

Representation - Draft Modification Report 0565 0565A 0565B

Central Data Service Provider: General framework and obligations

Responses invited by: 5pm 08 December 2016

To: enquiries@gasgovernance.co.uk

Representative:	Andrew Margan
Organisation:	British Gas Trading Ltd
Date of Representation:	08 December 2016
Support or oppose implementation?	0565 - Oppose 0565A – Qualified Support 0565B - Oppose
Alternate preference:	<i>If either 0565, 0565A or 0565B were to be implemented, which would be your preference?</i> 0565A
Relevant Objective:	c) Positive d) Positive f) Positive
<p><i>Please note that due to the number of documents required the 'Supporting Business Documentation' page has been linked to the main modification page, which includes the legal drafting as follows:</i></p> <p>CDSP/DSC Draft for Consultation: http://www.gasgovernance.co.uk/0565/DSC (CDSP and DSC documents)</p> <p>UNC Draft for Consultation: http://www.gasgovernance.co.uk/0565/UNCdrafting (UNC Legal Text)</p>	

Reason for support/opposition: Please summarise (in one paragraph) the key reason(s) for each modification

British Gas supports the intention of Modification 0565 and the alternates. The modifications introduce governance changes and new CDSP service contract arrangements. The governance changes reallocate UNC Code obligations to the CDSP where relevant. The new Data Service Contract (DSC) replaces the Transporter Agency ASA contract and enables CDSP customers to participate in the Contract and Change Management Committees.

All three modifications meet relevant objectives for licensee's to discharge their obligations, have a positive impact to competition and support efficiency in the implementation and administration of the Code. The only difference between the three proposals is how Transporter Committee voting representation is structured. Our thoughts for supporting or opposing the alternate changes are set out below.

Modification 0565 introduces Transporter split voting for DNOs to have three votes, IGTs two votes and NTS one vote. We don't believe there is any justification under a cooperative model for DNOs to have additional voting compared to other constituencies and therefore we do not support these arrangements.

Modification 0565B introduces greater skewed voting in favour of DNOs. DNOs will hold four votes compared to NTS and IGTs who hold one vote. Whilst we acknowledge that DNOs will pick up higher costs and risks, compared to IGTs, this argument does not hold true against NTS risk and costs. With DNOs holding four votes, they have the ability to block industry change, which does not support the cooperative model. Therefore we do not support these arrangements.

Modification 0565A introduces equal voting by providing each constituency two votes. This would appear the most fair and representative voting model, which should ensure constituencies work together to progress change. Therefore we support these arrangements.

We should highlight that the new arrangements have progressed at pace to enable an April 2017 delivery. Whilst these new CDSP Funding and Governance arrangements enable a starting position, which we can support, we believe some areas require further shaping at a later date. We note this additional shaping is possible through the Committee or UNC Modification process. We will work collaboratively with the industry to address our concerns, which are documented under Legal Text.

Self-Governance Statement: *Please provide your views on the self-governance statement.*

We don't believe the modifications meet the self governance criteria, as they could have a material impact to competition and consumers.

Implementation: *What lead-time do you wish to see prior to implementation and why?*

The simplest implementation approach is to tie the new funding and governance arrangements to the CDSP financial year. Therefore we support an April 2017 implementation.

Impacts and Costs: *What analysis, development and ongoing costs would you face?*

As these modifications do not amend services, impacts should be minimal, except for the invoicing changes. The invoicing validation system development costs are estimated to be minimal cost.

Normally invoice system changes require a minimum of 6 months notice period. Whilst invoices can be validated retrospectively, we prefer as much notice as possible, so any risk can be managed and system changes can be made as soon as practicably possible.

Legal Text: *Are you satisfied that the legal text will deliver the intent of the Solution?*

We have some comments which relate to Legal Text. We note these are not 'new issues' and we believe once the arrangements are confirmed we can assess how the arrangements are working. If subsequent changes are required to manage our

concerns, a resolution can be sort through the new Committee(s) or through the raising of a new UNC Modification. These concerns do not stop the Modifications from progressing.

