivised Balancing Costs will result in changes to BSUoS charges for the relevant periods.

The processing of this Emergency Instruction is potentially subject to Modification Proposal P171 'Retrospective removal of Emergency Instructions taken for System reasons from Imbalance Price' (P171). P171 seeks to remove Emergency Instructions issued for System balancing reasons from Energy Imbalance Prices and would apply on a retrospective basis (i.e. would apply to the Damhead Creek Emergency Instruction). P171 is currently being considered by the PSMG with the Modification Report scheduled for provision to the Authority mid January 2005. Hence, an Authority decision on P171 would not be made prior to the scheduled entry of the Emergency Instruction into Settlement on the 15 December 2004.

Were P181 Approved the Acceptance Data would not be entered into Settlement until the RF Run, therefore Trading Charges associated with the Damhead Creek Emergency Instruction would not be realised until the RF Run (July 2005). In addition, the delay potentially means an Authority determination on P171 would have been made prior to the Acceptance Data being entered into Settlement (this interaction is considered in section 1.3.4).

1.2 Process Followed

On submission, the Proposer requested that P181 be treated as urgent, on the grounds that inclusion of the Emergency Instruction in the R3 Settlement Run on 15th December 2004 would impose a disproportionate and significant cost on a wide number of BSC Parties, including Economy Power, and would adversely affect competitive ability. Further, it was the view of the Proposer that it would be inefficient to apply these charges while Modification P171 is in discussion, only to realise the possibility of repayment once the outcome is resolved.

The Panel were of the view P181 should be treated as urgent, on the grounds of its link to an imminent date related event, consequentially the Panel requested the Authority grant urgent status. The Authority granted urgency on 18 November 2004 and the modification has been progressed to the following timetable:

ACTIVITY	DATE
Modification Group Meeting 1 – Agree issues/requirements/principles for consultation	22/11/04 10:00
Issue consultation document	Close of Business 23/11/04
Consultation response deadline	Close of Business 29/11/04
Modification Group Meeting – Consider consultation responses and formulate arguments for the draft Urgent Modification Report.	30/11/04 10:00
Panel Meeting to decide on Final Recommendations in Urgent Modification Report	2/12/04
Final Urgent Modification Report to the Authority	3/12/04
Final date to allow implementation prior to 15 December 2004	9/12/04

The Pricing Standing Modification Group (PSMG) met twice (on the 22 and 30 November 2004) to consider P181 and provide a recommendation to the Panel on whether or not P181 would better facilitate the Applicable BSC Objectives. P181 was also issued for participant consultation and impact assessment in accordance with the timetable set out above.

The Panel considered the draft Urgent Modification Report (based on the discussions of the PSMG) at its meeting on 2 December 2004. Having noted the contents of the draft Urgent Modification Report and consultation responses, the Panel agreed the contents of this report.

1.3 Issues raised by the Proposed Modification

The following issues were considered during the Modification Procedures for P181:

- Cashflow impact on all Parties;
- Interaction with BSUoS charging;
- Deferral of liabilities;
- Interaction with P171;
- Precedents;
- Legal drafting;
- Implementation approach; and
- Potential Alternative Modifications.

1.3.1 Cashflow impact on Parties

The Modification Proposal itself refers to the impact on Economy Power's financial position during the winter season. The PSMG have considered the cashflow impact for all Parties, it was noted that a number of Parties, who would potentially benefit from the inclusion of the Emergency Instruction within Settlement, would not realise these benefits until the RF Run should P181 be approved.

The PSMG have considered the charges that will arise as a result of inclusion of the Emergency Instruction in Settlement on the 15 December 2004. It was noted that, at a high level, the impact will be as follows:

- A payment **to** the Lead Party of the affected BM Unit as a result of the Bid Acceptance;
- A payment **from** the Transmission Company to the Lead Party of the affected BM Unit as a result of the Bid Acceptance. This amount would eventually be recovered from all Parties via BSUoS charging outside the BSC;
- A payment **from** all Parties that were long in the affected Settlement Period due to the large negative SSP which results from inclusion of the Bid Acceptance in Energy Imbalance Prices; and
- A payment **to** all Parties proportional to Credited Energy Volume in the Settlement Period via RCRC due to an increase in the Total Residual Cashflow (resulting from increased payments by Parties that were long in the affected Settlement Periods).

Under P181, Parties due to receive an overall payment from the Damhead Creek Emergency Instruction would be subject to a delay in receipt of this payment (i.e. from R3 to RF). Similarly, Parties that would be required to make an overall payment in relation to the Damhead Creek Emergency Instruction would have this expenditure delayed. The PSMG have considered the implications of this in terms of how interest is accounted for between Reconciliation Runs.

