

Energy Balancing Credit Committee Minutes
Friday 27 April 2012
held at 31 Homer Road, Solihull

Participants

Joint Office (Non voting)

Bob Fletcher (BF) Chair

Xoserve (Non voting)

Mark Cockayne (MC)
Loraine O'Shaughnessy (LO)
Sam Moody (SM)

Shippers (Voting)

David Trevallion (DT)
Dimuthu Wijetunga (DW)
Gavin Ferguson (GF)
John Costa (JC) *by teleconference*
Richard Fairholme (RF)

Observers

Ofgem Representative

Apologies

David Holland
Jon Wisdom

1. Introduction

BF welcomed the members to the meeting, which was quorate.

MC provided an update on his changing role within Xoserve.

2. Minutes and Actions from the Previous Meeting

2.1 Minutes

The minutes from previous meeting were approved.

2.2 Actions

EBC 12/01: Xoserve to monitor River Barle's performance on an ongoing basis and report to the EBCC if there is any significant change.

Update: MC advised there was no significant change to report. A new action is to be raised should an issue occur. **Closed**

EBC 12/02: Provide an update on Bank ratings and performances.

Update: To be updated during the meeting. **Closed**

3. Operational Update

MC provided the following Operational update for March 2012.

3.1 Cash Call Notices

During March there were 4 Cash Call Notices issued, 2 were paid and 2 were withdrawn following appeal.

Further Security Requests (FSRs)

No Further Security Requests (FSRs) were issued during March 2012.

3.2 Settlement:

The following performance was reported:

Month	Payment Due Date	Payment Due Date +2
February 2012	99.46%	100%
March 2012	99.99%	100%
Rolling 12 Months	99.35%	100%

MC advised that 1 failure to pay notices were issued during March.

LO advised that there may be an issue with a particular bank having processing issues as this problem has happened a number of times with different Users using the same bank. GF asked if a monitor could be put in place and MC agreed to review and report back.

New Action EBC 01/04 – review the number of payment issues created due to a banks failure to pay on behalf of its client.

4. Modifications

4.1 Alternative to UNC 0233V - Changes to Outstanding Energy Balancing Indebtedness Calculation

MC advised the modification is still on hold pending the outcome of the SCR. However, the modification is still required and should therefore be pursued once the SCR is concluded. MC confirmed that it is unlikely this modification would be raised as part of the SCR outcomes and recommendations.

GF asked if Ofgem were supportive of the proposals. MC advised that Ofgem had recognised that there may be restrictions in UNC, though they were not overly concerned.

4.2 Trading System Operator

MC advised that a draft modification has been developed to bring in line the Trading System Operator's (TSO) Credit arrangements with all other Energy Balancing Users. Both National Grid Transmission and the TSO have reviewed the contents of the draft. MC gave an overview of the reasons why their arrangements were different and how the account had operated historically which led to a modification to reduce the tolerances in the code.

MC went on to confirm that these historic issues had not been experienced for some significant time. However, this modification is required so that it will bring them in line with other Users and encourage them to put in place a deposit deed.

MC proposed a member of EBCC raise the modification rather than the TSO. GF supported this idea. This was followed by a general discussion about the modification process.

GF supported the idea of bringing the TSO back in line with other users. RF agreed to review the modification and consider taking it forward as a sponsor on behalf of the EBCC. He wanted to know what the benefits would be to other Users. MC explained that the TSO would continue depositing cash as security, which has a risk should the TSO fail, an administrator may deem the funds as a preferential payment.

4.3 Modifications 0395 and 0398

BF advised that Ofgem had written to the Modification Panel advising of the decision to send back these modifications for further analysis, as they cannot make a decision on the information provided.

The Joint Office has invited initial representations from the industry and these were discussed at the first Workgroup meeting held on 26 April. Although a number of organisations have provided view, there is still a lack of analysis and data to support Ofgem's decision.

A number of parties have advised that they would be willing to provide further analysis to Ofgem but would not be for discussion in the Workgroup as the information is commercially sensitive. ICoSS have requested an extension, as they do not believe the process is allowing sufficient time to undertake detailed analysis. The next meeting is planned for 24 May.

5. Significant Code Review Update.

MC confirmed a ROM has been requested and this is being developed. However, there was not much else to discuss at this stage.

JC advised that DECC had been to the gas forum to explain their thoughts on the risk of a large energy supplier failing. MC advised that this had been previously discussed with DECC and concerns had been raised. He advised that insolvency raised a number of issues and the timing of any changes and how they would be accommodated in the existing regime and how the debt could be smeared.

