





UNC Final Modification Report		At what stage is this document in the process?
<h1>UNC 0593V:</h1> <h2>Provision of access to Domestic Consumer data for Price Comparison Websites and Third Party Intermediaries</h2>		<div>01 Modification</div> <div>02 Workgroup Report</div> <div>03 Draft Modification Report</div> <div>04 Final Modification Report</div>
<p><b>Purpose of Modification:</b></p> <p>This is an enabling modification, which seeks to create the necessary permissions in UNC to permit the release of domestic consumer data to Price Comparison Websites (PCWs) and Third Party Intermediaries (TPIs) to satisfy the CMA Energy Market requirements. The release of data is subject to validations undertaken by the Transporter and would be pursuant to data protection principles.</p>		
	Panel consideration is due on <b>21 September 2017</b> ( <i>at short notice by prior agreement</i> )	
	High Impact: None	
	Medium Impact: None	
	Low Impact: Transporters' Agent	

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Timetable		 0121 623 2103
<b>Modification timetable:</b>		
Initial consideration by Workgroup*	25 August 2016	
Amended modification considered by Workgroup*	22 December 2016	
Workgroup Report presented to Panel*	19 January 2017	
Draft Modification Report issued for consultation*	19 January 2017	
Consultation Close-out for representations*	09 February 2017	
Final Modification Report available for Panel*	10 February 2017	
UNC Modification Panel Recommendation*	16 February 2017	
Draft Variation Request considered by Workgroup	04 July 2017	
Workgroup Supplemental Report presented to Panel	20 July 2017	
Variation Request considered by Panel	20 July 2017	
Draft Modification Report 0593V issued for consultation	17 August 2017	
Consultation 0593V Close-out for representations	08 September 2017	
Final Modification Report 0593V available for Panel	11 September 2017	
UNC Modification Panel Recommendation	21 September 2017	
* relates to the original 0593 modification		

 Any questions?

Contact:  
**Code Administrator**

  
[enquiries@gasgovernance.co.uk](mailto:enquiries@gasgovernance.co.uk)

 0121 288 2107

Proposer:  
**Shanna Key**

  
[skey@northerngas.co.uk](mailto:skey@northerngas.co.uk)

 0113 397 5326

Other:  
**Tahera Choudhury**

  
[Tahera.Choudhury@xoserve.com](mailto:Tahera.Choudhury@xoserve.com)

 0121 623 2103

## 1 Summary

### What

This is an enabling modification seeking to grant permission to release domestic consumer data to Price Comparison Websites (PCWs) /Third Party Intermediaries (TPIs).

### Why

The Competition and Market Authority (CMA) Energy Markets Investigation proposed a requirement for Transporters to provide PCWs/TPIs access to data for the purpose of allowing them to check or obtain MPRNs for consumers seeking to switch supplier, and to check other information provided by these consumers against the data held by the Transporter. The release of this data is strictly limited for these purposes only.

### How

In order to allow PCWs/TPIs to be permitted access to domestic consumer data, the necessary permission and any restrictions or requirements on PCWs/TPIs needs to be created within the Uniform Network Code (UNC), with the service provided in SPAA Schedule 23, section 6.4.

## 2 Governance

### Justification for Self-Governance

This modification does not qualify for self-governance. Although it is simply allowing the release of data (subject to pre-defined conditions) to PCWs/TPIs, a subsequent increase in consumers seeking to switch supplier could have a material impact on parties to the UNC, consumers and competition.

### Requested Next Steps

Recommended next steps:

- consider supplemental report
- consider Variation Request
- be issued to consultation

The Workgroup considers the modification is not suitable for Self-Governance (see above).

The modification is sufficiently developed that it could be implemented and therefore it should proceed to consultation.

The Workgroup has considered the issues set out in the Ofgem send back letter and the proposed amendments in the Variation Request - see Section 6 Workgroup Supplemental Report Workgroup.

Participants consider the Variation Request to be a material change to the modification and as such may change respondent's views and therefore this modification (subject to Variation) should be issued for further consultation.

## 3 Why Change?

The CMA issued its Energy Market investigation final report in June 2016 (the Report). The Report sets out reasoning for erroneous transfers and failed switches, and concludes that there is a requirement for PCWs to

be granted access to data pertinent to the switching process. This will allow them to check or obtain MPRNs for consumers seeking to switch supplier and to check other information provided by these consumers. This should help to reduce the number of erroneous transfers and failed switches. Use of the data by PCWs is strictly limited to these purposes only.

The CMA has placed an Order on CDSP and the Gas Transporters to grant data access to PCWs upon request, subject to reasonable access conditions, to assist consumers seeking to switch. The data to be included is: Supply Meter Point Reference Number, supply point address, Meter Post Code, supplier, meter mechanism, network operator, meter capacity, meter serial number, Annual Quantity, Local Distribution Zone. This modification would, with sufficient controls in place, grant permissions to the above data, for PCWs.

The confidentiality and service agreements are not to be included in the UNC solution itself; however, in order to ensure compliance of the data in accordance with the Data Protection Act, PCWs will be subject to, but not limited to, the following principles which will be solidified in a forthcoming service build:

- Legitimate justification will be required by PCWs for accessing this information. This will be subject to confidentiality agreements between PCWs and the Gas Transporters, and a contract with the CSDP for the provision of the service.
- PCWs access to data will be subject to organisational validations and conditions, as set out in legal contracts between PCWs and the CSDP. The relevant section of the UNC will be amended to include the definition of PCWs.
  - PCWs are recommended to be part of the Ofgem Confidence Code for faster processing of organisational validations.
- The data provided is confidential information and is therefore only permitted to be accessed by PCWs (subject to organisational validations) where consent has been obtained from the relevant consumer, through a clear statement of consent on the PCWs website, which will be required to be actively triggered by a consumer.
- Consumer consent and data accessed by PCWs will be securely held by PCWs for no longer than reasonably required to comply with relevant legislation.
- The CSDP has the right to audit PCWs, without notice, to ensure data is being used solely, with consumer consent, for the purposes of facilitating change of supplier activity.
- The CDSP has the right to request PCWs to produce evidence of the following information, but are not limited to only this information: consumer consent, data obtained, time periods data was obtained for, switching evidence (if switch took place), and data retention policies.
- Where any suspected misuse comes to the attention of the CDSP, including via a third party or an audit or security investigation, then the CSDP has the right (after appropriate investigation) to cancel provisions of access to data to the PCW.
- If any of the evidence requested by the CSDP, as specified within the UNC and legal contracts, is not provided within a reasonable timeframe, then the CSDP has the right to immediately cancel provisions of access to data to the PCW.

The requirement to provide suitable data is set out within the CMA order and is supported by Ofgem. Gas Transporters are actively supporting these requirements.

The proposer believes that this modification should be considered as 'enabling' since the change would mainly be of benefit to PCWs and Suppliers, which are not Code parties and therefore, of indirect benefit to UNC parties.

## 4 Code Specific Matters

### Reference Documents

Please find the link for: CMA Energy Market Investigation – Final report here;

<https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

Some of the relevant paragraphs are as below:

13.324 We agree with suppliers that the terms on which PCWs are provided with access to the ECOES and SCOGES databases should allow for them to check or obtain MPAN and MPRN numbers for customers seeking to switch supplier and to check other information provided by these customers against that held in the database and should be strictly limited to these purposes. We would expect that the conditions for accessing the ECOES and SCOGES databases to include conditions that strictly limit the use of data for these purposes.

13.325 We also agree that the number of erroneous and failed transfers avoided might be small. However, we consider that a small number of erroneous and failed transfers could be expected to have a wide impact on customer perceptions (see paragraph 13.352) and disproportionate impact on domestic customers' confidence in the use of PCWs and perception about the ease of switching more generally.

13.330 Ofgem said it strongly agreed with implementing the remedy through an order and suggested that to improve the prospect of timely implementation the CMA should specify a timescale in the order. Ofgem also said the scope of the data that PCWs should be able to access should be clarified to assist speedy implementation.

13.343 The aim of this remedy is to reduce actual and perceived barriers to switching resulting from erroneous transfers and failed switches, and we consider, based on responses to our provisional decision on remedies 265, that access to the ECOES and SCOGES databases will also benefit other TPIs providing similar services to PCWs.

13.344 In light of the above, this remedy will require (through a CMA order) the code administrator or governing body with authority to grant access to the ECOES database to grant access to the database to PCWs (and other TPIs providing similar services). This remedy will also require (through a CMA order) gas transporters to grant access to the SCOGES database to PCWs (and other TPIs providing similar services) on reasonable terms. We understand that amendments to the relevant industry codes may be required. Therefore, this remedy will also require gas transporters to make any necessary amendments to the Uniform Network Code.

13.345 This remedy will enable PCWs (and other TPIs providing similar services) to check or obtain MPAN and MPRN numbers for customers seeking to switch supplier and to check other information provided by these customers against that held on the databases. Use of the data by PCWs (and other TPIs providing similar services) should be strictly limited to these purposes. Any charge for access to the data should be based on the incremental cost to the database administrators of providing this access.

Please find the link to a further letter from the CMA regarding acceptable access solutions here:

<https://www.gov.uk/cma-cases/energy-market-investigation>

### Knowledge/Skills

No specific knowledge or skills required to consider this modification.

