

Gas transporters, independent
gas transporters, gas shippers,
gas suppliers, Xoserve and other
interested parties

Date: 28 April 2016

Dear colleague

Consultation on proposed modification to Standard Special Condition (SSC) A15 (Agency) of the Gas Transporters (GT) licence and proposed new SSC A15A (Central Data Service Provider)

The purpose of this letter is to seek views on the proposed modifications to the GT licence in accordance with the decision we¹ published on 28 April 2016² on the legal and regulatory framework modifications needed to establish new arrangements for the gas central service provider. We are proposing to modify SSC A15 (Agency) of the GT licence and introduce a new SSC A15A (Central Data Service Provider). These modifications will also result in consequential changes to other parts of the licence. We are using this opportunity to consult on these consequential changes as well.

In our 21 April 2016 decision, we concluded that:

- Out of the four options we consulted on, option one should be taken forward.
- Appropriate Uniform Network Code (UNC) modifications should be proposed and progressed, to require parties to jointly participate in Xoserve's governance and funding.
- We have identified no additional benefits at this time from Xoserve becoming a party to the UNC in order to implement the funding and governance changes to Xoserve.
- We are proposing a licence change that will require GTs to deliver the new arrangements in full by 31 March 2017.

To ensure that industry was sighted on the progress of the drafting of the proposed SSC A15A and to seek early views on the proposed drafting, we published a consultation in December 2015³ on the proposed licence modifications.

¹ [The terms 'the Authority', 'Ofgem', 'we', 'us' and 'our' are used interchangeably in this letter. The Authority is the Gas and Electricity Markets Authority. Ofgem is the office of the Authority.](#)

² [Xoserve - decision on legal and regulatory framework to establish new governance and funding arrangements for the gas central service provider.](#)

³ [Informal consultation on changes to Standard Special Condition A15 \(Agency\) of the Gas Transporters Licence.](#)

We received nine responses to the December 2015 consultation from GTs, shippers, Xoserve and other parties. All responses are published⁴ on our website. In general the respondents expressed support for the modifications proposed to the licence as they considered it reflected the progress on the detailed development of the Xoserve funding and governance arrangements being taken forward by the industry. Some respondents requested further clarity in certain areas. After carefully considering the responses, we have further modified the drafting of the proposed SSC A15A to reflect the comments and responses received.

Annex 1 contains a summary of the reasons for the proposed modifications compared to the draft SSC A15A we published for consultation in December 2015.

Annex 2 contains a draft of the modified SSC A15A, as well as the consequential changes to SSCA15 to reflect that SSCA15 will cease to have effect from 1 April 2017 (or such later date as we may direct), when SSCA15A is fully in effect.

Annex 3 contains a draft of the consequential licence modifications that will be required to other licence conditions from 1 April 2017 (or such later date as we may direct), when SSCA15A is fully in effect.

We welcome your comments on the proposed licence modifications set out in Annex 2 and Annex 3 by 26 May 2016. We will consider any comments received to this consultation before publishing the statutory consultation, if appropriate, and deciding whether the proposed modifications to the GT licence should be made.

Unless clearly marked as confidential, all responses will be published by placing them in Ofgem's library and on its website (www.ofgem.gov.uk). Respondents may request that their response, or part of their response, is kept confidential. Those who wish to do so should clearly mark their documents to that effect and include reasons for confidentiality. Ofgem shall respect this request, subject to disclosure requirements, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004. It would be helpful if responses could be submitted electronically and/or in writing. Please send your responses to Rupika Madhura, Head of Gas Distribution Policy at Rupika.madhura@ofgem.gov.uk.



Maxine Frerk
Interim Senior Partner, Networks

Signed on behalf of the Authority and authorised for that purpose

⁴ [Consultation responses](#)

Annex 1 - summary of reasons for further modifications to SSC A15A since December 2015 licence consultation.

Central Data Service Provider (CDSP)

The December 2015 version of the proposed new SSC A15A was drafted to institute a provider of central data services to ensure the provision of services. Respondents requested clarity on the role of the provider of central data services. The draft condition has been updated to make clear there is a provider responsible for ensuring the procurement and/or provision of CDSP services.

Moreover, industry was concerned that the draft licence condition did not set out the detail of the services to be provided. It is expected that the detail of the services to be provided should be defined and set out in the UNC. This change has been reflected throughout the revised licence drafting.

Profit making arrangements

The December 2015 version of the proposed new SSC A15A stated that the CDSP could not make a profit. Respondents felt that the draft of the licence would curtail the means for profits to be made from non-CDSP activities. The draft condition has been redrafted to reflect that the CDSP should be a company the purpose of which, *except where the Authority otherwise consents in writing*, is to provide CDSP services and which shall not return a profit, *except where the Authority otherwise consents*.

