

**Energy Balancing Credit Committee Meeting
Ofgem, 9 Millbank, London SW1P 3GE
21 October 2008**

Participants

**Joint Office
(Non voting)**

John Bradley (JB) (Chair)
Lorna Dupont (Secretary)

Shippers

Gary Rusell (GR) Corona Energy
Gavin Ferguson (GF) Centrica
Lee Selway (LS) EDF Energy
Richard Fairholme (RF) E.ON
Simon Howe (SH) RWE

**xoserve
(Non Voting)**

Mark Cockayne

Apologies

Brett Date Statoil
Claire Thorneywork National Grid NTS
David Trevallion Scottish and Southern Energy
Ed McDonald Scottish Power
Julie McNay Scottish and Southern Energy
Lorraine McGregor Scottish Power

Ofgem

(Non Voting)

Rahaina Braimah

1. Introduction

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

2. Minutes from the Previous Meeting

It was noted that Michael Doherty (British Gas Trading) was a Non Voting party.

The following amendment was agreed:

“Cash Call Notices:

There were six Failure to Pay Cash Call Notices and one unpaid CCN where no Failure to Pay Notice was issued. “

The minutes from the previous meeting held on 10 October 2008 were approved.

3. Actions Update

MC had investigated with National Grid whether payments made in error to either the Transportation or Energy Balancing Accounts could be transferred by agreement by the User, National Grid and xoserve, and confirmed that an agreement was in place.

MC had redrafted and circulated the Energy Balancing Credit Rules for the Committee’s approval.

GR had circulated a note to the Committee on how “large trades” which might give early warning of a User Default might be captured.

All other actions were covered under the presentation given by MC (see 4, below).

NB Due to the increasing need, all actions agree by EBCC in future will be given a unique number and listed at the foot of the minutes.

4. Lessons Learned from Recent Events

The meeting continued the discussions on potential changes to the UNC, Energy Balancing Credit Rules and other processes that have taken place at recent meetings.

In response to the actions received at the last routine meeting, MC gave a presentation covering all these areas.

4.1 Lehman Brothers Commodity Services Inc - Directed Recovery Steps

MC informed the group that costs of approximately £15k would need to be incurred in order to continue to pursue the debt in the US through the appropriate route. It was also likely that the costs would increase depending on the perceived level of complexity identified by the US law firm. In order to keep these to a minimum, xoserve was preparing supporting documentation to provide to this law firm. This documentation would require the approval of EBCC before release. The group discussed the level of the debt and whether there was a realistic prospect of recovery. MC said that press releases had indicated there was still some worth remaining in the company, but the exact nature had not been made explicit. It was concluded that the initial costs to commence pursuit in the US did not appear unreasonable, but also that it would be prudent for xoserve to obtain an alternative quote for comparison. If this was of a similar nature, the Committee agreed that xoserve may give instructions to commence the proceedings in the US.

Action EBC10/01: Prior to instructing the US law firm to commence the proceedings in the US, xoserve (MC) to obtain an alternative quote for comparison.

4.2 Online access subscriptions to Moody's Investment Services and Standard & Poor's

Contact has been made and visits proposed to understand the systems used. However there may be an issue with the internal procurement process, as xoserve is currently unable to procure these services without going through National Grid. Discussions are taking place to agree how this should be done.

4.3 Rating Categories maintaining the right focus of risk versus exposure

MC described the impacts and outlined points for consideration. A table was presented, displaying the introduction of a gradation link between ratings and percentages. MC explained that all institutions are currently contained within the bottom line and would not have to be scaled back. This was not currently published within the Energy Balancing Credit Rules but there may be some value in its future inclusion in terms of increasing transparency as this would show how exposures are managed at an aggregate level. In response to questions, MC explained how and why the EBC Rules were different to the Transportation Credit Rules.

A brief discussion on the value of additional levels of gradation, scaling back and the equitable treatment of industry parties followed. The Committee agreed that increased transparency was of benefit and that the scale should be published.

LS had concerns relating to downgrading of a security provider and thought it better that one party should have to seek credit elsewhere rather than all existing Users that use that security provider having to do so. MC said that

gradation provided the opportunity to respond and may present the option of not extending further credit to a particular party.

MC observed that there may be a requirement for future visibility and the publication of the utilisation of aggregation of credit limits to particular organisations. SH responded that it could prove difficult to publicise the level of exposure of a bank. JB suggested a principle be established whereby a party was not actually scaled back but that it was agreed that no further exposure in relation to that security provider was accepted until such time as their rating changed (positively). By having a policy of cap and curtail, exposure decreases over time as renewals and new limits force parties to seek credit lines elsewhere. LS pointed out that in the current climate, there was concern that many banks were now on the cusp of Aa and Aa negative ratings and may not be able to provide enough credit. GR observed that at renewal there may not be any suitable providers for a party to approach and secure what was required.