## 5 Solution

### Update after Panel referral on 16 March 2017

The original proposal was returned to Panel by Ofgem on 01 March 2017, and Panel subsequently requested that the workgroup consider the issues raised in the Ofgem letter.

On 12 June 2017, the CMA published a follow-up letter stating that "... the provision of an interim telephone service by July 2017, and an Application Programme Interface (API) solution which is expected to launch at the latest in October 2017, subject to the relevant Uniform Network Code permissions being in place. These proposed steps would achieve compliance of the Order." Based on this, the proposer has amended this modification to reflect these solutions.

This enabling modification is proposing to grant the relevant permissions to allow PCWs access to domestic consumer data through amending UNC section V to include a requirement on the PCWs to enter into a confidentiality and service agreements with the Transporters on terms no less onerous than those of TPD Section V5, but including clauses detailing the data and permitted purpose, and clauses to include enforcement of the confidentiality agreement.

The data to be included is: Supply Meter Point Reference Number, supply point address, Meter Post Code, supplier, meter mechanism, network operator, meter capacity, meter serial number, Annual Quantity, Local Distribution Zone, and is to be obtained specifically for the purpose of enabling a change of supplier event in response to a specific request from a consumer.

In order to provide the industry with transparency of the use of this data, an annual report will be provided detailing the PCW market participants who are permitted to access this data.

This modification, once implemented, will grant the necessary permissions for the creation of a commercial service which will provide access to domestic consumer data only for the sole purpose of aiding in faster supplier switching.

#### Further Clarity Amendments:

- All references to the Transporters' Agency replaced with "CDSP".
- All references to SPAA Schedule 23, Section 6.4 removed as the amended solution does not require a reference to a SPAA Schedule.
- The line "given access with the same conditions and in the same manner as is currently the case for Suppliers" removed from the "Why Change?" section as the CMA have confirmed they will accept alternate solutions, which do not meet this criteria.
- The list of Data Items to be available added to both the "Why Change?" and "Legal Text" sections.
- The section regarding contract requirements moved from the "Solution" section to the "Why Change?" section due to it being guideline principles, rather than the solution itself. Also, references to the "Transporters" replaced with "CSDP" based on how the amended solution will function.

An explanatory note to the final Order can be viewed here:

<https://assets.publishing.service.gov.uk/media/58513dc9e5274a13070000ac/energy-market-ECOES-DES-order-explanatory-note.pdf>

The final Order can be viewed here:

<https://assets.publishing.service.gov.uk/media/58513da4e5274a13030000b0/energy-market-ECOES-DES-order-2016.pdf>

## 6 Impacts & Other Considerations

### Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

This requirement may be transitional until the SCR is implemented where PCWs/TPIs may be able to access the data from the new Central Registration Service (CRS).

### Consumer Impacts

Criteria	Extent of Impact
Which Consumer groups are affected?	<ul style="list-style-type: none"><li>• Domestic Consumers</li><li>• Small non-domestic Consumers*</li><li>• Large non-domestic Consumers*</li><li>• Very Large Consumers*</li></ul> <p>*It is assumed that a system solution utilising an API system should have the necessary controls in place to prevent access to consumer information outside the scope of the CMA Order.</p>
What costs or benefits will pass through to them?	<ul style="list-style-type: none"><li>• It is not anticipated that any costs will be passed through to Consumers. Services facilitated by this modification will be provided using bilateral arrangements between the CDSP and PCWs/TPIs.</li><li>• This modification facilitates the provision of data that should allow Domestic consumers to be better engaged and able to understand and choose between the range of options available to them through PCWs/TPIs services, offered both online and by telephone.</li></ul>
When will these costs/benefits impact upon consumers?	<ul style="list-style-type: none"><li>• Immediately following the implementation of the services provided by Transporters, on a date to be provided.</li></ul>
Are there any other Consumer Impacts?	<ul style="list-style-type: none"><li>• In the main, TPIs are not currently representing domestic customers but this is anticipated to change in the future.</li><li>• There is a risk the services facilitated by this modification could increase the risk of erroneous transfers due to the misuse or misunderstanding of the data provided.</li><li>• Consumer data could be misused as it may be made available to unregulated operators, this may have a greater impact vulnerable consumers.</li></ul> <p>The above issues should be subject to review and consideration at the DSC Change Management Committee.</p>

## Cross Code Impacts

The requirements as set out by the CMA Report, also apply to electricity. Therefore, Code changes will also be made to the Master Registration Agreement (MRA), however gas and electricity solutions are not dependant on each other.

iGT UNC Modification 095 is mirroring this UNC modification and would utilise the same technical system solution for the provision of data. A Joint Workgroup was established to consider the issues identified in the Ofgem send-back letter and steps were taken to ensure the solutions are aligned and issues raised in the Ofgem send back letters were addressed consistently.

## EU Code Impacts

None.

## Central Systems Impacts

It is proposed to deliver an Application Programming Interface (API) system solution to allow access to data by PCWs and these changes will be managed through the DSC Change Management Procedures.

## Workgroup Impact Assessment

Some Workgroup participants noted that while this modification is enabling, it allows the release of data through bi-lateral arrangements outside of Code governance and scrutiny and with no oversight by UNC parties. The information provided through such a service would be to parties that meet a definition of a party (PCW/TPI) that can request such information and they may or may not be registered or licenced. This creates a risk that once the information is released there will be few controls on its use and this could lead to damaging consequences for UNC parties.

Overall it was recognised that PCWs/TPIs could play an important role in engaging with domestic consumers to improve competition in the domestic retail market. Some participants wished to see the proposal extended to cover the I&C sector in order for benefits to be maximised.

Some participants were concerned that the system solution facilitated by this modification (DES), could put UNC parties at risk of being in breach of the Data Protection Act. Others felt that non-UNC parties would be given information which exceeds that required to provide for domestic consumers. It was felt that the system solution should be amended so that only relevant data is provided to PCWs/TPIs i.e. domestic consumer data.

It should be noted that User Pays was removed from the Modification Process following the implementation of *Modification 0565A - Central Data Service Provider: General framework and obligations* and this section has been retained for reference purposes only.

User Pays	
Classification of the modification as User Pays, or not, and the justification for such classification.	No User Pays service would be created or amended by implementation of this modification and it is not, therefore, classified as a User Pays Modification.
Identification of Users of the service, the proposed split of the recovery between Gas Transporters and Users for User Pays costs and the justification for such view.	N/A



Proposed charge(s) for application of User Pays charges to Shippers.	N/A
Proposed charge for inclusion in the Agency Charging Statement (ACS) – to be completed upon receipt of a cost estimate from Xoserve.	N/A

## 7 Relevant Objectives

Impact of the modification on the Relevant Objectives:	
Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	None
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.	Positive
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	None
g) 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.	None

This modification furthers relevant objective d) to the extent it removes or mitigates an adverse effect on competition as identified by the CMA in the conclusions of its energy markets investigation.

## 8 Implementation

It is proposed that implementation of this permissions modification be as soon as reasonably practicable after Authority consent is received.

It should be noted that the CMA clarification letter requires the implementation of an interim telephone service until such times as the API solution would be available for implementation.

## 9 Legal Text

Legal Text has been provided by Northern Gas Networks and is included below.

### Text Commentary

The legal text introduces a new permission for the release of protected data. Paragraph TPD V5.5.3(m) describes the person to whom the data can be released (PCWs and TPIs as defined in UNC GTC1), the circumstances of the release (they have permission from the domestic consumer and have entered into appropriate terms) and specifies the data items allowed to be shared.

TPD V5.5.3(m) also obligates the CDSP to publish an annual list of persons who have entered into confidentiality and service agreements for this data.

The definitions in UNC GTC1 are consistent with those in the Competition and Markets Authority draft Order on Transporters and CDSP to create these permissions and a corresponding service.

### Text

#### TRANSPORTATION PRINCIPAL DOCUMENT

##### SECTION V – GENERAL

(l) to a person appointed.....contained within SPAA; and

*Add new sub-paragraph of 5.5.3, as follows:*

- (m) The CDSP are authorised to disclose the following data items: Supply Meter Point Reference Number, supply point address, Meter Post Code, supplier, meter mechanism, network operator, meter capacity, meter serial number, Annual Quantity, Local Distribution Zone to a Price Comparison Website where they have received consent from the domestic consumer and where they have entered into confidentiality and service agreements (on terms no less onerous than those in paragraph 5) and reasonable access conditions.
- (i) The CDSP shall, by 31 March each year, produce a report to identify the service recipients who have signed up to the confidentiality and service agreements;
- (ii) “Price Comparison Website” (PCW) shall mean an 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;
- (iii) “Third Party Intermediary” (TPI) shall mean an organisation or individual acting as a third party intermediary between a domestic customer and a retail energy supplier.

## 10 0593 Consultation

Panel invited representations from interested parties on 19 January 2017. The summaries in the following table are provided for reference on a reasonable endeavours basis only. We recommend that all representations are read in full when considering this Report. Representations are published alongside this Final Modification Report.

Of the 12 representations received 6 supported implementation, 3 offered qualified support, and 3 were not in support. An initial representation was also provided to the Workgroup for consideration during assessment, this has been included in the table below.

