

Mr Bob Fletcher  
Secretary, Modification Panel  
Joint Office of Gas Transporters  
51 Homer Road  
Solihull  
B91 3LT

9<sup>th</sup> December 2010

Dear Bob

**RE: UNC Proposal 0296 – “Facilitating a Supply Point Enquiry Service for Non-Domestic Supply Points”**

1. British Gas fully supports the implementation of Uniform Network Code (UNC) Proposal 0296 and believes that it will
  - a) Help secure effective competition in the non-domestic market by enabling Shippers to produce real-time quotations for customers with an increased level of accuracy.
  - b) Improve the level of protection for all customers, domestic and non-domestic, by ensuring that express customer permission must be received before requesting Supply Point Enquiry data, regardless of the means used to request that data.
  
2. This Proposal represents an improvement over its predecessor, UNC Proposal 0253, which was raised by British Gas in 2009 to address the issues caused by receiving Supply Point Enquiry data after point of sale. Although Proposal 0253 was recommended for implementation by the UNC Panel, Ofgem did not direct its implementation, arguing instead that whilst there was *“a number of tangible beneficial impacts on competition, notably in reducing transaction costs associated with securing accurate quotations”*<sup>1</sup>, there were three issues which prevented them from directing its implementation, namely
  - a) The lack of *“an estimate of xoserve’s costs, the basis on which they will be apportioned, and indicative charges”*<sup>2</sup>, which prevented a full assessment of the overall benefit of the Proposal,

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<sup>1</sup> Ofgem Decision Letter on UNC MOD0253, page 2.

<sup>2</sup> Ofgem Decision Letter on UNC MOD0253, page 2.

- b) The inclusion of domestic Large Supply Points within the scope of the Proposal, with the consequence that, if implemented, the Proposal may have placed the Network Owners in breach of their obligations under the Data Protection Act (1986), and
  - c) The ambiguity which existed around the word “*contemplating*”<sup>3</sup> within the UNC, and in particular, the fact that by “*interpreting the word “contemplating” widely ... , would imply that all signatories to the UNC have unfettered access to the data*”<sup>4</sup>, thus making appropriate control on the use of the data difficult.
3. Proposal 0296 retains the original benefit to which Ofgem referred by facilitating the provision of Supply Point Enquiry data in real time through an online portal, but it also specifically resolves each of the concerns Ofgem set out in their decision on Proposal 0253. Importantly, Proposal 0296 is restricted in scope to non-domestic customers, resolving any potential compliance issues with the Data Protection Act (1986). Furthermore, Proposal 0296 clarifies the UNC so it is clear that a Shipper must first have the express permission of the customer before they request a Supply Point Enquiry, regardless of whether that relates to a domestic or non-domestic customer. Finally, during the development of Proposal 0296, xoserve provided approximate costs for delivering the proposal so that an assessment of the benefit can now be made.
  4. Whilst it is important to understand both the context for this Proposal and how it addresses the specific issues of its predecessor, it is also important to understand the flaws in the current process so that it becomes apparent why change is necessary at all.
  5. Quotations for prospective non-domestic customers are based on a number of variable factors such as contract length, total demand, usage profile and credit worthiness. Whilst some of these factors can be established from a discussion with the customer at point of sale, the data collected can be either missing or inaccurate. Valuable industry data which could either replace, add to or verify customer provided data, is withheld from the Shipper until after they have started the acquisitions process, when it is received from the Network Owner on the Supply Point Enquiry.
  6. If, in any particular case, the Supply Point Enquiry contains new information that would have had an impact on the quotation just provided to the non-domestic customer then the Shipper is unable to make use of it having already agreed a price with the customer. The result is either a financial loss for the customer through higher than appropriate prices or a loss to the Shipper through lower than appropriate prices. This inefficiency in the process adds cost to the industry without creating any benefit or serving any purpose.

