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National Grid Electricity Transmission, BSC
Signatories and Other Interested Parties

09 September 2005

Our Ref: MP No P189

Dear Colleague,

Modification to the Balancing and Settlement Code ("BSC") - Decision and notice in relation to Modification Proposal P189: "Clarification to fulfil the intent of P174"

The Gas and Electricity Markets Authority (the "Authority")¹ has carefully considered the issues raised in the Modification Report² in respect of Modification Proposal P189, "Clarification to fulfil the intent of P174".

The BSC Panel (the "Panel") recommended to the Authority that Proposed Modification P189 should be made. Having carefully considered the Modification Report and the Panel's recommendation and having regard to the Applicable BSC Objectives³ and the Authority's wider statutory duties,⁴ the Authority has decided to direct a Modification to the BSC in line with Modification Proposal P189.

This letter explains the background of the Proposed Modification and sets out the Authority's reasons for its decision. This letter constitutes the notice by the Authority under Section 49A of the Electricity Act 1989 in relation to the direction.

¹ Ofgem is the Office of the Gas and Electricity Markets, which supports the Gas and Electricity Markets Authority, the regulator of the gas and electricity industries in Great Britain. Ofgem's aim is to bring choice and value to all gas and electricity customers by promoting competition and regulating monopolies. The Authority's powers are provided for under the Gas Act 1986, the Electricity Act 1989 and the Utilities Act 2000. The terms 'Ofgem' and the 'Authority' are used interchangeably in this document.

² ELEXON document reference P189, Version No. Final/1.0, dated 15 July 2005.

³ The Applicable BSC Objectives, as contained in Standard Condition C3 (3) of NGC'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.

⁴ Set out in Sections 3A to 3C of the Electricity Act 1989, as amended by the Energy Act 2004. Ofgem's statutory duties are wider than the matters that the Panel must take into consideration and include amongst other things a duty to have regard to social and environment guidance provided by the government, to contribute to achievement of sustainable development and to have regard to the principles of best regulatory practice.

Background

Modification Proposal P139 “Removal of Trading Unit Restriction on Interconnector Users”⁵ would have allowed Interconnector Balancing Mechanism (BM) Units associated with multi-circuit Interconnectors to participate in non-Sole Trading Units. The inclusion of multi-circuit Interconnectors was highlighted by the Authority as a factor in its decision to reject P139.

Following the Authority’s decision to reject P139, Modification Proposal P174 “Provision for Users of an Interconnector with a single Boundary Point connection to form a Trading Unit amongst themselves and with other BM Units at the same site”⁶ was raised.

Modification Proposal P174 provides for BM Units associated with an Interconnector that has a single Boundary Point to participate in non-Sole Trading Units. This was intended to include Interconnectors where the Interconnector circuits are physically proximate, whilst excluding those where the circuits are geographically remote. Modification Proposal P174 was approved by the Authority on 19 April 2005, and is to be implemented on 2 November 2005.

In preparing for the implementation of Approved Modification P174 it became apparent that the Anglo-French Interconnector would be precluded from participating in non-Sole Trading Units. The reason for this is that whilst the Anglo-French Interconnector circuits are physically proximate, they have been registered with two Boundary Points. Consequently, the Anglo-French Interconnector would not be eligible to participate in non-Sole Trading Units which frustrates the intent of Approved Modification P174. For the purpose of clarity, the Moyle Interconnector has been registered with one Boundary Point, and is captured by the provisions of Approved Modification P174.

The Modification Proposal

Modification Proposal P189 was raised by EDF Trading on 23 May 2005 and proposes to clarify the code baseline following the Authority’s approval of Approved Modification P174. The Modification Proposal intends for Interconnectors where the circuits are physically proximate but have multiple Boundary Points to be able to establish Trading Units, whilst still excluding those where the circuits are geographically remote. The Proposer considers that this would ensure that the intent of Approved Modification P174 can be realised by BM Units associated with the existing Interconnectors, and also any future Interconnectors of a similar configuration that may be created. The Proposer also considered that a definition whereby the Boundary Points of the Interconnector must all be at the same site would assist in meeting this requirement.

The Panel considered the Initial Written Assessment at its meeting of 9 June 2005 and determined that Modification Proposal P189 should be made. The Panel also agreed that as it was self-evident that Modification Proposal P189 would clarify the intent and realise the benefits of Approved Modification P174, it should proceed directly to the Report Phase. It was

⁵ The Authority’s decision document on P139 can be found at the following location:
http://www.elexon.co.uk/documents/modifications/139/P139_Ofgem_Decision.pdf

⁶ The Authority’s decision document on P174 can be found at the following location:
http://www.elexon.co.uk/documents/modifications/174/P174_Ofgem_Decision.pdf

recommended that if approved, Modification Proposal P189 be implemented alongside Approved Modification P174 on 2 November 2005.

The draft Modification Report was issued for industry consultation on 13 June 2005, allowing ten working days to respond, and the Panel considered the report and the consultation responses at its meeting on 14 July 2005.

Responses to ELEXON Consultation

ELEXON published a draft Modification Report on 13 June 2005, which invited respondents' views by 24 June 2005. Six responses representing 37 Parties were received.