Representations were received from the following parties:

Organisation	Response	Relevant Objectives	Key Points
British Gas	Oppose	d - none	<ul style="list-style-type: none"> <li>• Supports the order and the principle of providing industry data to PCWs, to enable more frequent and improved switching journeys. However, consideration needs to be given to how to monitor PCWs' access and usage.</li> <li>• Is concerned that PCW access and usage of DES may not be robustly, monitored, controlled or auditable, which raises concerns the solution is non-compliant with the Data Protection Act and risks breaches of customer data.</li> <li>• Implementation of this modification should only take place after a Privacy Impact Assessment has occurred and the CDSP has implemented adequate monitoring, access and usage system controls.</li> <li>• Is concerned a DPA breach, which will result in a financial fine which will flow back to shippers and their consumers.</li> </ul>
Citizens Advice	Supports	d - positive	<ul style="list-style-type: none"> <li>• Supports the intention of the modification to ease the process of switching using a price comparison service or third party intermediary.</li> <li>• Considers the provisions included in the description of the associated confidentiality and service agreements take sufficient account of the need to protect consumers' data.</li> </ul>
EDF Energy	Qualified Support	d - positive	<ul style="list-style-type: none"> <li>• Supports the intent of the modification to allow PCWs access to Data Enquiry Service (DES) in order to address the weak domestic customer response identified by the CMA.</li> <li>• Concerned about the ability of the Agency to deliver the requirements of the Order (and modification) by putting in place reasonable access requirements that can be robustly monitored to ensure that the information is used appropriately.</li> <li>• Considers it necessary to understand whether Xoserve can deliver the requirements laid out in the legal text. Would welcome understanding in more detail what monitoring arrangements would be put in place for PCWs and how their access would be limited to only domestic data.</li> <li>• From 1<sup>st</sup> April, Shippers could be exposed to any costs/liabilities that Xoserve incur because of potentially not having appropriate controls in place to ensure that</li> </ul>

			<p>where access is granted to a PCW they are meeting the reasonable access conditions required.</p> <ul style="list-style-type: none"> <li>• Agree with the detail of the modification that would provide access to PCWs akin to that offered to a Supplier. Notes that access could also be given to Non-domestic data and potentially significantly more detailed information than PCWs require to enable customer switching</li> </ul>
E.ON	Oppose	d - negative	<ul style="list-style-type: none"> <li>• Support the intentions of the CMA Order to improve the domestic customer switching engagement, recognising that improved switching activity will give the CMA confidence in the market and it will deliver better outcomes for consumers as they will gravitate to more innovative and customer responsive Suppliers.</li> <li>• Is concerned the solution as provided in the modification doesn't meet the terms/conditions of the CMA order on a number of points. It is not fit for purpose and the proposed implementation timescale is flawed.</li> <li>• It places unreasonable risks on Shippers/Suppliers and ultimately customers, and it doesn't address concerns raised by the Information Commissioner's Office.</li> <li>• The Cross-codes Third Party Access Group proposed a way forward that addressed the concerns raised by the CMA, set out a solution that was consulted on and preferred by respondents and was capable of being delivered in a reasonable timeframe that didn't present the same levels of risk to UNC parties as the current solution proposed does.</li> <li>• Does not agree the proposed solution is fit for purpose, therefore the proposed implementation timescale is flawed. Would encourage the Gas Transporters and Xoserve to consider bringing forward the work on the dual fuel API interface with ECOES in a way that delivers this asap.</li> <li>• Parties will be faced with increased CDSP operating costs for Xoserve to develop contractual arrangements and stakeholder management in preparation for any PCWs or TPIs who may request access. Those costs may not be recovered in the event that no PCW comes forward to place an order for the services.</li> <li>• Is concerned that costs will flow from the risks that the solutions present. Would prefer that a more robust solution was implemented, which may have a higher cost to the Users, but removes the risks that customers would face from any liabilities imposed should a breach of data protection occur.</li> </ul>

			<ul style="list-style-type: none"> <li>It cannot be guaranteed that the ICO would hold Xoserve free from fault if it was felt that they didn't have sufficient safeguards and/or controls in place to prevent abuse, having granted a PCW or TPI access to the data.</li> </ul> <p>The legal text delivers the ability to grant access to DES to a PCW or TPI for access to domestic only data, however DES cannot currently be restricted in this way, and therefore it cannot deliver the intent of the modification or the CMA order.</p> <ul style="list-style-type: none"> <li>No Privacy Impact Assessment has been provided to the workgroup which addresses how the third-party access and use of the data mitigates any risk to UNC parties from misuse by PCWs or TPIs.</li> <li>No consideration has been given to the ICO comments on the Order in relation to the DPA concerns or the future introduction of more robust GDP Regulations that come into force in 2018. This modification introduces new risks on Shippers and their Suppliers from the 1<sup>st</sup> of April and increasingly so from May 2018 (with the introduction of GDP Regulations).</li> <li>No consideration was given as to whether the Gas Transporters should retain the risk of the liability from any breach of contract should this modification be implemented before the introduction of FGO arrangements. Since Shippers currently are not required to consent to the access being granted and are unable to apply any levers of control over the contract that is being created it is unreasonable to expect them to assume the risk. Consideration should therefore have been given to this remaining a Transporter Agency activity.</li> <li>The CMA Order requires the Gas Transporters to use their best endeavours to ensure the modification is approved and implemented as soon as reasonably practicable after the date of the order. Compliance to the specific wording in some parts of the order has been prioritised to the detriment of parts of the order. Considers the best way to deliver the CMA Order therefore would not be to grant DES Access in the way currently proposed, but to work with the industry to bring the API solution forward without any further delay.</li> </ul>
Flow Energy	Qualified Support	d - positive	<ul style="list-style-type: none"> <li>Support the rationale and aspiration of the modification.</li> <li>Notes there are serious misgivings amongst certain organisations that the proposal is flawed with respect to its perceived weakness or ambiguity around Data Protection.</li> </ul>

			<ul style="list-style-type: none"> <li>Has not identified any conclusive reasons to underpin these concerns and would fully expect Ofgem to consider all representations and the points made before making a final determination on this specific proposal.</li> </ul>
Gazprom	Oppose	d - positive	<ul style="list-style-type: none"> <li>Whilst not a Domestic market participant, they are concerned the solution will provide unfettered access to all industry data (including non-domestic information).</li> <li>Does not believe that adequate controls and safeguards are being put in place to ensure data is kept secure and is used appropriately and therefore, cannot support the proposed solution as it is not fit for purpose.</li> <li>Permission should only be granted once a robust solution has been put forward.</li> </ul>
National Grid Gas Distribution	Supports	d - positive	<ul style="list-style-type: none"> <li>This enabling modification will provide the necessary permissions for Transporters to give (through Xoserve) access to the Data Enquiry Service (DES) to Price Comparison Websites (PCWs) and Third Party Intermediaries.</li> <li>Will fulfil the Transporters requirements under the Competition and Markets Authority (CMA) Energy Market Investigation (ECOES/DES) Order 2016.</li> </ul>
Northern Gas Networks	Supports	d - positive	<ul style="list-style-type: none"> <li>Supports the goal of making switching easier for consumers, and feels that the reasonable access conditions specified in the modification regarding the confidentiality and commercial agreements should provide adequate safeguards and a legal framework to protect consumer data from misuse.</li> <li>Does not foresee lengthy lead-time being required for the implementation because DES is already an active service provided by Xoserve; therefore, the PCW/TPIs only need to sign the appropriate agreements in order to be provided with a DES logon ID.</li> </ul>
NPower	Supports	d - positive	<ul style="list-style-type: none"> <li>Modification will facilitate consumer engagement and improve the switching process.</li> <li>Will reduce actual and perceived barriers to switching resulting from erroneous transfers and failed switches.</li> <li>Support the proposed controls to protect customer data that PCWs have access to in the same way that Suppliers are (i.e. to use the data only for particular restricted purposes).</li> <li>Supports the need for PCWs to be assessed to ensure that they have appropriate organisational and technological</li> </ul>

			processes and procedures in place to keep the data secure.
Scotia Gas Networks	Supports	d - positive	<ul style="list-style-type: none"> <li>• This enabling modification grants the necessary permissions within the UNC to provide access to the Data Enquiry Service, operated by Xoserve, for PCWs/TPIs, to better facilitate customer switching in line with the Competition and Markets Authority's (CMA) order.</li> <li>• It suitably discharges the obligation on Gas Transporters to make necessary amendments to the UNC as reasonable practicable after the date of the CMA order.</li> <li>• Facilitates a remedy to issues identified by the CMA which have an adverse effect on competition. Specifically, improved consumer confidence in the effectiveness of switching better facilitates competition between suppliers.</li> <li>• Understand the concerns surrounding data protection but are comforted by the principles set out and have confidence that sufficient controls will be incorporated into the eventual service.</li> <li>• The CMA order comes into force on 28 February 2017 therefore implementation of this modification is requested as soon as possible.</li> <li>• As the modification, itself is an enabling modification it does not create any costs. However, the subsequent service will incur an incremental cost to Xoserve as database administrators, and therefore consider that this should be recovered from the PCWs/TPIs, given that they are the beneficiaries of this commercial service.</li> </ul>
SSE	Qualified Support	d - positive	<ul style="list-style-type: none"> <li>• Support the intent of the modification to support the requirement for PCWs / TPIs to be given access to data with the same conditions and in the same manner as is currently the case for Suppliers. This will allow them to check or obtain MPRNs for consumers seeking to switch Supplier and to check other information provided by these consumers.</li> <li>• However, has serious concerns that the system solution proposed does not have the required Data Protection security and reporting around the accessing and use of the data for its intended purposes.</li> <li>• The system implemented must have safeguards in place, together with proper audit measures to ensure that customer data is not misused and that only data related to those customer types mentioned within the CMA report can be accessed.</li> </ul>

