

UNC Workgroup 0565 Minutes
Central Data Service Provider: General framework and obligations
Tuesday 20 September 2016
Elexon, 350 Euston Road, London NW1 3AW

Attendees

Bob Fletcher (Chair)	(BF)	Joint Office
Lorna Dupont (Secretary)	(LD)	Joint Office
Andy Miller	(AM)	Xoserve
Angela Love	(AL)	Scottish Power
Azeem Khan*	(AK)	RWE npower
Chris Warner	(CWa)	National Grid Distribution
Colette Baldwin	(CB)	E.ON
David Tennant	(DT)	Dentons
Gavin Anderson*	(GA)	EDF Energy
Gethyn Howard*	(GH)	Brookfield Utilities
Jan Willem van den Bos	(JB)	Dentons
Mark Cockayne*	(MC)	Xoserve
Michael Walls*	(MW)	ES Pipelines
Mike Leonard*	(ML)	Ofgem
Sarah Gull*	(SG)	Xoserve
Sean McGoldrick	(SMc)	National Grid NTS
Sue Hilbourne	(SH)	Scotia Gas Networks

*via teleconference

Copies of all papers are available at: <http://www.gasgovernance.co.uk/0565/200916>

The Workgroup Report is due to be presented at the UNC Modification Panel on 17 November 2016.

1.0 Introduction and Status Review**1.1. Approval of Minutes (07 September 2016)**

The minutes of the previous meeting were approved.

1.2 Introduction to the Day's Business

Explaining there would be four papers under review today, each setting out the position to be taken on drafting, DT confirmed that no comments had been received in advance. SG asked if parties had circulated the papers to their legal teams for review and, whilst recognising the many differing circumstances described, expressed her disappointment at receiving a mixed response. Parties explained it was a timing issue in many cases, and legal teams would review. SG reiterated the need for legal teams to engage as soon as possible, observing that if 11th October meeting was the first time they reviewed the papers/positions then business at subsequent meetings was not likely to progress very efficiently or perhaps as quickly as needed to report to the Panel in early November. Comments were required as soon as possible so that any concerns/issues can be addressed in good time prior to what should be the final review. DT pointed out that today's papers were really just the 'tip of the iceberg', and there would be a large amount of reading for both commercial and legal teams to get through before the meeting on 11th October 2016 where it was expected to review all of the UNC drafting, and the meetings on 17th and 18th October where it was expected to review a full pack of the DSC documentation. Feedback will be required in advance of these meetings, as

it is not intended to go through documents line by line but only to draw out and address any issues or concerns that have been raised. It was suggested that parties set aside the first two weeks in October for the reading of the documentation.

Concerns were expressed regarding the ability to locate the most current versions of papers to provide for legal review. BF drew attention to the Supporting Business Documentation area (located under Modification 0565) on the website at:

<http://www.gasgovernance.co.uk/0565/sbd>. Documents were published here when provided to the Joint Office. Noting these versions were subject to change, AL suggested it might be helpful to state on the website when final versions of documents might be expected.

Action 0565/0905: *Latest versions for legal review* - CW to review documents stored on the website at: <http://www.gasgovernance.co.uk/0565/sbd> and provide the latest iterations (DSC and UNC) for publication.

CW confirmed that parties would be notified by email when final drafting was ready, and an invitation to the Workshops would be issued.

2.0 Liabilities

The position paper provided was reviewed. DT explained that the purpose of the paper was to:

- (i) identify the proposed approach on liabilities;
- (ii) identify the proposed drafting to be included in the DSC and any changes to the UNC; and
- (iii) allow an opportunity for comments on the drafting approach to enable completion of the DSC text and changes to the UNC in this area.

The proposal was to follow the approach set out in the June Paper, the CDSP being a 'mutual organisation' whose charges are set to recover all of its costs, which will include liabilities and losses. In this context any liabilities will need to be recovered from core customers and that liabilities cannot operate to incentivise performance. The mutual model means there would be an inherent circularity in the receipt/funding of any liabilities.

The June paper identified four categories of potential CDSP liability (provision of service and breach of provision, in tort, and those unconnected with the DSC (e.g. statutory/regulatory, etc). No alternative approach had been put forward in the interim in respect of liabilities for a breach of provision of service, so Dentons had proceeded with drafting as previously outlined.

