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Ref: Consultation on the legal and regulatory framework to establish new arrangements for the gas central service provider

Dear Joanna,

Thank you for the opportunity to respond to this consultation, which is made on behalf of National Grid Gas Distribution (NGGD). In relation to the two key questions raised by Ofgem in its consultation, National Grid Gas Distribution's view is as follows.

UNC Joint participation or inclusion in the licence

National Grid Gas Distribution, ("NGGD") believes that for the new collaborative arrangements to work effectively and provide incentives on all parties to participate equally as partners utilising the services of Xoserve, there must be symmetrical regulatory obligations. A combination of both UNC and Licence obligations on shippers and gas transporters is therefore our preferred model. An approach that places licence conditions on only one class of licensee will inevitably erode the collaborative ethos and reinforce the impression that those with the licence condition have more responsibility than those without.

NGGD envisages that the licence conditions would be relatively straightforward in that for example, they would require both shippers and gas transporters to utilise the services of the Central Data Services Provider ("CDSP"), ensure the efficient and economic operation of the CDSP and that it is adequately financed to enable it to meet its obligations and operate as a viable business. Joint participation in the UNC would then define the contractual services, obligations and status of the parties.

In relation to this question NGGD therefore agrees with CEPA that Options 2 and 4 are more equitable and better achieve the original aim of the collaborative model.

Xoserve as a party to the UNC

While NGGD understands that it would be possible to exclude Xoserve as a UNC party and continue to manage service provision between shippers and gas transporters, this could drive complexity and cost in having to manage two parallel contractual arrangements to

ensure bi-lateral contracts remained in step with UNC developments. NGGD therefore believes on balance that having Xoserve as a UNC party and managing the majority of services provided to transporters and shippers through this single contractual route is preferable. Together with our assessment of the licence requirements, this means that CEPA's Option 4 would be our preference.

Other considerations

NGGD notes that Ofgem are also considering a licence condition on gas transporters to implement the new arrangements by a given date. We do not believe this is necessary because NGGD (and we understand other gas transporters) are committed to delivering the outcome of Ofgem's consultation in full as expediently as possible. However, having assessed the relative complexity associated with implementing new funding, governance and ownership arrangements, we do not believe this can now be achieved by April 2015, although it may be possible to develop transitional measures, particularly around governance. The ability to achieve this date is also put at risk by the amount of system change occurring over this period for Smart metering, EU legislation and project Nexus. Under these circumstances we consider it may be prudent to target implementation for April 2016.

Question 1: 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?

NGGD advocates a twin track approach to participation utilising both UNC and licence for both shippers and GTs, as this best aligns with the new co-operative arrangements and maintains symmetrical incentives to participate fully in the effective governance of Xoserve. This approach should lead to better more sustainable outcomes for consumers as shippers and GTs will have an equal interest in the efficient operation of the CDSP.

Generally, NGGD believes that UNC contracting arrangements would be sufficient for the day-to-day operation to the data management services. However, given the significance and extent of these new co-operative arrangements, it is imperative that additional licence obligations are placed on shippers to ensure a smooth start to the new contracting model and provide stability to the CDSP corporate arrangements. The CDSP, and its services are key to the successful functioning of the competitive gas market, and it would be detrimental to that market if the transfer of contractual obligations away from transporters (licenced) to Xoserve (unlicenced) is seen as a weakening of the regime.

Given that we are transferring to an environment where control of Xoserve is moving from transporters to one where, from the make-up of the board to the regulatory standing of the service provider, shippers are more closely involved with the delivery of the services, we believe regulatory obligations should reflect and support the new arrangements.

The appointment of a balanced and experienced board serving Xoserve is a major feature of the new arrangements and we believe that a degree of regulatory accountability should be placed on those parties that are responsible for choosing the members of the board. We believe that the new, more balanced arrangements should also be reflected in the way that licence conditions are collectively targeted on all parties who are contributing to the new Xoserve corporate governance arrangements. While the board members may only be drawn from a limited number of companies, there should be a collective accountability placed on all parties to ensure appropriate candidates are nominated. We believe that, only when a

degree of collective accountability is in place can we be confident that only the best and most fiduciary aware directors are appointed.