Charging methodologies and charging statements

Paragraphs 20-22 of the December 2015 version of the proposed new SSC A15A concerned modifications to the CDSP charging methodologies. Respondents were concerned that this would place an obligation solely on GTs to maintain oversight of the charging methodology and would not give equal accountability and control to all CDSP service users. To ensure this responsibility applied to all parties, we have redrafted the licence such that the provisions for processes and timings are drafted into the UNC. This is now reflected in paragraph 8 of the draft SSC A15A in Annex 2.

Reference to Phase 1 implementation date

Paragraphs 3-5 of the December 2015 version of the proposed new SSC A15A stated that parts A and B of this condition would come into effect on 1 April 2016, while part C would come into effect on 1 April 2017. The new draft SSC A15A has been modified to remove references to 1 April 2016. Part A and B will come into effect 56 days after we direct that changes to the licence should be made.

Consequential licence changes

We are proposing a modification to SSC A15 (Agency) of the GTs licence and proposing new SSC A15A. On 1 April 2017 (or such later date as the Authority may direct) Part C of SSC A15A will be in effect in addition to parts A and B which will come into effect 56 days after we direct that changes to the licence should be made, at which time SSC A15 will cease to have effect.

A number of consequential changes will be required in other licence conditions as a result of our proposed modifications to SSC A15 and proposed new SSC A15A. These proposed modifications are summarised in Annex 3.⁵

⁵ We will consider whether any changes are required to standard licence condition 11 (Agency) in the Independent Gas Transporters licence after Project Nexus has been implemented.

Data Service Contract (DSC)

Paragraph 6 of the December 2015 version states that the licensee shall bring forward modifications to the UNC. We have modified this to require the licensee to “bring forward *and progress*” such modifications.

In addition, we have added two sub-paragraphs clarifying that entering into the DSC is a condition to being party to the UNC (paragraph 7a) and to recognise that the UNC should contain a classification of the CDSP services (paragraph 7b).

Minor drafting modifications

To reflect the modifications to the licence, we have made a number of minor modifications to the drafting to ensure the text is consistent throughout and in line with the objectives of our review. For example, we have made modifications to ensure we consistently refer to the “central data service provider” as “the Provider” throughout the licence draft.

Annex 2

Standard Special Condition A15A: (Central Data Service Provider) [New condition]

Introduction

1. The purpose of this condition is to provide for the appointment of a "central data service provider ("CDSP the Provider") including its associated services and systems and to set out the obligations with which the licensee must comply with respect to the establishment and the ongoing operation of the CDSP Provider.
2. This condition sets out:
 - (a) the minimum obligations of the licensee with respect to appointing the CDSP Provider (Part A) from the phase 1 implementation date (as defined in paragraph 3 of this condition) to the phase 2 implementation date (as defined in paragraph 5 of this condition);
 - (b) the minimum obligations with respect to the CDSP Provider at the phase 2 implementation date (as defined in paragraph 5 of this condition) being in place by 1 April 2017 (or such later date as the Authority may direct) (Part B); and
 - (c) the minimum obligations of the licensee with respect to the appointment and the ongoing operation of the CDSP Provider (Part C). Part C of this condition comes into effect on 1 April 2017 (or such later date as the Authority may direct).
3. ~~Parts A and B of this condition come into effect in this licence on 1 April 2016 (unless the Authority, following consultation with interested parties, directs otherwise in writing) (such date being the "phase 1 implementation date").~~
4. ~~Part C of this condition comes into effect in this licence on the date on which a direction of the Authority in accordance with paragraph 5 of this condition has effect.~~
3. Once the Authority is satisfied that the CDSP has been established The licensee shall together with other gas transporters ("relevant gas transporters") ensure that the Provider is appointed in accordance with Part A below. The licensee shall together with relevant gas transporters also ensure that the Provider is established and is operated in accordance with Part B of this condition by 1 April 2017, or such later date as the Authority may direct. Part B of this condition it will issue a direction bringing into effect Part C of this condition. Such direction shall be issued no earlier than 1 April 2017 (such date being the "phase 2 implementation date"). On the at date on which this direction of the Authority has effect (the phase 2 implementation date), Standard Special Condition A15 (Agency) will cease to have effect in accordance with paragraph [1A] of that condition.

