

Gas transporters and other
interested parties

Date: 24 February 2017

Dear colleague,

Consultation: Proposed direction pursuant to Special Condition 4C of the distribution licences and Special Condition 11C of the gas transporter licence held by NGG NTS to treat services in relation to the Central Data Service Provider (CDSP) for which gas transporters (GTs) get paid by another party, such as must reads, as Excluded Services¹

This open letter sets out for consultation our proposal to issue a direction to require GTs to treat certain services in relation to the CDSP as Excluded Services from 1 April 2017. Excluded Services are services provided by the GTs for which they charge the customer directly, and as such are excluded from the allowed revenue set in the relevant price control so the GTs do not recover the cost of providing the same service twice.

We invite your views on:

1. our proposals in this letter and the attached draft Direction in Annex 1.
2. what services in relation to the CDSP should be considered an Excluded Service following the implementation of the new Xoserve arrangements to create a CDSP from 1 April 2017 (or such later date as the Authority may direct).

Background

We undertook a review of Xoserve's funding, governance and ownership (FGO) arrangements in response to concerns raised that the arrangements were not fit for purpose and did not provide the required responsiveness and flexibility for future gas industry changes. On 28 April 2016 we published our decision² on the changes to the legal and regulatory framework needed to establish new arrangements for the gas CDSP, Xoserve. As part of our April 2016 decision, we concluded that licence changes should be proposed that will require GTs to deliver the new arrangements in full by 31 March 2017.

Following two informal consultations³, we issued a statutory consultation on 31 October 2016⁴ (our October consultation) which consulted on modifying Standard Special Condition

¹ The term 'Excluded Services' has the meaning given to it in Special Condition 4C and in Special Condition 11C. The terms 'Excluded Services' and 'an Excluded Service' are used interchangeably in this letter and in the draft direction.

² <https://www.ofgem.gov.uk/publications-and-updates/xoserve-decision-legal-and-regulatory-framework-establish-new-governance-and-funding-arrangements-gas-central-service-provider>

³ We issued informal consultations on the licence changes in December 2015 (<https://www.ofgem.gov.uk/publications-and-updates/informal-consultation-changes-standard-special-condition-a15-agency-gas-transporters-licence>) and April 2016 (<https://www.ofgem.gov.uk/publications-and-updates/informal-consultation-changes-standard-special-condition-a15-agency-gas-transporters-licence-0>)

⁴ <https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-new-standard-special-condition-ssc-a15a-central-data-service-provider-and-changes-ssc-a15-agency-gas-transporter-gt-licence>

(SSC) A15 (Agency), introducing a new SSC A15A (Central Data Service Provider) and the resulting consequential changes required in other parts of the GT licence. We published our decision on the licence changes on 16 December 2016⁵.

The consequential licence changes included changes to the Excluded Services Special Conditions⁶, which previously included 'user pays agency services' as Excluded Services. Under the current arrangements (before the new CDSP goes live from 1 April 2017), almost all of Xoserve's activities are funded by GTs through the RIIO GD1 and T1 price controls. Although, users, such as shippers, pay GTs for certain Xoserve related services which are termed as user pays agency services. Such certain services are excluded from the allowed revenue in the GT's price control to ensure consumers do not pay twice for the same service. For example, when a shipper fails to provide a valid meter read, GTs are required under the uniform network code to provide one using what is termed as the must reads process. The shipper then pays the GT for the provision of this service. This service is managed by Xoserve as the GT's agent and so it is currently considered a user pays agency service.

Under the new CDSP arrangements that will come into effect from 1 April 2017, all users will pay Xoserve directly for the CDSP services they receive. This is known as the 'user pays' principle. However for must reads, for example, we understand that GTs will continue to charge the shippers directly for providing this service, which will still be managed by Xoserve. Following discussions with the industry as part of the consultation process to finalise the GTs' licence condition on SSC A15A for the new CDSP arrangements, we therefore identified that we would need to continue to treat services like must reads as Excluded Services. However to avoid confusion with the 'user pays principle', we considered that it would be better to remove the user pays agency services category of Excluded Service in Special Condition (SC) 4C of the distribution networks' licences and SC 11C of the NGG (NTS)'s licence. Instead we said we would consider it to be more appropriate to issue a Direction under SC 4C.11 of the distribution networks' licences and SC 11C of the NGG (NTS)'s licence for the GTs to treat services in relation to the CDSP for which GTs get paid by another party, such as must reads, as Excluded Services.

Our proposed approach

In line with our decision on SSC A15A, we propose to direct GTs that from 1 April 2017 (or such later date as the Authority may direct) services in relation to the CDSP for which GTs get paid by another party, such as must reads, are to be treated as an Excluded Service using Special Condition 4C.11 of the licences held by the distribution networks and Special Condition 11C.11 of the NGG (NTS) licence. This direction would come into effect on 1 April 2017 when the new Xoserve arrangements go live.