			<ul style="list-style-type: none"> <li>iGT UNC processes may mean permissions through this route will not exist by 28th February which would compromise Xoserve's ability to deliver access for independent Gas Transporter sites (access is for GT and iGT data cannot be separated in the timescales).</li> </ul>
Wales & West Utilities	Supports	d - positive	<ul style="list-style-type: none"> <li>Achieves the aim of the Competition and Markets Authority (CMA) order, to give PCWs (and other TPIs providing similar services) access upon request to the ECOES and SCOGES databases respectively on reasonable terms and subject to satisfaction of reasonable access conditions.</li> <li>Is mindful that the provision granted will enable a manual comparison of entered details against those held by the Transporters. It is possible that the absence of an automated solution may limit the extent to which switching is facilitated by this service.</li> <li>Suggests that a sample of PCWs and TPIs should be engaged, selecting both those who have opted into any resulting service and those who have abstained. The purpose of this engagement is to identify if the access provided addresses the concerns raised by the CMA.</li> <li>Gas Transporters, who are party to the UNC are required to use their best endeavours to ensure that a modification proposal concerning any necessary amendments to the UNC to reflect the obligation in Article 4.1 and its associated date for implementation in Article 1.2 is approved and implemented as soon as reasonably practicable after the date of the CMA Order.</li> <li>No lead time required for implementation; however, there may be lead time in providing the access being provided. This lead time would need to be sufficient to agree the confidentiality and service requirements of the proposed solution.</li> <li>No direct costs expected from this modification as the users of the service pay for any directly attributable costs in the spirit of the FGO model.</li> </ul>
Utilities Intermediaries Association (initial representation)	Comments	N/A	<ul style="list-style-type: none"> <li>Initial Representation supported the intent of the modification in response to the CMA Report and was considered a step in the right direction. However, a number of points were raised for the Workgroup to consider during the assessment.</li> <li>For the most part a phone line and email address, which allows provision of helpful and clear detail of why a set of data has failed the transfer process and submission of LOA, will suffice.</li> </ul>



			<ul style="list-style-type: none"> <li>• Neither, availability of ECOES nor SCOGES will help if the data to which is being referred too is not what is required to unlock the issue.</li> <li>• TPIs and PCWs will normally require data for one site at a time unless a Multisite customer is changing supplier.</li> <li>• Full access to the two systems to ensure compliance with the CMA words will be difficult to manage and begs the question why make them fully available. It is considered that some TPIs have already been given access to this data.</li> <li>• The UIA would urge those that while instigating a suitable response to the CMA words and address the needs of the PCW's, to look to providing an answer for the small number of BIG issues, which independent TPIs have to work through.</li> <li>• Putting in place a fast and easy process to deal with those cases via a phone and email contact would be such a benefit to the non-domestic market, both customers and those who support them.</li> <li>• The remaining outlined process encompassed by this modification, of audit and management would be over bearing on those who wanted an answer to the issues with an individual supply point occasionally.</li> <li>• The processes as outlined to control the issues of Data, are designed at keeping the horse in the stable or dealing with it when it is well down the field, both are expensive and require significant amounts of time and effort.</li> <li>• Further exploration of why the CMA think making the two systems available and to help the CMA understand the effect of giving full access rather than site by site access may bring about a different and lower cost outcome.</li> </ul>
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Responding parties were also requested to address the following question in their representations.

*Q1: To inform Panel's consideration of self-governance, views are requested as to whether respondents believe that releasing these data items represents a material impact on competition between, or commercial arrangements for, Shippers or Transporters. Please provide evidence to support your response.*

Organisation	Key Points
British Gas	<ul style="list-style-type: none"> <li>• Considering the system controls, the probability of DPA non-compliance, and the likely material impact to consumers, this change should be sent to the authority for decision.</li> </ul>
Citizens Advice	<ul style="list-style-type: none"> <li>• Recognising that it may not be a literal impact of the permissions granted by this proposal, competition is materially affected as a deliberate and direct consequence</li> </ul>

	<p>and as improving competition is the intended purpose of the modification, it should not be considered self-governance.</p>
EDF Energy	<ul style="list-style-type: none"> <li>• This modification would, intentionally, have a material impact on Consumers and competition within the industry. Therefore, self-governance is not appropriate.</li> </ul>
E.ON	<ul style="list-style-type: none"> <li>• The ICO has recently asserted in its comments on the CMA Order that ECOES and DES data is “Personal Data” and subject to the DPA regulations, and the upcoming GDP Regulations. We have set out our concerns around the risks that would flow back to Shippers and Suppliers coming from Xoserve’s inability to mitigate the risk to us from the potential misuse of the data, or from inappropriate accessing of non-domestic data that is still considered personal, but that relates to non-domestic businesses. For this reason, the modification does not meet the self-governance criteria.</li> </ul>
Gazprom	<ul style="list-style-type: none"> <li>• The solution is not fit for purpose and therefore has the potential to lead to material consumer detriment and to adversely affect wider confidence in the market. Accordingly, any decision on implementation should ultimately lie with Ofgem.</li> </ul>
National Grid Gas Distribution	<ul style="list-style-type: none"> <li>• Throughout workgroup discussions an opinion has been expressed by some parties that giving DES access to PCWs and TPIs could potentially lead to Data Protection Act (DPA) compliance issues. Noting that the ‘Supplier Community’ view within DES gives limited access to data, from a legal perspective it is not clear why the CMA recommendations give rise to a potential DPA breach.</li> <li>• Noting the concerns articulated by Shipper Users, concur with the view expressed within the modification that self-governance procedures should not apply.</li> </ul>
Northern Gas Networks	<ul style="list-style-type: none"> <li>• The intention of the CMA Order is to further competition by making the switching process easier for consumers. This means that there will be a material impact on Code parties upon implementation of this modification, and so should not be considered self-governance.</li> </ul>
Npower	<ul style="list-style-type: none"> <li>• This change will ensure a better journey for consumers, improving the switching process and will facilitate ongoing consumer engagement. In turn this will stimulate competition amongst market participants.</li> </ul>
Scotia Gas Networks	<ul style="list-style-type: none"> <li>• Whilst this is an enabling modification, the associated service could create consequential data protection compliance matters which could materially affect both Transporters and Shippers.</li> <li>• Additionally, any increase in the number of customers switching or any change in the customer community’s perception of switching (positive or negative) could materially affect competition between Shippers. Therefore, this modification is not suitable for self-governance.</li> </ul>
SSE	<ul style="list-style-type: none"> <li>• Agrees that this modification does not meet the self-governance criteria due to the impact that the service can potentially have on market competition.</li> </ul>
Wales & West Utilities	<ul style="list-style-type: none"> <li>• A modification that solely considers issue of data to a third party should be contractual and under normal business rules, therefore would ordinarily be self-governance. However, in this instance as the provision of information to PCWs and TPIs may facilitate further switching and therefore can be deemed to have a</li> </ul>

	potentially material impact on competition, whilst this is only an enabling modification, the Self Governance Criteria appears not to be met given that the CMA deem this activity should facilitate such switching activity.
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Please note that late submitted representations will not be included or referred to in this Final Modification Report. However, all representations received in response to this consultation (including late submissions) are published in full alongside this Report, and will be taken into account when the UNC Modification Panel makes its assessment and recommendation.

## Ofgem Direction to Amend the FMR

On 01 March 2017, Ofgem returned the Final Modification Report to Panel to address several points. The letter can be seen here: <https://www.gasgovernance.co.uk/0593>.

Subsequently, at its March meeting, Panel requested that Workgroup 0593 consider the issues raised and provide a Supplemental Report.

## 11 Workgroup Supplemental Report

The Workgroup noted that the CMA have published a letter advising that a system solution utilising an API interface would be sufficient to meet the requirements of the order for the provision of data to PCWs. Therefore, this Supplemental Report has been provided based on an API solution being adopted.

The Workgroup considered the following issues raised by the Authority within their send back letter:

- ***An assessment of the issues relevant to the DPA using the Privacy Impact Assessment (PIA) framework:***

A copy of a draft PIA is attached as an annex of this Final Modification Report and the Workgroup recommends that Panel seek views on:

- The suitability of the PIA attached for this purpose in terms of its scope;
  - The data items included;
  - Risks Associated to; individual compliance or organisation/corporate risk;
  - Risks reduced, eliminated or accepted;
  - Is the solution a justified, compliant and proportionate response to the aims of the project;
  - Should the PIA be issued to the DSC Change Management Committee to support the assessment of the API and commercial terms.
- ***whether shippers and suppliers are data controllers in this context and the implications of this for data disclosure as well as any mitigating actions that should be taken:***

The Workgroup could not agree on who the data controllers were for this purpose. However, the Workgroup concluded that Shippers and Suppliers are not directly the Data controllers with respect to the provision of providing data to PCWs.

