



**Ofgem Consultation – Xoserve consultation on the legal and regulatory framework to establish new arrangements for the gas central service provider**

**Response from E.ON**

**General Comments**

We have consistently supported the Ofgem led work to reform the funding and governance arrangements of Xoserve. The aims and objectives of this work we believe will deliver benefits for the gas industry and consumers and is the right thing to do.

The work carried out to date by Ofgem and their consultants has been to a high standard and we do not disagree with the observations or recommendations made.

However we are concerned that the proposed route for implementation of the reforms of Xoserve outlined in the consultation may not be successful. We are committed to supporting the process but have reservations that the use of the Uniform Network Code (UNC) arrangements is sufficiently robust to deliver change of this type of magnitude.

The UNC modification process was designed for incremental change rather than for wholesale reform. Evidence to date where it has tried to be used for this purpose has been challenging (e.g. Project Nexus).

The governance arrangements of the UNC we believe are currently deficient in a number of areas. Control of processes is vested too much with the gas transporters; the code administration function is under resourced and is not sufficiently independent.

Reform of Xoserve has been a contentious issue from the outset with opposition from a variety of stakeholders.

With this background it seems very difficult to imagine how the industry will come together collectively to deliver the reform required without some form of regulatory obligation. This is evidenced by the lack of progress on this issue since Ofgem initiated the process.

We believe it would be preferable for Ofgem to lead on this reform via the Significant Code Review process. This should be complemented by appropriate Licence conditions on the gas transporters to deliver the reform by a specific date. Only this regulatory obligation will ensure motivation to act and support for the process by all industry parties.



## **Response to Consultation Questions**

***Can the UNC efficiently require parties to jointly participate in the governance and funding arrangements or is it more appropriate to include these requirements in each party's licence?***

We note that CEPA recommended that Option 2, Licence obligations upon both transporters and shippers, was optimal as it is "*..likely to promote the most direct and, therefore, arguably most effective regulatory oversight and control of the new arrangements and, therefore, protection of the GB public interest..*".

We agree with this view and are disappointed that Ofgem has suggested that the adoption of Option 1 from the CEPA report, whereby the governance, obligations and funding arrangements are contained within the UNC be used.

We do however recognise that either of the options, licence conditions or the UNC, as described in the CEPA report would work in practice. Our reservation with the option preferred by Ofgem is that we believe in the long run it may potentially introduce more risk into the process for stakeholders and less direct regulatory oversight. This explains our preference for the use of the licence route.

To increase the chances of longer term success however we believe that a number of areas of the UNC governance process should be amended and improved. The reform and change of Xoserve is not dependent upon these changes in governance but they will allow the longer term risks of using this route to be mitigated.

What is not clear from the process selected by Ofgem is how the reform process will be initiated as it relies upon parties raising changes to the UNC. It is not clear who would be expected to raise the required modifications as they would then be required to develop and lead on the contractual changes to the UNC. This would incur a cost for this party that they may find challenging to individually justify.

***Are there any additional benefits in Xoserve becoming a party to the UNC, when compared to the service agreement approach?***

The approach favoured in the CEPA report, that a service agreement exist between Xoserve and UNC signatories, is one that we support.

We agree that this would be preferable compared to having Xoserve join the UNC with the added complexity that this would bring.



It is not clear however to us how this contract would be developed and established in a fair and equitable way via the processes suggested in the consultation.

The Joint Office of the Gas Transporters as the Code Administrator to the UNC is not resourced to deliver this sort commercial contract and to date there has been no activity from the gas transporters or Xoserve to open the existing Services Agreement to change to include other stakeholder.

We would therefore appreciate clarity on how this activity will be taken forward.