Under Section N 6.4.2 of the Code, interest is paid on Reconciliation Trading Charges at the Base Rate:

"6.4.2 Subject to paragraph 5, each Payment Party shall following each Reconciliation Settlement Run be liable to pay to, or (as the case may be) entitled to receive from, BSC Clearer an amount calculated as being:

(a) the amount of the difference determined under paragraph 6.4.1; plus

- (b) *an amount in lieu of interest calculated by applying the Base Rate to the amount of such difference in respect of the period since the last Payment Date to the relevant Reconciliation Payment Date.”*

The PSMG noted that, since Reconciliation Trading Charges account for interest between Runs at the Base Rate, the materiality of P181 is the difference between the Base Rate⁴ and the ‘capital rate’ an individual Party could earn (or must pay) outside the Code (e.g. interest incurred on a loan or rate of growth via investment) as follows:

- Parties due to benefit from the Damhead Creek Acceptance would be at a **Dis-Benefit = R3 Payment * (Individual Party’s Capital Rate - Base Rate) * Time from R3 to RF**; and
- Parties due to dis-benefit from the Damhead Creek Acceptance would be at a **Benefit = R3 Charge * (Individual Party’s Capital Rate - Base Rate) * Time from R3 to RF**.

The PSMG noted that P181 would therefore create a cross subsidy, from those Parties that are due to benefit from the Damhead Creek Emergency Instruction, to those due to dis-benefit. As such, those due to benefit from the Emergency Instruction would effectively be providing credit to those at a dis-benefit. It was also noted that this cross subsidiary has already occurred for the period between SF and R3, due to the delay in entering the Acceptance into Settlement at the SF Run (as required by the Code). P181 would only serve to prolong the situation.

The PSMG noted that the Proposer sighted the detrimental impact that entry of the Emergency Instruction in the R3 Run rather than at RF would have on many supply companies. It was recognised by the PSMG that this detrimental impact would effectively relate to the difference between the cost of these Parties obtaining credit and the Base Rate. In addition, it was noted that there would be a similar detrimental impact on some Parties should P181 be implemented. Therefore, in the absence of any knowledge of individual Party’s capital rates (e.g. interest incurred on a loan or rate of growth via investment) and exposure to the Emergency Instruction, it was considered that the impact of not implementing P181 on any sector of the market (e.g. supply/generation or large/small Parties) could not be judged more material than the impact on another sector of implementing the change. It was noted that a Party’s ability to minimise its cost of capital was a legitimate source of competitive advantage and P181 proposes to remove an element of this.

The PSMG noted that one consultation respondent had provided an argument that there is an additional incentive for small Parties to take a long position under NETA and, as such, the impact of not implementing P181 may have a disproportionate affect on this sector of the market. In particular it was noted that small Parties may not have 24/7 trading desks and take an increasingly long position to avoid System Buy Price (SBP) exposure, rather than attempting to manage their contractual position to a very fine degree. In addition, small Parties may be required to place cash deposits as Credit Cover and therefore attempt to minimise Credit Cover requirements by taking a consistently long position.

In relation to the specific comment raised on 24/7 trading, the PSMG noted that the Emergency Instruction had been issued during working hours and there would be no reason why a 24/7 trader would be in a different position to a non-24/7 trader. More generally, the PSMG noted that there could be considered incentives on Parties to go long under the current baseline and that this is a feature of the existing arrangements. However, an individual Party chooses how they manage their position (for example by going long to avoid SBP exposure and to realise benefits in terms of reduced Credit Cover requirements) and must accept the consequences of any strategy adopted. For example, if a Party realises the benefits of taking a consistently long position in the majority of Settlement Periods where SSP is positive, it must also accept the dis-benefit of this strategy that occur in the minority of Settlement Periods where SSP is negative.

⁴ The Code defined rate of interest

1.3.2 BSUoS Charges

Although outside the scope of any assessment of P181 against the Applicable BSC Objectives, the PSMG noted the interaction between P181 and the timetable for BSUoS charging.

The Transmission Company Representative indicated that the impact of P181 on the timetable for BSUoS charging would be negligible. Should P181 be Approved, the payment by the Transmission Company via the System Operator BM Cashflow (CSOBM) would be made at the RF Run. The cost would then be recovered with the cost being recovered via the BSUoS RF reconciliation shortly after in July 2005. Were P181 rejected, the payment by the Transmission Company via CSOBM would be made at the R3 Run, with this cost initially recovered via BSUoS end of Scheme Reconciliation mid June 2005 and further reconciled following the RF Run in July 2005.

1.3.3 Deferral of liabilities

The PSMG noted that the deferral of Trading Charges between Reconciliation Runs, as proposed by P181, effectively defers a liability and, during the deferral period, the market as a whole underwrites this liability, leading to an increased risk. For example, a Reconciliation Run may be delayed, following the delay a Party may consequently default on a payment that would have been due in the delayed Run. In this situation, the market as a whole would be liable for the defaulted payment (assuming there was insufficient Credit Cover lodged by the Party to cover the charge). It should be noted that this point was raised in relation to deferral of Settlement in general, rather than in relation to any of the individual Parties affected by the issues raised under P181.

1.3.4 Interaction with P171

P171 seeks to remove Emergency Instructions issued for System balancing reasons from Energy Imbalance Prices and would apply on a retrospective basis (i.e. would apply to the Damhead Creek Emergency Instruction). P171 is currently being considered by the PSMG and the Modification Report will be issued to the Authority in January 2005. Some members of the PSMG were of the view P181 could be considered a contingent Modification Proposal, as the benefit of P181 will only be realised if P171 is approved.