Part A: Obligations of the licensee in appointing the CDSP Provider from the phase 1 implementation date until the phase 2 implementation date

4. The licensee shall, together with the other relevant gas transporters which own shares in the agent that appoints the CDSP (relevant gas transporters) appoint the CDSP Provider to provide central data service provider ("CDSP") services and systems (together referred to as "CDSP services") and systems as set out in the uniform network code (UNC) in compliance with the minimum requirements set out in Part A of this condition. This appointment shall be made and the CDSP Provider shall be operational on the phase 1 implementation date (unless the Authority, following consultation with interested parties, consents otherwise in writing) from 1 April 2017 (or such later date as the Authority may direct).

5. ~~In respect of the period from phase 1 implementation date 1 April 2016,~~ The licensee shall, together with the other relevant gas transporters, ensure that:
- (a) the CDSP ~~Provider's~~ constitution includes a provision for the appointment of directors nominated by users of the CDSP services other than the relevant gas transporters (such users being "Non-RGT users");
 - (b) Non-RGT users' representatives are given the opportunity to participate in the contract management and change management process related to the CDSP services and are given the opportunity to participate in the decision making process in respect of matters that will have an effect on the ~~delivery of CDSP services from the phase 2 implementation date~~ appointment and ongoing operation of the Provider from 1 April 2017 (or such later date as the Authority may direct);
 - ~~(c) the CDSP publishes its annual budget for CDSP services in respect of the year commencing 1 April 2016;~~
 - (c) the CDSP ~~Provider~~ consults with, and takes due regard of responses of, ~~by~~ Non-RGT users in respect of the business plan and budget for CDSP services in respect of the financial year commencing 1 April 2017 and subsequent years thereafter.
6. The licensee shall, together with ~~the other~~ relevant gas transporters, ~~bring forward~~ raise and progress modifications to the ~~uniform network code~~ UNC so that the ~~uniform network code~~ UNC sets out from the phase 2 implementation date 1 April 2017 (or such later date as the Authority may direct):
- (a) a requirement that the licensee, each other relevant gas transporter and (as a condition of being a party to the UNC) each other user of CDSP services (to the extent such other users of the CDSP services are bound by the UNC) be party to a service agreement with the Agent (the "Data Services Contract" or "DSC");
 - (b) a classification of CDSP services, including those which are required to be used by relevant gas transporters, gas shippers and other parties to the UNC;
 - (c) obligations on the licensee and other users of CDSP services (to the extent such other users of the CDSP services are bound by the ~~uniform network code~~ UNC) to:
 - (i) jointly control and govern the CDSP ~~Provider~~ on an economic and efficient basis;
 - (ii) use or procure the use of CDSP services ~~and systems (together referred to as "CDSP services")~~, as set out in the ~~uniform network code~~ UNC from the CDSP ~~Provider~~;
 - (iii) enter into a service agreement with the CDSP (the "CDSP service agreement") and to keep the CDSP service agreement under review to ensure it continues to comply with the relevant sections of the ~~uniform network code~~ UNC; and
 - (iv) pay for CDSP services used in accordance with the charging statement prepared by the CDSP ~~Provider~~ ("the CDSP ~~Provider~~ charging statement"); and
 - (d) a process enabling a user of CDSP services to appeal the CDSP ~~Provider's~~ annual budget (as defined in paragraph ~~11Z(c)~~) by issuing a notice to the Authority in writing. The circumstances under which such notice can be issued are to be limited to where that party considers the CDSP ~~Provider's~~ annual budget to not be

fit for purpose for the CDSP Provider to be able to fulfill its obligation specified in paragraph ~~11~~7 (b) of this condition.

~~7. Part A of this condition will cease to have effect on the phase 2 implementation date.~~

Part B: Minimum requirements ~~obligations~~ relating to the CDSP ~~p~~Provider at the phase 2 implementation date