CB advised that E.ON may have concerns regarding a certain scenario, but was unable to provide further detail for SG to address. SG reiterated that some of this was fundamental to drafting DSC, and it was not possible to wait for an issue indefinitely. Having asked for comments on a number of occasions there would be no additional time for a line by line walk-through in October, timescales were extremely challenging and progress needed to be made.

DT explained the DSC and UNC drafting changes that were envisaged, and what might be included in the UK Link Manual.

A table listing the Relevant Compensation Groups, the associated liability, approach and rationale was presented. DT explained what was required in respect of each group.

AM queried the information presented in respect of Relevant Compensation Groups C and D. The implications for Suppressed Reconciliation Values resulting from the phased implementation of FGO and Nexus were discussed. It was thought there may need to be a Transporter/Xoserve function/service retained and operated by the CDSP until Nexus goes live; did a liability still exist in the interim? Following discussion some uncertainty remained, and it was suggested that CW, DT and AM investigate further offline, and review UNC TPD Section E to make sure it would work.

CB commented that she found this to have been very clear and helpful.

CB then queried that, notwithstanding that some liabilities were to be removed, would some reporting on performance still be expected. AM confirmed that while performance liabilities will go, the performance standards (KPIs) will be retained in the service lines for reporting purposes. Prioritisation of service lines may change in response to removal/changes of liabilities, and Xoserve was reviewing/reordering to align with the charging basis. Reference was made to the UNC Standards of Service Sub-committee (SoS). As a body meeting on an ad hoc basis when deemed to be required, AM believed that SoS would still have a role as liabilities would still remain on the Transporters, however others believed SoS may disappear under Nexus following the implementation of the Performance Assurance Framework; this may need further consideration.

DT confirmed that historic liability would be discussed at the meeting on Friday (23 September 2016).

The Workgroup was encouraged to provide any comments as soon as possible in respect of drafting of the DSC and the UNC.

3.0 Termination for DSC Default

It was noted that papers covering default were previously discussed in June. DT explained that the purpose of this paper was to:

- (i) identify the proposed approach on termination for default under the DSC;
- (ii) identify the proposed drafting to be included in the DSC and any changes to the UNC; and
- (iii) allow an opportunity for comments on the drafting to enable completion of the DSC text and changes to the UNC in this area.

DT explained the approach envisaged in the DSC. It would be expected to cover insolvency and would be appropriately worded. MC pointed out that there appeared to be no remedy for payment default under DSC, unless or until such time as UNC termination was invoked.

CB was concerned to understand if there was protection for consumers should such an event take place in the middle of a change of Supplier process. AM observed that Supplier of Last Resort mechanism may be invoked. The circumstances of each termination event are different in each case. Ofgem can step in to ensure consumers are not being adversely impacted.

CB asked if a DSC default event could trigger a UNC termination. AM believed a default in respect of DSC is likely to be minor in comparison to a default under UNC; the Transporter(s) decide whether to initiate UNC termination. Costs associated with DSC default would be spread across the customer base and these might be incurred for sometime if Transporter(s) decided not to terminate under the UNC. AM confirmed that the UNC termination procedure was unchanged by FGO in the terms of impact upon the end consumer. The Authority was always involved in the dialogue if a UNC termination was being considered.

GH was concerned regarding the impact on iGTs' operations, and believed they should be notified of any default. MC observed that under UNC TPD V notification is sent to "any affected party". Defaults were discussed at the Energy Balancing Credit Committee (EBCC) and the current process would notify iGTs should they be impacted. SG commented that there might be circumstances whereby a party is in breach of conditions, other than credit, of the DSC and this would not be escalated to the EBCC. AM observed that when Xoserve requests the Transporters to terminate the iGTs should be automatically notified. Notification advising the iGTs at the outset of a Shipper default (that does not necessarily mean ending in a termination) should be included in the Xoserve process. DT noted the need to notify iGTs when defaults are first advised.

DT explained the approach envisaged in the DSC. CB asked what would happen in the event of an iGT default. GH believed it would be the same as for a DN default. DT noted this for amplification in the approach to drafting.

