

**The Balancing and Settlement Code (BSC)
under BETTA**

**Ofgem/DTI Conclusions and publication of
near final legal text of the GB BSC**

Volume 1

April 2004 90/04a

Summary

This document is the conclusion of a series of three consultations to develop a Balancing and Settlement Code as part of the British Electricity Trading and Transmission Arrangements (BETTA), which are planned to be introduced in April 2005¹. It is proposed that under BETTA there will be a single Balancing and Settlement Code for Great Britain ("the GB BSC") which will be based on the current BSC which applies only in England and Wales and will replace the separate trading arrangements in Scotland, which are based on the Trading Code, bilateral contracts and the Settlement Agreement for Scotland (SAS).

In this document:

- ◆ Ofgem/DTI conclude on the issues raised in the third consultation paper on a GB BSC that was issued in November 2003 ('the third GB BSC consultation')
- ◆ the process for any further changes to the legal text for the GB BSC is set out
- ◆ the modifications that have been introduced to the England and Wales BSC since the version of the BSC specified in the third GB BSC consultation are listed, and views are invited on their inclusion in the GB BSC, and
- ◆ near final text for the GB BSC is published.

This document comprises two volumes. The first volume summarises the issues that were consulted upon in the third GB BSC consultation paper, provides details of the responses received and sets out Ofgem/DTI's conclusions. It also identifies those modifications to the England and Wales BSC which have been approved by the Authority since the third GB BSC consultation and sets out Ofgem/DTI's proposals for whether or not these modifications should be included in the GB BSC. The second volume contains near final legal text of the GB BSC.

Ofgem/DTI's key conclusions in this, the conclusion paper on the GB BSC are that:

¹ Subject to Royal Assent to the Energy Bill in July 2004.

- ◆ Ofgem/DTI's view remains that the Shetland Isles should be included within the scope of the GB BSC arrangements
- ◆ the governing law of the GB BSC should be English law and the legal jurisdiction should include the courts of Scotland as well as those of England and Wales
- ◆ the GB BSC should exclude from the requirements to comply with current metering codes of practice, in addition to those already so excluded, only those metering systems that have been subject to the SAS
- ◆ the BMRS northern zone should be extended under the GB BSC to cover the whole of Scotland in addition to northern England, and
- ◆ there should be no change to the definition of Business Day in the GB BSC.

Ofgem/DTI propose that:

- ◆ modifications P141, P133 and P127, which have been implemented in the BSC which is in operation in England and Wales, should be incorporated into the GB BSC unchanged.

It is recognised that the progress of other current and planned BETTA work may impact upon the drafting of the GB BSC. The results of this work, together with the consideration of any further modifications which are approved by the Authority, will be consulted upon separately.

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1. Rationale

- 1.1. The rationale for the British Electricity Trading and Transmission Arrangements (BETTA) reforms is set out in a consultation paper of December 2001² (the “December 2001 consultation”) and a report of May 2002³ (the “May 2002 report”).
- 1.2. On 30 January 2003, the DTI published the draft Electricity (Trading and Transmission) Bill (the E(TT) Bill) together with a Regulatory Impact Assessment (RIA), which explained the purpose and impact of the proposed primary legislation to enable the BETTA reforms and the expected costs and benefits of BETTA. On 27 November 2003 an Energy Bill was introduced into the House of Lords. The provisions of the draft E(TT) Bill were incorporated into this Energy Bill and are contained in Chapter 1 of part 3 of the Energy Bill (the E(TT) provisions).
- 1.3. The Energy Bill report stage in the House of Lords finished on 1 April 2004. The Bill received its third reading in the House of Lords on 20 April 2004.
- 1.4. The December 2001 consultation proposed that GB wide trading arrangements should be achieved by introducing a BSC to apply across the whole of GB (the “GB BSC”), using arrangements applying in England and Wales as a basis for consultation. The consultation sought views on any issues associated with GB balancing and settlement.
- 1.5. The May 2002 report noted that the majority of respondents to the December 2001 consultation supported the introduction of a GB BSC. The document also noted that there would be consultation on any issues arising from the application of the England and Wales BSC (EW BSC) across GB.

² The Development of British Electricity Trading and Transmission Arrangements (BETTA): A consultation paper, Ofgem, December 2001. Ofgem 74/01.

³ The Development of British Electricity Trading and Transmission Arrangements (BETTA): Report on consultation and next steps. Ofgem/DTI, May 2002. Ofgem38/02.

- 1.6. In December 2002 Ofgem/DTI published a consultation document⁴ on the arrangements that should be embodied in a BSC to apply across GB. That consultation is referred to in this document as “the first GB BSC consultation”.
- 1.7. In June 2003 Ofgem/DTI published conclusions⁵ from the first GB BSC consultation and a first proposal for legal text for a GB BSC. That publication is referred to in this document as “the second GB BSC consultation”.
- 1.8. In November 2003 Ofgem/DTI published conclusions⁶ from the second GB BSC consultation and a second draft of proposed legal text for the GB BSC. That publication is referred to in this document as the “third GB BSC consultation”.
- 1.9. The rationale for this document is to consider the responses received to the third GB BSC consultation, to reach conclusions on the issues raised in that document, to consult on the applicability to GB of recently implemented modifications to the BSC which applies in England and Wales and to present a near final draft of the GB BSC legal text.

⁴ The Balancing and Settlement Code under BETTA, Ofgem/DTI consultation on a BSC to apply throughout GB, Ofgem/DTI, December 2002, Ofgem 80/02.

⁵ Volumes 1 and 2 of “The Balancing and Settlement Code under BETTA. An Ofgem/DTI conclusions and consultation on the legal text of a GB BSC, June 2003”, Ofgem 40/03.

⁶ Volumes 1 and 2 of “The Balancing and Settlement Code under BETTA, Ofgem/DTI conclusions and second consultation on the legal text of a GB BSC, November 2003”, Ofgem 152/03.

2. Timetable

2.1. The proposed timetable for the development of the GB BSC is now as follows:

- ◆ this paper sets out Ofgem/DTI's conclusions on the issues raised in the third GB BSC consultation. Ofgem/DTI believes that the issues on which they are concluding have been adequately addressed and are not seeking further views. This document also considers each of the BSC modifications that have been approved by the Authority since the issue of third GB BSC consultation and sets out proposals for whether such modifications should be incorporated into the GB BSC. This paper also sets out near final legal text for the GB BSC, together with an explanation of the derivation of that text
- ◆ it is anticipated that the GB BSC will be created by designating changes to the prevailing BSC that are considered necessary for it to apply across GB, through the use of powers provided in the E(TT) provisions of the Energy Bill
- ◆ further changes to the GB BSC may be required in the run-up to BETTA go-live. For example, modifications may have been made to the current BSC (which is in operation in England & Wales) which may need to be reflected in the GB BSC that exists at BETTA go-live. Should such changes arise, their inclusion in the GB BSC will be consulted upon at that time. In the main the form of such consultations is likely to be an open letter rather than a full consultation document
- ◆ in addition, Ofgem/DTI will be undertaking consistency checks between the documents that form the elements of the BETTA legal framework in addition to a legal review of the documents. Such reviews may lead to some changes to the legal texts, and
- ◆ it is expected that pre-designation text for the GB BSC will be published, together with a rationale of its derivation, at the end of July 2004.

2.2. Parties' views are sought on the applicability of recently implemented modifications to the BSC which applies in England and Wales, as described in

chapter 5. Any responses should be provided by Friday 28 May 2004 and will be reflected in the next version of the legal text for the BSC unless they are such that they need to be consulted upon separately. All responses will normally be published on the Ofgem website and held electronically in Ofgem's Research and Information Centre unless there are good reasons why they must remain confidential. Respondents should try to put any confidential material in appendices to their responses. Ofgem prefers to receive responses in an electronic form so they can easily be placed on the Ofgem website.