Gradation was accepted in principle, but numbers needed to be understood and the levels of aggregate exposure needed to be decided (considered as being too great at the present). Sufficient headroom and tolerances would be required in order not to create issues for the future. There was seen to be no value in changing the Rules before any limits were agreed.

Action EBC10/02: xoserve (MC) to establish and review exact exposures, calculate and propose appropriate limits, and circulate information to the Committee for review.

4.4 Neutrality Bank Account Financing Costs

MC explained the drivers behind the meeting recently held with the bank to review both structure and borrowing Arrangements for the Neutrality Account and the Cash Call accounts, and outlined the outcome of the review and the proposed response.

4.5 Role of the EBCC

MC reiterated the key responsibilities of the EBCC.

There was a short discussion on the difficulties encountered by a small User when trying to appeal the Cash Calls, xoserve when responding, and the conformance required as currently set out under UNC. The experience had identified that there was the current appeal process does permit use of more appropriate and accurate information even though this existed. It was recognised that even with prepayment terms and the negligible risk faced by Users, this party will continue to fall into a Cash Call position. MC expected to be returning to EBCC who will be called upon to review as this was required under the current rules. The discussion moved on to appeals and the acceptance of an appeal's validity. The current methodology was acknowledged to be too restrictive and could result in increased exposure for the industry to what should be avoidable financial loss or conversely potentially places a User at an unwarranted risk of Termination. These weaknesses needed to be addressed.

4.6 Draft Modification Proposal(s) for discussion

The meeting then discussed four areas where raising UNC Proposals would be desirable. These would address the perceived shortcomings in the current ability of the EBCC to react rapidly to reduce risk and community exposure, and the weaknesses in the processes as underlined by recent events.

4.6.1. User's ability to appeal Cash Call Notices; and

4.6.2. National Grid NTS' ability to process adjustments to a User's outstanding Balancing Indebtedness

MC outlined a two stage response that would allow the utilisation of more accurate data and explained that this had been designed to address the issues arising from the small User and the Lehman Bros experiences.

GR questioned how this would work for a User who has beach gas. GF responded that beach could be appealed based on CVA data. Data would need to be substantiated from Gemini to verify the level of indebtedness. GR pointed out there was a need to avoid ending up with a system that was not equal for all parties.

MC suggested that the UNC could be modified to allow the process to perform a manual adjustment where more up-to-date and appropriate information is available; acceptable data is data that has been verified on National Grid NTS's systems. SH suggested that 'additional' data should be the term used in preference to 'more accurate'. GF was concerned regarding what information a User could actually provide in response. MC confirmed that if the CVA data differed from National Grid system data, the CVA data was accepted provided the allocations summed to the quantity measured.

The proposal needed to be drafted to allow for the use of the most up-to-date data, particularly where an event had highlighted the need for addition scrutiny. EBCC would still be able to discuss each case prior to any decision on Termination, and it was suggested that this should also be able to facilitate holding discussions earlier in the progress of an event. If the information provided to EBCC was more reflective of actual exposure and provided earlier following an event, EBCC would have the ability to terminate earlier if necessary, should the circumstances and data evidence warrant it. This would limit and reduce the community's potential exposure. MC pointed out that having data more truly reflective of the actual position is also useful for a Gas Emergency situation, which could be another advantage.

The concept of 'allowing National Grid NTS' to use more up-to-date data was agreed on the basis that certain guidelines for National Grid NTS to follow could be incorporated in the Credit Rules.

GF observed that every event was unique and required different actions, so less prescription was preferred. SH thought that National Grid NTS must be allowed to perform its calculations and adjustments and report immediately to the EBCC; if approval from EBCC was required in advance this would add to delay. Different scenarios were then discussed, with the focus on removing all opportunities for unnecessary delay.

The Committee concluded by agreeing that a Modification Proposal should be raised to include both 4.6.1 and 4.6.2. GF agreed that Centrica would sponsor this Proposal.

Action EBC10/03: xoserve (MC) to assist Centrica in drafting a Modification Proposal to address the User's ability to appeal Cash Call Notices and National Grid NTS' ability to process adjustments to a User's outstanding Balancing Indebtedness.

4.6.3. Drafting Inconsistency between TPD Sections X and V of the UNC in respect of User Default and Termination

The Committee agreed that a Modification Proposal should be raised to address the identified inconsistencies. SH agreed that RWE would sponsor the Modification Proposal.

Action EBC10/04: xoserve (MC) to assist RWE in drafting a Modification Proposal to address the identified inconsistency between TPD Sections X and V of the UNC in respect of User Default and Termination.

