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Dear Mick,

Changes to Standard Special Condition A15 (Agency) of the Gas Transporters' Licence

1. Thank you for the opportunity to comment on the proposed changes to the Gas Transporters' Licence to facilitate the conclusions of the Xoserve Funding, Governance and Ownership (FGO) Review. Whilst the proposed changes do not directly affect Shippers, they will result in obligations on Gas Transporters to develop a framework of rules to which Shippers will have to adhere to. We therefore have a strong interest in ensuring that the changes to the Gas Transporters' (GT) Licence are done correctly, and fully support the delivery of the Xoserve FGO decision previously set out by Ofgem.
2. Our detailed comments on the proposed changes are set below, however we have a number of concerns about the draft changes to the GT Licence. In particular:
 - It is not sufficiently clear what is meant by the "CDSP services" (Central Data Service Provider) or by "associated services and systems". We also believe that consider that the term "central data service provider services and systems" is wide and lacking definition. We are already aware of different interpretations of these terms, and believe they should need to be more explicitly defined here to avoid future dispute;
 - The timings set out, for example in paragraph 2, are not sufficiently clear and are open to interpretation; and
 - It should be clearly set out what is included within an "annual budget". Specifically, it should also include the annual business plan.
3. These concerns, and other issues, are set out below in Appendix One of this letter.
4. More generally, we agree with the position set out in Ofgem's decision letter that the rules should apply to Xoserve Ltd. We are aware some have argued that the rules should apply more narrowly to the CDSP, for example so that non-shipper services are excluded from scope. These concerns can easily be overcome through an appropriate governance framework however, for example by limiting or excluding shippers' power on non-shipper matters. We would be concerned if these changes were restricted to the CDSP, allowing Xoserve to materially extend its role, earning profits and losses, with Shippers sharing in any performance risk or funding requirements.
5. We would be happy to meet with Ofgem to discuss these concerns in more detail, or provide suggested amended legal drafting, if that would be helpful.

6. If you have any questions regarding any aspect of our response, please do not hesitate to telephone me on 07789 570501.

Yours sincerely

David Watson

Head of Regulatory (Market Review), Centrica

Appendix One: Detailed comments on the proposed changes to Standard Special Condition A15 (Agency) of the Gas Transporters' Licence

- General: We are aware that reference to Standard Special Condition (SSC) A15 is made in other places of the Gas Transporter Licence. Although this consultation is silent about changes to those parts, we assume that Ofgem will also be updating these references as part of this process.
- Paragraph 1: The Standard Special Condition (SSC) needs to define, clearly and in detail (by exception, if necessary), the “CDSP services” and what is meant by “associated services and systems”. As drafted, it is not clear which services fall within the remit of the FGO-related amendments. In particular, we consider that the term “central data service provider services and systems” is wide and lacking definition. We are aware that there are different opinions within the FGO programme on what this new body actually encompasses. A clear definition within Licence would resolve this and ensure that the programme delivers what Ofgem expects.
- Paragraph 2: The drafting in paragraphs 2(a), (b) and (c) need to be far clearer on whether time periods are inclusive or exclusive and, in the case of paragraph 2(c), what time period applies.
- Paragraphs 2 and 5: The draft refers to the appointment of the CDSP as though this is an entirely new arrangement, and doesn't take account of the fact that there is an existing entity with live contracts providing the same or similar services. Does there need to be provisions in the licence about what to do with the prior, underlying arrangements? For example, paragraph 5 provides that the current SSC A15 (Agency) will cease to have effect on the phase 2 implementation date but it does not contemplate what will happen to the AS agreement (which is one of the subjects covered by SSC A15 (Agency)). It does not necessarily follow that because SSC A15 (Agency) falls away, to the underlying AS agreement which was put in place in accordance with SSC A15 (Agency) is dealt with.
- Paragraph 2(b): It is not clear what the words “the minimum obligations with respect to the CDSP” mean. Do they, for instance, mean “the minimum obligations in respect of the operation of the CDSP” or do they mean something else? The drafting needs to be clarified.
- Paragraph 6: We had understood that the agent and the CDSP were one and the same thing. The words “which own shares in the agent that appoints the CDSP” are therefore confusing. Please could Ofgem either correct this, or clarify the difference between these two bodies before or when they publish the statutory consultation.
- Paragraph 6: This paragraph provides for the appointment and the operation of the CDSP to come into effect on 1 April 2016. SCC A15 and the AS Agreement (and the non-core services agreements) are still in operation at this time, as is Xoserve because it is an entity that already exists and operates. It is not therefore clear what the CDSP is being appointed to do on 1 April 2016. A distinction needs to be made between Xoserve and the arrangements that support it today and the arrangements that will support it from 1 April 2016. Without this there is a confusing overlap which doesn't take into account of either the current existence of Xoserve or its current arrangements.
- Paragraph 7(d): In order for market participants to fully engage with any CDSP consultation on budget and business planning, they need access to all relevant supporting information used to create them. It is not certain however that the CDSP will provide this however. We believe that this Licence Condition should obligate Gas Transporters to ensure the CDSP provides this information.