- 2.3. Any responses should be sent by Friday 28 May 2004 to:

David Haldearn
BETTA Project
Office of Gas and Electricity Markets (Ofgem)
9 Millbank
London
SW1P 3GE
Fax: 020 7901 7479

- 2.4. Please e-mail any responses to BETTA.consultationresponse@ofgem.gov.uk marked "Response to GB BSC conclusions". Any consultation responses will be forwarded to the DTI.
- 2.5. If you wish to discuss any aspect of this document, please contact Simon Street, e-mail simon.street@ofgem.gov.uk, telephone 020 7901 7057 or Owain Service at DTI, email owain.service@dti.gov.uk, telephone 020 7215 2779.

3. Background

- 3.1. In the December 2001 consultation Ofgem set out its vision of a model that would enable all consumers in Great Britain to benefit from more competitive wholesale markets. The set of proposed reforms outlined in that paper is termed BETTA.
- 3.2. On 15 April 2002, the Government announced its intention to bring forward legislation to implement BETTA when Parliamentary time allows⁷.
- 3.3. The requirement for a GB BSC under BETTA was discussed in the December 2001 consultation paper and the May 2002 report. In December 2002, the first consultation on a GB BSC was published.
- 3.4. Also in December 2002, Ofgem/DTI published consultation documents on the regulatory framework for transmission licensees⁸, on the GB Connection and Use of System Code (CUSC)⁹, on the GB Grid Code¹⁰ and on the Settlement Agreement for Scotland (SAS) under BETTA¹¹.
- 3.5. On 30 January 2003, the DTI published a draft of the Electricity (Trading and Transmission) Bill¹² (the E(TT) Bill). This was subject to pre-legislative scrutiny by the Trade and Industry Committee (TIC) and the TIC published a report¹³ on 8

⁷ See Hansard, 15th April 2002 Official Report Column 748W.

⁸ "Regulatory framework for transmission licensees under BETTA, An Ofgem/DTI consultation", December 2002. Ofgem 88/02.

⁹ 'The Connection and Use of System Code under BETTA, Ofgem/DTI consultation on a CUSC to apply throughout GB', Ofgem/DTI, December 2002. Ofgem 79/02.

¹⁰ "The Grid Code under BETTA, Ofgem/DTI consultation on the development of a Grid Code to apply under BETTA", December 2002. Ofgem 78/02.

¹¹ "The Impact of BETTA on the Settlement Agreement for Scotland (SAS), An Ofgem/DTI Consultation", December 2002. Ofgem 81/02.

¹² See DTI press notice P/2003/60 published 30 January 2003 on www.dti.gov.uk follow 'Press Notices'.

¹³ 'The British Electricity Trading and Transmission Arrangements: Pre-legislative scrutiny of the draft Electricity (Trading and Transmission) Bill. Fifth report of session 2002-3. Volumes 1 and 2.' See www.parliament.uk/parliamentary_committees/trade_and_industry.cfm.

April 2003. The committee published the Government's response¹⁴ to its report on 2 July 2003.

- 3.6. On 31 January 2003, Ofgem/DTI published a consultation on changes to electricity generation, distribution and supply licences under BETTA¹⁵.
- 3.7. On 6 June 2003, Ofgem/DTI published the second GB BSC consultation containing a first proposal for the legal text of the GB BSC¹⁶.
- 3.8. Also on 6 June, Ofgem/DTI published the first consultation on a System Operator – Transmission Owner Code (SO-TO Code)¹⁷ or STC to apply between the GB system operator and transmission owners and on 13 June the first proposal for a GB CUSC¹⁸.
- 3.9. On 30 June 2003, Ofgem/DTI published a second consultation on the regulatory framework for transmission licensees¹⁹. On 15 July 2003, Ofgem/DTI published their conclusions on the principles of cost recovery with respect to BETTA²⁰.
- 3.10. On 30 September 2003, Ofgem/DTI published the second consultation on the Grid Code under BETTA²¹ and a second consultation on the changes to generation, distribution and supply licences under BETTA²².

¹⁴ "Government response to the Trade and Industry Committee's Fifth Report of Session 2002-03" (HC 468-I), available at www.parliament.uk and follow Committees to the Trade and Industry Committee, Tenth Report for 2002-03

¹⁵ "Changes to electricity generation, distribution and supply licences under BETTA, An Ofgem/DTI consultation", January 2003, Ofgem 04/03

¹⁶ "The Balancing and Settlement Code under BETTA, Ofgem/DTI Conclusions and Consultation on the legal text of a GB BSC", June 2003, Ofgem 40/03.

¹⁷ "The SO-TO Code under BETTA, Summary of responses and conclusions on Volumes 3 and 4 of the December 2002 consultation on the regulatory framework for transmission licensees under BETTA, and further consultation on content of the SO-TO Code", Ofgem/DTI, June 2003, Ofgem 41/03

¹⁸ "The Connection and Use of System Code under BETTA, Ofgem/DTI Conclusions and Consultation on the legal text of a CUSC to apply throughout GB", June 2003, Ofgem 46/03.

¹⁹ "Regulatory framework for transmission licensees under BETTA – Second consultation on electricity transmission licences under BETTA: An Ofgem/DTI consultation", June 2003, Ofgem 59/03

²⁰ "Recovery of costs under BETTA, An Ofgem/DTI conclusions document", July 2003, Ofgem 66/03 and "Addendum to 'Recovery of Costs under BETTA: An Ofgem/DTI conclusions document'", 30 July 2003.

²¹ "The Grid Code under BETTA, Ofgem/DTI conclusions and consultation on the text of a GB Grid Code The BSC under BETTA Conclusions Volume 1 Ofgem/DTI

- 3.11. On 20 November 2003, Ofgem/DTI published a consultation on smaller generator issues under BETTA.
- 3.12. On 26 November 2003, the Government announced its intention to bring forward an Energy Bill. On 27 November 2003 the Energy Bill was introduced into the House of Lords. This Bill incorporates the provisions previously presented in the draft E(TT) Bill. Such legislation is referred to in this document as the E(TT) provisions of the Bill or, based upon an assumption of Royal assent to such a Bill, as the E(TT) provisions of the Act.
- 3.13. The Energy Bill report stage in the House of Lords finished on 1 April 2004. The Bill received its third reading in the House of Lords on 20 April 2004.
- 3.14. On 28 November 2003 Ofgem/DTI published the third consultation on the GB BSC²³ together with a second draft of legal text for the BSC to apply GB-wide.
- 3.15. On 16 December 2003, Ofgem/DTI published the third consultation on the GB CUSC²⁴ together with a second draft of the legal text for the CUSC to apply GB-wide, and on 19 December 2003 a third consultation on the regulatory framework for transmission licensees under BETTA²⁵.
- 3.16. On 14 January 2004 Ofgem/DTI published a third consultation on the impact of BETTA on electricity generation, distribution and supply licences²⁶ and on 24 February 2004 a consultation on the establishment of GB panels²⁷ for the BSC, CUSC and Grid Code.

and consultation on change co-ordination between the STC and user-facing industry codes", September 2003, Ofgem 111/03.

²² "Changes to generation, distribution and supply licences under BETTA, A second Ofgem/DTI consultation", September 2003, Ofgem 114/03.

