

6<sup>th</sup> Floor Radcliffe House,  
Warwick Road,  
Solihull  
B91 2AA

Phone: +44 (0)121 288 2107  
Website: [www.gasgovernance.co.uk](http://www.gasgovernance.co.uk)

## Joint Office of Gas Transporters

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Oorlagh Chapman  
DSC Contract Manager / Regulation Manager  
Centrica plc  
Regulatory Affairs  
Millstream  
Maidenhead Rd  
Windsor  
SL4 5GD

11 May 2023

Dear Oorlagh,

### **DSC Contract Committee Report for the Centrica Dispute - Charging Statement for the period 1st April 2022 – 31st March 2023 (Version 2)**

This report is in response to the letter sent to the Committee by Centrica to notify of a dispute with the Central Data Services Provider (CDSP), arising under the Data Services Contract (DSC) in respect of a matter which is not an Individual Customer Dispute, in accordance with paragraph 5.2.4(a) of the Contract Management Arrangements (CMA).

The process for the dispute is set out in the CMA as follows:

*5.2.4 Where a Customer considers that it has a dispute with the CDSP arising under the DSC in respect of a matter which is not an Individual Customer Dispute:*

- (a) the Customer shall notify the Committee and request it to consider the dispute;*
- (b) the Committee shall address the dispute with the CDSP at its next eligible meeting or (with the consent of the Customer) at any later meeting, and shall provide to the Customer a report on the outcome including any actions agreed with the CDSP;*
- (c) the Committee shall not take any step within paragraph (d) until the Committee has provided a report under paragraph (b); and*

*(d) if the Customer is dissatisfied with the outcome (as set out in the Committee's report) the Customer may pursue the dispute by referring it for resolution under paragraph 5.3.2(c) (and the further provisions of paragraph 5.3 shall apply).*

This response satisfies the Committee's obligations set out in CMA 5.2.4 (b) (see above extract) to address the dispute and provide a report on the outcomes and any actions agreed with the CDSP.

## Summary

Following consideration of the dispute and additional information provided by both Centrica and the CDSP, the Committee agreed the following actions with the CDSP:

### **CDSP Action 1.**

The Committee requested that the CDSP review the communication process for notifying an amended Annual Charging Statement to identify process improvements to:

- ensure the Committee and DSC Customers are notified of amendments to the Annual Charging Statement; and
- provide an update at the next Committee meeting on 15 March 2023.

Action Update: The Committee and CDSP are actively reviewing the Budget and Charging Methodology document to provide further clarity on the process for notifying amendments to the budget. A review of the proposed amendments was undertaken at the 19 April 2023 meeting. The proposed amendments are to be issued for consultation with DSC Customers.

### **CDSP Action 2.**

The Committee requested the CDSP consider its processes to ensure Customer letters are formally acknowledged promptly, containing a date a formal reply is to be provided by and that this is to be within reasonable time scales.

The Committee requested the CDSP to respond to Centrica by 31 January 2023.

Action Update: The CDSP confirmed that a response to Centrica's Letter dated 19 December 2021 was provided by Xoserve on 31 January 2023.

Subject to the ongoing monitoring of the actions agreed with the CDSP, consideration of this dispute by the Committee is concluded.

## **1. Introduction**

This report has been produced by the DSC Contract Management Committee (Committee) in response to a dispute raised by Centrica as a DSC Customer:

Dispute - Charging Statement for the period 1st April 2022 – 31st March 2023

The dispute letter was submitted to the Committee as the Customer is satisfied the criteria for not being an Individual Customer Dispute is met.

As set out in the DSC Contract Management Arrangements paragraph 5.2.4 (b) and (c):

- (b) the Committee shall address the dispute with the CDSP at its next eligible meeting or (with the consent of the Customer) at any later meeting, and shall provide to the Customer a report on the outcome including any actions agreed upon with the CDSP;*
- (c) the Committee shall not take any step within paragraph (d) until the Committee has provided a report under paragraph (b).*

This report is to satisfy the requirement for the Committee to produce a report to the Customer as set out in 5.2.4 (b) above.