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<sup>3</sup> Uniform Network Code, Transportation Principal Document, Section G, paragraph 1.17.

<sup>4</sup> Ofgem Decision Letter on UNC MOD0253, page 3.

7. This Proposal will allow the Network Owners to enter in to an agreement with Shippers to provide the same data as is provided now on the Supply Point Enquiry through an online portal, in real time, subject to the Shipper having the customer's express permission. This will enable quicker and more accurate quotations and thus reduce cost to the industry. We consider that in a market with low-margins, such savings are material.
8. Furthermore, we note that by being better able to provide an accurate quotation at the point of sale, Shippers will reduce the level of risk they bear in entering in to a contract at the incorrect price. This reduction in risk will enable Shippers to compete solely on the merits of their offering, facilitating more effective competition between Shippers.
9. Additionally, this Proposal will improve the level of protection domestic and non-domestic customers receive against Shippers who request Supply Point enquiry data without their permission. The Supply Point Enquiry process currently allows any Shipper to request data about any site, domestic or non-domestic, when it is merely "*contemplating submitting a Supply Point Nomination*"<sup>5</sup>. As Ofgem noted in their decision letter on UNC Proposal 0253, "*contemplating*" is not defined in the Uniform Network Code, with the result that it is currently possible for a Shipper to request Supply Point Enquiry data for large numbers of sites from the Network Owners agent, xoserve, on the basis that they are "*contemplating*" entering in to contract discussions with the customer, with no check on the validity of this claim.
10. This Proposal ensures that in future all Supply Point Enquiry data requests, however they are submitted, must be done with the customer's express permission. In addition, where the proposed new online route is used, the customer must be a non-domestic customer.
11. We are aware that some may argue this increased protection is still insufficient and that a process which relies on Shippers warranting that they have the express permission of the customer is inadequate. We reject this argument, and contend that both the proposed obligation in the UNC to obtain the express permission of the customer before proceeding, and the traceable nature of online requests provides sufficient control over the process. We also consider that as the current process allows the Shipper to simply warrant that they are "*contemplating submitting a Supply Point Nomination*", a rejection of this Proposal would continue to allow the persistence of "*unfettered access*" to customer data, leaving all customers with a lower level of protection that they would receive under this Proposal.
12. As a result, we believe that this proposal facilitates the UNC Relevant Objective set out in Standard Special Conditions A11.1 (d). I have set our rationale below.

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<sup>5</sup> Uniform Network Code, Transportation Principal Document, Section G, paragraph 1.17.

**Standard Special Condition A11.1 (d): so far as is consistent with subparagraphs (a) to (c) the securing of effective competition: (i) between relevant shippers; (ii) between relevant Shippers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers;**

13. This Proposal will secure effective competition between Shippers in three ways.

- a) This Proposal will allow Shippers to receive accurate information during the non-domestic quotation process when it is most needed, i.e. at point of sale. This will improve the accuracy and timeliness of quotations provided, creating a consequential improvement in the customer's ability to find the best deal available to them and therefore helping to secure effective competition.
- b) The improvement in data accuracy at point of sale will also reduce the level of risk associated with a Shipper entering a contract at a price which is subsequently shown to be incorrect, therefore facilitating more effective competition. This reduced risk will particularly benefit those Shippers who have less ability to hedge pricing risk across the rest of their portfolio, for example, in the case of smaller parties.
- c) Finally, this Proposal will correct the current issue which allows Shippers to interpret the UNC in such a way as to be able to collect Supply Point Enquiry data without first obtaining the customer's permission. This ambiguity distorts competition in favour of Shippers who take a wide interpretation of the word "*contemplating*" at the expense of those Shippers who already seek the customer's permission as a matter of course. Correcting this issue will therefore correct that distortion and improve the effectiveness of competition.

14. If you have any queries relating to this representation, please do not hesitate to telephone me on (07789) 570501.

Yours sincerely

David Watson  
Legal & Regulatory, British Gas