



St Lawrence House
Station Approach
Horley
Surrey
RH6 9HJ

David Fowlis
Project Manager
Energy Market Investigation
Competition and Markets Authority
Victoria House
Southampton Row
London
WC1B 4AD

By email to: david.fowlis@cma.gsi.gov.uk and energymarket@cma.gsi.gov.uk

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Dear David,

Energy Market Investigation (ECOES/DES) Order 2016

Thank you for the opportunity to respond to your consultation in relation to the above proposed Order.

Our response comprises several observations, as below. It should be noted that these observations extend only to the aspects of the proposed Order which relate to the gas arrangements, as described within the draft Order¹ as follows:

“The DES remedy will impose (through an Order)

(a) an obligation on Xoserve to give PCWs access to the gas Data Enquiry Service (DES) upon request, and subject to satisfaction of reasonable access conditions; and

(b) an obligation on gas transporters not to take any action that would prevent Xoserve from giving such parties access to DES on reasonable access conditions”.

SGN Response

1. Definitions

We consider the current definitions of Price Comparison Websites (PCWs) and Third Party Intermediaries (TPIs) should be further refined.

The draft Order relates to PCWs and TPIs, which are defined within the Order as follows²:

“PCW means a price comparison website, internet-based price comparison service or other internet-based TPI that provides comparisons between, and/or access to, personalised quotes for retail energy to Domestic Customers, and may carry out, on behalf of the Domestic Customer an instruction to change the Domestic Customer’s Retail Energy Supplier, Tariff, or both.

¹ P2, <https://assets.publishing.service.gov.uk/media/5805df8e40f0b64fc1000004/energy-market-ECOES-DES-order-for-consultation.pdf>

² P5, <https://assets.publishing.service.gov.uk/media/5805df8e40f0b64fc1000004/energy-market-ECOES-DES-order-for-consultation.pdf>

TPI means an organisation or individual acting as a third party intermediary between a Domestic Customer and a Retail Energy Supplier.”

The related Uniform Network Code (UNC) Modification 0593³ *Provision of Access to Domestic Consumer Data for Price Comparison Websites and Third Party Intermediaries* also uses these definitions – an approach with which we agree, as it preserves the link between the CMA remedies, the Order and the consequent service arrangements.

However, we are not comfortable with the above definitions, specifically that of a TPI. As confirmed by a representative from the Utilities Intermediaries Association during September’s UNC Distribution Workgroup⁴, TPIs do not typically act on behalf of Domestic Customers, and we are therefore concerned that it would not be wholly appropriate to release data relating to Domestic Consumers to a party whom has no requirement or use for it.

Should, as has been suggested during UNC Distribution Workgroup discussions, the scope of TPIs extend in the future to include Domestic Customers, the release of data could be extended to include these organisations.

Given the above clarification of the scope of TPIs, we would propose their removal from the draft Order and associated UNC Modification, with a consequent amendment to the definition of a PCW, to remove the interdependency.

2. Requirements of Data Access

In order to ensure our and their compliance with the proposed Order, Xoserve, as Transporter Agency, have engaged with the PCWs and TPIs to establish their initial requirements of a data access service.

Based on these discussions, it is likely that the service facilitated by the Order would not fully deliver the requirements as identified.

For example – the proposed Order defines that access must be provided on the same basis as that which is provided to the Suppliers. This will be delivered via the creation of DES user accounts for use by the PCWs/TPIs which would require manual one-by-one interrogation of MPRNs through the ‘Community View’ screen. It is our understanding that the PCWs/TPIs have articulated a requirement for a more automated, one-to-many solution.

Similarly, information contained within DES is retrospective by one day, while the PCWs/TPIs have articulated a requirement for real-time data.

The apparent mismatch between the initial requirements and the draft Order poses the risk that the consequent arrangements may not fully alleviate the Domestic Weak Customer Response AEC, as identified by the CMA⁵.

3. Compliance and Implementation

We note that the draft Order requires the Gas Transporters to confirm compliance, via the provision of the first DES Remedy Compliance Statement, by 31st March 2017⁶.

In order to deliver the service solution within the required timescales, the Gas Transporters and Xoserve have commenced initial implementation, comprising engagement with the PCWs/TPIs as and assessment of the DES access solution and development of UNC Modification 0593, in advance of the

³ <http://www.gasgovernance.co.uk/sites/default/files/Workgroup%20Report%200593%20v1.0.pdf>

⁴ Minutes: <http://www.gasgovernance.co.uk/sites/default/files/Minutes%200593%2022Sep16%20v1.0.pdf>

⁵ P1, <https://assets.publishing.service.gov.uk/media/5805df1640f0b64f8e000010/energy-market-ECOES-DES-consultation-notice.pdf>

⁶ P7, 5.3 <https://assets.publishing.service.gov.uk/media/5805df8e40f0b64fc1000004/energy-market-ECOES-DES-order-for-consultation.pdf>

final Order being issued. All parties are committed to a timely delivery, and whilst we have proposed a small amendment to the scope of the Order, it should be noted that any material changes to the Order which result in a significant amendment to the final solution may impact these timescales.

In order to achieve a balance between a timely delivery of a solution, satisfaction of the identified requirements and protecting Xoserve and the Gas Transporters' prioritisation of the successful delivery of Project Nexus, we would suggest that the Order as drafted comprises an initial implementation, with the potential for a subsequent service evolution, once Project Nexus has been delivered and any outstanding requirements have been tested via use of the initial service.

We trust that the above observations are helpful.

Yours sincerely,

Paul Mitchell
Regulation Manager