## **2. Summary of the Dispute - Charging Statement for the period 1st April 2022 – 31st March 2023**

### **2.1 Issue 1 – The Process for amending the Budget and the Annual Charging Statement has not been followed and therefore the amendments are invalid.**

The 2022-23 Annual Charging Statement was published in January 2022. The Total DSC Charges to be invoiced in that statement areas are £74,827k.

The Annual Charging Statement was revised and re-published in November 2022. The Total DSC Charges to be invoiced in the revised statement is £74,409k, which is a reduction of £418k. This refers to updated charges to Customer National Grid NTS, with no further information or detail for the revised Charges.

The change in the Total DSC Charges to be invoiced is an amendment of the Budget.

Centrica considers an amendment to the Budget during the year is permissible according to paragraph 4.9 of the Budget and Charging Methodology (BCM) where the CDSP:

- (i) it will not incur Costs during the Charging Year which were included in the CDSP Budget; and*
- (ii) the amount of such Costs (in aggregate, and net of any increase in other Costs) exceeds 15% of the total Costs in the CDSP Budget (or such other threshold as the Committee may agree).*

These conditions are set out in paragraph 4.9.1(b) of the BCM.

If the conditions in both paragraph 4.9.1(b) (i) and paragraph 4.9.1(b) (ii), were satisfied, paragraph 4.9.3 of the BCM then applies:

- (a) the CDSP shall promptly inform the Committee of the situation, and discuss with the Committee whether the relevant Costs are likely to be incurred in the following CDSP Year, or there are activities of the CDSP planned for the following CDSP Year which could be brought forward;*

The CDSP did not satisfy the requirements in 4.9.3 (a) and, therefore, the amendment to the Budget is not valid. The revised Annual Charging Statement published in November 2022 is invalid because the amended Budget, upon which it is based, is not valid.

## **2.2 Issue 2 – The CDSP was requested to respond to questions requested in a letter and did not do so by the requested date.**

Centrica wrote to the CDSP on 19 December 2022 about the matter above and requested additional information, with a requested response by 10 January 2023. At the time of the initial meeting to discuss the dispute, the CDSP had not responded to the letter.

## **3. The CDSP Response to the Issues raised in the Dispute**

### **3.1 Issue 1 - The Process for amending the Budget and the Annual Charging Statement has not been followed and therefore the amendments are invalid**

The CDSP advised that the Annual Charging Statement was revised and republished in November 2022 as they had previously been requested by the Committee to ensure the latest versions were available.

This revised Charging Statement was issued using the usual practice where amendments are required and as previously notified at other times within the year. The CDSP had provided an email containing the information to be amended.

It should be noted that it had been identified that there was an investment budget impact on National Gas NTS. The amendments were due to the Gemini Sustain activities identified as an underspend on investment within this financial year. This area of the investment budget is ringfenced to National Gas NTS and has no impact on other DSC Customers.

The CDSP confirmed that the amendment to the Annual Charging Statement has not been undertaken under section 4.9.3 of the Budget and Charging Methodology because both of the conditions under 4.9.1 had not been met. Instead, the changes were driven by the obligation set out in the Gas Transporters' Standard Special Licence Condition A15, paragraph 6(d)(ii) which requires Xoserve, as CDSP, to achieve the 'Charging Methodology Objectives'.

*The "Charging Methodology Objectives", as set out in section 6(e) of Standard Special Licence Condition A15 are:*

*(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 (i), the charging methodology properly takes account of developments in the provision of CDSP Services;*

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

*(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.*

Xoserve amended the Annual Charging Statement to satisfy objectives (i) and (ii) of the above.