DT then outlined some issues to note. A default under DSC can occur but if the Transporter(s) decide not to terminate there is potential increase in financial exposure. In theory, following an assessment of the position and a Transporter decision not to terminate under UNC, a DSC default could be sustained indefinitely as there appeared to be no limitation on the time period within which it should be identified, contained and remedied. It was then questioned should there be one (or more) defined regular review stages for a reassessment of any continuing DSC default situation (to assess if the problem/issue was increasing). Should a further notice(s) be issued to the community alerting to the continuation of a default? A discussion ensued, and MC explained how this might be addressed (notification of default; EBCC review, Transporters waive right to act on that default; EBCC monitoring; other triggers to enable Transporters to reassess position and take action). SG suggested having the right to issue a further notification(s) if the level of default reached a certain threshold. AL agreed it would be useful to monitor and set thresholds to force a reassessment. MC pointed out that some way of socialising the debt (and triggered at what point) needed consideration. DT noted the points raised in this discussion.

AM referred to the DSC Terms and Conditions, and observed that these stated the payment terms were 10 Business Days - this would be the default position.

The Workgroup was encouraged to provide any further comments as soon as possible in respect of drafting of the DSC and the UNC.

4.0 Confidentiality

It was noted that the paper provided was supplemental to the "DSC – Data flows and rights of use" paper (26 May 2016). JB explained that the purpose of the paper was to confirm the drafting approach to confidentiality under the DSC Terms and Conditions (Clause 9) and the UNC (TPD Section V5). The provisions in the DSC Terms and Conditions were based on ASA Clause 17.

JB briefly explained the approaches envisaged in the DSC and the UNC.

The Workgroup was encouraged to provide any comments as soon as possible in respect of drafting of the DSC and the UNC.

5.0 Data Protection

It was noted that the paper provided was supplemental to the "DSC – Data flows and rights of use" paper (26 May 2016). JB explained that the purpose of the paper was to confirm the drafting approach to data protection in the DSC Terms and Conditions (Clause 8 - data processor and data controller) and the UNC (TPD Section V5).

No change was envisaged to the UNC, and the Workgroup was encouraged to provide any comments as soon as possible in respect of drafting of the DSC.

Noting the level of interest in the area of Data Protection previously displayed by certain parties, AM encouraged Shippers to bring this to the attention of their legal teams.

6.0 Update on DSC Terms and Conditions

DT advised that the Terms and Conditions will contain what has been set out in the four papers, taking into account the points raised in discussion today.

7.0 Consideration of other Workplan Topics

The Workgroup reviewed and considered the Workplan provided.

8.0 Review of outstanding actions

0565/0606: National Grid Distribution (CWa) to provide further clarity for point 2.4.3 in the Cost of Change section, as to who is responsible for paying the additional costs for a cost estimate if a ROM is not sufficient.

Update: Deferred until 21 September 2016 meeting. **Carried forward**

0565/0607: Xoserve (AMi) to:

- a) provide further clarity on the Change Order process for a cost estimate or a ROM is required, what is the trigger;
- b) At what point does a Change Order trigger an external cost estimate.

Update: (a) Deferred until 21 September 2016 meeting. **Carried forward**

Update: (b) Deferred until 21 September 2016 meeting. **Carried forward**

0565/0608: Xoserve (AMi) to provide clarity in relation to internal and external financial spend regarding the proposed Change Order process.

Update: Deferred until 21 September 2016 meeting. **Carried forward**

0565/0610: Xoserve (AMi) to provide greater clarity and information concerning the costs in the Modification process.

Update: Deferred until 21 September 2016 meeting. **Carried forward**

0565/0801: National Grid Distribution (CWa) to arrange a Data Protection Legal Review teleconference.

Update: Circumstances had moved on in light of the publication of today's paper; parties will review the paper with their lawyers and will advise if a specific meeting is required. **Closed**

0565/0805: National Grid Distribution (CWa) and National Grid NTS (SMc) to provide clarity on the cost estimate process to be used with the modification process, including the EQR process.

Update: Deferred until 21 September 2016 meeting. **Carried forward**

0565/0809: National Grid Distribution (CWa) to amend the categories and confirm the position of the Shipper Classes in terms of the voting process, together with investigating iGT's concerns around Committee representation and produce an Annex for D2 and GD4.

Update: Deferred until 21 September 2016 meeting. **Carried forward**

0565/0901: Xoserve to review and consider providing a draft or sample Business Continuity Plan as a DSC supporting document.

Update: Work ongoing. **Carried forward**

0565/0902: All Gas Transporters to consider and provide clarity on the management of CDSP bad debt and whether this could be passed through to Shippers via transportation.

