

The Balancing and Settlement Code under BETTA

Ofgem/DTI Conclusions and second consultation on the legal text of a GB BSC – Nov 2003

SP Transmission Response

In keeping with SP Transmission's (SPT's) commitment to BETTA, we welcome the opportunity to respond to this third consultation on the legal text of the GB BSC. A general point that is evident from the drafting produced so far is that there remains the prospect of significant further drafting in respect not only of the responses to this consultation, but also in respect of the consultations on the GB Grid Code, the STC, and small generators. Should there be a need for significant further drafting then SPT would prefer a further opportunity to review a draft of the GB BSC, and would suggest that a further consultation and conclusion document on the GB BSC is published.

Consultation Points

Disconnection rights

In volume 1 of the consultation (4.26) it is contended that the necessary rights or obligations with regard to disconnection should lie with the GBSO, and that only specific actions allowed by the STC should be allowed to the TO. Drafting requires to be inserted to reflect these rights of the TO, and in particular those rights and obligations imposed upon the TO by the ESQC Regulations in respect of disconnection.

Liability

It must be unequivocal in the GB BSC that the TO will be held harmless when acting on the instructions of the GBSO.

Jurisdiction

While recognising (but not necessarily agreeing with) the conclusions in respect of governing law, the position adopted in respect of jurisdiction is not supported by the points made within the conclusions document. The points made in support of granting an exclusive jurisdiction to the courts of England and Wales are;

- Rarity
- Consistency with the Network Code, and
- The unsupported contention that it will be substantially more efficient.

The argument of rarity must be equally persuasive in respect of a common jurisdiction. Consistency with the Network Code while true reflects an element of cherry picking as the MRA which is also a GB wide document is silent on the point and so allows the normal rules for the allocation of jurisdiction. It is unclear from any of the consultations so far as to why it will be substantially more efficient to restrict

jurisdiction to the courts of England and Wales, and this is evidently not the case in respect of parties based in Scotland.

Election of the GB BSC Panel

SPT would strongly support on the grounds of normal democracy that a new panel is elected in respect of the GB BSC.

Provision of Data to TOs

Until the final arrangements in respect of data transfer between the GBSO and the TOs is clarified there is merit in leaving open the possibility of drafting within the GB BSC requiring data to be sent to the TOs.

Drafting Points

Section E: BSC Agents

The deletion of 2.5 (Scottish Trading Arrangements) while understandable on an ongoing basis should be re-instated for the purposes of the run-off period when the systems will still be running.

Section F: Modification Procedures

The duty at 1.6 to establish joint working arrangements relation to change co-ordination should clearly extend to the STC.

Section H: General

Paragraph 6 (Liability and Related Issues). In general the TOs should be unequivocally held harmless for any of their actions on the instructions of the GBSO. In particular the TOs should also have the benefit of the same limitations of liability available to NGC as the transmission company.

Paragraph 9 (General). In addition to the points made above there should be no requirement for a company in a GB market to retain an office in England and Wales.