

Modification proposal:	<b>Uniform Network Code (UNC) 673: 'Amendment of UNC and DSC arrangements to enable Xoserve to bid for and provide CSS Services' (UNC673)</b>		
Decision:	The Authority <sup>1</sup> directs this modification be made <sup>2</sup>		
Target audience:	UNC Panel, Parties to the UNC and other interested parties		
Date of publication:	30 November 2018	Implementation date:	30 November 2018

## Background

The Data Communications Company (DCC) has invited tenders for a range of services including the Central Switching Service (CSS) that together will implement the outcomes of the Ofgem Faster and More Reliable Switching Programme.<sup>3</sup>

The Central Data Services Provider (CDSP) has agreed with its customers under the Data Services Contract (DSC) to bid for some aspects of the central switching system services, as a commercial service to the DCC, to be submitted in the company name of Xoserve Ltd.

Under the terms of the DSC, the control, funding, liabilities of the CDSP bid(s) and any subsequent revenues that may arise from provision of CSS Services are to be ring-fenced to Shipper Users only.

In order to facilitate the CDSP's ability to participate in the DCC procurement process, we recently approved UNC666<sup>4</sup>, which established the 'CDSP Bid Group' comprised of the CDSP and Shipper User representatives only, consistent with the approach to funding. However, the UNC (General Terms D and respective CDSP Service Documents) does not currently support the arrangements required for the CDSP to enter into the next stage of the procurement process in December, or to enter in to a contract to provide CSS Services to the DCC.

## The modification proposal

In order to facilitate the CDSP's participation in the DCC procurement process, modifications are proposed to:

- UNC General Terms D;
- CDSP Service Documents:
  - CDSP Service Description;
  - Budget and Charging Methodology and Cost Allocation Methodology; and,
  - Transitional Arrangements Document.

The proposed arrangement would include a new and extended role for the CSS Bid Group, such that it would have the power to approve and authorise the CDSP to enter into an agreement with the DCC in the event that its final bid is successful. This

<sup>1</sup> References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

<sup>2</sup> This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986.

<sup>3</sup> See: [www.ofgem.gov.uk/gas/retail-market/market-review-and-reform/smarter-markets-programme/switching-programme](http://www.ofgem.gov.uk/gas/retail-market/market-review-and-reform/smarter-markets-programme/switching-programme)

<sup>4</sup> UNC666: '[Establishment of a CSS Bid Group for CDSP central switching system bid activities](#)'

authorisation may be subject to the material terms of the agreement also being approved by the CSS Bid Group.

### **UNC Panels recommendation**

At its extraordinary meeting of 22 November 2018, the UNC Panel voted unanimously to recommend that UNC673 be implemented.

### **Our decision**

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 22 November 2018. We have considered and taken into account the responses to the industry consultation(s) on the modification proposal which are published alongside the FMR<sup>6</sup>, and have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC;<sup>7</sup> and
- directing that the modification be made is consistent with our principal objective and statutory duties.<sup>8</sup>

### **Reasons for our decision**

We note that each of the twelve respondents to the Joint Office consultation offered full or qualified support. All of the respondents considered that the proposal would further relevant objective (f), and some also considered that it would facilitate relevant objective (d).

Whilst we agree with the UNC Panel that relevant objective (f) is the most applicable to the arguments made in favour of implementing UNC673, we also agree with those respondents who considered the impacts on competition to be relevant. We have therefore assessed the proposal against relevant objectives (d) and (f), and consider that it would have a neutral impact upon the other relevant objectives.

#### ***(d) the securing of effective competition between relevant shippers***

We agree with the UNC Panel that this is a purely facilitating proposal, and that any cost-savings and others benefits that may arise from the CDSP undertaking additional roles relating to the switching programme remain subject to the outcome of the DCC procurement process. However, unless the governance issues mentioned above are addressed, either through the implementation of this proposal or some other means, the potential to realise those benefits will be lost.

The implementation of UNC673 will allow, but not obligate, the CDSP to proceed through to the next stage(s) of the procurement process and enable the DCC to evaluate any bid it may submit on its merits, rather than be stymied by governance that was not designed

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<sup>5</sup> The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

<sup>6</sup> UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at [www.gasgovernance.co.uk](http://www.gasgovernance.co.uk)

<sup>7</sup> As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, available at: <https://epr.ofgem.gov.uk/Content/Documents/Standard%20Special%20Condition%20-%20PART%20A%20Consolidated%20-%20Current%20Version.pdf>

<sup>8</sup> The Authority's statutory duties are wider than matters which the Panel must take into consideration; they are detailed mainly in the Gas Act 1986 as amended.

to cater for this situation. We consider that retaining this option has value, albeit one that is difficult to quantify. To the extent that this may provide the CDSP an opportunity to provide cost savings and/or a better service to shippers and suppliers, this could be expected to benefit competition. We therefore consider that maintaining this option would better facilitate relevant objective d), even if the CDSP, the CDSP Bid Group, Xoserve Board or the DCC subsequently chose not to exercise it.

***(f) the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code***

Several respondents considered that in the absence of this proposal being implemented, it may nonetheless be possible for the CDSP to pursue a bid if the governance issues are addressed through other means. However, we agree that this proposal represents a proportionate and efficient means of addressing those governance issues. Further changes may yet prove necessary, as previously highlighted in our consultation and decision paper on the use of UK Link for CSS services<sup>9</sup>, but this modification would seem to address the immediately issues in an efficient manner and therefore facilitate relevant objective (f).

For the avoidance of doubt, this decision should not be taken as any indication of our view on the merits of any tender submission, which will be a matter for the DCC alone.

**Decision notice**

In accordance with Standard Special Condition A11 of the Gas Transporters licence, the Authority hereby directs that modification proposal UNC673: '*Amendment of UNC and DSC arrangements to enable Xoserve to bid for and provide CSS Services*' be made.

**Rachel Clark**  
**Programme Director, Consumers and Markets**

Signed on behalf of the Authority and authorised for that purpose

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<sup>9</sup> See: [www.ofgem.gov.uk/system/files/docs/2017/07/consultation\\_on\\_uk\\_link\\_and\\_css\\_final.pdf](http://www.ofgem.gov.uk/system/files/docs/2017/07/consultation_on_uk_link_and_css_final.pdf)