7. The licensee shall, together with the other relevant gas transporters, ensure that prior to ~~by the phase 2 implementation date~~ 1 April 2017 (or such later date as the Authority may direct) the CDSP Provider shall:
- (a) be a company under the joint ownership of the licensee and of the other relevant gas transporters;
 - (b) be a company the purpose of which (except where the Authority consents otherwise in writing) is to primarily provide the CDSP services and the purpose of which is not to which shall not return a profit (except where the Authority consents otherwise in writing) (whether income or capital) through its share capital and shall set out within its articles of association a prohibition on the distribution of profits and declaration of dividends (save for dividends in respect of profits relating to periods prior to the phase 2 implementation date 1 April 2017 or such later date as the Authority may direct); and
 - (c) be a company jointly controlled and governed by the licensee and by other users of the CDSP services. This must be reflected in the company's articles of association, which at a minimum shall require:
 - (i) a provision for the appointment and removal of directors of the CDSP by the licensee and by other users of the CDSP services on a transparent and equitable basis;
 - (ii) a provision for the licensee, together with the other relevant gas transporters, to require the CDSP to make changes to the CDSP annual budget where the Authority requires such changes to be made pursuant to the powers given to ~~it~~the Authority in paragraph ~~16~~11 of this condition.
8. The licensee shall, together with the other relevant gas transporters, ensure that prior to the phase 2 implementation date by 1 April 2017 (or such later date as the Authority may direct) the CDSP service agreement includes obligations on the CDSP Provider to:
- (a) provide or otherwise procure the CDSP services which shall include services ~~set out~~ required in the ~~uniform network code~~ UNC for relevant gas transporters, gas shippers and other users of the CDSP services;
 - (b) provide or otherwise procure CDSP services effectively to help facilitate the efficient and integrated operation of the gas industry;
 - (c) produce, in consultation with users of the CDSP services, and publish an annual budget in respect of the provision appointment and ongoing operation of the CDSP Provider ("the CDSP Provider's annual budget");
 - (d) publish and keep under review a methodology for charging charging methodology, as set out in the UNC and the Provider's charging statement, for CDSP ("the CDSP charging methodology") and the CDSP charging statement setting out those charges where the aim of both is to recover the CDSP Provider's annual budget (as amended pursuant to any direction from the Authority);

(e) ensure that the charging methodology and the charging statement will facilitate the objective of economic, efficient and transparent charging for the provision of the CDSP services (the "charging methodology objective").

(f) notify the Authority in writing if it increases its charges during a financial year; and

(g) amend the CDSP Provider's annual budget when directed to do so by the licensee, together with the other relevant gas transporters, where the Authority requires such changes to be made pursuant to the powers given to it in paragraph 14 Part C of this condition.

~~9. Before implementing the first CDSP charging methodology which shall result in charges being levied on users of CDSP services in addition to the gas transporters and associated CDSP charging statement the licensee shall, together with the other relevant gas transporters, procure that the CDSP provider shall, send a report to the Authority setting out:~~

~~(a) the draft CDSP charging methodology and associated draft CDSP charging statement that is intended to be implemented; and~~

~~(b) how the development of the proposed CDSP charging methodology has taken into account the views of users of the CDSP services.~~

~~10. The licensee shall, together with the other relevant gas transporters, ensure that the CDSP implements the CDSP charging methodology and associated CDSP charging statement referred to in paragraph 12 unless, within 42 days of receiving the report under paragraph 12 of this condition, the Authority has directed the licensee not to implement either one or both of them.~~

~~11. If the Authority has directed the licensee not to ensure the implementation of the draft CDSP charging methodology or draft CDSP charging statement referred to in paragraph 12 then it may:~~

~~(a) direct the licensee, and the other relevant gas transporters, to require the CDSP to amend the draft CDSP charging methodology and the draft CDSP charging statement as set out in the direction; or~~

~~(b) require the licensee, and the other relevant gas transporters, to require the CDSP to consider further amendments and consult users of the CDSP services prior to resubmitting the draft CDSP charging methodology and the draft CDSP charging statement to the Authority.~~

Part C: Obligations of the licensee with respect to the ongoing operation of the CDSP

9. Where the Authority receives a notification under paragraph ~~8~~6(b) of this condition it shall decide whether there are grounds for appeal.

10. While the Authority is considering whether there are grounds for appeal the CDSP Provider's annual budget under appeal shall continue to be in effect.

11. If having made its assessment the Authority decides that the appeal should be allowed it shall issue a direction to every licensee in whose licence this condition has effect requiring the licensee to require the CDSP Provider to make changes to the CDSP Provider's annual budget as set out in its direction.

12. The direction, issued under paragraph ~~17~~11, will state:

(a) the value of the amended CDSP Provider's annual budget that is to apply;

- (b) the years in respect of which the amended CDSP annual budget applies; and
- (c) any other conditions relating to the CDSP Provider's annual budget that the Authority deems appropriate to impose of the relevant licensees.

13. Prior to issuing a direction under paragraph ~~17~~11 of this condition the Authority shall:

- (a) give notice to all licensees, in whose licence this condition has effect, and other users of CDSP services that it proposes to issue the direction:
 - (i) specifying the date on which it proposes that it should have effect;
 - (ii) setting out the text of the proposed direction and the Authority's reasons for proposing it; and
 - (iii) specifying the time (which must not be a period of less than 28 days from the date of the notice) within which representations or objections with respect to the proposal may be made; and
- (b) consider any representations or objections in response to the notice that are duly received and not withdrawn.