With this in mind, we suggest a licence condition(s) on all licensees along the following lines:

- Collectively; to have responsibility to ensure that sufficiently independent and competent directors are appointed
- To sign the new contract, (be that the Framework Agreement to bind Xoserve into the UNC, or as a new Data Services Agreement with Xoserve as principal) and
- To use the services of the CDSP for the provision of data management services, such as they relate to the functioning of the gas market
- To ensure the economic and efficient operation of Xoserve and
- To ensure Xoserve is sufficiently financeable to meet its obligations and services

NGGD believes that to be successful and sustainable the new co-operative arrangements require balanced regulatory obligations for all licensees. We believe that both licence and UNC should therefore be utilised in setting the new arrangements; consequently, we advocate Option 4 of the implementation options.

Question 2: Are there any additional benefits in Xoserve becoming a party to the UNC, when compared to the service agreement approach?

As mentioned in the CEPA's report, when establishing the new arrangements, two objectives need to be considered. First, **"Xoserve need to establish a regulatory personality"**, and secondly, **"the CDSP role needs to be defined in existing regulatory instruments"** (which has been taken to mean licences and UNC). With these objectives in mind we believe there are benefits of incorporating the new, independent CDSP into the regulatory arrangements.

As stated previously, NGGD are advocates of Option 4 and we see a number of benefits in Xoserve becoming a party to the UNC. By doing so they would:

- Gain regulatory identity rather than simply being the transporters' agent
- Gain access to an established UNC governance framework that could both be used to introduce Xoserve as a contractual class, and provide change governance to that role and associated services
- Gain the confidence for shippers as their service definition, supporting systems and Terms and Conditions could not change without a modification proposal, consultation and the requisite level of regulatory oversight.

If the CDSP was a named role within the UNC and most of the Data Management Services are set-out in the UNC, it would be a logical step to create "Data Management Services Code" as "code within a code", which would have the following characteristics:

- The Data Management Services Code could contain:
 - Central Data Services definitions
 - Modified Terms and Conditions – such as, different invoicing & credit arrangements.
 - Standards of Service
 - Charging Methodology
- Xoserve could become a panel member and would be at liberty to make modification proposals.

- Xoserve would not need to be licensed to sign the UNC.

On a practical level, all shippers are already signed onto the UNC and understand the services defined therein. The only way to ensure all shippers sign with Xoserve, a non-licensed industry party, is to mandate through the shipper licence.

Other considerations

As mentioned in the summary we are conscious of the time-line being suggested for the implementation and we would particularly like to draw attention to a number of factors affecting timescale.

- New interim arrangements need to be established. For example, new funding and budget setting arrangements will need to be operational in the April before go-live and certain events, such as the advance appointment of the board.
- We anticipate that the service contract, be that inside UNC or outside, will need approximately a year to fully identify service lines, and develop and integrate with the necessary terms and conditions. These will all need to be drafted and all ancillary contracts and documents checked for consistency. We see this service repositioning work similar in scope to the Network Sales process of 2004/5, and in our opinion this project will probably take a similar amount of time. Following the repositioning work, some of these changes would need to go through the UNC modification process, some through other consultation processes; in any event we see this consultation phase of the project taking a further 4 to 6 months.
- Xoserve are currently in a period of high change, Smart metering DCC preparation, (EU driven change / UK Link replacement / Faster Switching, (Mod 477)), and to implement a change to the Xoserve arrangements may distract from these important government and industry initiatives.
- In summarising the above, we believe a target implementation date of April 2015 is unachievable and that industry should aim for April 2016, which we think is stretching, but possible. We do not believe a licence condition on GTs is necessary to incentivise delivery as we are committed to doing so, but will need Ofgem support to meet our objectives.

If you would like to discuss any points made within this response, please contact Alan Raper, Regulatory Contracts Manager on 07810 714756 or at alan.raper@nationalgrid.com.

Yours sincerely,

Paul Rogers
Regulatory Frameworks Manager