Update: CW advised this was still to be confirmed. **Carried forward**

0565/0903: GTs/Xoserve to establish what arrangements are in place for obtaining a credit rating/security limits and if this process can be utilised in the DSC.

Update: MC explained the mechanisms currently in place for obtaining the information, noting that the contracts with the primary rating agencies precluded the use of the information for other than the agreed purpose. Other rating agencies could be used to obtain additional information but these may also have restrictions on how the information can be used. SH also raised concerns that rating agencies set credit ratings using different criteria/values and this might pose difficulties if assessing credit ratings based on two different sets/values. (Credit Policy will be discussed at the meeting on 03 October 2016.) **Closed**

NEW Action 0565/0906: Transporters to consider the information provided by MC in respect of the existing arrangements for obtaining credit ratings/security limits and how these interact with similar DSC arrangements so that they do not provide conflicting ratings.

0565/0904: All parties to consider and provide a view on the credit policy and should sanctions apply where there is a failure to pay for further discussion on 20 September 2016.

Update: Discussed. DT reiterated the previous discussions relating to credit provisions for the CDSP. CB noted there might be sufficient credit for Transporters, but there needed to be more for the CDSP. The CDSP could report to the GT. Suspension of services may be an option (depending on whether or not there was a detrimental effect on consumers). Sanctions must be sufficiently punitive to elicit payment, and yet not affect any other party. AM observed that only elective services that Shippers would order, and that are not central to UK Link, could be closed/switched off by Xoserve. The drafting should give the ability to turn off any such services, but not list the services. **Closed**

9.0 Next Steps

It was anticipated that work would continue as defined on the revised Workplan.

10.0 Any Other Business

None raised.

11.0 Diary Planning

Further details of planned meetings are available at: www.gasgovernance.co.uk/Diary

Post Meeting Note: Having reviewed the plan with Dentons, CW requested cancellation of the 30 September meeting and deferral of that agenda to the meeting scheduled for 03 October. This will provide more time to complete FGO legal drafting.

Please note that the arrangements for 30 September have now been cancelled, and all business scheduled for that day has been transferred to the agenda for 03 October 2016.

Time/Date	Venue	Workgroup Programme
10:00 Wednesday 21 September 2016	Elexon, 4 th Floor, 350 Euston Road, London NW1 3AW	FGO Workgroup and Workgroup 0565 <ul style="list-style-type: none"> • GTD • DSC Service Descriptions (pre-Nexus) • Change Management procedures • Consideration of Workplan

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10:00 Friday 23 September 2016	Consort House, 6 Homer Road, Solihull B91 3QQ	<p>FGO Workgroup – Charging</p> <ul style="list-style-type: none"> • Second review of Charging Methodology • Working Capital • Surplus and Deficit • Budget and Charging Methodology Service Document Update • Outstanding Issues: Bad Debts, Margins and Repeals to revision of User Pays Charges • Financial Transition • Cost Allocation Model Update
10:00 Thursday 29 September 2016	Consort House, 6 Homer Road, Solihull B91 3QQ	<p>FGO Workgroup and Workgroup 0565</p> <p>UNC Drafting (Pre-Nexus)</p> <ul style="list-style-type: none"> - TPD Section G - TPD Section H - TPD Section M - Changes to other Sections (including changes to Modification Rules) - Transitional Arrangements
10.00 Friday 30 September 2016	CANCELLED	- <i>Business transferred to 03 October meeting</i>
10:00 Monday 03 October 2016	Dentons, One Fleet Place, London EC4M 7RA	<p>FGO Workgroup and Workgroup 0565</p> <p>DSC</p> <ul style="list-style-type: none"> - Contract Management Arrangements - Third Party Services Policy - Transitional Arrangements (including financial transition) - Credit Policy
10:00 Wednesday 05 October 2016	Consort House, 6 Homer Road, Solihull B91 3QQ	<p>FGO Workgroup and Workgroup 0565</p> <ul style="list-style-type: none"> • Review further draft of Services Descriptions pre- Nexus • Review further draft of Change Management Procedures • Review final version of Charging Methodology

