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Dear Rupika,

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

Thank you for the opportunity to provide views on the proposed modifications to the Gas Transporter licence arising from the Xoserve Funding, Governance and Ownership (FGO) review. This response is sent on behalf of both National Grid's gas transmission and distribution businesses and may be published by Ofgem.

The proposed drafting of Standard Special Condition A15A (SSpCA15A) is a significant improvement on previous FGO informal licence consultations and aligns more closely with the programme deliverables for April 2017. While National Grid has a number of detail observations on the drafting, our main comments relate to paragraph 7(b).

The proposed licence deliberately does not define what the CDSP services are, but does state in paragraph 6(b) that the UNC will contain "a classification of CDSP services". In paragraph 7(b) Ofgem contemplates the possibility of the Provider offering additional services which may be of value to industry and customers and indeed returning a profit, but limits CDSP discretion by requiring GTs to seek consent from the Authority before it can provide such services. This could frustrate the co-operative model and Ofgem's original intent which placed decision making firmly with the users of the CDSP services and the new Provider Board. It could also reinforce a perception that GTs retain special privileges as they could for instance, refuse to seek consent even if the Board and all other users of the CDSP support new services. Furthermore, delays in obtaining consent from the Authority create an additional regulatory burden for all parties as well as disenfranchising CDSP governance.

The same issues arise in relation to the co-operative model and regulatory burden in the requirement to seek consent for the Provider to return a profit. National Grid fully supports the notion that GT Shareholders should not receive dividends or any form of profit as they will not be exposed to any risk under the FGO arrangements and this should be reflected in the CDSP Articles of Association. Therefore there should be no circumstances under which the Provider can return a profit to shareholders for periods after 1 April 2017. Nevertheless, this should not prevent the

Provider's Board approving services that could make a profit which is then reinvested in CDSP services or reduced charges for its Shipper and GT customers.

National Grid would therefore suggest 7(b) is re-drafted as suggested below:

"Be a company the primary purpose of which is to provide CDSP services and which shall include in its articles of association a prohibition on the distribution of profits or declaration of dividends to its shareholders (save for dividends in respect of profits relating to periods prior to 1 April 2017 or such later date as the Authority may direct)."

Detail commentary

The following are the detailed observations on the licence drafting.

Part A:

Paragraph 2(b): Add "of the licensee" after "the minimum obligations"

Paragraph 4: Delete "as" before "in compliance"

Paragraph 5: Add "Until 1 April 2017 (or such later date as the Authority may direct)" at the start of this paragraph. *The reason for this is that these provisions are interim provisions until 1 April 2017 at which point the enduring provisions will take over (eg paragraph 7(c) deals with the director position by stating that the Provider must be jointly controlled and the contract and change management and budget processes will be set out in the DSC and the GTs will not be in control. If paragraph 5 is an enduring obligation we would need to reserve various matters to the GTs in order to ensure that they could comply with paragraph 5 which would over-complicate the governance)*

Paragraph 5(b): Re-instate "CDSP" before "services" on line 2

Paragraph 6(a): Replace "Agent" with "Provider" in the last line

Paragraph 6(c)(iii): should read "keep the Data Services Contract under review...."

Paragraph 7(c): replace "company's" with "Provider's" before "articles of association"

Paragraph 7(c)(i): replace "CDSP" with "Provider" on line 1

Paragraph 8: replace "CDSP service agreement" with "Data Services Contract" on line 3

Paragraph 8: delete "obligations on the Provider to" after "includes" on line 3

Paragraph 8(a): add "an obligation on the Provider to" at the start

Paragraph 8(b): add "an obligation on the Provider to" at the start

Paragraph 8(c): add "an obligation on the Provider to" at the start

Paragraph 8(d): add “an obligation on the Provider to” at the start

Paragraph 8(e): add “provisions to” at the start. *Note these changes to paragraph 8 reflect that control of the objective of the charging statement does not rest with the Provider but rather with the DSC parties and is subject to DSC change control process.*

Paragraph 8(f): add “an obligation on the Provider to” at the start

8(f) It would be pragmatic to apply a materiality test to charge increases either by inserting “*..if it materially increases its charges..*” or apply a threshold such as 2% or another suitable measure as this would avoid referral to the Authority for trivial variations.

Paragraph 8(g): amend first line so it reads “includes an obligation on the Provider to amend its annual budget when directed to do so by the licensee,…”

Paragraph 8(g): delete “other” before “relevant gas transporters” on line 2

Paragraph 9: paragraph 6(b) should read 6(d)

Consequential licence changes

National Grid has reviewed the GT licence in conjunction with Annex 3 and has identified the following changes:

All references in A12, A14, A31, A48 and Special Condition 1A should be to “Standard Special Condition A15A (Central Data Services Provider) (formerly Standard Special Condition A15 (Agency))”.

SSCA14 paragraph 1(b) “AS Agreement” should be replaced with “Data Services Contract”

Special Condition 1A (definitions) “Agency Costs” should be replaced with “CDSP Costs”

Special Condition 3F contains numerous references to “Agency Costs” and SSC A15 which will need to be updated as part of the price control review relating to the Agency.

Price Control treatment

In accordance with Ofgem’s original approach to the co-operative model and reflected in the FGO delivery model and facilitated by the licence condition, shippers will more easily be able to define the services that benefit their customers and in most cases pay for them directly. GTs on the other hand will no longer have direct control of services or costs and will be unable to veto budget decisions as they will be minority members of contract and change management groups. The same will apply for governance of the Provider as, setting aside IGTs (as non RIIO price controlled entities), GTs collectively will have a minority (3 out of 8 Directors) on the board of the Provider. The

only reason for retaining price control arrangements would be to incentivise GTs to exercise control of costs which could only be achieved with majority control of budget decisions. The co-operative model does not allow this and in such circumstances anything other than pass through of costs would leave GTs exposed to uncontrollable financial risk.

National Grid trusts this response is helpful, but should Ofgem wish to discuss any points raised please contact Seán McGoldrick Sean.J.McGoldrick@nationalgrid.com in the first instance.

Yours sincerely,

Paul Rogers
By email