

TERMS OF REFERENCE – Credit Committee (CC)

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Unless otherwise stated or the context otherwise requires, words and expressions and general rules as to interpretation that are used in these Terms of Reference shall have the same meanings and application attributed to them under the Balancing and Settlement Code (the Code). In particular, references to Sections in these Terms of Reference are to Sections of the Code. A reference to the Credit Committee (CC and/or Committee) shall, unless the context otherwise requires, include a CC Member (Member) and any duly appointed alternate.

1. Establishment and Role

1.1 Establishment

- 1.1.1 The Panel has, in accordance with Section B5.1.1, established a Panel Committee to be called the Credit Committee and such Committee shall continue until such time as it is dissolved by the Panel.

1.2 Role

- 1.2.1 The Panel has, in accordance with Section B5.1.3, delegated certain of its powers, functions and responsibilities under the Code to the Committee. Therefore, it is the role of the Committee to support the Panel in discharging those powers, functions and responsibilities so delegated to it and as are set out in these Terms of Reference.

2. Composition of the Committee and Appointment of Members

2.1 Members

- 2.1.1 The Committee shall be composed (as the Panel shall decide) of those members (each a Member) as set out in paragraph 2.1.2, with each Member having such experience and expertise in the electricity industry as the Panel decides is appropriate.
- 2.1.2 The Committee shall comprise the following Members:
- One of whom may be the Panel Chair; and
 - All of whom shall be current Members of the Panel, of a Panel Committee or nominated by a BSC Party.
- 2.1.3 In appointing Members to the Committee the Panel shall endeavour to ensure that the interests of a range of Parties from particular classes and/ or participation capacities are reflected in the composition of the Committee.
- 2.1.4 The Panel shall appoint Members to the Committee and a Member of the Committee shall remain in office until their term of office as a Panel Member, Panel Committee Member, the nominating BSC Party's support expires, the Committee is dissolved, their resignation as a Member has been submitted in writing to BSCCo or their removal by the Panel in accordance with paragraph 2.1.5 below (whichever is earlier).
- 2.1.5 Without prejudice to paragraph 2.1.4 above, the Panel may remove and replace such Members from time to time if:
- a) in the Panel's opinion they are unwilling, unable, unfit or otherwise are incapable for any reason to carry out their duties as a Member in accordance with the Code, Code Subsidiary Documents (CSDs) or these Terms of Reference; or

b) any of the matters described in Sections B2.7.4(b) or 2.7.4(d) occurs and/or applies to the Member in their capacity as a Panel Member, Panel Committee Member or BSC Party nominee whether by reasons of the application of the Code, the terms of reference of the Panel Committees or otherwise.

2.1.6 Without prejudice to the generality of paragraphs 2.1.4 and 2.1.5 above, the Panel may review and alter the membership of the Committee at any time.

2.2 Independence and Confidentiality

2.2.1 Each Member shall act independently and impartially, and shall not be representative of (and shall act without undue regard to) the particular interests of any particular body, person or class of persons or any Related Person.

2.2.2 For the avoidance of doubt, upon a change in employment of a Member, the Member shall notify the Committee Secretary and within 60 days shall provide a letter (equivalent to the letter required from Panel Members in Section B2.8.2(b)) from their new employer and shall be removed from office if they do not.

2.2.3 Members acknowledge that in carrying out their duties and functions as a Member they may in the course of their business be in receipt of confidential information. For the avoidance of doubt, each Member shall not disclose any confidential information received in their capacity as Member to any person except where:

- a) required under the Code, CSDs and/or these Terms of Reference;
- b) the disclosure of data is to the Authority, the Panel and/or any other Panel Committee as may be directed by the Panel;
- c) the data is in the public domain; or
- d) required to do so in order to comply with any dispute resolution process, Legal Requirement and/or any Approved Modification.

2.3 Alternates

2.3.1 Members shall make themselves available at all reasonable times to attend meetings and to carry out their duties and functions as a Member.