4.6.4. Recovery of Debt and smearing of revenues via Energy Balancing Neutrality

MC outline the mechanisms by which a Terminated User's debts are allocated to the remaining Users. He also described the implications for the trading arrangements of various contracted parties, and the effects of smear and recovery processes, which at certain time periods in the process could present a barrier to entry to new Users who may pick up a charge. The effects on the Neutrality Bank Account were also pointed out.

MC then put forward a proposal for consideration.

The Committee discussed the points raised. Mutualising debts more quickly can precipitate failures more quickly. MC thought that GR's proposal had the potential to address the issues by limiting the debt to a reasonable level.

RF agreed that E.ON would consider sponsoring the Modification Proposal.

Action EBC10/05: xoserve (MC) to assist E.ON in drafting a Modification Proposal to address Recovery of Debt and smearing of revenues via Energy Balancing Neutrality.

GF suggested that if it was known at the time of a User Default that a significant smear was likely, the industry should be made aware so that parties could factor it in. MC said that this required discussions with National Grid NTS. However, the fact that there would be a smear could be communicated together with an indication of the month.

Action EBC10/06: xoserve (MC) to issue a communication to all Shippers to be affected by the Lehman's smear.

4.6.5. Potential Modification to address exposure to Users who are traders at the NBP

In response to an action from the previous meeting, GR had provided some notes to which MC gave xoserve's response. MC was of the view that the potential Proposals already discussed by the meeting were consistent with GR's suggestion. However, it would be useful for GR to develop his suggestion for discussion at the next meeting.

Action EBC10/07: Corona (GR) to draft a Modification Proposal to address the identified exposure from Users who are traders at the NBP.

4.6.6. Timeline for three Modification Proposals

An appropriate timeline for the three Modification Proposals was discussed and agreed.

The Modification Proposals would be discussed at the Transmission Workstream meeting on 06 November 2008 and would be added to the agenda, prior to being presented at the UNC Modification Panel on 20 November 2008, with a recommendation for a reduced consultation period.

5. Winter Preparation Group

MC had provided a presentation on Winter Preparation. However, due to the higher priority of other items within today's business and the time constraints of this meeting it was suggested that the Winter Preparation presentation be circulated to the Committee for personal review. Any interim questions or comments could be directed to MC and any issues could be raised at the next meeting of the Committee.

6. Any Other Business

6.1 UNC Errors identified

MC had identified errors in UNC TPD Sections C and F and these would be addressed by the raising of a Consent to Modify through the usual processes.

Also identified were errors in relation to references to 'Supplier Undertaking' and Condition 37; these would likewise be addressed by the raising of a Consent to Modify through the usual processes.

6.2 Retirement of EBCC Member

LS advised that he was leaving EDF Energy to follow other opportunities. The Committee thanked him for his contributions and wished him well in his future ventures.

The name of an alternate and appropriate contact details were requested.

Action EBC10/08: EDF Energy (LS) to provide the name of an alternate and appropriate contact details as soon as possible.

6.3 RWE Npower Alternate

SH advised that Carl Wilks was to be his alternate and gave Carl's email address.

7. Next Meeting

The next meeting will be held on 21 November 2008 at 10.30. This will be a face to face meeting at ENA's Offices, 52 Horseferry Road, London SW1P 2AF

Action Log – Energy Balancing Credit Committee: 21 October 2008

Action Ref	Meeting Date(s)	Minute Ref	Action	Owner	Status Update
EBC10/01	21/10/08	4.1	Prior to instructing the US law firm to commence the proceedings in the US. obtain an alternative quote for comparison.	xoserve (MC)	
EBC10/02	21/10/08	4.3	Establish and review exact exposures, calculate and propose appropriate limits, and circulate information to the Committee for review.	xoserve (MC)	
EBC10/03	21/10/08	4.6.2	Assist Centrica in drafting a Modification Proposal to address the User's ability to appeal Cash Call Notices and National Grid NTS' ability to process adjustments to a User's outstanding Balancing Indebtedness	xoserve (MC)	
EBC10/04	21/10/08	4.6.3	Assist RWE in drafting a Modification Proposal to address the identified inconsistency between TPD Sections X and V of the UNC in respect of User Default and Termination.	xoserve (MC)	
EBC10/05	21/10/08	4.6.4	Assist E.ON in drafting a Modification Proposal to address Recovery of Debt and smearing of revenues via Energy Balancing Neutrality.	xoserve (MC)	
EBC10/06	21/10/08	4.6.4	Issue a communication to all Shippers to be affected by the Lehman's smear.	xoserve (MC)	
EBC10/07	21/10/08	4.6.5	Draft a Modification Proposal to address the identified exposure from Users who are traders at the NBP.	Corona (GR)	

Action Ref	Meeting Date(s)	Minute Ref	Action	Owner	Status Update
EBC10/08	21/10/08	6.2	Provide the name of an alternate and appropriate contact details as soon as possible.	EDF Energy (LS)	