- Paragraph 8(a): We believe it would be appropriate for the charging methodology to be included within the UNC, and made subject to UNC change governance. This should be referenced here.
- Paragraph 8(a)(i): The term “jointly control” can mean a number of different things, and therefore needs to be more explicitly defined here. For example, it could include control by share ownership, control by contractual rights, control by some sort of voting power, power to remove directors and/or influence a company’s policies, or control of a certain percentage of a shareholding but not a lower percentage.
- Paragraph 8(b): It is not sufficiently clear is specifically meant by the term “annual budget”. For example, we believe that this also includes an annual business plan, yet can see that this is open to interpretation. We would have material concerns if parties were not able to appeal the contents of the annual business plan. Ofgem should set out specifically here the minimum contents of an “annual budget”. Finally, the drafting needs to be clear and detailed in order to make clear what triggers a right to object and whether there are grounds for an appeal. For example, it is not clear what information CDSP users need to provide in their notification.
- Paragraph 10(b): Ofgem say that the CDSP will “primarily provide CDSP services”, which provides scope for the CDSP to provide non-CDSP services. Whilst we appreciate Xoserve may need to provide some limited non-CDSP services, we would be concerned if this led to a material widening of Xoserve activities at the cost of shippers. This should be addressed by a tight definition of non-CDSP services.
- Paragraph 10(c): This appears to unnecessarily repeat paragraph 8(a)(i). Can it be deleted?
- Paragraph 10(c)(i): It is not clear to us what is meant by “transparent and equitable basis” in this context (bearing in mind employment law and its protections). This should be more explicitly defined.
- Paragraph 11: The timing here needs to be clarified. We assume it is seeking to provide for these provisions to be included in a service agreement prior to the phase 2 implementation date, but to come into effect on the phase 2 implementation date? If so, the drafting needs to clarify this.
- Paragraphs 11(a) and (b): Are the words “otherwise procure” required? The CDSP is presumably already the entity responsible for the provision, even if work is subcontracted. The drafting needs to be clear and detailed in order to make clear what triggers a right to object and whether there are grounds for an appeal. For example, it is not clear what information CDSP users need to provide in their notification.
- Paragraph 11(c): As above, the term “annual budget” needs to be clarified.
- Paragraph 12: This needs to make clear that it’s one report for all participants and not a report for each. There also needs to be more precise timing than “before implementing” in order to ensure there is sufficient time for review, amendment and, if necessary, objections.
- Paragraph 13: Given the charging methodology and the charging statement are linked, if the Authority objects to one, we consider that the objection should apply to both. There should also be timescales set out here for decisions and resubmissions if there has been an objection so that the process is clear and does not drift.
- Paragraph 15: It should be set out here the grounds on which the Authority will decide whether there are grounds for an appeal, what is it considering and what it will take into account. The drafting of 8(b), 11(b) and 11(c) needs to be clear and detailed in order to make clear what triggers a right to object and whether there are grounds for an appeal. For example, it is not clear what information CDSP users need to provide in their notification.

- Paragraph 16: We have particular concerns about the high level nature of the wording in this paragraph. There also needs to be clear communication, updates and set timeframes for an Authority and a GT response if the incumbent budget is to continue while the Authority considers whether there are grounds for appeal. There should also be obligations on the GTs to work with the Authority in a timely manner to resolve the issue and to provide such information in response to the Authority's questions as the Authority may reasonably require in relation to the matter in question.
- Paragraph 17: If the budget is found to be lacking, but remained in effect while the Authority was considering it, there should be a process for ensuring that funding is corrected such that parties were put in the place they would have been had the budget not been incorrect.
- Paragraph 19(b): There needs to be clear timeframes and a process set out here.
- Paragraphs 20, 21, 22: We believe that these should be moved up earlier in the drafting to sit with the paragraphs about producing a charging methodology.