

**Workstream Report**  
**Introduction of User Pays Governance Arrangements into the UNC**  
**Modification Reference Number 0213**  
Version 1.0

This Workstream Report is presented for the UNC Modification Panel's consideration. The Governance Workstream considers that the Proposal is sufficiently developed and should now proceed to the Consultation Phase. The Workstream also recommends that the Panel requests the preparation of legal text for this Modification Proposal.

## **1 The Modification Proposal**

As part of the recently completed Gas Distribution Price Control Review (GDPCR), a user pays approach has been introduced for the funding of some industry changes. Central to this new arrangement is the concept that xoserve's costs associated with the implementation of certain UNC Modification Proposals will be funded on a user pays basis. As noted by Ofgem in the GDPCR Final Conclusions document:

“For this revised funding arrangement to be effective in promoting the introduction of services between price control reviews, the parties need to be able to agree how much the service should cost, and who should bear the cost associated with the service. In particular, there need to be contractual arrangements to support these services.”

The purpose of this Modification Proposal is to introduce changes to the UNC Modification Rules to ensure that they reflect this revised approach and provide an appropriate governance framework under which Modification Proposals with a user pays element can be progressed. Business Rules have been provided as part of this proposal to indicate how the revised rules are to be applied.

The main proposed changes to the Modification Rules are that:

1. Modification Proposals would be required to state whether or not the Proposer believes the Modification should fall within the user pays framework with supporting arguments;
2. Modification Proposals would be required to state how any user pays element is to be funded with supporting arguments;
3. The Transporters would be required to produce supporting cost estimates and supporting User Pays charges where appropriate. To support this, the Gas Transporters will produce a document to provide guidance to the industry on the construction of a cost estimate. For clarity the production of this document does form part of this proposal and will be a UNC Related Document;
4. The Transporters would be required to ensure cost estimates are appropriately recorded in Modification Reports; and
5. A facility is introduced to seek a view from Ofgem as to whether or not a particular Modification Proposal falls wholly or partly within the user pays

framework.

It is proposed that these revised rules should apply to all Modification Proposals which are raised subsequent to the implementation of this Modification Proposal. Modification Proposals which have already been raised would not face any requirements over and above those of the existing Modification Rules.

### **Business Rules**

1. If implemented this Modification Proposal will apply to all Modification Proposals raised after the date of implementation, as identified in the implementation notice.
2. All Modification Proposals will indicate whether agency, analysis, investment and/or operational costs are to be funded on a user pays basis, along with supporting arguments detailed in an updated Modification Proposal Proforma.
3. Modification Proposals that fall within user pays will identify:
  - a. The proposed apportionment of analysis, investment and/or operational costs between Shippers and Gas Transporters along with the proposed split and supporting arguments i.e. all pay (GTs and Shippers), GTs only pay, Shippers only pay. Whilst this Modification Proposal does not stipulate the use of predefined cost apportionment splits, it is intended that, whilst not required by this Proposal, the Governance Workstream develop a guidance document to support the introduction of this Modification Proposal which will identify suggested cost apportionments to aid simplicity.
  - b. The proposed apportionment between Users of analysis, investment and/or operational costs along with supporting arguments – e.g. charge per transaction, charge per supply point, charge per AQ share, charge per meter read submitted, charge per LDZ offtake, charge in proportion to transportation charges.
  - c. The Proposed recovery period for any investment costs associated with the implementation of the Modification Proposal.
4. At any stage the Modification Panel will be able to ask Ofgem for a view on whether the proposed funding arrangements are appropriate. The Proposer may decide to amend the Proposal to reflect the Ofgem view, or others may raise alternative Proposals.
5. At any stage of development prior to consultation, the Modification Panel has the ability to instruct Transporters to provide a Rough Order of Magnitude (ROM) cost estimate, associated User Pays charge and a commentary for each relevant Proposal within a designated time.
6. The instruction to provide cost estimates would be automatically cancelled if the Modification Proposal is Withdrawn, amended by the

Proposer, or the Modification Panel rescind their instruction.

