



**By email only**

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**RWE npower's response to "Xoserve- consultation on the legal and regulatory framework to establish new arrangements for the gas central service provider"**

Dear Joanna,

RWE npower welcome the opportunity to provide a response to the above consultation which will shape the delivery of services within the UK gas market. We support the objectives that have been set out to establish a responsive and industry led, 'Central Service Provider', and welcomes the establishment of a co-operative model. We believe that such a model will enable the Industry to respond better to the demands of a changing market, and deliver a better service to the consumer through transparent charging for the delivery of services.

In response to Ofgem's initial view of the options (Appendix 1), we agree with the common 'must change' areas:

- The existing GT licence condition will need to be modified to establish the CSP as an entity (placing the current requirement to have an 'Agency' which is the role Xoserve currently plays).
- The GT's (as owners) will be required to modify the articles of association to establish new governance arrangements
- Changes to the UNC will be required – the type and volume of change is dependent on the option progressed.
- Bilateral contracts between Xoserve and users for the delivery of bespoke services could still be used.

***Q: 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?***

Without being able to see the details of an additional licence condition, (on Shippers) it is very difficult to be able to judge if this would achieve the required levels of participation from Shippers and GT's. Whilst we can make reasonable assumptions on what this would contain, we would ask Ofgem to consider how such a condition would affect smaller parties in the market, who may struggle to resource joint governance arrangements. With this in mind, we would consider it more appropriate to place the obligation within the UNC. Therefore, options 1 or 3 are preferred. However, it would be useful to further understand how Ofgem would measure levels of participation to ensure that the licence conditions were being met?



The suggestion to raise a mod through the UNC seems the most straightforward way to facilitate the necessary changes, however, this does present some challenges. The Gas Distribution Networks have openly raised concerns about the funding and Leadership of the Review in the open letter to Ofgem {1}. The current framework for workgroups is not structured to deliver solutions to an agreed timescale. If the target to implement the changes by April 2015 is to be met, we feel that a managed project plan would be necessary to ensure that the necessary steps are followed to keep the work on track.

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

We do not consider that making Xoserve a party to the code would bring about any additional benefits, either for the CSP or other Parties. In order to deliver a more responsive service from the CSP, we believe that they need to be given the vires to operate independently to deliver the change requirements which will be of benefit to the market as a whole. The ability for Xoserve to raise changes is not necessary for the UNC to operate effectively. The CSP should be highlighting any concerns with data, or areas for change to the Code parties who can agree the best route for resolution.

After examining the options presented by CEPA, we agree that Ofgem may be better placed to take action against non-compliance if the requirements are laid out within the licence. However, we believe that a Performance Assurance Framework would deliver a more consistent approach to managing compliance across the gas market. This would allow all Parties a joint level of engagement. The management of other industry codes, (with the guidance of the CACoP), has been successful due to the joint responsibility on all parties to manage the code. This has therefore, reduced the amount of involvement required by Ofgem. If it is the desire of the regulator to be less involved in the enforcement of the code, then discharging responsibility through the UNC would be the best approach.

We agree with the summary from the CEPA report; whereby the Service Agreement approach best meets the overall objectives.

***The process for implementation***

There are many factors which will influence the successful delivery of the proposed changes. Although the option to raise a modification is a relevant starting point, there will be an expectation upon the Proposer of the mod to drive the change. At present there is not an option for Parties to 'jointly' raise change. If the industry is to work in collaboration to achieve the required changes, there must be a collective responsibility to proceed with the work. However, the formulation of the Change Overview Board has shown that the CSP and the Industry can work collaboratively to deliver to the requirements for all Parties. The constitution of the COB gives all parties an equal opportunity to share their views on change, on how it can be delivered to benefit the industry and the consumer.

{1} Letter from Paul Rogers on behalf of the Gas Distribution Networks.



The suggested work streams give a good indication of the level of work that is required, and create a framework within which to develop further change. However, the overall amount of work is significant enough to deter smaller Parties from engaging. (Small suppliers and iGT's). However, this process must remain transparent and be widely communicated to ensure that all of Xoserve's Stakeholders are able to influence the process.

The work streams will have varying objectives, and will be best placed to drive out the necessary details on which to create contracts and agreements. However, there is a danger that without the boundaries of a wider plan to achieve the milestones, the groups will lose focus and the work will become protracted. If Xoserve are to remain on course to deliver the UK Link Replacement programme to the industry, this also needs to be considered when looking into timescales for delivery and the overall output expected from the work streams.

In your consultation document, there are two suggested options with which to progress implementation.

- 1. Raise the necessary modifications to the UNC now. We consider that the UNC process could provide the right forum for industry debate on some of the outstanding aspects of new arrangements.*
- 2. Establish working groups to consider the issues that still need addressed and to make a decision on what modifications are to be proposed. The output from this over- arching group would be the proposing of changes to the UNC. Our expectation would be that the UNC working groups would avoid duplicating discussions already had through the over-arching industry work group.*

In considering these options, we believe that option 2 is necessary to address the outstanding concerns, and reach agreement on the modifications which need to be proposed, and the creation of a Board to oversee the change and manage the transition.

We welcome Ofgem's statement to provide continued support to this process, and consider that as the owners of Xoserve, the GT's are integral to driving this change. We remain committed to participating in the delivery of this new framework, as we believe that the market as a whole will benefit from the change.

I hope the above is clear; but as ever if you have any questions please do get in touch.

Yours sincerely,

Steph Shepherd

RWE nPower, Regulation