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to customers*

Nicholas Durlacher
BSC Panel Chairman
Elexon Ltd
3rd Floor
1 Triton Square
London NW1 3DX

Your Ref:
Our Ref: BETTA_BSC
Direct Dial: 020 7901 7355
Email: nick.simpson@ofgem.gov.uk

17 January 2003

Dear Nick,

Changes to the Industry Codes following BETTA progress

I am writing to you concerning the consultation process for Modification Proposals to the Balancing and Settlement Code (BSC) prior to and during the course of legislation to introduce the British Electricity Transmission and Trading Arrangements (BETTA).

As you will be aware, Ofgem and DTI are committed to working towards the introduction of BETTA no later than April 2005, although for planning and operational purposes we are aiming for an implementation date of October 2004. Although the vires of the BSC Panel (and Connection and Use of System Code Panel) do not extend to the consideration of GB issues, Ofgem is able to consider these issues, given its wider statutory duties.

Ofgem has given a great deal of consideration to these matters and has taken advice from Counsel on them. We have concluded that it will be appropriate for us to consult on the possible impact of a Modification Proposal on a GB basis at the point where there is sufficient legal certainty associated with the legislation that the Government needs to bring forward to introduce BETTA. The decision on the appropriate moment to choose one route or another is not simple, but will be affected by the nature of the Modification Proposal as well as by the certainty of legislation and its timing. It will however be our general approach that we will consult on a GB basis on all Modification Proposals (with the possible exception of Urgent Modification Proposals) from the time when the Electricity Trading and Transmission Bill receives its Second Reading in either the House of Lords or the House of Commons, depending on the House into which the Bill is introduced.

Under our general approach, the process that Ofgem intends to undertake will be as follows. From the time the Bill receives its Second Reading in either House, until the application of the GB codes, whenever a Modification Proposal is going through the Assessment Phase, Ofgem will work in parallel with the current process and consult upon the impacts the code change might have on a GB wide basis compared to the impact it would have in England and Wales.

In general, Ofgem would be likely to go out to a GB consultation, in parallel with the BSC consultation process, although this timescale would be dependent on the complexity of the issues. Timing considerations for Urgent Modification Proposals may in some cases preclude GB wide consultation. Such Modification Proposals will be considered on a case-by-case basis. However, any subsequent review of an implemented Urgent Modification would include a GB wide consultation. Ofgem will give due consideration to the views of the respondents to the GB consultation (as well as those of respondents to the BSC consultation) when making its decision regarding the Modification Proposal.

It should be noted that this process would apply to Modification Proposals outstanding at the date of the Second Reading of the Bill.

I trust this clarifies the process by which Modification Proposals will be addressed from the point in time at which BETTA attains increased legal certainty.

Please feel free to contact me if you have any questions regarding the content of this letter.

Yours sincerely,

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

Nick Simpson
Director, Industry Codes