2.3.2 In the circumstance where a Member is unable to attend a meeting and/or carry out their duties and functions as a Member, the Member may, subject to the consent of the Committee Chair, appoint a Panel Member/ Panel Committee Member (other than an existing Member of the Committee) or a BSC Party nominee to act as such Member's alternate. For the avoidance of doubt, the appointment of an alternate shall automatically terminate upon the termination or expiration of the term of office of the relevant appointing Member.

2.3.3 Where an alternate has been appointed, these Terms of Reference shall apply in respect of the alternate as though references to the Member in any paragraph were to such alternate.

2.3.4 Sections B2.10.6 and B2.10.7 shall apply in respect of any alternate as though references to the Panel Member alternate were to such Member's alternate and as though references to the Panel, Panel Member and Panel Secretary were references respectively to the Committee, Member and the Committee's secretarial resource.

2.4 Chair

2.4.1 There shall be a chair to the Committee (Committee Chair) who shall be a Panel Member appointed (and removed) by the Panel from time to time. The Committee Chair may be the Panel Chair.

2.4.2 The Committee Chair may appoint another Member from time to time to act as Chair (Acting Chair) in their absence. If the Committee Chair is unable to attend a meeting the Acting Chair (if appointed) shall act as Chair of the meeting.

2.4.3 If the Committee Chair or the Acting Chair (where appointed) is not present within 30 minutes after the time for which a Committee meeting has been convened (and provided the Committee Chair or Acting Chair, as the case may be, has not notified the Committee that they have been delayed and is expected to arrive within a reasonable time), the Members present may appoint one of their number to be the Chair of the meeting.

2.5 Committee Support

2.5.1 BSCCo shall provide to the Committee such administrative, secretarial, advice and other support as the Committee requires.

2.6 Expenses

- 2.6.1 The costs and expenses, and all other amounts incurred on behalf of the Committee in association with its functions and responsibilities, shall be paid by BSCCo and for the avoidance of doubt any payments paid by BSCCo shall be BSC Costs.
- 2.6.2 Section B2.11.2 shall apply to each Member, save for circumstances where their attendance is required for other Panel or Panel Committee business for which they are already receiving reimbursement for the same reasonable expenses.

3. Conflict of Interest

- 3.1 It shall be each Member's responsibility to disclose to the Committee Chair and the Committee any interests of such Member which constitute, in such Member's reasonable opinion, an actual or perceived conflict of interest with their functions as a Member and in such circumstances such Member may absent themselves from voting.
- 3.2 If the Committee Chair decides (after consultation with other Members (if necessary) including but not limited to circumstances where a Member does not volunteer to absent themselves from voting on such matters) that a Member has an actual or perceived conflict of interest then the Committee Chair may determine that the Member in question should be required to absent themselves from particular Committee business and/or that a recommendation should be made to the Panel that such Member be removed as a Member. Any decision of the Committee Chair (and/or of the Panel) in this regard shall be final and binding.

4. Powers and Functions of the Committee

4.1 General Powers and Functions

- 4.1.1 The Committee shall act in accordance with the Code, any relevant CSDs and these Terms of Reference and may do anything necessary for (or reasonably incidental to) the discharge of its functions and responsibilities in respect of those matters so delegated to it by the Panel, being those matters detailed in paragraph 4.2 below.
- 4.1.2 When carrying out its powers, functions and responsibilities the provisions of Sections B1.2 and B2.8 shall apply to the Committee in the conduct of its business (to the extent applicable to the functions of the Committee) as though references to the Panel, Panel Member and Panel Secretary were references respectively to the Committee, the Member and BSCCo.