It is noted that access to the data would be managed through a proposed API solution and a potential interim telephone service and the contractual obligations set out in a third-party agreement between the CDSP and individual PCWs. Such arrangements would fall under the governance of the DSC Change/Contract Management Committees and is outside the scope of this modification.

It is anticipated that the API solution and third-party contractual arrangements would have sufficient

access controls and audit functionality to mitigate the risks identified in previous representations, however this information is not available to the Workgroup.

The Workgroup identified a risk should the CDSP fail its obligations and incur a liability with regards to a Data Protection breach. Any financial liability will be passed directly to CDSP customers as a result of the DSC arrangements.

- ***how PCWs will have their access to data restricted (contractually or otherwise), including for access to non-domestic supply point data which is not permitted by the proposed modifications:***  
It is anticipated that the proposed API solution and third-party contractual agreements would provide sufficient access control and audit capability as to mitigate such risks.
- ***what provisions are in place to ensure consumer consent will be positive informed consent:***  
This would form part of the third-party contractual agreement and was not available for Workgroup consideration, as this is being managed under DSC arrangements.
- ***any implications and mitigating actions that should be taken in the context of the changes to Xoserve's governance and funding arrangements as a result of FGO and the forthcoming implementation of the GDPR:***  
As mentioned above, it is anticipated that the arrangements required to provide the service to PCWs would fall under the governance of the DSC Change/Contract Management Committees and is out of scope of this modification.

The Workgroup raised concerns that the modification could be implemented before a robust solution is available for the industry to review via DSC arrangements.

The Workgroup recommended that Panel request a view or report from the DSC Change Management Committee seeking confirmation that the API solution and third-party contractual arrangements provide sufficient protection to DSC Customers, before this modification or a Varied version is issued for further consultation. This would allow respondents the opportunity to consider the potential data protection risks and mitigation before responding.

The Workgroup considered a draft version of the Variation Request and recommend it should be treated as a material change to the modification, as it would potentially change a number of respondent's views on whether this modification should be implemented.

## **Consideration of the Variation Request for Modification 0528**

The Workgroup asked Panel to consider that:

- This modification be subject Variation which should be considered a material change proceed to consultation (see below).
- That the PIA be included as an appendix to the Final Modification Report and that Panel seek views on its content.
- Some participants had concerns that original views raised during the initial consultation concerning DPA risks are still relevant due to the stage of development of the API solution. It is therefore questioned whether this modification should progress further until the technical solution and third-party arrangements have been sufficiently developed and DPA risks have been fully understood.
- The Workgroup recommended that Panel sought a recommendation from the DSC Change Management Committee that the API system and third-party arrangements are suitable before sending the modification out for consultation.

The Panel determined, that the variation represented a material impact upon the Solution.

Modification 0593 was therefore deemed to be withdrawn and replaced by Modification 0528V, which the Panel issued for further Consultation.

## 12 0593V Consultation

Panel invited representations from interested parties on 17 August 2017. The summaries in the following table are provided for reference on a reasonable endeavours basis only. We recommend that all representations are read in full when considering this Report. Representations are published alongside this Final Modification Report.

Of the 10 representations received 6 supported implementation and 4 offered qualified support.

Representations were received from the following parties:

Organisation	Response	Relevant Objectives	Key Points
BUUK	Qualified Support	d) - positive	<ul style="list-style-type: none"><li>• Recognising that this is a permission only modification, which seeks to allow Price Comparison Websites and Third-Party Intermediaries access to gas domestic data to better facilitate customer switching, BUUK supports providing industry data to PCWs, providing the solution used is fully compliant with the Data Protection Act.</li><li>• Acknowledges that in order to comply with the CMA Order 2016, Transporters must not prevent the CDSP from providing access to the PCWs and therefore it is pertinent that access to the domestic gas data is granted.</li><li>• Points out that their main concerns around Data Protection have been highlighted throughout discussions, which was due to not having the appropriate auditing controls in place. However, they are now comfortable the Privacy Impact Assessment and accompanying technical solution document have been developed sufficiently and addressed these concerns.</li><li>• Notes the confidentiality agreements are yet to be amended to reflect the change in solution and to include what auditing and monitoring controls are in place. The CDSP have stated Transporters will gain visibility of this prior to implementation of the service. For this reason, they could only offer qualified support.</li><li>• Continues to support the API solution developments via the DSC governance arrangements.</li><li>• Notes that whilst no anticipated costs are associated with the implementation of this modification, they also note the CDSP will incur costs in developing a robust solution and providing access to the PCWs. Any associated costs to the</li></ul>

			<p>development and testing of the solution will fall under the DSC arrangements.</p> <ul style="list-style-type: none"> <li>• Recognises there are wider issues on how the API solution will be delivered which will need to be addressed via the appropriate governance sign off procedure.</li> </ul>
Cadent	Support	d) - positive	<ul style="list-style-type: none"> <li>• Believes that this enabling modification will afford the necessary permissions for Transporters to provide (through Xoserve) certain data items (via an Application Programme Interface (API) solution) to Price Comparison Websites (PCWs) and Third Party Intermediaries.</li> <li>• Notes that the Competition and Markets Authority (CMA) has confirmed that the use of an API solution will fulfil the requirements under the CMA Energy Market Investigation (ECOES/DES) Order 2016.</li> <li>• Believes that the modification can be implemented immediately following approval by the Authority and does not anticipate incurring any impacts or costs.</li> </ul>
Centrica	Qualified Support	d) - positive	<ul style="list-style-type: none"> <li>• Support the CMA Order and the principle of providing industry data to PCWs, to enable more frequent and improved customer switching journeys.</li> <li>• Recognising that this permissions modification (to access data) circumnavigates the solution design and DPA compliance issues. Notwithstanding this, Centrica highlight that the ICO's response to the disclosure of data to PCWs is very clear; the data is personal and therefore the safeguards of the DPA apply, so any measures the gas industry adopt need to follow the guidance given, particularly around access to data, onward disclosure and the relevant consent the PCW will need to evidence to confirm it had customer authority to access their data.</li> <li>• Making reference to DPA concerns and the data controller, who either solely or jointly, determines the purposes for which and the manner in which any personal data is processed. They note that this clearly extends to the Meter Point Reference Number (MPRN) data item, which both Transporters and shippers use to identify customers. Therefore, their conclusion is that both Transporters and shippers are data owners and therefore both parties need to ensure the permissions modification which gives PCWs access to data and the technical solution is compliant with DPA legislation.</li> <li>• Notes that the CDSP Privacy Impact Assessment (PIA) sets out DPA risks and what measures will be implemented to ensure system controls, adequate monitoring and controls,</li> </ul>

			<p>and appropriate data access and usage. They note that the PIA does not specify 'how' the system will monitor and control access and usage. The CDSP seeks to address the 'how' through the <i>PCW access to data Solution description for Modification 0593 and 095 workgroups document</i><sup>1</sup>. For example, Section 4 provides detail of how an Application Protocol Interface (API) solution can limit and control PCW access to specific data sets and access will be via secure key connections. Contracts and audits will place a framework on PCWs for access criteria and to monitor compliance.</p> <ul style="list-style-type: none"> <li>• Their main concern with the CDSP approach was that the document did not provide enough detail on how the system solution will, in real time, monitor and control customer data.</li> <li>• Providing the CDSP delivers a technical solution that is in line with, or above the documented solution criteria, Centrica would be in a position to support this modification. However, they have serious reservations with their support for this modification which is still reliant on Centrica's good faith and the CDSP's willingness to implement a complaint solution that aligns to its customer's requirements.</li> <li>• Given the perpetual DPA concerns and to mitigate the risk of customer data breaches, they believe the UNC permissions modification implementation date should be linked to the CDSP DSC approved solution date.</li> <li>• Costs should be limited to Transporter and CDSP Legal costs.</li> </ul>
E.ON	Qualified Support	d) - positive	<ul style="list-style-type: none"> <li>• Recognising that this modification had been varied and is now in a position where the solution can be delivered; Xoserve/CDSP now needs to deliver a technical solution which is in line with DPA/GDPR. Although the PIA goes towards providing comfort, they believe there is still more development work required for it to be a robust solution with mitigated DPA risks which is also compliant to the CMA order.</li> <li>• The implementation of this modification should be aligned with the delivery of the technical solution by the Xoserve/CDSP and also the iGT UNC equivalent modification.</li> </ul>

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<sup>1</sup> <https://www.gasgovernance.co.uk/sites/default/files/ggf/page/2017-08/Modification%200593-095%20-%20Solution%20Description%20V2.0.pdf>