It was noted by the PSMG that P181 must be considered against the existing baseline, as such the assessment of P181 against the Applicable BSC Objectives must exclude any impacts on P181 which are dependent on P171 also being implemented. Whilst recognising the requirement to assess P181 against the existing baseline, the PSMG were of the view it was useful to consider the interaction in order to understand the potential impact of P181 in a wider context.

Should P171 be approved, there would be an impact on the cashflows considered in the previous section as follows:

- The payment to the Lead Party of the affected BM Unit resulting from the Bid Acceptance, and therefore from the Transmission Company, would be unchanged under P171; and
- Under the P171 methodology a large negative SSP would not be generated as a result of the Damhead Creek Emergency Instruction. Therefore, P171 would reduce the payment from all Parties that were long in the affected Settlement Period. In addition the increase in the Total Residual Cashflow and consequential payments to all Parties via RCRC would be reduced.

Hence, the interaction between P181 and P171 can be considered in terms of two separate elements, treatment of the payment to the affected BM Unit and the methodology for calculation of Energy Imbalance Prices. The PSMG noted the potential combinations of P171 and P181 and the interaction with the Settlement Calendar in terms of these two areas. A number of scenarios, dependent on the

outcome and timing of the Authority's determinations on the proposals, were identified as illustrated in Annex 4.

The PSMG noted the argument put forward by the Proposer that P181 would be beneficial in terms of efficiency by reducing the potential for Parties to pay out for Trading Charges only for the possible reversal at a later date when the outcome of Modification P171 is known. As outlined above, the combination of P181 and P171 gives rise of a number of scenarios. The PSMG noted that there could be either beneficial or detrimental effects in terms of efficiency (i.e. in terms of minimising variations between Reconciliation Runs) dependent on the combination of Authority determinations on the two proposals. It was noted by the PSMG that any potential benefit in terms of efficiency would only be realised should P171 be approved and, since assessment of P171 must be conducted against the existing baseline, could not be taken into account in assessment against the Applicable BSC Objectives. It was also noted that, under P181 the Emergency Instruction data would be removed from the SAA system only to be re-entered at a later date and that this could be considered inefficient.

The PSMG noted the view expressed via consultation that any efficiency benefits that would be realised under P181 were P171 also approved would be negligible, on the basis that all Parties would be receiving invoices at the R3 Run with or without P181 and only the amounts on these invoices would vary. Whilst it was accepted that the central system benefits may be negligible in terms of the number of invoices issued, it was the view of some members that these potential efficiency benefits should be considered in the wider perspective of individual Parties being required to arrange for significant payments to be made, only for the amounts to be returned at a later date (as such would be material to individuals directly impacted, particularly smaller Parties). However, it was recognised that, since P181 must be assessed against the existing baseline, these arguments could not be taken into account in the assessment against the Applicable BSC Objectives.

A view was expressed by an attendee that the cross subsidies between Parties would be reversed were P171 Approved i.e. were P171 approved in the absence of P181, Parties due to dis-benefit from the Emergency Instruction would be cross subsidising other Parties between R3 and RF. However, it was again noted by the PSMG that P171 must be assessed against the current baseline and this argument could not be considered in the assessment against the Applicable BSC Objectives.

1.3.5 Precedents

1.3.5.1 Delays to payments

The PSMG were of the view that, were P181 Approved, a precedent could be set for Parties to request delays to invoices in future situations. It was the view of the PSMG that, were deferral granted in the limited circumstances identified in P181, the arguments could be stretched in order to justify future deferrals. As the PSMG generally viewed the deferral of payments as detrimental to competition this was seen as a concern. However, one member of the Group was of the view that future Modification Proposals would be judged on their own merits and that these concerns could not be considered when assessing P181 against the current baseline.

The PSMG noted an additional point raised in this area via consultation that, were it considered acceptable to delay payments in the limited circumstances of P181, this could set a materiality threshold against which future delays could be requested.

1.3.5.2 TDC Determinations

The Trading Disputes Committee (TDC) has already determined that the Acceptance Data associated with the Damhead Creek incident should be entered into the R3 Run.

It was noted by the PSMG that, if approved, P181 would set a precedent in terms of a Code Modification delaying the rectification of a Trading Dispute. It was the view of the PSMG, that this could

potentially lead to other determinations of the TDC being challenged via the Modification Procedures, and provide a mechanism for circumventing the Panel referral⁵ process (it should be noted that the referral process allows a Party to challenge the determination of whether or not a Settlement Error has occurred but not to question the timing of rectification, hence the outcome of P181 could not have been achieved via the referral process). The Group were of the view this could undermine the Disputes process and create uncertainty in relation to TDC determinations. However, one member of the Group was of the view that future Modification Proposals would be judged on their own merits and that these concerns could not be considered when assessing P181 against the current baseline. It was also noted that the TDC makes its determinations in accordance with the Code baseline at the time, as such there is no legal restriction on a Code Modification altering the outcome of this determination.

1.3.5.3 Previous Deferral of Settlement

One member of the PSMG noted that Timetabled Reconciliation Volume Allocation Runs and Timetabled Reconciliation Settlement Runs have been delayed previously (in accordance with Section U2.3.3 of the Code) and this could be considered a precedent for the kind of delay proposed under P181. However, it was noted that, in previous cases, any delay to a Settlement Run had been made in order to allow such Run to be carried out in accordance with the Code baseline. Whereas, in the absence of a change to the baseline, delaying rectification of the Damhead Creek dispute would prolong an error in Settlement, such that Section U2.3.3 could not be used in this case. In addition, P181 proposes that only one element of a Run be delayed, in effect requesting a delay to specific Trading Charges.