4.2 Specific Powers and Functions

- 4.2.1 The Committee shall conduct its business with a view to supporting the Panel in meeting its objectives with respect to all matters under the Code that relate to the Credit Assessment Price (CAP) as defined in Section M1.4 and the CAP Review process established by the Panel and currently contained in the Credit Assessment Price (CAP) Review Guidance Document dated 1 October 2019.
- 4.2.2 The powers, functions and responsibilities of the Committee shall include the following:
- Setting, reviewing and amending as necessary the trigger level value (including the initial trigger level value) referred to in the CAP Guidance Document and used to determine when a review of the CAP will be held; Considering the CAP value proposed by BSCCo (after BSCCo has made the appropriate calculations based on the forward prices and using the methodology established by the Panel as described in the CAP Review Guidance Document);
 - Arranging for BSCCo to undertake the appropriate consultation with Trading Parties in relation to any proposed new CAP values;
 - Setting any new CAP value after considering the consultation responses from the Trading Parties;
 - Examining the suitability of the CAP Review process from time to time and, at least once a year, reporting on its suitability and/or, where appropriate, recommending any changes to the Panel; and
 - Keeping under review the suitability and availability of the forward price data that is used for the purpose of the CAP Review process and the supplier of such data and, where appropriate, recommending a change of supplier to the Panel.

4.3 Delegation

- 4.3.1 The Committee shall not delegate to any person any of its powers, functions and responsibilities unless the Panel expressly permits such delegation in advance.

5. Review of Functions

- 5.1.1 The Panel shall review the powers, functions and responsibilities of the Committee from time to time. The Panel may as a result of such review add to or remove such powers, functions or responsibilities or terminate its delegation of the powers, functions and responsibilities referred to in paragraph 1.2.
- 5.1.2 During such reviews the Panel shall consider the appropriateness of the delegation of responsibility in relation to the CAP to the Committee in the light of current market conditions and any other relevant factors.

6. Proceedings of the Committee

6.1 Meetings

- 6.1.1 Meetings of the Committee shall be held on an ad-hoc basis, as required in order to exercise the powers or perform the functions or responsibilities of the Committee, at such a time and place as notified to the Members by BSCCo in accordance with these Terms of Reference.
- 6.1.2 BSCCo shall convene Committee meetings in accordance with the following process:
- a) where the CAP Review process indicates that a meeting of the Committee may well be required, BSCCo shall give Members (and the Authority's representative referred to in paragraph 6.3.1 and, where appropriate, any relevant alternates) notice of the likelihood of such a meeting and provisionally set a date, time and place for such meeting. Such date shall not, subject to paragraph 6.2, be less than three Working Days subsequent to the notice given by BSCCo; and
 - b) where BSCCo has given the notice referred to in paragraph 6.1.2(a), BSCCo shall confirm to the recipients of such notice as soon as reasonably practicable whether a meeting of the Committee is required. This confirmation may well be less than 24 hours prior to the date of the meeting foreshadowed by the notice sent in accordance with paragraph 6.1.2 (a). If a meeting of the Committee is not required, BSCCo shall inform Members accordingly. Where a meeting is required BSCCo shall send Members a notice convening the meeting together with an agenda of the matters for consideration at the meeting and any available supporting papers. BSCCo shall circulate to Members any late papers, as approved by the Committee Chair, as and when they are received.
- 6.1.3 BSCCo may give the notices referred to in paragraphs 6.1.2, 6.1.5, 6.2 and 6.4.2 by letter, email or telephone, and a BSC Party, BSCCo and a Member may give the notice referred to in paragraph 6.9.3 by the same methods.
- 6.1.4 A scheduled meeting of the Committee may be cancelled if:
- a) for any reason the Chair determines that there is no business for the meeting to conduct or it is otherwise appropriate that the meeting should be cancelled and requests BSCCo to arrange such cancellation; or
 - b) the Panel terminates its delegation as referred to in paragraph 1.2 (or the relevant part thereof).
- 6.1.5 BSCCo shall notify the Members and the Authority's representative of any cancellation of a scheduled meeting.
- 6.1.6 Sections B4.1.9 and 4.1.10 shall apply in respect of a meeting of the Committee with such sections being read as if references to a meeting of the Panel and to Panel Members were references respectively to a meeting of the Committee and to Members and in addition (in the case of Section B4.1.10) as if the reference to paragraphs 4.1 and 4.1.6 therein were references to paragraph 6.1.2 of these Terms of Reference.
- 6.1.7 Where any matter not contained in the agenda is put before a meeting of the Committee and it is in the opinion of the Committee Chair necessary (in view of the urgency of the matter) for the Committee to consider such matter then, where all the Members present at the meeting agree, the Committee may determine upon such matter.
- 6.1.8 It is recognised that meetings of the Committee are generally likely to take place via telephone conference.