Annex 1 is a copy of the draft legal direction for comment.

Consultation questions

1. Under the new FGO arrangements are there any other services apart from must reads in relation to the CDSP for which GTs get paid by another party and as such should be treated as an Excluded Service?
2. Do you consider that the draft direction at Annex 1 delivers on the policy intent described in this letter and do you have any comments on the draft direction?

⁵ <https://www.ofgem.gov.uk/publications-and-updates/decision-new-standard-special-condition-a15a-central-data-service-provider-modification-ssc-a15-agency-and-other-consequential-modifications-gas-transporter-licence>

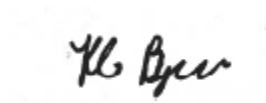
⁶ The Excluded Services Special Conditions are Special Condition 4C of the distribution networks' licences and Special Condition 11C of the NGG (NTS)'s licence.

Next Steps

This consultation closes on 24 March 2017. Please send responses to Rebecca.Pickett@ofgem.gov.uk. Responses will be published on our website unless marked as confidential. We intend to publish our decision before 1 April 2017, including any subsequent directions.

If you have any queries about this letter, please contact Rebecca.Pickett@ofgem.gov.uk.

Yours faithfully

A handwritten signature in black ink, appearing to read 'K. Berge', is centered on the page.

Kersti Berge
Partner, Networks

Annex 1: Draft Direction

To:

National Grid Gas plc
National Gas Distribution Limited
Northern Gas Networks Limited
Scotland Gas Networks pic
Southern Gas Networks pic
Wales & West Utilities Limited

DIRECTION ISSUED BY THE GAS AND ELECTRICITY MARKETS AUTHORITY PURSUANT TO PARAGRAPH 11 OF SPECIAL CONDITION 4C OF THE SPECIAL CONDITIONS APPLICABLE TO THE LICENSEE (DN) AND PARAGRAPH 11 OF SPECIAL CONDITION 11C THE SPECIAL CONDITIONS TO NATIONAL GRID GAS PLC'S (NTS) GAS TRANSPORTER LICENCE TO ALL HOLDERS OF A GAS TRANSPORTER LICENCE GRANTED UNDER SECTION 7 OF THE GAS ACT 1986 (the 'Direction')

WHEREAS

1. Each of the companies to whom this Direction is addressed ('the Licensee') is the holder of a gas transporter licence ('the Licence') granted or treated as granted under section 7 of the Gas Act 1986 ('the Act'). The Licences held by the Licensees in respect of the distribution networks are referred to as Licence (DN). The Licence held by National Grid Gas plc (NTS) is referred to as Licence (NTS).
2. Special Condition 4C (Services treated as Excluded Services) of the Licence (DN) and Special Condition 11C (Services treated as Excluded Services) of the Licence (NTS) provide for the Gas and Electricity Markets Authority ('the Authority') to give directions in respect of services provided by the Licensee that are to be treated as Excluded Services.
3. Services in relation to the CDSP for which GTs get paid by another party, such as must reads, were previously treated as Excluded Services under:
 - a) Special Condition 4C.10(e) 'ES5. User pays agency services' of the Licence (DN); and
 - b) Special Condition 11C.10 'ES6. User pays agency services' of the Licence (NTS).
4. Pursuant to the Authority's decision to introduce Standard Special Condition A15A ('SSC A15A') (Central Data Service Provider)⁷, user pays agency services will no longer be categorised as Excluded Services when SSC A15A comes into force.
5. The Authority is satisfied that services in relation to the CDSP for which GTs get paid by another party, such as must reads, should continue to be treated as an Excluded Service from 1 April 2017 under:
 - a) Special Condition 4C.11 'ES9. Services in relation to the CDSP for which GTs get paid by another party' of the Licence (DN); and
 - b) Special Condition 11C.10 'ES9. Services in relation to the CDSP for which GTs get paid by another party' of the Licence (NTS).

NOW THEREFORE

⁷ <https://www.ofgem.gov.uk/publications-and-updates/decision-new-standard-special-condition-a15a-central-data-service-provider-modification-ssc-a15-agency-and-other-consequential-modifications-gas-transporter-licence>

In accordance with the powers contained in paragraph 11 of Special Condition 4C of the Licence (DN) and paragraph 11 of Special Condition 11C of the Licence (NTS), the Authority hereby directs that services in relation to the CDSP for which GTs get paid by another party are to be treated as an Excluded Service.

The Direction will take effect from 1 April 2017.

This document constitutes notice of the reasons for the Direction as required by section 38A of the Act.

Kersti Berge
Partner, Networks
Duly authorised on behalf of the
Gas and Electricity Markets Authority

[Date]