²³ "The Balancing and Settlement Code under BETTA, Ofgem/DTI conclusions and second consultation on the legal text of a GB BSC", November 2003, Ofgem 152/03

²⁴ "The Connection and Use of System Code under BETTA, Ofgem/DTI conclusions and second consultation on the legal text of a CUSC to apply throughout GB", December 2003, Ofgem 167/03

²⁵ "Regulatory framework for transmission licensees under BETTA, Third consultation on electricity transmission licences under BETTA, An Ofgem/DTI consultation", December 2003, Ofgem 178/03

²⁶ "Changes to the electricity generation, distribution and supply licences under BETTA, A third Ofgem/DTI consultation", January 2004, Ofgem 06/04

²⁷ "Establishing GB panels for the CUSC, the Grid Code and the BSC under BETTA, Ofgem/DTI The BSC under BETTA Conclusions Volume 1 Ofgem/DTI

- 3.17. Ofgem/DTI has also recently published their conclusions on the position of smaller generators under BETTA²⁸, a third consultation on the GB Grid Code²⁹, together with a second draft of the legal text for the Grid Code to apply GB-wide and a second full consultation on the SO-TO code³⁰, together with a further draft of the legal text for the STC.
- 3.18. All of the consultation papers mentioned, together with others which have less relevance to the GB BSC can be found on the Ofgem web-site at www.ofgem.gov.uk (select BETTA (Publications)).
- 3.19. Although Ofgem/DTI believe that the legal text for the GB BSC shown in volume 2 of this document is close to its final form, work that is ongoing in other areas of the BETTA project, such as the changes required to transmission licences under BETTA, the further drafting of the STC, and the development of the GB Grid Code could result in the need to make changes. If, as a result of work in these other areas, changes to the GB BSC seem necessary, Ofgem/DTI will consult upon such changes at that time. In addition, in respect of any changes which are approved by the Authority to the BSC which is currently operational in England and Wales, Ofgem/DTI will consult on the question of the incorporation of such changes in the GB BSC. As mentioned in chapter 2, such consultations are likely to take the form of an open letter rather than a full consultation paper.
- 3.20. This document does not consider the arrangements necessary to make the legal transition to a BSC that applies across GB. This document makes proposals only in respect of the enduring arrangements. The legal transition to a GB BSC and other practical transitional issues will be consulted upon at a later date in the context of implementation and transitional issues.

consultation", February 2004, Ofgem 38/04

²⁸ "Small generator issues under BETTA, Ofgem/DTI conclusions document", April 2004

²⁹ "The Grid Code under BETTA, Ofgem/DTI conclusions and second consultation on the text of a GB Grid Code and conclusions on change management between the STC and each of the GB CUSC, GB BSC and GB Grid Code", April 2004

³⁰ "The SO-TO Code under BETTA, Ofgem/DTI summary of responses and conclusions on the June 2003 document on the SO-TO Code under BETTA and subsequent mini-consultations and further consultation on draft legal text; proposals for CUSC changes in relation to limitation of liability; and matters relating to timescales for processing new connection applications", April 2004.

4. Summary of responses and Ofgem/DTI views

- 4.1. Nine responses were received to the third GB BSC consultation. A list of respondents is shown in Appendix 1. The responses are available on the Ofgem website at www.ofgem.gov.uk.
- 4.2. This document considers responses to Ofgem/DTI's third consultation on a GB BSC. This chapter sets out respondents' views only where disagreements or new information in relation to Ofgem/DTI's conclusions were brought forward. Ofgem/DTI is grateful for respondents' support in other areas, which can be found in the published responses on the Ofgem website. This document considers matters raised in the order in which they were raised in the third GB BSC consultation. Matters raised by respondents on other issues are addressed at the end of this chapter.

Geographic scope of the GB BSC: the Shetland Isles

- 4.3. In the third GB BSC consultation Ofgem/DTI stated that they are still of the view that the Shetland Isles should be included within the scope of the GB BSC arrangements.
- 4.4. One respondent commented on this view stating that, although they agreed that the Shetland Isles should remain part of the North of Scotland GSP Group, they continued to disagree with the view that the Distribution Network Operator (DNO) should have sole responsibility for balancing generation against demand on the islands. The respondent made the point that the terms of the British Grid Systems Agreement (BGSA) gives the responsibility for frequency control across the whole of the British Total System to National Grid Company, who passes such responsibility to the relevant other transmission licensee when parts of the system become disconnected from the Total British System.
- 4.5. The respondent also stated that generation prices on the mainland might not be visible to a DNO contracting for generation to balance demand on the islands and that where a supplier on the islands contracts for its generation from the mainland, the DNO would have to contract for generation to balance demand on the island while the GB system operator would have to dispatch off an equivalent amount of generation on the mainland. The respondent also made

the point that were the DNO to take responsibility for balancing generation and demand on the islands, it would need to be able to recover the costs associated with providing that service through the distribution price control.

- 4.6. Ofgem/DTI note that there are a number of different points raised by this respondent. On the question of the GB system operator's ability to balance the GB transmission system, given the freedom of suppliers and generators to contract for energy across GB, Ofgem/DTI are confident that the GB system operator would have sufficient information from BM Unit registrants and about the configuration of the GB transmission system to be able to make proper allowance for the lack of connection between the mainland and the Shetland Islands. On the question of the provisions of the British Grid Systems Agreement, Ofgem/DTI are conscious that this is a practical agreement between the three transmission licensees, designed to allow them to meet their statutory and licence duties and does not release any licensee from such responsibilities. Ofgem/DTI remain of the view that the distribution licensee will remain responsible for balancing generation and demand on the Shetlands.
- 4.7. Ofgem/DTI's view remains that the Shetland Isles should be included within the scope of the GB BSC arrangements.

Governing law and jurisdiction

- 4.8. In the third GB BSC consultation Ofgem/DTI stated their belief that their proposals for legal jurisdiction do not discriminate against Scottish participants, arguing that the circumstances where a party to the BSC finds it necessary to take an issue to the courts are likely to be very rare given the dispute resolution processes built into the BSC. Ofgem/DTI also stated their belief that the proposed arrangements for the GB BSC are consistent with the Network Code, which also has a GB scope and provides for the exclusive jurisdiction of English courts. Further, Ofgem/DTI stated that it will be substantially more efficient to implement the GB BSC as a change to the current BSC and that the price of such an efficiency gain is a risk of a relatively small inconvenience on rare occasions.
- 4.9. Ofgem/DTI concluded that the governing law of the GB BSC should be English law and that jurisdiction should be conferred exclusively on the courts of

England and Wales. Ofgem/DTI also concluded that the GB BSC should be implemented by modifying the current BSC.

- 4.10. Two respondents commented on Ofgem/DTI's conclusions. One respondent pointed out that, were the SAS to be brought into the GB BSC, this may have implications for the law and jurisdiction provisions. The other respondent while recognising (but not necessarily agreeing with) the conclusions in respect of governing law, challenged the points made in support of granting exclusive jurisdiction to the courts of England and Wales. It was argued that Ofgem/DTI's claim of rarity of recourse to the courts applied whatever the jurisdiction; that the mention of the Network Code was "cherry picking" since the Master Registration Agreement which is also GB-wide does not specify jurisdiction; and that the claim of efficiency was unsupported.
- 4.11. Ofgem/DTI note the comment about the effect of bringing the SAS into the BSC. However, in the conclusions document on the impact of BETTA on the SAS³¹, Ofgem/DTI concluded that the SAS should not be incorporated into the BSC, instead it should remain a separate document.
- 4.12. Ofgem/DTI's argument for the efficiency gain was based upon the plan to introduce the GB BSC as a modification to the current BSC. Such a move would avoid the major issues for England and Wales parties of the introduction of a new BSC and the need to run-off the old BSC. Ofgem/DTI's expectation was that, if it were necessary to change the jurisdiction provisions in the BSC Framework Agreement, this could not be done without introducing a new agreement and hence a new BSC. Thus the balance to be struck was one between significant disruption of England and Wales BSC parties (albeit as a one-off event) and a small risk of some disruption for a future Scottish party forced to take action in an English or Welsh court.
- 4.13. However, Ofgem/DTI have considered further the powers in the E(TT) provisions in the Energy Bill and believe these would give the Secretary of State the ability to amend the legal jurisdiction provisions in the BSC Framework Agreement to include Scottish courts as well as the courts of England and Wales

³¹ "The impact of BETTA on the Settlement Agreement for Scotland (SAS), An Ofgem/DTI conclusions paper", May 2003, Ofgem 34/03

courts (through the power to make a licensing scheme). Ofgem/DTI therefore conclude that the governing law should remain English law, but that the provisions of the BSC, including its framework agreement, should be altered to allow for jurisdiction to be extended to Scottish courts, as well as the courts of England and Wales. The legal drafting for the GB BSC in volume 2 of this document has been altered to reflect this conclusion.

