

Representation - Modification UNC 0666 (Urgent)

Establishment of a CSS Bid Group for CDSP central switching system bid activities

Responses invited by: **5pm on 06 September 2018**

To: enquiries@gasgovernance.co.uk

Representative:	Richard Pomroy
Organisation:	Wales & West Utilities Ltd
Date of Representation:	4 th September 2018
Support or oppose implementation?	Qualified Support
Relevant Objective:	d) Positive

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

We do not wish to prevent Xoserve from bidding to provide CSS services as ultimately this may be the best value solution for customers; however we have some concerns about the approach adopted. We do not believe that the CSS bid is a CDSP activity and that the approach adopted stretches the current arrangements beyond what was intended. We think that these issues could have been better addressed had the issues being considered earlier. For this reason we can only offer qualified support.

This proposal clearly does not negatively impact this relevant objective and if increasing the number of bidders is beneficial to relevant objective (d) securing effective competition then it could be positive for this relevant objective; however this is not stated in the proposal.

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

The proposal should be implemented as proposed

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

We will not incur any direct costs but are concerned that diversion of key experienced Xoserve resources to the bid team will result in a degradation of experienced resources in core activities. This may indirectly impose increased cost and risk on us.

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

Yes, but as noted in the additional comments section, provisions on business separation would have been useful but were not in scope of the solution.

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

The modification works but leaves many consequential issues unaddressed.

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

Our main concern is that we do not believe that bidding for CSS is a CDSP activity. This proposal lists CSS Bid Services as a CDSP in the Data Service Contract and then excluding it from the DSC governance arrangements. We believe that any objective test would conclude that the CSS bid activity is not a CDSP activity under licence condition A15A. Inserting it as a service in the DSC does not override the licence.

We note that in the recent consultation on REC governance Ofgem stated that it did not have the powers to create new classes of licence and therefore could not create a new licence for CRS activities and therefore the CRS activities had to be done under DCC's existing licence. The implication of this is that CRS could not be done under any other licence provisions which suggest that CRS could not be done under A15A by Xoserve as it stands. In turn this suggests that the CSS and the CSS bid could not be done by Xoserve under A15A as it stands. This suggests that the CSS bid is not a CDSP activity.

Xoserve will also have a number of internal issues to address to ensure that it demonstrates separation between the CSS bid activity and its core activity. These are relevant so far as DSC parties are potentially exposed to the risk of non-compliance. We think that the proposal should have included explicit provisions on this.

We have concerns with the arrangements should the Xoserve bid be accepted including GT licence compliance, business separation and risk to core functions, which we have raised with Xoserve. These are not strictly relevant to this proposal but are indirectly relevant as acceptance of the bid would require Xoserve to provide a service and this in turn would require a further modification. We hope that this is raised soon so the issues can be properly discussed. We will be disappointed if this further modification is raised requesting urgency.

We also note that the justification for urgency in the proposal only refers to a time constraint. It was only at panel that the proposer stated that there was a significant risk of a material impact on Shippers and Suppliers should Xoserve be prevented from participating in the bid process. We think that more attention needs to be paid by proposers of urgent proposal by clearly articulating the reason why the proposal satisfies one of the criteria for urgency.