1.3.6 TDC Determination

The PSMG noted that, when the TDC made its ruling on the rectification DA223 (the Damhead Creek Trading Dispute), it was decided that rectification should occur at the R3 Run. It was noted by the PSMG, that the TDC determination to uphold the Damhead Creek Trading Dispute had been made on the 19 August 2004, such that impacted Parties have had 4 months notice of liabilities due to be incurred in the R3 Run. Therefore, impacted Parties have had 4 months to make arrangements in relation to these liabilities.

1.3.7 Legal drafting

The PSMG have considered the most appropriate way of implementing P181 in terms of limiting the effect of P181 to the specific incident cited in the Modification Proposal. It was also noted by the Group that the legal text for P181 should not restrict the implementation of other Modification Proposals in the process.

Two implementation approaches were identified by the PSMG:

1. The requirement in Section Q of the Code for Acceptance Data to be submitted by the end of the relevant Settlement Day could be amended such that, notwithstanding any TDC determination, the Acceptance Data for the specific Emergency Instruction will not be included in Settlement until the RF Run; and
2. Section W of the Code would be amended to specify that, notwithstanding any TDC determination, Trading Dispute DA223 (the Damhead Creek Trading Dispute) would be rectified in the RF Run for the affected Settlement Day.

Approach two was preferred by the PSMG as it would limit the impact of P181 to Section W of the Code and reduce the potential for interaction with other Emergency Instruction Modification Proposals currently within the Modification Procedures. Legal drafting for P181 is included in Annex 1.

⁵ Whereby a Party may refer a TDC determination to the Panel for further consideration.

1.3.8 Implementation Approach

If approved the P181 Code changes would be implemented 2 Working Days following an Authority Decision. In order to implement P181 at the R3 Run, an Authority decision would be required 3 Working Days before the 15 December 2004 (in order to allow the BSC Agent sufficient notice of the change to the contents of the R3 Run) i.e. by **close of business 9 December 2004**. NB: The legal drafting included in Annex 1 allows for P181 to be implemented if a decision is received beyond this date, however the Code changes will have no practical effect.

1.3.9 Potential Alternative Modifications

The PSMG noted that one consultation respondent had put forward a potential Alternative Modification, whereby the payment for the Emergency Instruction Bid Acceptance (to the affected BM Unit from the Transmission Company) would be retained whilst the remainder of Settlement would be conducted with this Acceptance omitted. On consideration of this potential Alternative Modification, the following comments were raised:

- The fundamental concerns raised by P181 (as set out in section 1.4) would not be addressed by this alternative solution. Therefore, it was the view of the PSMG that, the Alternative Modification would not better facilitate achievement of the Applicable BSC Objectives;
- It was noted that this solution could not be practically achieved without the introduction of additional complexity into the solution, since it would involve carrying out some elements of Settlement (BM Unit cashflow in relation to Damhead Creek) whilst deferring others (inclusion of the Emergency Instruction in the Energy Imbalance Price calculation); and
- Some members of the Group were of the view that this solution would not form a valid Alternative Modification, on the grounds that the defect identified under P181 related to the entry into Settlement of specific Acceptance Data, rather than the deferral or non-deferral of individual cashflows.

In light of these views the PSMG agreed that this solution should not be progressed as Alternative Modification P181 (hence there is no Alternative Modification P181).

1.4 Assessment of how the Proposed Modification will better facilitate the Applicable BSC Objectives

It was noted by the PSMG that P181 must be considered against the existing baseline, as such the following assessment excludes any consideration of the impact on the Applicable BSC Objectives which is dependent on P171 also being implemented.

The PSMG have initially considered the arguments in relation to achievement of the Applicable BSC Objectives under P181 as follows:

- The cross subsidiary from those at a benefit from the Emergency Instruction to those at a dis-benefit would have a negative impact on competition and be detrimental to Applicable BSC Objective c).
- Any deferral of liabilities, via a delay to Reconciliation as proposed by P181, would prolong the risk faced by the market and would be detrimental to Applicable BSC Objective c); and
- Some members of the Group were of the view that P181 would create a precedent for Parties requesting delays to Reconciliation Runs, or attempting to undermine TDC processes via the Modification Procedures and thereby lead to an increase in proposals of a similar nature. Were this to occur, there would be a negative impact in terms of efficiency and the prolonged uncertainty surrounding the Settlement process which would be detrimental to achievement of

Applicable BSC Objectives c) and d). However, other members of the Group were of the opinion that the Authority considers each Modification Proposal individually and effectively no precedents are set, as such this argument should not be considered when assessing an individual Modification Proposal against the current baseline.

In light of the foregoing, it is the unanimous view of the PSMG that P181 would, on balance, be detrimental to achievement of the Applicable BSC Objectives in comparison to the existing baseline.

It was noted that the materiality to individual participants and the impact on their cashflow is key to the arguments put forward in support of P181 and, without access to the individual capital rates of each Party, the PSMG could make no judgment of this materiality. However, it was recognised by the PSMG that the Authority may be provided access to this information when making its final determination on P181 and would be able to consider this alongside the arguments expressed above.