Governance

- 4.14. In the third GB BSC consultation Ofgem/DTI concluded that there is no need to alter the role or constitution of the Panel in the GB BSC but recognised that there is an argument for further consideration of a process of re-election of elected Panel Members to recognise the wider scope of the GB BSC.
- 4.15. Three respondents commented on this conclusion. Two of the respondents stated their support for a new election for a GB panel and one accepted that there may be no need to change the composition of the panel.
- 4.16. Ofgem/DTI are grateful for this support for their conclusion. The establishment of GB panels for the BSC, the CUSC and the Grid Code was addressed in an Ofgem/DTI consultation paper³² published on 24 February 2004.
- 4.17. Another respondent stated that it believed that the introduction of BETTA represents an opportunity to consider how the GB BSC Panel could be improved, arguing that its perception of a decline in the participation of parties in modification groups could be symptomatic of the Panel not always being seen as representing the diversity of industry views. The respondent stated that they would like to see some changes both to simplify and to improve the transparency of the panel election process.
- 4.18. Ofgem/DTI notes these views but cannot accept that such issues should be considered to be part of BETTA. Should the party consider that such issues need to be addressed, the mechanism for taking them forward would be to propose a modification to the existing BSC.

³² "Establishing GB panels for the CUSC, the Grid Code and the BSC under BETTA, Ofgem/DTI consultation", February 2004, Ofgem 38/04

BSCCo

- 4.19. In the third GB BSC consultation Ofgem/DTI stated that they were satisfied that a competitive tender exercise is not required to put GB BSCCo in place.
- 4.20. One respondent commented on this conclusion stating that it believed that the question of competitive tendering for BSCCo may merit consideration at some point in the future.

Cost recovery

- 4.21. In the third GB BSC consultation, Ofgem/DTI stated that, in accordance with the cost recovery conclusions³³, legal drafting has been prepared for Section D of the GB BSC to recover BETTA Support Costs over a five year period on the basis of GB BSC Parties' Credited Energy Volumes and to repay those costs to the parties who funded them. BETTA Support Costs are those costs incurred in accordance with Section C8 of the BSC. Section C8 requires that ELEXON proposes packages of work to the Authority and states that ELEXON may not undertake any such work until it has been approved by the Authority.
- 4.22. Three respondents commented on various aspects of cost recovery and BETTA Support Costs. Two respondents questioned the proposed legal drafting for Section D of the GB BSC in respect of the BSC Panel's determination of BETTA Recovery Shares. One respondent commented that the proposed provision that the BSC Panel's determination of BETTA Recovery Shares should be final and binding in the absence of manifest error is too high a test as there may be circumstances in which the Panel has made an incorrect determination but it is difficult to establish "manifest error". The other respondent questioned why it was necessary for the Panel to wait until the BETTA start date to determine the BETTA Recovery Shares noting that as a minimum it should be possible to determine now the principles to be applied.
- 4.23. The proposed legal drafting for the recovery of BETTA Support Costs in section 3 of Annex D-5 of Section D of the GB BSC is based upon that for the recovery of

³³ "Recovery of costs under BETTA, An Ofgem/DTI conclusions document", July 2003, Ofgem 66/03

NETA costs (which is shown in section 2 of Annex D-5). BETTA Support costs will continue to be incurred right up to the BETTA go-live date and the Panel will not be able to determine the BETTA Recovery Shares until all the costs have been incurred and BSCCo is able to calculate which party funded what share of the total BETTA Support Costs and what interest should be payable. Ofgem/DTI take the view that, as with the recovery of NETA costs, it is necessary that BSC parties from whom the BETTA Support Costs are being recovered, should be required to demonstrate a real (manifest) error in the calculation of the BETTA Recovery Shares determined by the BSC Panel if they are to be challenged. Ofgem/DTI anticipate that the BSC Panel will wish to assure themselves, on behalf of all BSC Parties of the correctness of the calculations by BSCCo before determining the BETTA Recovery Shares.

- 4.24. One respondent stated that they continue to believe that the SAS run-off costs should be charged out on a GB basis, adding that if that is not to be the case then it needs to be made explicitly clear that the E&W run-off costs are ring fenced and charged out to E&W parties only. Another party stated that it believed that the most cost effective way of recovering run-off costs for settlement both in England and Wales under the BSC and in Scotland under the SAS is to recover all such costs on a GB basis under the GB BSC following BETTA go-live, particularly given that BSCCo will perform the run-off role.
- 4.25. The cost recovery conclusions document³⁴ explained the basis for Ofgem/DTI's conclusions that SAS run-off costs should fall to the Scottish distribution licensees and any costs incurred would need to be compliant with appropriate criteria before they could be considered for recovery, adding that further consideration would have to be given to an appropriate charging base at the time. Ofgem/DTI added that, in relation to SAS run-off, full consideration of this matter will be undertaken at the time that any modification to the SAS is brought forward to give effect to the run-off of SAS arrangements.
- 4.26. As far as England and Wales run-off costs are concerned, these are ring fenced by the provisions relating to BETTA Support Costs. Only BETTA Support Costs, which are costs incurred in respect of work specifications which have been

³⁴ "Recovery of Costs under BETTA, An Ofgem/DTI Conclusions document", July 2003, Ofgem 66/03

approved by the Authority, will be recovered from a GB charging base. All other England and Wales BSC costs are recovered from BSC Parties before BETTA go-live.

Settlement metering

- 4.27. In the third GB BSC consultation paper Ofgem/DTI concluded that the England and Wales metering Codes of Practice should be adopted GB-wide and that the definition of relevant Code of Practice in the GB BSC should be amended to incorporate metering systems which comply with the metering codes of practice under the SAS prior to BETTA go-live.
- 4.28. One respondent commented on this conclusion stating that it has metering systems that are registered in the Generation Registration Service (GRS), but that are not governed by the provisions of the SAS. It sought clarification that such metering systems will not require to be treated as new installations and therefore not have to be recommissioned on day one of BETTA. It stated that it believed that the metering systems should be treated as being transferred from one registration system to another under section L 3.2.4 of the BSC.
- 4.29. In concluding that metering systems that comply with metering codes of practice under the SAS should be recognised under the GB BSC, Ofgem/DTI are conscious that the contractual environment of the SAS, as that of the BSC, provides a framework of assurance and enforcement of compliance with codes of practice. For metering systems which are not subject to the SAS, this is not the case. Ofgem/DTI believe therefore that the provisions of Section L 3.2.4 of the GB BSC should only be extended to encompass metering systems which have been subject to the SAS. Ofgem/DTI note however that it will be open to parties to seek dispensations, in relation to metering systems, from the GB BSC Panel when it is in place and when the BSC applies (or will apply) in relation to them and their metering systems from BETTA Go-live. Further, ELEXON have undertaken a consultation on behalf of parties who believe they may need a metering dispensation under the GB BSC. Ofgem/DTI have received ELEXON's

report on this consultation which has also been published on the ELEXON website³⁵.

- 4.30. Two respondents also sought a response from Ofgem/DTI on ELEXON's report on metering dispensations, and another respondent sought a presumption in favour of accepting the recommendations from ELEXON. Ofgem/DTI asked ELEXON to undertake consultations on metering dispensations and on BM Unit configurations in order to give parties increasing confidence in the process of seeking such decisions in the period when there is no legal authority to take such a decision; that is, prior to Royal Assent to the Energy Bill and the subsequent exercise by the Secretary of State of the powers provided in the E(TT) provisions of the bill. The next stage in the process will be the publication by Ofgem/DTI of proposed legal drafting for the transitional aspects of the GB BSC which may include provisions to "deem" decisions of the GB BSC Panel. Such proposed legal drafting will be informed by the report on metering dispensations and the expected report on BM Unit configurations. It would be inappropriate for Ofgem/DTI to predetermine the outcome of this process.