			<ul style="list-style-type: none"> <li>The costs of this modification should be covered by the Gas Transporters as required by the CMA order. E.ON were unclear of their costs at this time as this information has not been forthcoming from the Xoserve/CDSP. Additionally, costs need to be transparent for the solution, so additional clarity is required.</li> </ul>
Northern Gas Networks	Support	d) - positive	<ul style="list-style-type: none"> <li>Supports this permissions modification as it will allow for the creation of a commercial service that meets the CMA Order to allow PCW access to Domestic Consumer Data via an agreed API solution.</li> <li>Recognises that the CMA Order is also on electricity, meaning changes will also need to be made to the MRA. However, these solutions are not required to match or depend on one another.</li> <li>Points out that there is also an iGT modification (iGT UNC 095) that mostly mirrors Modification 0593 and has been developed alongside it.</li> <li>Notes that Parties should not incur additional costs from this modification, as it is permissions only. Any development funding and its source for the API solution will be determined via the DSC Change Management Committee.</li> </ul>
NPower	Qualified Support	d) - positive	<ul style="list-style-type: none"> <li>Supports the CMA Order as this will facilitate consumer engagement and improve the switching process. This will reduce actual and perceived barriers to switching resulting from erroneous transfers and failed switches.</li> <li>Although the API solution and the amended version of the modification do alleviate the majority of the issues highlighted, they still have concerns on the actual monitoring of PCW/TPI access and usage as it happens and do not see that papers provided currently cover that in sufficient detail.</li> <li>Notes that the PIA references to Xoserve putting in place bespoke agreements with the PCWs/TPIs to enable access to the gas database. It states it will include that those organisations will be required to have the appropriate technical and organisation security in place. However, to be fully compliant under GDPR those agreements also require a number of other clauses to be added to deal with the requirements of Article 28 of the GDPR. They do include audit requirements but there are also other requirements in relation to reporting security breaches, keeping data confidential, appropriate training etc. and Npower wanted confirmation that those additional provisions will be included.</li> </ul>



			<ul style="list-style-type: none"> <li>• They note that the contracts need to specifically set out what data the TPI/PCW will be allowed access to and the permitted purposes that the data can be used for (as narrowly defined as possible).</li> <li>• They also note in relation to the requirements on gaining customer consent and that this can be audited, that this needs to be “will be audited on a regular basis” to ensure compliance with those requirements. They do not believe it is sufficient just to have clauses in a contract; steps need to be taken to ensure compliance. They also note that the CMA refers to putting in place appropriate audits for security reasons but that should include checking consents (included in the PCW access document).</li> <li>• Notes that the papers state that the contracts will contain specific requirements for access to the system (i.e. the permitted purposes) and on renewal of contracts, validation will take place again. The reference to being registered with the ICO is, they believe, not a requirement under GDPR so Npower wanted more detail on what is proposed and reassurance that the checks that need to be made are GDPR compliant.</li> <li>• They also requested further clarity on how the costs will be met.</li> </ul>
Scotia Gas Networks	Support	d) - positive	<ul style="list-style-type: none"> <li>• Supports the Modification on the grounds that it seeks to create the necessary permissions within the UNC to allow Xoserve to provide access for Price Comparison Websites and Third Party Intermediaries to certain data items related to specific MPRNs, following the Competition and Markets Authority’s Energy Market Investigation (ECOES/DES) Order 2016.</li> <li>• Anticipates that there will be some minimal costs incurred in order to implement the technical solution, for which funding will need to be agreed.</li> </ul>
Utilities Intermediaries Association	Support	d) - positive	<ul style="list-style-type: none"> <li>• Supports the modification for the provision of timely data which will facilitate the switching process and minimise errors, resulting in reduced cost to serve for TPI/PCW and satisfactory outcome for the consumer. Noting with a clear process for monitoring and compliance, alongside the requirement on all PCW/TPIs to enter into agreement with the CDSP, this should prevent any possible misuse of data.</li> <li>• Notes that the costs for access to data for PCWs/TPIs is unknown.</li> <li>• Supports the API solution with its core principles and conditions but they would welcome further consideration on</li> </ul>

			<p>extending the scope of this arrangement to cover business sectors, in particular micro-business consumers, who the CMA acknowledged, exhibit similar behaviours and suffer similar outcomes as a consequence of Weak Customer Response. That switching has not been perceived by the CMA as a barrier outside of the domestic sector could be attributable to the fact that some commercial TPIs already have access to this information either via agreement with a supplier, as in the case of ECOES, or via other means in the case of DES. The UIA would welcome a move to create a level playing field for TPIs, where access is not determined by a supplier's "permission", but granted on the basis of a customer's consent, with strict compliance procedures, similar to those set out in this modification. They hope that the development of a centralised switching service managed and run by a single entity will facilitate this objective at some future date.</p> <ul style="list-style-type: none"> <li>• The UIA asks for the inclusion within the modification under audits, that any measures taken will clearly be for the benefit of the customer and for no other purpose.</li> </ul>
Wales & West Utilities	Support	d) - positive	<ul style="list-style-type: none"> <li>• Recognises that the modification seeks to enable the provision of certain data items for specific MPRNs to Price Comparison Websites (PCWs) and Third Party Intermediaries (TPIs) which will increase competition in the supply of gas.</li> <li>• Believes that this access will be by means of an Application Programme Interface (API) solution which the Competition and Markets Authority have confirmed would fulfil the requirements of their Order on Xoserve.</li> <li>• Whilst highlighting that Wales &amp; West Utilities will not face any costs, recognises that the CDSP will incur costs developing and providing access.</li> </ul>
Xoserve	Support	d) - positive	<ul style="list-style-type: none"> <li>• Xoserve support the implementation of this modification, as this modification would create the relevant permissions within the Uniform Network Code to enable the release of data to PCWs. This permission is essential to enable Xoserve to comply with the CMA DES Order 2016.</li> </ul>

Responding parties were also requested to address the following question in their representations.

*Q1: To inform Panel's consideration of the varied modification, views are requested as to whether you agree that Ofgem's sendback questions have been addressed in the revised modification.*

Organisation	Key Points
BUUK	<ul style="list-style-type: none"> <li>Believes the questions set out in the Authority's send back letter have sufficiently been addressed via the Privacy Impact Assessment and Workgroup Supplemental Report.</li> </ul>
Cadent	<ul style="list-style-type: none"> <li>Believes that Ofgem's 'sendback questions' have been adequately addressed and documented within the Workgroup Supplemental Report.</li> </ul>
Centrica	<ul style="list-style-type: none"> <li>Provided a response within their representation to each of the Ofgem sendback questions considered by the Workgroup in Section 11 - Workgroup Supplemental Report. Please see individual representation for details.</li> </ul>
E.ON	<ul style="list-style-type: none"> <li>Provided a response within their representation to each of the Ofgem sendback questions considered by the Workgroup in Section 11 - Workgroup Supplemental Report. Please see individual representation for details.</li> <li>They recognise the modifications are to allow permissions but the lack of answers regarding the requirements of DPA/GDPR is a concern for the effective functioning of the new DSC arrangements. This potentially introduces risk to Shippers/Suppliers/Transporters and should be tackled as a matter of urgency.</li> </ul>
Northern Gas Networks	<ul style="list-style-type: none"> <li>Believes that Ofgem's concerns have been addressed with the change from access to data via online DES to data via a specially designed API solution.</li> </ul>
NPower	<ul style="list-style-type: none"> <li>Provided a response within their representation to each of the Ofgem sendback questions considered by the Workgroup in Section 11 - Workgroup Supplemental Report. Please see individual representation for details.</li> <li>Noted that all organisations need to comply with GDPR so that needs to be factored in to any system changes, contracts etc.</li> </ul>
Scotia Gas Networks	<ul style="list-style-type: none"> <li>Notes the importance of the Supplemental Workgroup Report, which it considers addresses the concerns raised regarding the technical solution.</li> <li>Expects that the DSC Change Committee must take full regard of this report when taking decisions regarding the implemented solution, and should ensure that all recommended safeguards are in place.</li> </ul>
Utilities Intermediaries Association	<ul style="list-style-type: none"> <li>Agreed that Ofgem's sendback questions had been addressed in the revised modification.</li> </ul>
Wales & West Utilities	<ul style="list-style-type: none"> <li>Believes that the Supplemental Workgroup Report specifically addresses each Ofgem point.</li> <li>Also notes that this is an enabling modification and points out that the decision on implementation of the solution will be taken by the DSC Change Management Committee, that will be responsible for signing off the design and ensuring that it contains appropriate safeguards.</li> </ul>
Xoserve	<ul style="list-style-type: none"> <li>Provided a response within their representation to each of the Ofgem sendback questions considered by the Workgroup in Section 11 - Workgroup Supplemental Report. Please see individual representation for details.</li> </ul>

Please note that late submitted representations will not be included or referred to in this Final Modification Report. However, all representations received in response to this consultation (including late submissions) are published in full alongside this Report, and will be taken into account when the UNC Modification Panel makes its assessment and recommendation.

## 13 Panel Discussions

## 14 Recommendations

### Panel Recommendation

Members recommended that Modification 0593V [should / should not] be implemented.

## 15 Appendix 1 – Privacy Impact Assessment

### Modification 0593 Workgroup- Privacy Impact Assessment

#### Appendix to Modification 0593 Work Group Report – Provision of access to domestic Consumer data for Price Comparison Websites and third Party Intermediaries

[09/08/17]

Document Author	Joint UNC – iGT UNC 0593/ 095 Distribution Workgroup
Version	V 0.4

## PART ONE

### 1. Explain what the project aims to achieve, what the benefits will be to the organisation, to individuals and to other parties.