RF was concerned that should a major supplier fail who would underwrite the trades as proposed by DECC and would the shipper be terminated under UNC?

It was noted that DECC intend to issue a consultation during May.

GF asked if it would be possible to arrange a Teleconference to discuss the response rather than seek member approval by email.

SM and MC to provide an update at a future EBCC.

6. Review of Winter Operations

LO provided a presentation on Winter Update 2011/12 (published at www.gagovernance.co.uk/ebcc/270412)

MC advised that there had been fewer emergency meetings compared to previous years as Xoserve were taking a more proactive approach to managing individual parties issues. The perception was a quite winter but this hides the amount of work taking place behind the scenes to prevent issues escalating along with the introduction to the Non Registerable Deposit Deed and change in Banking arrangements.

Members applauded Xoserves efforts to proactively manage issues.

7. Bank ratings

SM provided an overview of bank ratings and how Users were being impacted and how this has required a change to credit management practices. MC advised that the spread of risk is broader following the recent changes.

SM confirmed that the outlook is that more banks are likely to be downgraded over the coming months. The view is the deposit deed has helped to spread the risk and offers better security than deposited cash.

It was proposed that Users who have been impacted and need to change banks more than once, should be granted extra time to renew their security as they will find it difficult to build a relationship with a new provider. Members agreed, first change of bank within 30 days, second change within 60 days and third or more changes within 90 days. However, LO expressed that the Cash Call Process would come into force if the Security Arrangements in place had expired through the renewal process.

DT was concerned about the down grading spiral and how long it is likely to continue, particularly as there is no evidence that there will be systematic failures. He was therefore in favour of extending the time allowed for parties to arrange a change of bank on multiple occasions.

MC advised that Xoserve were considering their own exposure to their current bank and whether they should be using one or more different banks to reduce their exposure or risk of their bank failing. There may also be a view that banks used by Users for letters of credit shouldn't be used by Xoserve. This will reduce the risk due to downgrading of banks.

Members agreed a review would be appropriate.

8. Energy Balancing Credit Rules

SM advised that a review is being proposed across the whole document. It is proposed to provide additional clarification, particularly for new users.

GF suggested asking Users to review any changes to ask if it meets their requirements prior to seeking approval for implementation.

Members agreed a review is appropriate and timely.

9. Review of Deposit Deed

LO provided an overview of recent experience since the implementation of the Non Registerable Deposit Deed and Letters of Credit.

GF asked why there was still significant deposited cash and how it was being managed. LO advised that a number of organisations were still to complete the process and this is where focus is to ensure Deposit Deeds are in place. However, there has been a significant reduction in deposited cash compared to this time last year.

10. Review of Risk Register

MC presented the Risk Register and the current live risks. He also explained that a number of risks have been closed due to changes implemented in the credit rules to mitigate the risk.

11. Lehmans

MC gave an overview of progress to date. He advised a Court Order in the US to reduce and allow claim for the discounted amount was held on 22 March 2012 and that the time for appeal has now elapsed.

MC confirmed a termination agreement is no longer required and that he was working with National Grid's Treasury department to sell the claim.

12. Developing European Network Codes

SM gave an overview of potential changes to European codes as part of the third energy package.

MC advised that in approx 2002 there were changes insolvency laws across Europe to bring them in line. This mean that it is possible to peruse claims with a party both in the UK and the member state country simultaneously.

GF enquired if EFET (European Federation of Energy Traders) would be considering these issues, though this may not be a case of defending the UK.

13. Any Other Business

RF asked if there is a way of getting more involvement from smaller Users. It was suggested that perhaps members should approach ICoSS, other smaller representative groups or individual suppliers.

14. Date of Next Meeting

The EBCC meeting will take place via teleconference on:
Friday 25 May 2012, at 10.30.

Action Log – Energy Balancing Credit Committee

Action Ref	Meeting Date(s)	Minute Ref	Action	Owner	Status Update
EBC 12/01	19/12/11	2.0	Monitor River Barle's performance on an ongoing basis and report to the EBCC	MC/LO	Closed
EBC 12/02	19/12/11	3.2	Provide an update on Bank ratings and performances	MC/LO	Closed
EBC 01/04	27/04/12	3.2	Review the number of payment issues created due to a banks failure to pay on behalf of its client.	MC/LO	Pending