BM Unit representation

- 4.31. In the third GB BSC consultation paper Ofgem/DTI stated that they had asked ELEXON to seek information from Scottish parties and to undertake a further consultation in respect of any proposals for non-standard BM Unit configurations, adding that, should it be necessary given the outcome of that consultation, Ofgem/DTI would propose the inclusion of "deemed" GB BSC Panel decisions in relation to BM Unit and Trading Unit configurations into the transitional legal framework.
- 4.32. One respondent commented on this process, stating that it was necessary for Ofgem/DTI to adopt a policy whereby there is a strong presumption in favour of accepting the BM Unit and Trading Unit configurations that have been proposed by parties. Ofgem/DTI have explained in 4.30 above that it would be inappropriate to predetermine the outcome of the consultation processes.

³⁵ www.elexon.co.uk

- 4.33. In the third GB BSC consultation Ofgem/DTI also stated that they did not believe that the question of the production or consumption classification of pumped storage BM Units was an issue that arises as a consequence of BETTA and therefore that a proposal that a generator should be able to nominate the production or consumption status of pumped storage BM Units should not be taken forward as part of the BETTA reforms.
- 4.34. One respondent has commented on this, stating that because there are no pumped storage plants in England and Wales that have a Demand Capacity in excess of their Generation Capacity, whereas all BM Units at both Scottish pumped storage stations do, that the current BSC has a defect that only becomes apparent when it is incorporated into a GB BSC. The respondent also states that the inherent nature of pumped storage plant suggests that they should be classified as Production rather than as Consumption BM Units.
- 4.35. Ofgem/DTI believe that, if pumped storage plant it should be classified as Production, then, although there is currently no such plant in England and Wales which would be classified as Consumption, there is arguably a defect in the current BSC which any party that believes this to be the case, could propose a modification to correct. Ofgem/DTI therefore are still of the view that this is not a BETTA issue.

SVA Profiling

- 4.36. In the third GB BSC consultation Ofgem/DTI proposed that the GB BSC should allow for different day-types and thus bank-holidays, to be accommodated in demand profiling in Scotland from those in England and Wales. However, Ofgem/DTI stated that they took the view that the expected operational costs of maintaining two separate sets of profiles for England and Wales and for Scotland cannot be justified and therefore proposed that the single profiling arrangement as recommended by the experts should be adopted GB-wide.
- 4.37. All those respondents that commented on SVA profiling supported the proposal. Ofgem/DTI therefore conclude that the GB BSC should allow for different day-types in Scotland from those in England and Wales and that a single set of profiles incorporating a single sunset time should be used across GB.

Small generators

- 4.38. In the light of the recent publication of Ofgem/DTI's conclusions on the consultation on small generators³⁶, Ofgem/DTI note that no changes are required to the GB BSC.

BMRS Zones

- 4.39. In the third GB BSC consultation Ofgem/DTI sought views from respondents on the two options of either (i) providing an additional (sixth) BMRS zone covering the whole of Scotland or (ii) combining Scotland with the existing northern zone.
- 4.40. Five respondents provided their views on this question. Two respondents provided information on the effect on costs of the two options proposed. One of the respondents pointed out that increasing the number of BMRS zones would result in increased costs for BSCCo in the development of the systems required and the other stated that although the creation of an additional zone would have systems implications, a change to the current Zone A to encompass Scotland would also bring with it the requirement for system and process changes.
- 4.41. Two of the five respondents favoured a separate zone for Scotland, one on the basis that the extension of the northern zone to include Scotland would dilute the information provided in respect of that zone and the other on the basis that the daily demand shapes in the two areas were significantly different and combining the areas in one zone would make demand forecasting extremely difficult.
- 4.42. Two of the five respondents favoured extending the northern zone to include Scotland. One respondent thought this would better reflect the original intention to define BMRS zones by constraint zone and that it would be possible to deduce commercially sensitive information from generation and supply information in a separate Scottish zone. The other respondent noted that the

³⁶ "Small generator issues under BETTA, Ofgem/DTI conclusions document", April 2004

creation of a sixth BMRS zone to cover the whole of Scotland would create a position whereby the data associated with three generation companies (SSE Generation Limited (SSE) Scottish Power Generation Limited (SP) and British Energy Generation Limited (BE)) would be aggregated. It stated that given the nature of BE's generation activities in Scotland, it would be relatively simple for SSE and SP to determine each other's notified position in Scotland.

- 4.43. Ofgem/DTI is persuaded that the introduction of an additional BMRS zone covering Scotland could place some parties in a commercially advantageous position compared to others in relation to information available to them and therefore conclude that initially under BETTA the northern BMRS zone (Zone A) should be extended to cover the whole of Scotland in addition to its present area. Ofgem/DTI are also aware that it will be open to the GB BSC Panel to change the configuration of BMRS zones, in accordance with the provisions of the GB BSC.

Half-hour data for transmission owners

- 4.44. In the third GB BSC consultation Ofgem/DTI stated that, if it is concluded that BSC settlement data is required by transmission owners, they believe that the GB BSC and the STC should provide for this, subject to an assessment of the costs involved.
- 4.45. Five respondents commented on this proposal. One respondent stated that it was happy to contribute to the discussions on this issue, the other four all supported the proposal.
- 4.46. Ofgem/DTI therefore conclude that, should it be concluded that BSC settlement data is required by transmission owners, subject to an assessment of the costs involved the GB BSC and the STC should provide for this.
- 4.47. A decision has not yet been reached on whether such data is required, and therefore the appropriate legal drafting for the BSC is not included in the near final draft of the GB BSC shown in volume 2 of this document. The question of the requirement for such data is being discussed at the Data Exchange Development Group. Once that group reaches a conclusion Ofgem/DTI will propose any necessary changes to the GB BSC.

Business Days

- 4.48. In the third GB BSC consultation Ofgem/DTI stated that they did not believe it is appropriate, or necessary to revise the definition of Business Day to reflect Scottish Bank Holidays and that to retain the existing definition continues to be permissible.
- 4.49. Three respondents commented on this conclusion. One respondent stated that, although it agreed that it was neither appropriate nor necessary to revise the definition of Business Days to account for Scottish Bank Holidays, it noted that Ofgem/DTI were proposing that SVA profiles should allow for different day types in Scotland to account for Scottish Bank Holidays. It believed that further consideration was required to ensure consistency of approach throughout the GB BSC.
- 4.50. Two other respondents stated their belief that the BSC should allow for Scottish Bank Holidays. One respondent stated that it believed that while it may not be necessary to reflect Scottish Bank Holidays in the Credit Calendar, the implications of not reflecting such days in the Settlement Calendar should be considered. It stated that parties operating and banking in Scotland may be required to make early payment of charges (for example on 31 December in order to meet a payment due on 2 January) and added that staff might be required to work on Scottish Bank Holidays in order to meet a Settlement Calendar which only takes account of Bank Holidays in England and Wales. The respondent stated that this was clearly discriminatory against Scottish participants.
- 4.51. The other respondent stated that dealing with extra bank holidays and other calendar changes must already be something that can be done readily, for example to deal with the holiday introduced in June 2002 to celebrate the Queen's Golden Jubilee and to deal with the extra day on 29 February 2004. The party also pointed out that where a Scottish party wishes to post credit cover on an English business day, i.e. 2 January, they would be unable to do it as it is a Bank Holiday in Scotland. They claimed this would discriminate against Scottish parties and stated that the "solution" of banking with an English bank would result in Scottish parties incurring additional costs associated with

moving their banking arrangements and that they would not enjoy the same banking relationship that they do with their current bank.