1.5 Governance and regulatory framework assessment

No impact identified.

2 COSTS

This section has been set out to reflect the implementation of P181 as a one off operational occurrence to be implemented outside of the normal release structure. As such, the costs associated with P181 are those for implementing the legal text changes and the operational implementation effort required.

IMPLEMENTATION COSTS		
ELEXON Implementation Resource Cost	1 Man day £220	+/- 10%
Service Provider Operation Cost	£375	+/- 10%
Total Implementation Cost	£595	+/- 10%

3 RATIONALE FOR PANEL'S RECOMMENDATIONS

The Panel considered the view expressed by one consultation respondent that P181 was contingent on P171 and therefore not a valid Modification Proposal. However, the Panel noted, that P181 could be drafted as a change to the current baseline which has meaning and effect in the absence of any Pending Modification. Therefore, the Panel agreed that P181 was not contingent on P171 and is a valid Modification Proposal.

The Panel noted and considered the arguments expressed by the PSMG that P181 would be detrimental to the achievement of the Applicable BSC Objectives and therefore should not be made as follows:

- The PSMG had concluded that cross subsidiary from those at a benefit from the Emergency Instruction to those at a dis-benefit would have a negative impact on competition and be detrimental to Applicable BSC Objective c). A view was expressed by some members of the Panel that the cashflow impact (either in terms of implementing or not implementing P181) would be insufficient to have an impact on Applicable BSC Objective c) (noting that individual capital rates of each affected Party were not known). One Panel member was of the view that a delay of the Trading Charges associated with the Damhead Creek Emergency Instruction over the period proposed under P181 would be significant materiality to a number of small Supply companies and would benefit competition. However, it was also noted Damhead Creek power

station responded appropriately to the Emergency Instruction and to date no payment has been received for this action. P181 would create a further delay to the payment due.

- It was the view of the PSMG that deferral of liabilities, via a delay to Reconciliation as proposed by P181, would prolong the risk faced by the market and would be detrimental to Applicable BSC Objective c). A Panel member expressed the view that there was negligible risk in terms of the deferral proposed under P181 and did not support this argument; and
- Some members of the PSMG were of the view that P181 would create a precedent for Parties requesting delays to Reconciliation Runs, or attempting to undermine TDC processes via the Modification Procedures and thereby lead to an increase in proposals of a similar nature. Were this to occur, there would be a negative impact in terms of efficiency and the prolonged uncertainty surrounding the Settlement process which would be detrimental to achievement of Applicable BSC Objectives c) and d). Other members of the PSMG were of the opinion that the Authority considers each Modification Proposal individually and effectively no precedents are set, as such this argument should not be considered when assessing an individual Modification Proposal against the current baseline. One Panel member expressed particular concern in relation to the precedent for deferral of Trading Charges that would be set under P181. Contrary to this view one member of the Panel was of the view the question of precedent was of no particular relevance.

Some Panel members supported the arguments expressed by the PSMG that deferral of Trading Charges as proposed by P181 would be detrimental to achievement of the Applicable BSC Objectives. These Panel members could see no justification for a delay in these circumstances, as the cashflow impact was not considered material and the occurrence of an Emergency Instruction and the consequential Trading Charges could not be considered exceptional.

Some members of the Panel did not support the arguments put forward by the PSMG that P181 would be detrimental to the achievement of the Applicable BSC Objectives. However, it was noted that P181 must be considered against the existing baseline, as such the assessment of P181 must exclude any impacts of P181 which are dependent on P171 also being implemented. When considered in isolation, these Panel members were of the view P181 could not be shown to better facilitate achievement of the Applicable BSC Objectives, and should not be made.

One member of the Panel was of the view Proposed Modification P181 would better facilitate achievement of the Applicable BSC Objectives. It was the view of this Panel member, that the delay of the Trading Charges associated with the Damhead Creek Emergency Instruction over the period proposed under P181 would be of significant material to a number of small Supply companies (whilst not having a significant adverse impact on other Parties). As such, P181 would facilitate competition and therefore facilitate achievement of the Applicable BSC Objectives.

Therefore, it was the majority view of the Panel that P181 would not better facilitate the Applicable BSC Objectives, and should not be made.

In the event that the Authority determines the Proposed Modification should be made, the Panel agreed the Implementation Date should be 2 Working Days following the Authority Decision. It was noted that an Authority decision on P181 would need to be received by the Close of Business 9 December 2004 for the change to be taken into account in the R3 Run 15 December 2004.

The Panel requested a report on the potential for delay of Timetabled Reconciliation Volume Allocation Runs and Timetabled Reconciliation Settlement Runs in extreme circumstances (in accordance with Section U2.3.3 of the Code) to be provided outside the Modification Procedures.

4 IMPACT ON BSC SYSTEMS AND PARTIES

4.1 BSCCo

BSCCo would be required to implement the changes to the Code baseline. In addition, were P181 Approved prior to the 9 December 2004, BSCCo would be required to direct the BSC Agent to exclude the Emergency Instruction Acceptance Data from Settlement and communicate the change to industry.