~~14. The licensee must use reasonable endeavours to ensure that the charging methodology and the charging statement will facilitate the objective of economic, efficient and transparent charging for the provision of the CDSP services (the "charging methodology objective").~~

~~15. Before making modifications to the CDSP charging methodology or to the CDSP charging statement the licensee shall consult the relevant gas transporters and interested parties on the proposed modifications and shall allow them a period of not less than 28 days within which to make written representations and shall furnish the Authority with a report setting out:~~

- ~~(a) the terms originally proposed for the modification;~~
- ~~(b) the representations (if any) made by relevant shippers;~~
- ~~(c) any changes to the terms of the modification intended as a consequence of such representations.~~

~~16. The licensee must, if so directed by the Authority, review the current CDSP charging methodology and the CDSP charging statements, in consultation with:~~

- ~~(a) relevant gas transporters;~~
- ~~(b) interested parties; and~~
- ~~(c) seek to make such modifications to the CDSP charging methodology and to the CDSP charging statement as it considers reasonably necessary to better facilitate the achievement of the charging methodology objective:~~
 - ~~(i) the extent to which, in the licensee's opinion, the charging methodology objective has been achieved during the period to which it relates;~~
 - ~~(ii) whether the objective could be better achieved by modification of the charging methodology; and~~
 - ~~(iii) if so, the modifications which should be made for that purpose.~~

Standard Special Condition A15: Agency [Modification to existing condition]

[insert ~~above~~ below paragraph 1] or [insert new paragraph 11A]

1A. ~~Once the Authority is satisfied that the CDSP has been appointed in accordance with Part A and Part B of Standard Special Condition A15A (Central Data Service Provider) it will issue a direction bringing into effect Part C of Standard Special Condition A15A and on the date on which this direction of the Authority has effect this condition will cease to have effect. On 1 April 2017 (or such later date as the Authority may direct pursuant to paragraph [3] of Standard Special Condition A15A) this condition will cease to have effect.~~

Annex 3 – consequential licence changes

The existing conditions will apply until 31 March 2017. Changes will come into effect on 1 April 2017.

STANDARD SPECIAL CONDITIONS APPLICABLE TO BOTH NTS AND DN LICENSEES: PART A

Standard Special Condition A12: Joint Office Governance Arrangements.

[Modification to existing condition]

1 (a)(iii) The administration of such matters as are provided for in the uniform network code to be implemented by the relevant gas transporters on a common, joint or coordinated basis, consistent with the provisions of Standard Special Condition A15 A (Agency) ([formerly Standard Special Condition A15](#));

Standard Special Condition A14: Availability of Data Formats [Modification to existing condition]

1. Where the licensee uses standard file formats for transferring data, for any purposes set out in the network code, between any persons identified in such network code as appropriate persons for the receipt of the data, it shall:

(a) make those standard file formats and associated definitions of data items available, free of charge, to gas shippers and other gas transporters for their use in connection with their licensed activities; and

(b) comply with its obligations under the network code and the AS agreement (as defined in Standard Special Condition A15 A (Agency) ([formerly Standard Special Condition A15](#))) in this regard.

Standard Special Condition A31: Supply Point Information Service [Modification to existing condition]

1. The licensee shall establish, or procure the establishment of, and subsequently operate and maintain, or procure the subsequent operation and maintenance of, an information service (the "supply point information service") consistent with its obligations under Standard Special Condition A15 A (Agency) ([formerly Standard Special Condition A15](#)).

Standard Special Condition A48: Last Resort Supply: Payment Claims [Modification to existing condition]

16. For the avoidance of doubt, the arrangements for administering increases to transportation charges in order to compensate any gas supplier which claims for losses that it has incurred in complying with a last resort supply direction, under the provisions of this condition, shall be administered by the agency (as defined in Standard Special Condition A15 A (Agency)) ([formerly Standard Special Condition A15 \(Agency\)](#)), unless the Authority otherwise consents in writing.

SPECIAL CONDITIONS APPLICABLE TO THE LICENSEE (DN): PART E – RDN

Special Condition 1A. Restriction of revenue in respect of the Distribution Network

Transportation Activity: definitions

Definitions in alphabetical order

1A.4 In Part E of the Special Conditions, unless the context otherwise requires:

Agency Costs means costs incurred, or expected to be incurred by the Licensee for the purposes of meeting its obligations under Standard Special Condition A15 A (Agency) ([formerly Standard Special Condition A15](#)).