- 4.52. Ofgem/DTI recognize that it is relatively straightforward to make changes to settlement and credit calendars under the BSC to account for additional days or for additional bank holidays, when these changes apply equally to all parties. The issue with the consideration of Scottish bank holidays is that they do not apply equally to all. Therefore, the choice facing Ofgem/DTI is either to change the definition of business days and introduce the resultant impact on the current parties to the BSC or not to change the definition and cause an impact on those new parties to the BSC located in Scotland.
- 4.53. The effect of changing the definition of business day in the BSC has impact in many areas of the code. In effect, the definition of business days is used to determine when BSC activities are carried out. Thus, the BSC does not expect BSC Agents to be operational on days other than business days. Clearly BSC Agents' working days should not be reduced as this is likely to result in an increase in the costs of providing those services. It would be necessary, therefore to undertake a substantial redrafting of the BSC either to unpick the use of the definition of business day or to treat Scottish bank holidays as an exception to the general rule in respect of business days and to specify exactly what should happen on such days. The key things which would have to be disabled for Scottish bank holidays would be the ability for parties to provide credit cover or to make settlement payments on such days.
- 4.54. If the definition of business day was maintained as now, the impact would be only upon new parties located in Scotland since any existing BSC parties located in Scotland have already put in place means of dealing with the problem. The impact on such new parties would be the need to put in place a mechanism to enable the provision of credit cover, or the payment of settlement charges, to be instructed one day earlier than would otherwise be the case. The transfers of money from Scottish bank branches would not take place on the Scottish bank holiday, however, transfers would take place from and to England and Wales branches of banks.
- 4.55. Ofgem/DTI do not believe it would be appropriate to introduce a change to the BSC with potentially significant impacts on the code itself and the way it is

operated by present parties, in order to avoid an impact on a small number of new parties, where the impact is small, foreseeable and to a large extent avoidable. Ofgem/DTI therefore conclude that the definition of business day in the BSC should not be changed. In reaching that decision Ofgem/DTI note the comment by one respondent that this might be considered to be inconsistent with the decision to allow for Scottish bank holidays in the SVA profiles. However, Ofgem/DTI also note that the provision of the ability to allow for Scottish bank holidays in respect of Scottish non-half hour metering systems, had no effect on such systems in England and Wales. Thus there was no need to balance the benefit in Scotland against any disadvantage in England and Wales, since a solution was available which could assisted the process for estimating half-hourly consumption in Scotland without affecting England and Wales.

Change coordination

- 4.56. The recently published consultation on the GB Grid Code³⁷ concluded on the arrangements for change coordination between codes. In respect of the GB BSC it was concluded that the GB BSC Panel should be obliged to set up joint working arrangements with the STC committee and, when setting up a modification group to consider a proposed modification which the Panel believes may impact upon the STC (and only under those circumstances), to invite representatives of the STC committee to become members of that modification group.
- 4.57. Legal drafting to give effect to these conclusions (in Section F) is included in the GB BSC in volume 2 of this document.

Other issues

- 4.58. Respondents raised a number of other issues as outlined below.

³⁷ "The Grid Code under BETTA, Ofgem/DTI conclusions and second consultation on the text of a GB Grid Code", April 2004

England and Wales modifications

- 4.59. One respondent stated that it was concerned about the number of significant reforms (BETTA included) which are being taken forward in parallel yet in isolation from each other. It claimed that this approach makes it impossible for market participants to fully understand and assess the overall impact of the proposed reforms, thus increasing market uncertainty and regulatory risk. It stated that though Ofgem has previously resisted freezing significant developments in the market while BETTA arrangements are being developed, they believe there is now a compelling case to do so.
- 4.60. As explained in the second consultation on electricity transmission licences under BETTA³⁸, Ofgem/DTI continue to believe that it would be inappropriate and inconsistent with the statutory duties placed upon the Gas and Electricity Markets Authority ("the Authority") under the Electricity Act, to refrain from taking forward changes to existing arrangements in advance of BETTA.
- 4.61. Three respondents commented on the consultation process for considering the implications of modifications being applied on a GB basis rather than being limited to England and Wales. One of the three supported Ofgem's process. The other respondents both expressed concern about the level of consultation involved, one commenting that it was not as comprehensive as the England and Wales process.
- 4.62. Ofgem/DTI note these views but are also conscious that there are currently three separate consultation processes before any proposed modification can be included in the GB BSC. First the proposal is subject to consultation by the BSC Panel in the context of the BSC currently applying in England & Wales. Secondly, since the Second Reading of the Energy Bill in the house of Lords, it is generally considered appropriate by Ofgem to consult on the further implications of modifications that are being considered in the context of England & Wales being applied on a GB basis. Finally, for all modifications which are approved by the Authority, Ofgem/DTI consult upon the inclusion of the modification in the GB BSC. Ofgem/DTI believe that such a process

³⁸ "Regulatory framework for transmission licensees under BETTA, Second consultation on electricity transmission licences under BETTA, An Ofgem/DTI consultation", June 2003, Ofgem 59/03

provides sufficient opportunity for all interested parties to make their views known.

“Scottish Trading Arrangements”

- 4.63. Two respondents argued that Section E 2.5 (entitled “Scottish Trading Arrangements”) of the BSC should not be deleted. One respondent stated that, although there may be no need for the provisions of E 2.5 in the enduring GB BSC, the intellectual property rights (IPR) provisions will remain relevant during any SAS run off period and potentially for any period for the raising and resolution of SAS disputes. The other respondent also stated that E 2.5 should be re-instated for the purposes of the run-off period when the systems will still be running.
- 4.64. Section E 2.5 of the BSC is designed to ensure that, for any provision of a BSC Agent contract where IPR is provided to BSCCo, such a BSC Agent contract should also provide for the provision of equivalent IPR to a person designated by the Authority. Ofgem/DTI have sought the views of ELEXON on this matter. ELEXON’s advice was that there may be issues in relation to the IPR for the Supplier Volume Allocation Agent systems under the BSC and similar systems operated under the SAS. They therefore advised that Section E 2.5 should not be removed from the GB BSC pending a run-off of the SAS.
- 4.65. Ofgem/DTI are grateful for this advice and conclude that it would be prudent for Section E 2.5 to remain in the GB BSC. The legal drafting in volume 2 of this document reflects that position.

Transition and BETTA go-live

- 4.66. One respondent raised two issues in respect of BETTA go-live and transitional processes, stating firstly that any delay to the planned go-live date of April 2005³⁹ should be in blocks of six months in order to align with the industry contracting rounds and that, since energy is normally committed in blocks of 12 months or more, a delay to BETTA go-live beyond April 2005, which is

³⁹ Subject to Royal Assent to the Energy Bill in July 2004.

announced any later than June 2004, will be likely to result in parties being unable to achieve appropriate contract cover between the initial and final go-live dates. Secondly the respondent sought a structured process of consultation and development for the transition and implementation process.

- 4.67. Ofgem/DTI are grateful for these comments which will be used to inform the discussion on implementation and transitional plans by the Transition Implementation Group.

Consultation process

- 4.68. One respondent commented that it believed it was evident from the third GB BSC consultation that there remains the prospect of significant further drafting necessary to produce the GB BSC, not only in respect of that consultation but also in respect of the consultations on the GB Grid Code, the STC and small generators. It added that should there be a need for significant further drafting, they would prefer a further opportunity to review a draft of the GB BSC.
- 4.69. This conclusions document and the near final draft of the GB BSC in volume 2, incorporate relevant conclusions from all of the previously published Ofgem/DTI BETTA documents. As can be seen from the description in chapter six the level of change to the operational BSC to produce the GB BSC is relatively limited. Ofgem/DTI therefore do not believe that a further consultation on the full text of the GB BSC is required. However, Ofgem/DTI will consult separately on any further areas of change, should they arise.

Liability

- 4.70. One respondent commented in relation to disconnection rights that drafting should be inserted to reflect the rights of the transmission owner and in particular those rights and obligations imposed upon the transmission owner by the Electricity Safety, Quality and Continuity Regulations. The respondent also added that it must be unequivocal in the GB BSC that the transmission owner will be held harmless when acting on the instructions of the GB system operator, adding that in particular transmission owners should have the benefit of the same limitations of liability available to NGC as the transmission company.