4.2 BSC Systems

Following the TDC decision of 19 August 2004, the data for the Emergency Instruction Acceptance has already been entered into the Settlement Administration Agent (SAA) system. Therefore, were P181 Approved prior to the 9 December 2004:

- The Emergency Instruction Acceptance would be manually removed from the SAA system; and
- An auditable record of removal of the data would be created.

This would incur a one off operational cost.

5 IMPACT ON CODE AND DOCUMENTATION

5.1 Balancing and Settlement Code

Legal drafting is included in Annex 1 and the requirements of this drafting are considered in section 1.3.7.

5.2 Code Subsidiary Documents

No impact identified.

5.3 BSCCo Memorandum and Articles of Association

No impact identified.

5.4 Impact on Core Industry Documents and supporting arrangements

No impact identified.

6 SUMMARY OF CONSULTATIONS

This section summarises participant responses to the P181 urgent consultation.

Consultation question	Respondent agrees	Respondent disagrees	No opinion expressed
1. Do you believe Proposed Modification P181 better facilitates achievement of the Applicable BSC Objectives?	2	8	1
2. Do you believe that the draft legal text provided in the consultation document correctly addresses the defect or issue identified in the Modification Proposal?	6	2	3
3. Do you support the implementation approach described in the consultation document?	7	1	3

6.1 Assessment Against the Applicable BSC objectives

The majority of respondents supported the initial view of the PSMG that Proposed Modification P181 would not better facilitate achievement of the Applicable BSC Objectives.

The key arguments expressed by the majority **not in support** of P181 included:

- P181 would impact cash-flows by delaying payments due to or from Parties. A cross-subsidy would result from those who benefited from the issuing of the Emergency Instruction, to those who lost out. This has already occurred between the SF and R3 runs due to the initial delay in data entry – the respondents argued that Proposed Modification P181 would prolong this situation if implemented;
- Delaying payments would place a risk on the rest of the industry in terms of deferred liabilities;
- The implementation of Proposed Modification P181 could set a precedent for overturning a TDC determination via a Modification;
- The implementation of Proposed Modification P181 could set a precedent which would encourage Parties to apply for large payments to undergo deferred Settlement;
- Some respondents believed that any benefits that could be realised under P181 were contingent on P171 and could not be taken into account in the assessment of P181 against the existing baseline; and
- One of these respondents stated any efficiency benefits that would be realised under P181 were P171 also Approved would be negligible, on the basis that all Parties would be receiving invoices at the R3 Run with or without P181 and only the amounts on these invoices would vary.

The key arguments expressed by the minority **in support** of P181 included:

- Small Suppliers would be affected disproportionately due to the issuing of the Emergency Instruction. This is because small Suppliers are more likely to be long than large Suppliers, due to NETA incentives; and
- P181 would remove an unintended consequence of a rule that if left in place will distort competition.

6.2 Draft Legal Text

Of those respondents who expressed an opinion, the majority agreed that the draft legal text correctly addressed the issue. Two respondents did not support the proposed drafting as follows:

- One respondent did not believe that there was a defect and as such did not believe that the legal text was appropriate; and
- One respondent was concerned as to the appropriateness of the cross-reference in Section Q 6.2.1. This paragraph specifies that listed data items must be provided to the SAA within 15 minutes following the end of the Settlement Day. The Bid Offer Acceptance approved by the TDC is outside of the timescales specified in Section Q 6.2.1, thus the Transmission Company would be unable to operate in accordance with this section (the PSMG agreed with the points raised in this comment and noted that the legal drafting had been amended to address the concerns raised).

6.3 Implementation approach

Of those respondents who expressed an opinion, the majority agreed that the suggested implementation approach was appropriate. The respondent who did not agree stated that they did not agree with the implementation of Proposed Modification P181. As such, they did not agree with the suggested implementation approach.

6.4 Alternative Solutions

One potential alternative solution was raised, this was considered by the PSMG as set out in section 1.3.9.

6.5 Comments and views of the PSMG

The PSMG noted the consultation responses and considered specific issues raised as follows:

- The PSMG noted that one consultation respondent had provided an argument that there is an additional incentive for small Parties to go long under NETA and the impact of not implementing P181 may have a disproportionate affect on this sector of the market. This comment was considered as set out in section 1.3.1;
- In relation to the comment that P181 would remove an unintended consequence of a rule set that if left in place will distort competition, the PSMG noted that P181 itself would not amend how Settlement of the Emergency Instruction was performed but would merely delay the processing of the Emergency Instruction. The PSMG were of a view that this may be an argument that could be taken into account under P171 but was not relevant in the assessment of P181;
- The PSMG noted the view that any efficiency benefits that would be realised under P181 were P171 also approved would be negligible (on the basis that all Parties would be receiving invoices at the R3 Run with or without P181 and only the amounts on these invoices would vary). Whilst it was accepted that the Central System benefits may be negligible in terms of the number of invoices issued, it was the view of some members that these potential efficiency benefits should be considered in the wider perspective of individual Parties arranging for significant payments to be made only for the amounts to be returned at a later date. However, it was recognised that P181 must be assessed against the existing baseline and that these arguments would not be taken into account within the assessment against the Applicable BSC Objectives; and

- It was noted that the materiality to individual participants is key to the arguments put forward in support of P181 and, without access to the individual capital rates of each Party, the PSMG could make no judgment of this materiality. However, it was recognised by the PSMG that the Authority may be provided access to this information when making its final determination on P181 and would be able to consider this alongside the other arguments which had been expressed.