Of the six responses to the Modification Report consultation, five (representing 32 Parties) supported Proposed Modification P189, whilst a further respondent did not provide a view as to whether or not it supported the Proposed Modification. One of the respondents (representing one Party) expressing support for Proposed Modification P189 stated that although it did not support Approved Modification P174, it recognised that the provisions of P189 would better facilitate the intent of P174, and on this basis should be made.

The respondent (representing five Parties) who did not express an opinion as to whether or not the Proposed Modification should be made, did not disagree with the provisions of P189 itself, but expressed concern at setting a precedent for Trading Units being formed where at least one BM Unit has more than one boundary point. This respondent considered that the fundamental principles of Trading Units may need to be revisited.

Two of the respondents (representing ten Parties) recognised that as Proposed Modification P189 seeks to clarify the intent of Approved Modification P174 it should be approved on the same rationale that applied for Approved Modification P174. These respondents noted that on this basis Proposed Modification P189 would better facilitate achievement of Applicable BSC Objective (c).

The respondents were unanimous in their support for the Implementation Date of 2 November 2005 for Proposed Modification P189. One respondent noted that it would be more efficient to implement P189 concurrently with Approved Modification P174.

The respondents' views are summarised in the Modification Report for Modification Proposal P189, which also includes the complete text of all respondents' replies.

Panel's recommendation

The Panel met on 14 July 2005 and considered Modification Proposal P189, the draft Modification Report, and the consultation responses received.

At the request of the Panel, ELEXON confirmed that the drafting for Proposed Modification P189 would allow for the intent of Approved Modification P174 without additional impacts. In addition, ELEXON noted that Proposed Modification P189 would not preclude future Interconnectors from qualifying for the provisions of Approved Modification P174, although it was noted that details of the electrical configuration of future Interconnectors were not known.

The Panel were unanimously of the view that Proposed Modification P189 would be giving further effect to the perceived benefits of Approved Modification P174, which had been approved as it better facilitated the achievement of Applicable BSC Objective (c). The Panel were of the view that Proposed Modification P189 would therefore also better facilitate the achievement of Applicable BSC Objective (c).

The Panel unanimously agreed the final recommendation to the Authority that the Proposed Modification should be made, with an Implementation Date of 2 November 2005, should an Authority decision be received on or before 19 October 2005, or within 10 working days after the Authority decision, should it be received after 19 October 2005.

The Panel also noted that although 19 October 2005 is the latest date by which an Authority decision must be received in order to implement Proposed Modification P189 in parallel with Approved Modification P174, an earlier decision would reduce the number of planning assumptions required by the P174 implementation project and provide additional certainty to the industry.

Ofgem's view

Having carefully considered the Modification Report, the respondents' views and the Panel's recommendation, Ofgem, having regard to the Applicable BSC Objectives, is of the view that the Proposed Modification P189 would better facilitate the achievement of Applicable BSC Objective (c). Ofgem considers that as Proposed Modification P189 seeks to clarify the intent of Approved Modification P174 that the Authority's views in relation to the benefits of P174 continue to apply in the case of P189. In addition, Ofgem considers that this decision is consistent with its wider statutory duties.

Applicable BSC Objective (c) – promoting effective competition in the generation and supply of electricity, and (so far as is consistent therewith) promoting such competition in the sale and purchase of electricity

Ofgem considers that Proposed Modification P189 would better facilitate Applicable BSC Objective (c) by enabling eligible BM Units to benefit from netting of the various BSC and National Grid Electricity Transmission (NGET) charges, without creating concerns in respect of undue discrimination. These benefits will be realised by Proposed Modification P189 clarifying the intent of Approved Modification P174.

Ofgem notes that Proposed Modification P189 ensures that Interconnector BM Units are treated consistently with other BM Units in respect of the ability to form Trading Units. The generic purpose of Trading Units status is to net off on-site generation and demand. Consistent with this, Approved Modification P174⁷ provided for only Interconnector BM Units with a single Boundary Point to be permitted to form non-Sole Trading Units. The reference in Approved Modification P174 to single Boundary Points was intended to ensure that Interconnector BM Units separated by some distance were not entitled to form non-Sole Trading Units.

⁷ This followed the views noted by Ofgem in its decision document in respect of Modification Proposal P139.

By enabling those Parties that are physically proximate but have multiple Boundary Points, as well as Parties that are physically proximate but have a single Boundary Point, to participate in non-Sole Trading Units if they wish to do so, Proposed Modification P189 ensures consistency in the treatment of Parties. Ofgem therefore considers that Proposed Modification P189 addresses the perceived defect associated with Approved Modification P174. Furthermore, by ensuring that all Parties permitted to form non-Sole Trading Units can do so in a consistent manner Ofgem considers this will promote competition in the generation and supply of electricity. Ofgem therefore considers that Proposed Modification P189 better facilitates the achievement of Applicable BSC Objective (c).

Implementation Date

Ofgem notes that Proposed Modification P189 was raised to address a perceived minor defect in the drafting of Approved Modification P174. Ofgem notes that development and implementation costs associated with Proposed Modification P189 are not material, particularly if implementation is carried out in conjunction with Approved Modification P174.

Ofgem therefore considers that it would be more efficient if Proposed Modification P189 were to be implemented on 2 November 2005 in conjunction with Approved Modification P174.

If you have any questions, please contact me on the above number, or alternatively please contact David Hunt on 020 7901 7429.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S Brown'.

Sonia Brown
Director, Markets

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