- 4.71. Ofgem/DTI note this view and further note that any such issues will be dealt with through the STC. It will be the STC that provides for the GB system operator to require that transmission owners take steps necessary to give effect to a disconnection and this is therefore the place where any liability issues arising as a consequence of the transmission owner complying with such a request should be addressed.

Charging reforms

- 4.72. One respondent commented that one cause for its concern was the current status of innovative and fundamental England and Wales charging reforms for application across GB. Although approved for implementation in England and Wales from April 2004, the design and impact of these reforms have yet to be fully assessed on a GB basis.
- 4.73. Ofgem/DTI recognize that transmission charging arrangements for GB have not yet been fully resolved, and will not be until the consultation and approval process is complete. However they note that, in the light of Ofgem/DTI conclusions on the obligations to be included in its licence, NGC has started on a process of consultation aimed at the production of a transmission charging methodologies for connection and use of system to be delivered to the Authority for approval in October 2004. Ofgem/DTI believe that this process, which will result in the publication of transmission charging statements, will fully meet the needs for GB assessment.

5. Modifications to the England and Wales BSC

- 5.1. This chapter describes the BSC modifications that have been approved by the Authority or implemented since those listed in the third GB BSC consultation. In respect of those that have been implemented, this chapter considers whether they should be included in the legal text of the GB BSC which is shown in volume 2 of this consultation. In respect of any modification which has been approved, but not yet implemented, in order to maintain a direct comparison with the current operational BSC, it is not proposed to include any of them in the legal text at this time. However, this chapter considers whether, once implemented, such modifications should be included in the GB BSC.
- 5.2. In this document the legal text of the GB BSC is presented change marked against the operational version of the BSC. The changes to the GB BSC text between versions 2 and 3 are highlighted in appendix 2.

Approved modifications

- 5.3. This chapter considers any modifications approved by the Authority by 31 March 2004 and the version of the BSC against which changes are shown in volume 2 of this document is that in operation in England and Wales on 31 March 2004. Details of that version of the BSC are shown in appendix 3.
- 5.4. The third GB BSC consultation proposed that all the approved modifications shown in the table below should be included in the GB BSC as and when they were implemented in the BSC.

Mod ref	Decision	Implement	Description
P118	3-June-03	24-June-03	Increased efficiency in the reporting of credit default statements
P119	3-June-03	24-June-03	Increased flexibility in the reporting of upheld trading disputes relating to credit default
P126	18-July-03	8-Aug-03	Housekeeping modification
P122	10-Sept-03	19-Sept-03	Assessment of credit cover during a holiday period
P116	8-Jul-03	27-Nov-03	Allow line loss factor data from the BSC web-site to be used in settlement
P130	29-Aug-03	20-Jan-04	Clarification of the treatment of non-half-hourly export consumption

P114	13-Aug-03	24-Feb-04	Entitlement of licence exempt generators and other non-trading parties to remain BSC Parties
P123	8-Sept-03	27-Feb-04	Assessment of credit cover following a change in a Party's portfolio
P99	26-Feb-03	1-May-04	Changes to accreditation and the PARMS serials and standards, resulting from the Performance Assurance Framework (PAF) Review (Phase 1)
P98	18-Aug-03	8-Nov-04	Dual notification of contract positions

- 5.5. Three respondents commented on this proposal. All of the respondents agreed with the proposal with the exception of two specific concerns which were raised by individual respondents. One respondent questioned the additional implementation costs which might arise to extend P98 to GB. Another respondent stated that P122 needed to be amended because if 1 January falls on a Friday, then the following Monday (4 January) would be a Bank Holiday in Scotland but would not be allowed for by the drafting for P122.
- 5.6. Ofgem/DTI have been informed by ELEXON that there will be no impact as a result of the extension of P98 to GB.
- 5.7. In relation to P122, it is true that when 1 January falls on a Friday, then the following Monday (4 January) would not be included in the Annual Holiday Period (AHP) specified under P122. The AHP is used in the determination of the Credit Assessment Load Factors (CALF) in accordance with the CALF Guidelines, which is a Code Subsidiary Document to the BSC. The CALF Guidelines give the Lead Parties of Supplier Meter Registration System (SMRS) registered BM Units the right to have two separate CALF values calculated, one for settlement periods with an AHP and one for all other settlement periods in the BSC Season. The AHP is a rough and ready mechanism for allowing for the fact that consumer demand tends to be lower during holiday periods. However, AHP applies across GB and thus any adjustment to make it more appropriate for Scotland is likely to make it less appropriate for England and Wales. It is also worth noting that the next time that January 1 will fall on a Friday will be 1 January 2010.
- 5.8. Ofgem/DTI do not believe that it is necessary to make any change to P122 for it to apply GB-wide. Should BSC parties determine that changes to the definition

of AHP are necessary, there is ample time for a modification to be proposed before the first day when 1 January falls on a Friday.

- 5.9. All of the above modifications, with the exception of P99 and P98 have now been implemented and are therefore included in both the operational BSC and in the GB BSC in volume 2.
- 5.10. The following further modifications have been approved by the Authority and have been implemented in the EW BSC.

Mod ref	Decision	Implement	Description
P141	TBA	TBA	Correction of an error in P106
P133	TBA	TBA	Permits BSCCo to undertake the role of Profile Administrator
P127	TBA	TBA	Permits the deregistration of parties who have entered the insolvency process

- 5.11. Ofgem/DTI have undertaken an assessment of these modifications and have concluded that there are no new issues in respect of GB application raised by any of the modifications. Ofgem/DTI therefore propose that P141, P133 and P127 should be incorporated into the GB BSC unchanged and the drafting of the GB BSC in volume 2 of this document includes them.

Views invited

- 5.12. Views are invited on the proposal to include P141, P133 and P127 in the GB BSC. Ofgem/DTI will publish all non-confidential views received but will not publish any conclusions on these proposals unless any respondent argues that any of the modifications mentioned should not be incorporated in the GB BSC unchanged.

6. Proposed draft text for the GB BSC

- 6.1. The third GB BSC consultation (November 2003) attached a draft of the BSC showing certain proposed changes to it (this draft is hereinafter called “GB BSC version 2”). The revised proposed draft text for the GB BSC is provided in volume 2 of this consultation document (hereinafter called “the draft GB BSC”). The draft GB BSC is, for ease of reference, change marked against the operational England and Wales BSC as implemented at 31 March 2004. The draft GB BSC contains all approved and implemented modifications as at 31 March 2004. The purpose of this Chapter 6 is to identify the changes contained within the draft GB BSC when compared with the operational England and Wales BSC as implemented at 31 March 2004.
- 6.2. Appendix 3 shows in tabular form the version of each Section of the operational BSC against which the draft GB BSC contained in volume 2 is change marked. For further ease of reference, Appendix 2 hereto sets out a brief description of the differences between the draft GB BSC and GB BSC version 2.

Generic changes

- 6.3. The phrase ‘transmits’ has been replaced by ‘participates in the transmission of’, pending final wording of the E(TT) provisions of the Act.
- 6.4. Section X, Definitions and Interpretations, a number of key, code-wide definitions have been amended as below:
- ◆ Transmission Company – has been amended to refer to the National Grid Company plc
 - ◆ Transmission Licence – has been amended to refer to the licence of the Transmission Company
 - ◆ Transmission System – has been amended to refer to the definition of GB Transmission System in the Transmission Licence
 - ◆ Distribution System – has been amended to apply to GB
 - ◆ External System – has been amended to apply to GB, and

- ◆ Licensed Distribution System Operator (LDSO) – has been amended to apply to GB.

Specific changes

- 6.5. In the remainder of this chapter the sections of the draft GB BSC are considered in turn as against the current operational BSC and the proposed changes explained.

Section A – Parties and Participation

- 6.6. The BSC Accession Agreement has been amended both to allow for the use of Scottish courts and to allow for parties providing an address anywhere in GB.

Section B – The Panel

- 6.7. Great Britain has replaced England and Wales in section B2.6.1(a).