7 SUMMARY OF TRANSMISSION COMPANY ANALYSIS

Full response to Transmission Company analysis is included in Annex 3.

The Transmission Company did not believe that, if implemented, Proposed Modification P181 would impact on their ability to discharge their obligations under the Transmission Licence.

No impacts as a result of the implementation of Proposed Modification P181 were identified on the computer systems and processes of the Transmission Company.

The Transmission Company did not believe that the security of supply would be affected by the implementation of Proposed Modification P181.

No consequential changes to Core Industry Documents or to the System Operator Transmission Owner Code were identified as a result of the implementation of Proposed Modification P181.

The Transmission Company stated that the benefits of the Proposal were contingent on the outcome of another Modification Proposal. As such, these benefits cannot be considered to be part of the current baseline and therefore the Transmission Company did not believe that Proposed Modification P181 would better facilitate the achievement of the Applicable BSC Objectives.

8 DOCUMENT CONTROL

8.1 Authorities

Version	Date	Author	Reviewer	Change Reference
0.1	30/11/04	Change Delivery	PSMG	Initial draft
0.2	1/12/04	Change Delivery	Change Delivery	Updated following PSMG review
0.3	1/12/04	Change Delivery	Panel	Initial draft
1.0	3/12/04	Change Delivery	Authority	Updated following Panel review

8.2 References

Ref No.	Document Title	Owner	Issue Date	Version
1	Modification Proposal P171	-	25.08.2004	-
2	Modification Proposal P181	-	25.08.2004	-
4	Modification Proposal P171 Initial Written Assessment	ELEXON	03.09.2004	1.0
5	Modification Proposal P171 and P172 Requirements Specification	ELEXON	28.09.2004	2.0
6	P171/ P172 Consultation Document	ELEXON	01.08.2004	1.0
7	P181 Urgent Consultation	ELEXON	23.11.2004	1.0

Modification Documentation is available from the BSCCo (ELEXON) website:

<http://www.elexon.co.uk/changeimplementation/ModificationProcess/ModificationDocumentation/default.aspx>

ANNEX 1 LEGAL TEXT

Attachment 1 contains the legal text for Proposed Modification P181.

ANNEX 2 CONSULTATION REPONSES

Attachment 2 contains the responses to the Urgent Modification consultation.

ANNEX 3 TRANSMISSION COMPANY ANALYSIS

Q	Question	Response
1	Please outline any impact of the Proposed Modification (and, if applicable, any Alternative Modification) on the ability of the Transmission Company to discharge its obligations efficiently under the Transmission Licence and on its ability to operate an efficient, economical and co-ordinated transmission system.	No impact has been identified from the Proposed Modification on the ability of the Transmission Company to discharge its obligations under the Transmission Licence.
2	Please outline the views and rationale of the Transmission Company as to whether the Proposed Modification (and, if applicable, any Alternative Modification) would better facilitate achievement of the Applicable BSC Objectives.	When compared to the current baseline, we do not believe that this proposal better facilitates the achievement of any of the BSC Applicable Objectives. The benefits of this proposal are contingent on the outcome of another Modification Proposal which cannot be considered to form part of the current baseline.
3	Please outline the impact of the Proposed Modification (and, if applicable, any Alternative Modification) on the computer systems and processes of the Transmission Company, including details of any changes to such systems and processes that would be required as a result of the implementation of the Proposed Modification (and, if applicable, any Alternative Modification	No impact has been identified.
4	Please outline any potential issues relating to the security of supply arising from the Proposed Modification (and, if applicable, any Alternative Modification).	No issues have been identified.
5	Please provide an estimate of the development, capital and operating costs (broken down in reasonable detail) which the Transmission Company anticipates that it would incur in, and as a result of, implementing the Proposed Modification (and, if applicable, any Alternative Modification).	No cost implications have been identified.
6	Please provide details of any consequential changes to Core Industry Documents and/or the System Operator Transmission Owner Code that would be required as a result of the implementation of the Proposed Modification (and, if applicable, any Alternative Modification).	No consequential changes have been identified to Core Industry Documents and/or the System Operator Code that would be required as a result of the implementation of the proposed Modification.
7	Any other comments on the Proposed Modification (and Alternative Modification if applicable).	No other comments.

ANNEX 4: P171/P181 COMBINATIONS

The following scenarios illustrate the potential impact in terms of the reconciliation process which arise via feasible combinations of P181 and P172:

Scenario 1: P181 Approved, P171 Approved (prior to RF)

If P181 were approved, the Emergency Instruction Acceptance Data would not be entered into Settlement at the R3 Run in December 2004. If an Authority Decision to approve P171 were received sufficiently prior to the RF Run, the Acceptance Data would be entered and Settlement conducted in accordance with the P171 methodology.