10:00 Friday 07 October 2016	CANCELLED	-
10:00 Tuesday 11 October 2016	Elexon, 4 th Floor, 350 Euston Road, London NW1 3AW	FGO Workgroup and Workgroup 0565 <ul style="list-style-type: none"> Review of UNC Legal Text
10:00 Friday 14 October 2016	CANCELLED	-
10:00 Monday 17 October 2016	Dentons, One Fleet Place, London EC4M 7RA	FGO Workgroup and Workgroup 0565 <ul style="list-style-type: none"> Legal Review of DSC Documents
10:00 Tuesday 18 October 2016	Dentons, One Fleet Place, London EC4M 7RA	FGO Workgroup and Workgroup 0565 <ul style="list-style-type: none"> Legal Review of DSC Documents (continued)
10:00 Wednesday 26 October 2016	Elexon, 4 th Floor, 350 Euston Road, London NW1 3AW	FGO Workgroup and Workgroup 0565 <ul style="list-style-type: none"> Review draft Workgroup Report
10:00 Tuesday 01 November 2016	Elexon, 4 th Floor, 350 Euston Road, London NW1 3AW	FGO Workgroup and Workgroup 0565 <ul style="list-style-type: none"> Finalise Workgroup Report

Workgroup 0565 (as at 20 September 2016)

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
0565/0606	20/06/16	10.	National Grid Distribution (CWA) to provide further clarity for point 2.4.3 in the Cost of Change section, as to who is responsible for paying the additional costs for a cost estimate if a ROM is not sufficient.	National Grid Distribution (CWA)	Carried forward <i>(Due on 21 Sept 16)</i>
0565/0607	20/06/16	10.	Xoserve (AMi) to: a) Provide further clarity on the Change Order process for a cost estimate or a ROM is required, what is the trigger; b) At what point does a Change Order trigger an external cost estimate.	Xoserve (AMi)	Carried forward <i>(Due on 21 Sept 16)</i>

0565/0608	20/06/16	10.	Xoserve (AMi) to provide clarity in relation to internal and external financial spend regarding the proposed Change Order process.	Xoserve (AMi)	Carried forward <i>(Due on 21 Sept 16)</i>
0565/0610	20/06/16	10.	Xoserve (AMi) to provide greater clarity and information concerning the costs in the Modification process.	Xoserve (AMi)	Carried forward <i>(Due on 21 Sept 16)</i>
0565/0801	03/08/16	2.0	National Grid Distribution (CWa) to arrange a Data Protection Legal Review teleconference.	National Grid Distribution (CWa)	Closed
0565/0805	23/08/16	3.0	National Grid Distribution (CWa) and National Grid NTS (SMc) to provide clarity on the cost estimate process to be used with the modification process, including the EQR process.	National Grid Distribution (CWa)	Carried forward <i>(Due on 21 Sept 16)</i>
0565/0809	23/08/16	5.0	National Grid Distribution (CWa) to amend the categories and confirm the position of the Shipper Classes in terms of the voting process, together with investigating iGTs' concerns around Committee representation and produce an Annex for D2 and GD4.	National Grid Distribution (CWa)	Carried forward <i>(Due on 21 Sept 16)</i>
0565/0901	07/09/16	2.0	Xoserve to review and consider providing a draft or sample Business Continuity Plan as a DSC supporting document.	Xoserve (AM/SG)	Carried forward
0565/0902	07/09/16	4.0	All Gas Transporters to consider and provide clarity on the management of CDSP bad debt and whether this could be passed through to Shippers via transportation charges.	All GTs	Carried forward
0565/0903	07/09/16	4.0	GTs/Xoserve to establish what arrangements are in place for obtaining a credit rating / security limits and if this process can be utilised in the DSC.	GTs / Xoserve	Closed
0565/0904	07/09/16	4.0	All parties to consider and provide a view on the credit policy and should sanctions apply where there is a failure to pay for further discussion on 20 September 2016.	All	Closed

0565/0905	20/09/16	1.2	<i>Latest versions for legal review</i> - CW to review documents stored on the website at: http://www.gasgovernance.co.uk/0565/sbd and provide the latest iterations (DSC and UNC) for publication.	National Grid Distribution (CW)	<i>As soon as possible</i> Pending
0565/0906	20/09/16	8.0	Transporters to consider the information provided by MC in respect of the existing arrangements for obtaining credit ratings/security limits and how these interact with similar DSC arrangements so that they do not provide conflicting ratings.	Transporters	Pending