The Competition and Markets Authority (CMA) has ordered Xoserve and the Gas Transporters, to provide Data Enquiry System (DES) access to Price Comparison Websites (PCWs) and Third Party Intermediaries (TPIs), this is to assist PCWs to validate customer data during domestic consumer switching processes.

*Definition of “Price Comparison Website” (PCW) shall mean an internet-based price comparison service or other internet based TPI that provides comparisons between, and/or access to, personalized 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;*

*Definition of “Third Party Intermediary” (TPI) shall mean an internet based organisation or individual acting as a third party intermediary between a domestic customer and a retail energy supplier.*

The Energy Market investigation final report sets out reasoning for erroneous transfers and failed switches, and concludes that there is a requirement for PCWs to be granted access to data pertinent to the switching process. This will allow them to check or obtain MPRNs for domestic consumers seeking to switch supplier and to check other information provided by these consumers. This should help to reduce the number of erroneous transfers and failed switches, enabling consumers to switch gas supplier easier.

The CMA on 12<sup>th</sup> June 2017 published a letter to Xoserve providing clarification that the CMA DES order 2016 can be achieved via an; API service and possible telephone service. The link to the letter can be found here; <https://www.gov.uk/cma-cases/energy-market-investigation>.

This project aims to achieve the CMA order, via an enduring API solution and a possible interim telephone service enabling; access to domestic consumer sites only and transactional auditing functionality.

### 2. You may find it helpful to link other relevant documents related to the project, for example a project proposal.

Please find the link for; The Energy Market Investigation (ECOES / DES) Order 2016  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/585019/energy-market-ECOES-DES-order-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/585019/energy-market-ECOES-DES-order-2016.pdf)

Some of the relevant paragraphs of the CMA order are;

4.1. Xoserve must give PCWs access to DES upon written request, and subject to the satisfaction of reasonable access conditions.

4.2. Gas Transporters must not take any action that would prevent Xoserve from giving access to DES upon written request and subject to the satisfaction of reasonable access conditions.

4.3. Gas Transporters, who are party to the UNC on the commencement date of this Order, must use their best endeavours to ensure that a modification proposal concerning any necessary amendments to the UNC to reflect the obligation in Article 4.1 and its associated date for implementation in Article 1.2 is approved and implemented as soon as reasonably practicable after the date of this Order.

*Please note, Xoserve will not provide access to DES as the CMAs letter provided on the 12<sup>th</sup> of June, enables an API service and interim telephone service to achieve the DES CMA order, as the data being provided to PCWs is data pertinent to the switching process.*

Please find the link for: CMA Energy Market Investigation – Final report below;

<https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energymarketinvestigation.pdf>

Some of the relevant paragraphs as to why the CMA has ordered for this data to be provided to PCWs/ TPIs are as below:

13.343 The aim of this remedy is to reduce actual and perceived barriers to switching resulting from erroneous transfers and failed switches, and we consider, based on responses to our provisional decision on remedies 265, that access to the ECOES and SCOGES databases will also benefit other TPIs providing similar services to PCWs.

13.344 In light of the above, this remedy will require (through a CMA order) the code administrator or governing body with authority to grant access to the ECOES database to grant access to the database to PCWs (and other TPIs providing similar services). This remedy will also require (through a CMA order) gas transporters to grant access to the SCOGES database to PCWs (and other TPIs providing similar services) on reasonable terms. We understand that amendments to the relevant industry codes may be required. Therefore, this remedy will also require gas transporters to make any necessary amendments to the Uniform Network Code

**3. Also summarise why the need for a PIA was identified (this can draw on your answers to the screening questions).**

The CMA has advised that PCW access to data can be provided via an enduring API solution and a possible interim telephone service.

The need for a PIA has been identified as the provision of the service is to; individuals, organisations or people who have not previously had routine access to this information.

The information being provided to PCWs consists of personal data. Personal data is any data that relates to a living individual that can be identified from it, or from the data and other information processed or stored. This includes any expressions of opinion about the individual and any indication of a data controller's intentions. Data that in itself is not personal may become personal data when used in conjunction with other items

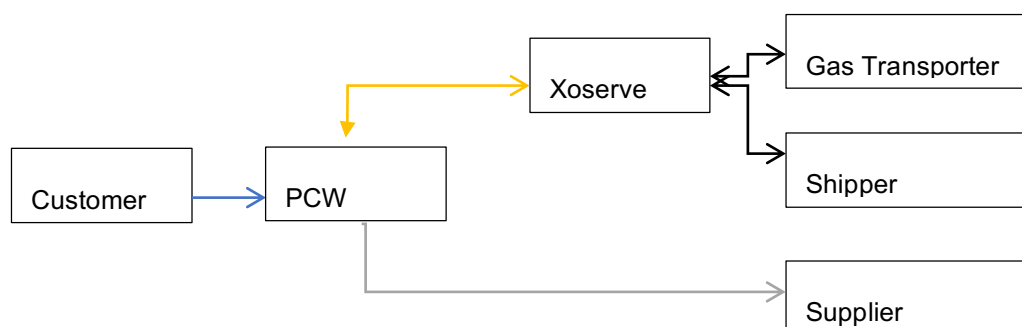
The PIA process will assist the Industry to foresee the likely privacy impacts to individuals and to weigh those against the benefits to society in the collection, use, and secure disclosure of information.

## PART TWO

**1. The collection, use and deletion of personal data should be described here and it may also be useful to refer to a flow diagram or another way of explaining data flows. You should also say how many individuals are likely to be affected by the project.**

Information flow for an API and possible telephone service (Collection of data)

The below diagram demonstrates how data will flow between parties, for the facilitation of domestic consumer switches as set out by the CMA DES Order 2016.



#### Key

- Via web
- Via an API service and possible telephone service
- Unknown
- Via Industry regulated flows (e.g. DES, IX etc.)

#### Considered rules

- Data available will be as listed below – Modification 0593 / iGT UNC Modification 095 creates the permission to release data to PCWs within Uniform Network Code (UNC) and iGT UNC, please note permission will be granted under a set of conditions being met by PCWs.
- For an API service, PCWs/ TPIs can only gain access to data through URLs for the API interface that will be provided specifically to the PCW/ TPI organisation.

#### Data Items available by API service and possible telephone service

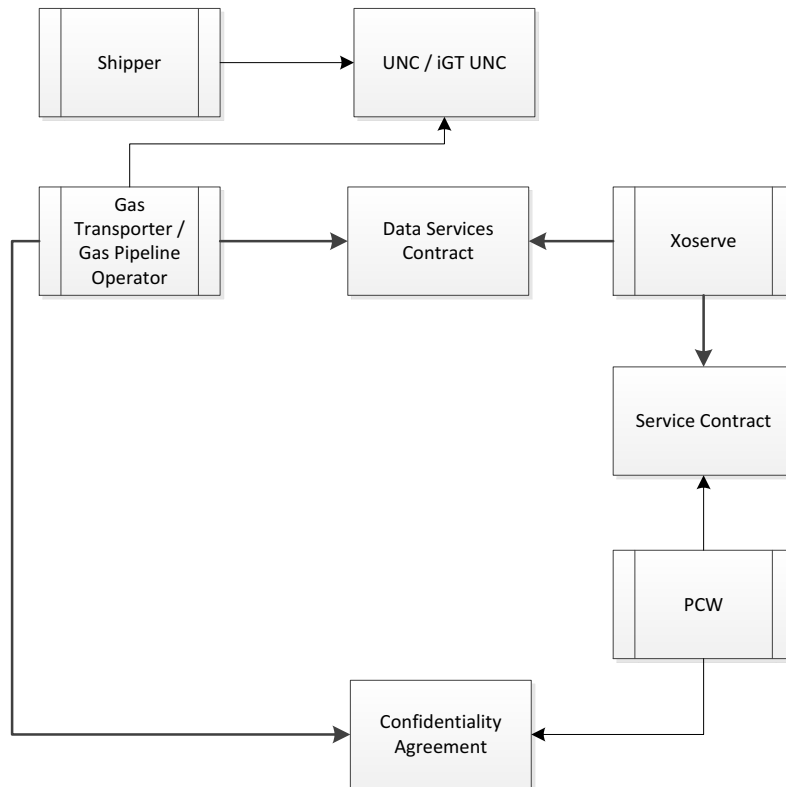
DATA ITEM	DESCRIPTION	PURPOSE OF PROVISION / JUSTIFICATION
MPRN	Unique Identifier for a supply offtake point and used to identify the meter to be switched	Allows confirmation of match with customer data provided. This data item is mandatory in regulated flows for Suppliers, when switching a domestic consumer
Metering Point Address	The address for the metering point, as provided by the relevant GT	Allows confirmation of match with customer data provided. Also allows for triangulation of data. This data item is mandatory in regulated flows for Suppliers, when switching a domestic consumer
Metering Point Address	The Postcode for the metering point, as provided by the relevant GT	Allows confirmation of match with customer data provided, also allows for triangulation of data. This data item is mandatory in regulated flows for Suppliers, when switching a domestic consumer
Current Supplier ID	Industry identifier for the current Supplier	Used in confirming customer data provided and to assess likely current tariff. This is useful for Supplier and shipper use in the transfer.
Meter Mechanism Code	Industry identifier of the type of equipment fitted e.g. credit or PPM	Used in confirming customer data provided and to assess likely current and future tariff – note that gas meters are not 'smart' in and of themselves.