6.2 Urgent/Special Committee Meetings

- 6.2.1 Notwithstanding anything to the contrary in paragraph 6.1, if in the opinion of the Committee Chair an exceptional matter arises which requires a decision from the Committee a special meeting may be held and:
- a) BSCCo shall, at the request of the Committee Chair, convene such a meeting and distribute an agenda and any papers in accordance with such notice as the Committee Chair considers appropriate; and
 - b) each Member shall be deemed to have consented to the convening of such a meeting and distribution of the agenda and papers in the manner and on such notice as the Committee Chair determines.

6.2.2 The remaining provisions of these Terms of Reference in respect of the proceedings of any meeting (including but not limited to notices, quorum and voting) shall apply to any urgent/special meeting.

6.3 Attendance by Members, alternates and other attendees to Meetings

6.3.1 In addition to Members (and/or any alternates) a representative of the Authority (Authority's representative) shall be entitled to attend and speak at any meeting of the Committee.

6.3.2 The Authority's representative shall be entitled to receive notice of all meetings of the Committee, but shall have no vote and shall not be a Member.

6.3.3 In addition, but subject to paragraph 6.3.4, the meetings of the Committee shall be open to representatives of any Party. Persons attending the meeting (other than the Authority's representative) shall not be able to address the meeting unless requested or allowed to do so by the Committee Chair.

6.3.4 Paragraph 6.3.3 shall not apply where the meeting or any part thereof is to be in closed session (including any meeting by telephone conference) or if it takes place by correspondence. The meeting shall be in closed session where the Committee Chair considers that it is not appropriate (having regard to the principles set out in Section B3.3 or on the grounds of commercial sensitivity in relation to any person or Party) for such matter to be considered in open session or in the case of confidential matters which are or have been considered by correspondence.

6.4 Quorum

6.4.1 No business shall be transacted at any meeting of the Committee unless a quorum is present at the meeting. A quorum shall comprise of at least three Members (or their duly appointed alternates). For the avoidance of doubt a meeting shall be quorate if the necessary Members are present in person at the meeting or, where the meeting takes place by telephone conference call (or such other means of meeting) are present by telephone (or such other means) provided that if it is the latter then the Members must be able to speak to and hear each other.

6.4.2 Any Committee meeting at which a quorum is not in attendance after a period of thirty minutes of its commencement shall be adjourned and re-scheduled with BSCCo giving notice of such adjourned hearing and re-scheduling in such manner as requested by the Committee Chair.

6.5 Voting

6.5.1 At any meeting of the Committee all matters to be decided shall be put to a vote of all Members present (in person or by their duly appointed alternate).

6.5.2 In deciding any matter, each Member shall cast one vote only. All matters shall be decided by a simple majority of votes cast.

6.5.3 For the avoidance of doubt and for the purposes of paragraphs 6.5.1 and 6.5.2, abstentions shall not be classed as votes and will therefore not prevent unanimous agreement of a matter.

6.5.4 A resolution in writing signed by or on behalf of all Members entitled to vote in respect of the matter that is the subject of the resolution shall be valid and effectual as if it had been passed at a duly convened and quorate meeting of the Committee.

6.5.5 In the event that a majority decision cannot be reached within a reasonable period of time, then the Committee Chair shall refer the matter to the Panel for determination.

