

28 November 2003



Nicholas Durlacher Esq.  
BSC Panel Chairman  
ELEXON Limited  
4<sup>th</sup> Floor  
350 Euston Road  
London, NW1 3AW

Direct Dial: 020 7901 7355  
Email: Nick.Simpson@ofgem.gov.uk

Dear Nick

**Urgent modification to the Balancing and Settlement Code - Modification Proposal P148:  
“Revision of the claims fee to avoid undue discrimination between classes of Party in their  
funding of the PNE claims process”**

Thank you for your letter dated 27 November 2003.

In your letter you base your justification for urgent treatment of the proposal on the basis that the Code states the timescales by which the claim fee will be invoiced. You state that there is a concern that it would not be possible to change the claim fee after the invoice had been issued. Therefore any decision to change the claim fee would need to be taken before the date defined in the Code for issuing the invoice. This timescale is currently outside the normal timescale for processing a modification. You also state that a failure to expedite resolving the issue could create uncertainty into the market and disproportionate costs could be incurred by Parties who have not made a PNE claim.

The Gas and Electricity Markets Authority (the “Authority”) will continue to treat each proposal on its own merits. However, in all cases, the Authority believes that a modification should only be treated as urgent if the modification could not appropriately be treated as non-urgent. It is currently the view of the Authority that, in general, urgent modifications are likely to exhibit at least one of the following characteristics:

- There is a very real likelihood of significant commercial impact upon NGC, industry parties, or customers if a proposed modification is not urgent;
- Safety and Security of the network is likely to be impacted if a proposed modification is not urgent; and /or
- The proposal is linked to an imminent date related event.

The following decision in no way considers the merits of the modification proposal but considers only matters relating to urgent treatment.

The Authority does not consent to Modification Proposal P148 being treated as an Urgent Modification Proposal for the purposes of section F2.9. of the BSC.

In contrast to the decision on urgency made with regard to P145 "Cost reflective mechanism to allocate any deficit arising from the application of the PNE claims fee", the Authority considers that there is not a very real likelihood of a significant commercial impact on individual Parties from changing the fee by the amount proposed. The Authority also notes that financial liability arises from the terms of the Balancing and Settlement Code and as such could change with the timing of any changes to those terms. For this reason the Authority does not consider the date of an invoice or the date of inclusion in BSCCo charges as a significant date-related event inasmuch as it merely determines the timing of the payment and not the timing of any substantive change in liability.

Modification Proposal P148 should therefore be subject to the normal modification procedures as detailed in section F of the BSC. This decision does not preclude the Panel and ELEXON progressing P148 over a short timetable, providing that the requirements for appropriate consideration and consultation are met.

Please call me on the above number if you would like to discuss any of the issues in this letter further.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. N. Simpson', written over a horizontal line.

Nick Simpson

**Director of Industry Codes**

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