This is also established in the BCM as follows:

## *9 Annual Charging Statement*

*9.1.4 The CDSP shall keep the Annual Charging Statement under review, but it is acknowledged that:*

*(a) the Annual Charging Statement sets out the result of the application of the rules in this Document to the CDSP Budget;*

*(b) accordingly, in the absence of:*

*(i) an error in the application of such rules; or*

*(ii) a Budget Amendment; or*

*(iii) an amendment of this Document taking effect within the Charging Year;*

*no review or amendment of the Annual Charging Statement is likely to be required; and*

*(c) if this Document complies with the requirements referred to in GT Section D1.2.2(a)(ii) it can be assumed that the Annual Charging Statement complies with those requirements.*

*9.1.5 If any Party considers there is an error in the Annual Charging Statement such Party shall notify the Committee and the CDSP; and the CDSP shall discuss the matter with the Committee and (where necessary to ensure the statement complies with this Document) shall correct and reissue the Annual Charging Statement.*

## **3.2 Issue 2 – The CDSP was requested to respond to questions requested in a letter dated 19 December 2022 and did not do so by the requested date**

The CDSP confirmed that they had not responded to the letter provided by Centrica by 10 January 2023. In part, this was due to the dispute being submitted to the Committee following the expiry of the 10 January reply date, and it was felt it would not be appropriate to respond to the letter before the dispute had been discussed by the Committee.

It was confirmed that the CDSP responded to the Centrica letter on 31 January 2023.

## **4. DSC Contract Management Committee consideration of the Dispute**

**4.1 Issue 1 - The Process for amending the Budget and the Annual Charging Statement has not been followed and therefore the amendments are invalid**

The Committee considered the response provided by the CDSP to Centrica dated 31 January 2023 and the response letter from Centrica dated 10 February 2023.

The Committee noted that the CDSP had followed the process set out in the BCM Paragraph 9 Annual Charging Statement and that it was the CDSPs view that the conditions requiring formal notification to the Committee and DSC Customers had not been met. It was also noted that the CDSP considered the process followed was in line with the requirements established by the Transporters' Licence as set out in section 6(e) of Standard Special Licence Condition A15, ensuring accurate Annual Charging Statements were published.

The Committee noted that Centrica was of the view that the process to publish an amended Annual Charging Statement was not followed correctly and that it was not appropriate to use Gas Transporter Licence conditions to justify a course of action that should be set out clearly in the DSC arrangements. The Licence should provide the overarching principles and the Contractual Arrangements should provide the rules to meet the principles.

The Committee noted the concerns raised by Centrica, although these were not considered by the Committee to establish a failure or error in following the process to amend the Annual Charging Statement. However, the Committee was concerned that:

1. the Annual Charging Statement could be amended without any oversight of the Committee or DSC Customers;
2. the process for notifying Annual Charging Statement amendments was ambiguous or difficult to follow.

The Committee noted that one Customer was impacted by the amended Annual Charging Statement as the investment line was ringfenced to them.

### **CDSP Action**

The Committee requested that the CDSP review the communication process for notifying an amended Annual Charging Statements to identify process improvements to:

- ensure the Committee and DSC Customers are notified of amendments to the Annual Charging Statement; and
- provide an update at the next Committee meeting on 15 March 2023.

Action Update: The Committee and CDSP are actively reviewing the Budget and Charging Methodology document to provide further clarity on the process for notifying amendments to the budget. A review of the proposed amendments was undertaken at the 19 April 2023 meeting. The proposed amendments are to be issued for consultation with DSC Customers.

### **4.2 Issue 2 – The CDSP was requested to respond to questions requested in a letter and did not do so by the requested date**

The Committee notes the concerns raised by Centrica that their letter dated 19 December 2022 and the questions it raised had not been responded to or acknowledged with a date of response confirmed by the CDSP.

## **CDSP Actions**

The Committee requested the CDSP consider its processes to ensure Customer letters are formally acknowledged promptly, containing a date a formal reply is to be provided by and that this is to be within reasonable time scales.

The Committee requested the CDSP to respond to Centrica by 31 January 2023.

Action Update: The CDSP confirmed that a response to Centrica's Letter dated 19 December 2021 was provided by Xoserve on 31 January 2023.

## **5. Conclusions**

Subject to the ongoing monitoring of the actions agreed with the CDSP, consideration of this dispute by the Committee is concluded.

Yours sincerely,

Bob Fletcher  
Chair of the DSC Contract Management Committee  
Joint Office of Gas Transporters

Response by email.