



31 Homer Road  
Solihull  
West Midlands  
B91 3QJ  
0121 623 2305  
[www.xoserve.com](http://www.xoserve.com)

Will Fletcher  
Project Manager  
Competition and Markets Authority  
Victoria House  
Southampton Row  
London  
WC1B 4AD

30 July 2015

Dear Will

#### **ENERGY MARKET INVESTIGATION: NOTICE OF POSSIBLE REMEDIES**

Thank you for the opportunity to comment on the possible remedies published by the Competition and Markets Authority (“the CMA”) on 7 July 2015 in respect of its energy market investigation.

We are responding in our capacity as the Transporter Agency (“the Agency”), providing services for and on behalf of the principal Gas Transporters (“the GTs”) that discharge certain of their Licence and industry Code obligations. We operate and maintain gas industry central systems that provide a single point of interface between GTs and Shippers, delivering supply point registration, transportation invoicing, energy balancing and settlement services. Whilst we are not party to any industry Code, we have rich experience of change planning and of issues that can be encountered during the development of Code Modifications.

Our detailed comments as set out in the Appendix to this letter are concerned primarily with the possible remedies in respect of gas settlement and industry Code governance, and we have also made some observations in respect of possible measures to address barriers to switching. We have not identified any further possible remedies for consideration by the CMA.

We are happy for this response and the supporting Appendix to be published. If CMA representatives would like to discuss further the matters raised in this response, please contact Martin Baker, External Affairs Manager on 0121 623 2692 or e-mail [martin.baker@xoserve.com](mailto:martin.baker@xoserve.com).

Yours sincerely

Nick Salter  
Director, Customer Engagement  
[nicholas.j.salter@xoserve.com](mailto:nicholas.j.salter@xoserve.com)

## ENERGY MARKET INVESTIGATION: NOTICE OF POSSIBLE REMEDIES

### APPENDIX TO XOSERVE RESPONSE

#### Gas Settlement

##### ***Remedy 12a – Requirement to implement Project Nexus in a timely manner***

The industry's Project Nexus Steering Group, supported by an independent Project Assurance Manager, agreed unanimously on 1 July 2015 that implementation of the 'Project Nexus' UNC Modifications should be re-planned to 1 October 2016. A Proposal to modify the UNC to amend the Project Nexus Implementation Date has been raised, and Ofgem has agreed that the Proposal should be subject to Urgent procedures. A decision on the Proposal is expected on 13 August 2015.

In order to give greater assurance of industry readiness, the Proposal contains a requirement to define interim delivery milestones. Adherence to milestones will be monitored by the Project Assurance Manager, and the Project Nexus Steering Group will determine whether or not milestones have been met. Any subsequent changes to milestones and milestone dates would require the agreement of the Authority.

It would therefore seem reasonable to conclude that the steps necessary to build greater assurance of a successful implementation for Project Nexus are in hand, and that intervention by the CMA would be unlikely to add further value.

##### ***Remedy 12b – Introduction of a new licence condition on gas shippers to make monthly submissions of Annual Quantity updates mandatory***

Following implementation of the 'Project Nexus' UNC Modifications, the new market rules will provide for the relevant Annual Quantity to be updated automatically on receipt by the Agency of valid qualifying meter readings. The proposed remedy therefore in effect questions if a minimum frequency of monthly submission of meter readings to the Agency should be imposed on gas shippers. The merit of such a potential remedy should be subject to a cost benefit assessment prior to being progressed, and consideration should also be given to how shipper performance would be monitored and performance failures addressed.

#### Industry Code Governance

##### ***Remedy 18a – Recommendation to DECC to make code administration and/or implementation of code changes a licensable activity***

##### ***Remedy 18b – Granting Ofgem more powers to project manage and/or control timetable of the process of developing and/or implementing code changes***

##### ***Remedy 18c – Appointment of an independent code adjudicator to determine which code changes should be adopted in the case of dispute***

Ofgem's recent consultation in respect of the potential scope of a future Code Governance Review recognises the particular challenges faced by the industry in respect of the current and likely future level of change. There appears to be a growing recognition in the industry that, whilst prevailing Code governance arrangements are fit for purpose for handling individual and incremental changes, regulatory and industry processes need to be established for the planning, prioritisation and co-ordination of multiple concurrent changes.

We have also highlighted in our response to Ofgem's consultation certain management approaches that we consider would increase the likelihood of successful delivery of major change programmes, including clarity of purpose and criteria for success, appropriate levels of change definition, and objective assessment of what can feasibly be delivered within a given timeframe.

We note that a Proposal has recently been raised with the aim of modifying the UNC so as to introduce governance and support arrangements to ensure that future major change programmes are more efficiently delivered. It is possible that the outcome of industry discussions in respect of this Proposal will give greater clarity to the role of Ofgem in major change programmes, and there may be opportunity to apply this thinking to other industry Codes.

We are unsure that the possible remedies would in and of themselves increase the efficiency and effectiveness of industry Code governance. Specifically, we perceive Ofgem to already be the independent code adjudicator and cannot see the merit of appointing an additional adjudicator with consequent costs for consumers.

## **Barriers to Switching**

### ***Remedy 4a – Measures to address barriers to switching by domestic customers***

We note that the CMA anticipates that Ofgem's recent decision to introduce a centralised switching service run by the DCC, thereby replacing the existing Network services, will facilitate reliable next-day switching. We note also that the CMA favours remedies that address the root causes of an 'adverse effect on competition', that can deliver results within a relatively short time, and are proportionate in achieving their aim.

We support the principle that consumers should have the right to expect an efficient, error-free and timely switching experience. The published research conducted for the CMA by GfK NOP, which sets out the principal reasons for some customers' lack of engagement with the market, presents no evidence that consumers are impeded or deterred from engagement with the switching process because of the actual or anticipated time required to complete a switch. We recognise that the move to next day switching is driven by Government policy, but in the context of the GfK NOP research we have reservations that the chosen approach, which will be costly and is not expected to deliver until 2019, may not deliver maximum consumer benefit.

The drivers for current switching timescales are the provisions of the Consumer Rights Directive, that require customers, unless they give their express consent otherwise, to be allowed a 14 day "cooling off" period after making an initial decision to switch, and the objections process. For gas Supply Points where the incumbent Shipper has already voluntarily withdrawn from the Supply

Point (i.e. is no longer able to object to the switch), the switching process can already be completed in as few as 3 business days following completion of the “cooling off” period. In the event that a customer gives their consent to switch Supplier within the “cooling off” period, they may still elect to switch again and established processes should enable this choice to be exercised.

We understand that Energy UK is leading a piece of work to develop thinking on how the provisions of the Consumer Rights Directive might be accommodated in a next-day switching regime, and we are aware that Ofgem is conducting its own review of the objections arrangements.

It may therefore be possible, for those customers who consent to switch within the “cooling off” period, to achieve significant progress towards much faster switching at a lesser cost and shorter timescales than those envisaged, and without the dependency on repositioning registration responsibilities with the DCC. This would in turn allow greater effort to be invested in addressing the more significant impediments to customer engagement identified in the GfK NOP research.