6.6 Teleconference and/or Correspondence Meetings

6.6.1 Subject to no Member objecting, where the Committee Chair considers it appropriate that the entire meeting of the Committee may be validly held by telephone conference call (or such other similar means) or by correspondence then they may decide to do so.

6.6.2 A quorum is obtained in respect of a teleconference call (or such other similar means) as per these Terms of Reference, but in addition all present Members at the telephone conference must be able to speak to and hear each other.

6.6.3 A quorum is obtained in respect of a correspondence meeting where at least a quorum (as per these Terms of Reference) provide a response (which shall include their vote) to the correspondence which is the subject of a determination, provided that the Members shall have at least five Working Days to consider and respond to such correspondence received.

6.6.4 Paragraph 6.5 shall apply to any meetings described in this paragraph 6.6.

6.6.5 Notwithstanding paragraph 6.3.1, the Authority's representative shall be entitled to attend by telephone any meeting of the Committee held by telephone conference call (or other similar means).

6.7 Minutes of Meetings

6.7.1 BSCCo shall ensure that as soon as is reasonably practicable after each Committee meeting all discussions are minuted and such minutes are distributed to Members within five Working Days after each meeting of the Committee. Members shall provide any comments on the minutes as soon as reasonably practicable such that they can be approved by Members at the next convened meeting.

6.7.2 BSCCo shall also prepare a headline report detailing the recommendations agreed at the meeting. Such headline report is to be made available on the BSCCo website as soon as practicable after the meeting.

6.8 Publication of Items on the BSCCo Website

6.8.1 BSCCo shall make available on the BSCCo website the following items (except where the Members have decided that a particular item (or part thereof) is not appropriate for such publication):

- a) the details of proposed forthcoming meetings (including the agenda, time, location and Elexon office venue for telephone conference meetings); and
- b) the Committee report which is produced for the Panel in accordance with paragraph 8.1.

6.9 Papers

6.9.1 BSCCo shall circulate to Members any papers as and when it is appropriate. Unless otherwise agreed by the Committee Chair, papers shall not be circulated less than five hours before the relevant meeting of the Committee.

6.9.2 Notwithstanding paragraph 6.9.1, the Committee Chair may, by exception, bring additional matters to the attention of the Committee without advance notice when such a matter is considered by the Committee Chair to be of a sufficiently urgent nature that it requires immediate Committee attention.

6.9.3 If any BSC Party, BSCCo or Member wishes to notify a matter to be considered at a meeting of the Committee, they shall give notice of the matter to the Committee (via BSCCo) not less than two Working Days after the publication on the BSCCo website of the notice referred to in paragraph 6.1.2(a). Should the matter require a decision of the Committee then BSCCo will circulate such notice of the matter to all Members and the Authority's representative and shall amend the agenda published on the website accordingly.

6.9.4 In the event that a potential meeting of the Committee of which notice has been given pursuant to paragraph 6.1.2(a) does not take place, the matter notified under paragraph 6.9.3 may in the discretion of the Chair be placed on the agenda for the next scheduled meeting of the Committee. For the avoidance of doubt the non-appearance of the matter on such agenda shall not prevent a BSC Party, BSCCo or a Member from raising such matter again in accordance with paragraph 6.9.3.

7. Decisions of the Committee

7.1 Any determination of the Committee made in respect of any matter under these Terms of Reference shall be final and binding on the Parties and no such decision shall be capable of being referred for the purposes of an appeal or otherwise to the Panel (subject to any exception as may be stated by the Panel when delegating its powers, functions and responsibilities).

8. Reporting to the Panel

8.1 The Committee shall provide a report to the Panel following each meeting of the Committee and shall submit this report in accordance with the usual procedures of the Panel. The report shall include but not be limited to a summary of the key decisions made at the meeting. The report shall be produced by BSCCo and agreed by the Committee Chair on behalf of the Committee.