Budget and Charging Methodology – Relevant Charging Methodology Objectives

SSC A15A sets out Relevant Charging Methodology Objectives (8(e))¹.

The “Charging Methodology Objectives” means the following objectives –

(i) that compliance with the charging methodology results in charges which reflect the costs incurred by the CDSP for the provision of the CDSP Services;

(ii) that, so far as is consistent with sub-paragraph (a), the charging methodology properly takes account of developments in the provision of CDSP Services;

(iii) that, so far as is consistent, compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers;

(iv) compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

We note that the DSC Charging Methodology states changes can be made to the Charging Methodology through a modification or through the process set out in the document. The relevant Charging Methodology Objectives in the licence, do not link directly to the UNC Modification Relevant Objectives. We are not sure how this conflict should be overcome.

Budget and Charging Methodology – Budget Appeal 4.7.2

Clause 4.7.2 limits a customer’s appeal between the draft and the final budget when they have not given prior notification. This could cause two unintended scenarios. 1) A party who is unable to attend the relevant meeting or review the draft prior to signoff and does not provide prior notification will be unable to raise a subsequent appeal. 2) An issue may only come to light after the drafting period, by which time all parties are prevented from raising an appeal. We believe this clauses warrants review.

DSC Terms and Conditions - Data Protection

Clause 8.2(b) sets out the CDSP won’t engage any sub-processor if the engagement will have a material adverse impact on the data controller (and the data controller hereby authorises the data processor to engage a sub-contractor)...

We believe DPA Article 28(2)(e) of the GDPR requires the Data Processor to have prior written approval from the Data Controller before sub-processing takes place, to ensure it keeps control over its personal data. As a result to comply with new DPA legislation, we believe the DSC Ts&Cs, must seek the data controller’s prior written agreement before appointing a sub-processor and the therefore the wording requires subsequent amendment.

Transitional Arrangements Document – Transporters to bear Nexus Costs

Clause 7 sets out only Transporters bear Nexus Costs under the CDSP’s budget. Nexus Costs are CDSP costs for implementing, building, testing and commissioning the relevant Nexus systems including post implementation support and remedying Nexus defects. Nexus costs are ring fenced from 1 April 2017 until the Nexus implementation

¹ https://www.ofgem.gov.uk/system/files/docs/2016/10/xoserve_statutory_consultation_on_a15a_and_a15_-_final.pdf

date or the RAASP Nexus date, plus three months thereafter, except for Link Gemini which is two weeks thereafter commencing on the Nexus or RAASP implementation dates, and the costs of remedying Nexus defects that are identified during the three month or two weeks post implementation period.

We are concerned that implementation of Nexus and RAASP will be very complex and twelve months, plus three months is insufficient time to identify all Nexus defects and therefore additional costs will 'spill over' to shippers and their customers. Therefore these time periods may warrant review and amendment.

Invoicing and Credit Cover

We are concerned that invoicing arrangements are unknown and that parties will be asked for an initial period to process and pay invoices without appropriate validation. Paying an invoice without validation is a breach of our invoice policy and therefore we request invoice and invoice backing data is made a priority to ensure customers can comply with their finance policies.

Likewise customer are asked to sign off on an agreement, where the Credit Cover arrangements are not fully developed and at the 'principles' stage. Customers would not normally be asked to sign off a contract without prior understanding of Credit Cover arrangements. We request this information is made available as soon as possible.

Technical solution incorporation into the UNC Modification process

Through workgroup developments, many parties outlined the benefits of incorporating technical solutions 'up-front' in the UNC Modification process. The technical solution being part of the Modification process will align the UNC to other Codes. Plus parties will know what technical solution is proposed at a much earlier stage in the change process.

As this activity may require more input and support from the CDSP and to ensure this process is adequately resourced, it may be useful for the industry to undertake a review of how new arrangements can be developed.

Are there any errors or omissions in this Modification Report that you think should be taken into account? *Include details of any impacts/costs to your organisation that are directly related to this.*

Trader Users are being asked to sign off on a Modification which will introduce a new Trader User agreement, without the Trader User agreement being available for review. We don't believe Trader Users should be put in this position.

Please provide below any additional analysis or information to support your representation

N/A