Section C – BSCCo and its Subsidiaries

- 6.8. Great Britain has replaced England and Wales in section C 3.1.1 (v).

Section D – BSC Cost Recovery and Participation Charges

- 6.9. Changes have been introduced in Section D 5 and in Annex D-5 (in a new section 3 of that Annex) so as to provide for the recovery of BETTA Support Costs on a GB basis and to provide for an adjustment in respect of existing parties who are currently funding the BETTA Support Costs incurred by ELEXON.

Section E – BSC Agents

- 6.10. No specific changes have been made to this section – note that Section E2.5 Scottish Trading Arrangements which had been deleted in its entirety, has been reinstated for the reasons explained in chapter 4.

Section F – Modification Procedures

- 6.11. Section F2.12 balancing and settlement arrangements in Scotland has been deleted in its entirety as have other references to paragraph 2.12.
- 6.12. Changes have been introduced to provide for the BSC Panel to:
- (a) be obliged to establish joint working arrangements with the System Operator – Transmission Owner Code (STC) Committee, and
 - (b) be able to, when setting up a modification group to consider a Proposed Modification which the Panel believes may impact upon the STC, to invite representatives of the STC Committee to become members of the Modification Group for the consideration of such a Proposed Modification.

Section G – Contingencies

- 6.13. No specific changes have been made to this section.

Section H – General

- 6.14. Changes have been made to Section 9.9 to reflect the extension of the legal jurisdiction to include the courts of Scotland as well as the courts of England and Wales.

Section J – Party Agents

- 6.15. No specific changes have been made to this section.

Section K – Classification and Registration of Metering Systems and BM Units

- 6.16. No specific changes have been made to this section.

Section L – Metering

- 6.17. L3.2.3 has changed to recognise metering systems registered in accordance with the SAS.

Section M – Credit Cover and Credit Default

- 6.18. No specific changes have been made to this section.

Section N – Clearing, Invoicing and Payment

- 6.19. No specific changes have been made to this section.

Section O – Communications under the Code

- 6.20. No specific changes have been made to this section.

Section P – Energy Contract Volumes and Metered Volume Reallocations

- 6.21. No specific changes have been made to this section.

Section Q – Balancing Mechanism Activities

- 6.22. No specific changes have been made to this section.

Section R – Collection and Aggregation of Meter Data from CVA Metering Systems

- 6.23. No specific changes have been made to this section.

Section S – Supplier Volume Allocation

- 6.24. No specific changes have been made to this section S.
- 6.25. No specific changes have been made to Annex S-1.
- 6.26. In sections 5.1.4 and 6.5.3 of Annex S-2, changes have been made to enable different day-types to be specified for each GSP Group. This flexibility has been introduced to reflect the most effective way of adjusting the settlement systems to achieve the objective of allowing for different day-types and thus bank-holidays to be specified in Scotland from those in England and Wales. The flexibility in the code drafting has been limited to that required for BETTA in revisions to the relevant BSC Procedures. Specific constraints for day types to

vary as between England & Wales and Scotland will be dealt with in Code Subsidiary Documents (e.g. BSCP 509).

- 6.27. In section 6.5.2 of Annex S-2, the derivation of the sunset variable is changed so that it is the same for all GSP Groups, this is to reflect the approach to a single set of profiles GB-wide described in chapter 4. The relevant BSC Procedure will specify that the sunset time to be used is that at Birmingham.

Section T – Settlement and Trading Charges

- 6.28. “England and Wales” has been replaced by “Great Britain” in section 1.5.3(a).

Section U – Provisions Relating to Settlement

- 6.29. No specific changes have been made to this section.

Section V – Reporting

- 6.30. No specific changes have been made to this section.

Section W – Trading Queries and Trading Disputes

- 6.31. No specific changes have been made to this section.

Section X – Definition and Interpretation

- 6.32. Changes have been made to this section as described in 6.4 above.
- 6.33. A new definition BETTA Effective Date (which is used in Section D) has been introduced. The precise wording of that definition is still being considered in the context of work on the transition of the BSC to the GB BSC. That definition will be introduced together with other provisions to effect the BSC transition.
- 6.34. The definition of Confidential Information has been amended to apply to Scotland as well as England and Wales.
- 6.35. The definitions of Scottish BSC and Scottish Panel have been removed in line with the deletion of section F 2.12.

- 6.36. Also the definitions of Sunset Time and Sunset Variable have been amended in line with the changes to Annex S-2.

Pool Supplement

- 6.37. No specific changes have been made to this section.

Appendix 1 : List of respondents

1.1 The following responses to the consultation paper were received:

British Energy

ELEXON

Grangemouth CHP Ltd

National Grid Transco

Powergen

Scottish Electricity Settlements Limited

Scottish Power UK Division

SP Transmission and Distribution

Scottish and Southern Energy

Appendix 2 : Statement of the differences between GB BSC version 2 and the draft GB BSC

Approved Modifications

- 2.1 Version 1 of the GB BSC included all Approved Modifications which had been implemented into the BSC on or prior to 31 May 2003 (the last of these being P88).
- 2.2 Version 2 of the GB BSC includes the following Approved Modifications – all of which have been implemented into the BSC prior to 11 November 2003 (the last of those being P100 and P110).
- 2.3 Version 3 of the GB BSC includes the following Approved Modifications - all of which have been implemented into the BSC prior to 31 March 2004 (as shown in the table below):

Approved Modification No	Title	Sections affected
P116	Changes to Allow Line Loss Factor Data from BSC Website to be Used in Settlement	S, Annex S-2, V
P141	Removal of Unintentional Effects of Approved Modification P106 on Supplier Charges	S
P133	Facility to permit BSCCo to undertake the role of the Profile Administrator	C, E, Annex S-2, Annex X-1
P130	Clarification of the treatment of Non Half Hourly Export Consumption within PARMS performance Serial 1	Annex S-1, Annex X-2
P114	Entitlement of Licence Exemptable Generators (LEGs) and other Non-trading Parties to BSC Membership Without Evidence of Trading	V
P123	Assessment of Credit Cover following a Change in a Party's Portfolio	K, M
P127	Optional de-registration by insolvent Party	A, M, N

Other Specific Amendments

Section E: BSC Agents

- 2.4 Paragraph E 2.5 (Scottish Trading Arrangements) has been re-inserted on the basis that the provisions of E 2.5 will be required beyond BETTA Go-Live.

Section F: Modification Procedures

- 2.5 Changes have been introduced in Section F so as to provide for the BSC Panel to:
- (a) be obliged to establish joint working arrangements with the System Operator-Transmission Owner Code (STC) Committee; and
 - (b) be able to, when setting up a Modification Group to consider a Proposed Modification which the Panel believes may impact upon the STC, to invite representatives of the STC Committee to become members of the Modification Group for consideration of such a Proposed Modification.

Section X Annex X-1: General Glossary

- 2.6 The definitions of:
- (a) Transmission Company
 - (b) Transmission Licence
 - (c) Transmission System, and
 - (d) External System
- have been updated.

Appendix 3 : Statement of BSC Version

- 3.1 The version of the BSC used to generate the draft legal text for the GB BSC shown in volume 2 of this consultation has been compiled from the versions of the sections listed in the table below. The version numbers correspond to the baseline information displayed on the ELEXON website (www.elexon.co.uk) and are also used to identify every page of the BSC.

Section	Version
Title page	V1.1
Index	V1.0
A	V3.0
B	V7.0
C	V6.0
D	V6.0
E	V3.0
F	V6.0
G	V2.0
H	V6.0
I	Section I not used
J	V6.0
K	V14.0
L	V5.0
M	V12.0
N	V6.0
O	V2.0
P	V10.0
Q	V11.0
R	V3.0
S	V8.0
S-1	V4.0
S-2	V8.0
T	V11.0
U	V6.0
V	V15.0
W	V5.0
X	V4.0
X-1	V20.0
X-2	V15.0
Pool Supplement	V1.1