7. When the Modification Panel determines that a user pays Proposal should be issued for consultation, unless the Panel determined otherwise, Transporters will provide the best cost estimate possible in line with the UNC Panel's instructions and associated User Pays charge for the Panel's information and subsequent inclusion in the Draft Modification Report (DMR) within the time identified by the Panel.
8. When a cost estimate is submitted to the Panel as part of the DMR, the Panel may determine that a more robust cost estimate is needed. Transporters are then obliged to procure an estimate based on timescales determined by the Modification Panel.
9. At any stage of the process when developing the associated user pays charges as part of the cost estimate, these charges will reflect the effect of time elapsed between incurring the costs and recovering the revenue to ensure that the value of the recovered revenue is not eroded by the time that has elapsed since implementation of the new service. The basis of the calculation of this adjustment to the allowed revenue recovery shall be set out in the charging methodology contained within the Agency Charging Statement
10. At any stage of the process if a cost estimate cannot be provided within the time identified by the Panel, then the Transporters will provide:
  - a. A written explanation to the UNC Panel why they are unable to meet the timetable at the earliest opportunity and no later than 2 Business Days after the deadline identified by the UNC Panel
  - b. A list of the questions to be answered before the estimate could be provided, or which would need to be answered to narrow the range.
11. Ofgem may direct that a cost estimate be produced when the Panel has not done so.
12. FMRs and DMRs will contain the cost estimate produced at the latest stage in the Modification process.
13. The Agency Charging Statement would provide for costs as specified in the FMR of implemented Proposals to be reflected in user pays charges, including analysis costs taking into account the effect of time elapsed between incurring the costs and recovering the revenue to ensure that the value of the recovered revenue is not eroded by the time that has elapsed since implementation of the new service. The basis of the calculation of this adjustment to the allowed revenue recovery shall be set out in the charging methodology contained within the Agency Charging Statement.
14. For implemented modification proposals where investment costs are not recovered within the period identified within the modification proposal these costs will be recovered in line with the arrangements specified in the Agency Charging Statement.

15. For Shipper and Transporter raised user pays Proposals implemented by Ofgem the cost of providing a cost estimate will be recovered through the User Pays charges associated with the proposal.
16. For Shipper and Transporter raised user pays Proposals rejected by Ofgem, the analysis costs of providing a cost estimate incurred will be viewed as a cost of administering the network code.
17. For each user pays Proposal sent to Ofgem for decision, the Transporters will be required to propose a supporting Agency Charging Statement amendment reflective of the cost elements within the modification proposal – i.e. the charges to be applied were the Proposal to be implemented.
18. Ofgem direction to implement user pays Proposals will also be viewed as a decision not to veto the supporting Agency Charging Statement amendment unless stipulated in the decision letter.

### **Consequences of non-implementation**

If this Modification Proposal were not implemented, and the existing Modification Rules continued to apply, there would be no clarity about the way in which the user pays regime would be applied to proposed changes in service levels or to the introduction of new services. Ofgem has not provided funding for some industry changes which would lead to xoserve, as the Transporter Agency, incurring higher costs. Failure to implement this Modification Proposal may therefore be expected to act as a barrier to change.

## **2 Extent to which implementation of the proposed modification would better facilitate the relevant objectives**

The GT Licence specifies that “In relation to a proposed modification of the network code modification procedures, a reference to the relevant objectives is a reference to the requirements in paragraphs 9 and 12 of this condition (to the extent that those requirements do not conflict with the objectives set out in paragraph 1).”

Paragraph 9 specifies that the modification procedures should provide for, inter alia, (c) “the seeking of the views of the Authority on any matter connected with any such proposal” and, by specifying circumstances where a view may be sought from the authority regarding the user pays element of a Proposal, implementation of this Proposal would further the achievement of this.