		This data item is mandatory in regulated flows for Suppliers, when switching a domestic consumer
GT_ID	Unique identifier for the Transporter Organisation. For Large Transporters this can also be used to identify the geographical area a metering point is located in	Can be used to assist in determining customer's likely current and future tariff. This data item is mandatory in regulated flows for Suppliers, when switching a domestic consumer.
Meter Capacity indicator e.g., 1= up to and including 11 cubic metres, 2= above 11 cubic metres	The maximum amount of gas that can be passed through the meter. This data item is provided for sites connected to a Transporter Network. The capacity of the metering point in m <sup>3</sup>	Can indicate a high volume usage customer. This information is used to validate consumer data. This is useful for Supplier and shipper use in the transfer.
Meter Serial Number	Identifier for metering equipment at a property	Limited value since not unique, but may assist in triangulation of data. This data item is mandatory in regulated flows for Suppliers, when switching a domestic consumer.
Annual Quantity	Annual quantity of gas assumed to be off taken over a period based on historical information	Provides accurate reflection of customer usage. This data item is mandatory in regulated flows for Suppliers, when switching a domestic consumer.
Local Distribution Zone	This is a discrete gas system supplying gas to a region,	For Supplier and shipper use in the transfer. This is useful for Supplier and shipper use in the transfer.
Smart Meter Equipment Technical code	Specification id of the smart meter	For Supplier and shipper use in the transfer. This data item is mandatory in regulated flows for Suppliers, when switching a domestic consumer.

### Contractual arrangements

The following contractual arrangements are in place for the provision of the service(s).





### Use and deletion of personal data

Data accessed by a PCW via a possible telephone service and an API service should be in line with the intended purpose of the CMA order. This is considered to be, to facilitate a domestic consumer switch. Modification 0593 / iGT Modification 095 and contractual agreements between Xoserve and PCWs specify this to be the permitted purpose to access data.

The retention and deletion of data will not be visible to Industry participant's therefore contractual arrangements between Xoserve and PCWs will specify the need for; maintenance of appropriate technical and organisational measures in line with the relevant DPA legislations that prevent any unauthorised or unlawful processing of data.

It is estimated that approximately 3 million domestic customers change gas supplier per year. (Please note - it cannot be determined how many of these customers utilise a PCW).

- 2. Explain what practical steps you will take to ensure that you identify and address privacy risks. Who should be consulted, internally and externally? How will you carry out the consultation? You should link this to the relevant stages of your project management process.**

The Joint Modification 0593 / iGT Modification 095 working group are working towards the necessary permissions needed in UNC and iGT to meet the intent of the CMA order. The Joint Modification 0593 / iGT Modification 095 Workgroup are responsible for the PIA along with the DSC Contract Committee who will have visibility of Xoserve compliance assessments for such service provisions.

Consultation of the PIA will be carried out via the UNC Modification process and DSC Committees.

## PART THREE

1. Identify the key privacy risks and the associated compliance and corporate risks. Larger scale PIAs might record this information on a more formal risk register.
2. Describe the actions you could take to reduce the risks, and any future steps which would be necessary (e.g. the production of new guidance or future security testing for systems).

DESCRIPTION OF RISKS TO PRIVACY	RISK IDENTIFIED BY	RISK ASSOCIATED TO; INDIVIDUAL, COMPLIANCE, ORGANISATION / CORPORATE RISK	PROPOSED SOLUTION	RISKS ELIMINATED / REDUCED OR ACCEPTED.	IS THE SOLUTION A JUSTIFIED, COMPLIANT AND PROPORTIONATE RESPONSE TO THE AIMS OF THE PROJECT
The purpose by which the data is used for by a PCW should be captured and should be subject to auditing to ensure customer data is not misused.	SSE EDF EON British Gas CAB (to a degree) Npower ESPUG	Risk associated to Individual	An API solution will enable monitoring of transactions to provide assurance that data is being accessed for its intended purposes and there is consumer consent obtained by a PCW. Via a telephone service, information will be retained on individual queries to enable auditing i.e. that there is consumer consent present. Xoserve will develop proactive and reactive auditing methods.  The key principles of GDPR are accountability and portability i.e. requirement to show legal basis for processing data – consent is a valid legal basis for processing of data.  The API service will comply with GDPR requirements as the API service enables	This risk is reduced, as an API solution (and telephone service) can capture transactional level data to facilitate auditing requirements	Yes this solution is a justified, compliant and proportionate response

			recording of transactional data to enable auditing.		
Data related to those customer types mentioned within the CMA report should only be accessed, the solution should not provide unfettered access to all industry data including non-domestic data	SSE EDF Gazprom EON BU-UK ESPUG	Risk associated to organisation/ corporate	The API service and telephone service will only enable access to domestic customer data to facilitate switching as specified by the CMA.  The data that will be accessed will only be for sites where the Market sector code is 'D'.	This risk is reduced, as an API solution (and telephone service) will only provide access to sites where the market sector code is 'D'.	Yes this solution is a justified, compliant and proportionate response
Potentially significantly more detailed information than PCWs require to enable customer switching is available	EDF EON	Risk associated to Individual, compliance	Only the data specified within this PIA will be provided via an API and / or telephone service.  There is legitimate justification for each of these data items being accessed by PCWs.	This risk is reduced as the data being provided has been justified to be required to facilitate a domestic consumer switch	Yes this solution is a justified, compliant and proportionate response
Consumer consent and data accessed by PCWs should only be held by PCWs for no longer than reasonably required to comply with relevant legislation	Modification 0593 / 095 requirement	Risk associated to Individual, compliance	Contractual arrangements will specify the need for PCWs to maintain appropriate technical and organisational measures to prevent any unauthorised or unlawful processing of the Data.  There will be provisions in the contract for Xoserve to undertake audits to enable assessment of data deletion.	This risk is reduced as the validating and auditing functionality will enable processes to check data is deleted appropriately.	Yes this solution is a justified, compliant and proportionate response

Where any suspected misuse comes to the attention of the Transporters, then the Transporter has the right to cancel provisions	Modification 0593 / 095 requirement	Risk associated to Individual, compliance, organisation/ corporate	Contractual arrangements will specify the right for termination of agreements with immediate effect. E.g. should it be found a consumer has not consented then a PCW is in breach of the contract terms and therefore the contract will be terminated and access will be seized. Reports detailing this information will be provided to DSC Contract committee as part of BAU compliance matters.	This risk is reduced as the contractual arrangements enables transporter-led termination of PCW API service with immediate effect	Yes this solution is a justified, compliant and proportionate response
What mechanism will the PCW's use and how will the Industry be sure (evidence) PCWs have the customer's consent to access what is personal data	British Gas	Risk associated to Individual, organisation/ corporate	Contractual arrangements will specify the (PCW) shall ensure that any Domestic Customer using their website has confirmed that their details are correct and that they give clear consent to the PCW to access the Domestic Customer's data. This will also be validated prior to PCWs accessing data. The API and telephone service will enable transactional level monitoring of data accessed by a PCW and PCWs will be required to hold the customer consent	This risk is reduced , as an API solution (and telephone service) can capture transactional level data to facilitate auditing requirements, furthermore there are requirements on the PCW to have an 'opt in' approach whereby a consumer can provide consent.	Yes this solution is a justified, compliant and proportionate response.

			which can be audited as part of the service.		
How will PCWs ensure the security of Industry data i.e. retention and deletion processes	British Gas	Risk associated to Individual, organisation/ corporate	Contractual arrangements will require PCWs to provide Xoserve access to such retention and deletion policies alongside any other information required to complete auditing requirements.	This risk is reduced as PCWs will be required to have retention and deletion policies in place, as well as appropriate accreditation (ISO27001) which will be checked by Xoserve. The contract will include provisions for Xoserve to check the PCW is acting in accordance with these policies as part of the audit.	Yes this solution is a justified, compliant and proportionate response

## PART FOUR

1. Who has approved the privacy risks involved in the project? What solutions need to be implemented?

Risk	Approved solution	Approved by
All of the risks highlighted are required to be mitigated as part of the project	All of the mitigating solutions are required to be implemented within the project	DSC Change Committee – will approve the document after consultation

## PART FIVE

1. **Who is responsible for integrating the PIA outcomes back into the project plan and updating any project management paperwork? Who is responsible for implementing the solutions that have been approved? Who is the contact for any privacy concerns which may arise in the future?**

Action to be taken	Date for completion of actions	Responsibility for action
The mitigating solutions are required to be implemented within the project plan for implementation	API development phase	Xoserve

## 2. **Contact point for future privacy concerns**

The DSC Contract Committee or the CDSP can be contacted to discuss current or future privacy risks.

## Appendix

### **1. Confidentiality Agreement**

*\*Emailed to DSC Contract Committee members*

### **2. Service Agreement**

*\*Emailed to DSC Contract Committee members*