Scenario 1			
Cash flows	R3	RF	
Affected BM Unit Payment	Excludes EI	Includes EI	
Energy Imbalance Prices	Excludes EI	P171 methodology	

Scenario 2: P181 Approved, P171 Approved (post RF)

If P181 were approved, the Emergency Instruction Acceptance Data would not be entered into Settlement at the R3 Run in December 2004. If no decision had been made by the Authority on P171 prior to the RF Run, the Acceptance Data would be entered and Settlement conducted in accordance with the current baseline. If P171 were then approved at a later date further reconciliation (potentially via a Trading Dispute) would be required to realise P171.

Scenario 2			
Cashflow	R3	RF	DF
Affected BM Unit Payment	Excludes EI	Includes EI	Excludes EI
Energy Imbalance Prices	Excludes EI	Includes EI	P171 methodology

Scenario 3: P181 Approved, P171 Rejected

If P181 were approved, the Emergency Instruction Acceptance Data would not be entered into Settlement at the R3 Run in December 2004. If the Authority then rejected P171, the Acceptance Data would be entered at the RF Run and Settlement conducted in accordance with the current baseline.

Scenario 3			
Cashflow	R3	RF	DF
Affected BM Unit Payment	Excludes EI	Includes EI	Includes EI
Imbalance Price	Excludes EI	Includes EI	Includes EI

Scenario 4: P181 Rejected, P171 Approved (prior to RF)

If P181 were rejected, the Emergency Instruction Acceptance Data would be entered into Settlement at the R3 Run in December 2004. If an Authority Decision to approve P171 were received sufficiently prior to the RF Run, the Acceptance Data would be entered and Settlement conducted in accordance with the P171 methodology.

Scenario 4			
Cashflow	R3	RF	DF
Affected BM Unit Payment	Includes EI	Includes EI	Includes EI
Imbalance Price	Includes EI	P171 methodology	P171 methodology

Scenario 5: P181 Rejected, P171 Approved (post RF)

If P181 were rejected, the Emergency Instruction Acceptance Data would be entered into Settlement at the R3 Run in December 2004. If no decision had been made by the Authority on P171 prior to the RF Run, the Acceptance Data would already be in and Settlement would be conducted in accordance with the current baseline. If P171 were then approved at a later date further reconciliation (potentially via a Trading Dispute) would be required to realise P171.

Scenario 5			
Cashflow	R3	RF	DF
Affected BM Unit Payment	Includes EI	Includes EI	Excludes EI
Energy Imbalance Prices	Includes EI	Includes EI	P171 methodology

Scenario 6: P181 Rejected, P171 Rejected

If both Modification Proposals were rejected the Emergency Instruction would be entered into Settlement at the R3 Run in December 2004 and Settlement conducted in accordance with the existing baseline, no further amendments would be made.

Scenario 6			
Cashflow	R3	RF	DF
Affected BM Unit Payment	Includes EI	Includes EI	Includes EI
Imbalance Price	Includes EI	Includes EI	Includes EI

One PSMG member noted, that were P171 approved and P181 rejected, a Party may raise a Trading Dispute in an attempt to realise the effects of P171 prior to the RF Run (via an Extra Settlement Determination). However, it was recognised that due to the timescales for the P171 Modification Procedures and the likely lead times involved in this process, it is unlikely that this approach (if upheld) would provide rectification significantly earlier than the RF Run.

ANNEX 5 MODIFICATION GROUP DETAILS

Member	Organisation	22/11	30/11
Sarah parsons	ELEXON (Chairman)	✓	✓
Robin Fuller	(Proposer) P181	x	x
Garth Graham	Scottish and Southern	✓	✓
Man Kwong Liu	SAIC	✓	✓
Bill Reed	RWE Trading	✓	✓
Paul Jones	E.On Uk	✓	x
Jan Devito	Jade Energy	✓	x
Martin Mate	British Energy	x	✓
Helen Bray	EDF	✓	x
Mark Manley	BGT	✓	✓
Mark Brackley	National Grid	✓	✓
Tom Bowcutt	ELEXON (Lead Analyst)	✓	✓

Attendee	Organisation		
Simon Bradbury	Ofgem	✓	X
Fiona Lewis	Ofgem	X	✓
Paul Chesterman	EDF	X	✓
Roger Salomone	ELEXON	✓	x
Keith Munday	Bizenergy	✓	X
John Capenar	British Energy	✓	X
David White	ELEXON	✓	X
Mark Duffield	NGT	✓	x

Terms of Reference of the PSMG included:

- Cashflow impact on Parties:** The Modification Proposal itself referred to the impact on Economy Power's financial position during the winter season. The Group should consider the cashflow impact for all Parties (including those potential benefiting from the Emergency Instruction);

- **Interaction with P171:** P181 proposes a delay to the payment of Energy Imbalance and RCRC Charges. This will allow P171 to be progressed. Should the Authority approve P171 the full impact of the Damhead Creek Emergency Instruction will never be realised, therefore P181, by delaying the payment, could result in high Energy Imbalance and RCRC Charges not being incurred. The Group will need to consider the actual defect highlighted by P181 and whether the benefit is contingent on P171;
- **Precedent:** The Panel have highlighted concerns that this Modification Proposal could set a precedent with Parties frequently requesting delays to invoices; and
- **Legal text:** The Group should consider the most appropriate way of implementing P181 in terms of limiting the effect of P181 to the specific incident cited in the Modification Proposal. The legal text for P181 should not restrict the implementation of other Modification Proposals in the process.