Implementation would not conflict but rather facilitate achievement of the code relevant objectives, in particular:

**Standard Special Condition A11.1 (a): *the coordinated, efficient and economic operation of the pipe-line system to which this licence relates;***

Implementation would not conflict with this relevant objective.

**Standard Special Condition A11.1 (b):** *so far as is consistent with sub-paragraph (a), the (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters;*

Implementation would not be expected to better facilitate this relevant objective.

**Standard Special Condition A11.1 (c):** *so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence;*

Implementation of this Modification Proposal would provide an efficient governance process to support the application of the user pays approach to the provision of new services, or changes to existing services. The move to a user pays approach has been introduced as an outcome from the 2008-13 Gas Distribution Price Control Review (GDPCR) and is a requirement of Standard Special Condition A15 the text for which is available on Ofgem's website at:

[http://epr.ofgem.gov.uk/document\\_fetch.php?documentid=13629](http://epr.ofgem.gov.uk/document_fetch.php?documentid=13629).

Hence implementation of the Modification Proposal would be consistent with facilitating the achievement of this Relevant Objective.

**Standard Special Condition A11.1 (d):** *so far as is consistent with sub-paragraphs (a) to (c) the 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;*

Implementation would not be expected to better facilitate this relevant objective.

**Standard Special Condition A11.1 (e):** *so far as is consistent with sub-paragraphs (a) to (d), the provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards (within the meaning of paragraph 4 of standard condition 32A (Security of Supply – Domestic Customers) of the standard conditions of Gas Suppliers' licences) are satisfied as respects the availability of gas to their domestic customers;*

Implementation would not be expected to better facilitate this relevant objective.

**Standard Special Condition A11.1 (f):** *so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code.*

If this Modification Proposal were implemented, it would provide a clear governance route to be followed by proposed changes which fall within the user pays framework. By creating a clear governance route and ensuring necessary issues are addressed in the development and consideration of proposed changes, implementation of this Modification Proposal would be expected to facilitate the achievement of this

Relevant Objective.

**3 The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation**

No implications on security of supply, operation of the Total System or industry fragmentation have been identified.

**4 The implications for Transporters and each Transporter of implementing the Modification Proposal, including:**

**a) implications for operation of the System:**

No implications for operation of the system have been identified.

**b) development and capital cost and operating cost implications:**

Some costs would be anticipated in implementing and administering a framework for user pays processes.

**c) extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:**

No proposal has been made for the recovery of the costs associated with implementing and administering a framework for user pays processes.

**d) Analysis of the consequences (if any) this proposal would have on price regulation:**

No such consequences are anticipated.

**5 The consequence of implementing the Modification Proposal on the level of contractual risk of each Transporter under the Code as modified by the Modification Proposal**

Implementation would be expected to facilitate definition and fair apportionment of costs associated with future Modification Proposals. This would reduce the contractual risk of Transporters under the Code.

**6 The high level indication of the areas of the UK Link System likely to be affected, together with the development implications and other implications for the UK Link Systems and related computer systems of each Transporter and Users**

No changes to UK Link Systems are anticipated.

**7 The implications of implementing the Modification Proposal for Users,**

**including administrative and operational costs and level of contractual risk**

***Administrative and operational implications (including impact upon manual processes and procedures)***

It is anticipated that Users would wish to adjust their administrative and operational processes (e.g. invoice checking processes) to reflect any user pay impacts arising from Modification Proposals raised subsequent to the implementation of this Proposal.

***Development and capital cost and operating cost implications***

Implementation and ongoing costs associated with administrative and operational processes would be anticipated.

***Consequence for the level of contractual risk of Users***

Implementation would be expected to facilitate definition and fair apportionment of costs associated with future Modification Proposals. This would reduce the contractual risks of Users under the Code.

**8 The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party**

No such implications have been identified.

**9 Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each User and Non Code Party of implementing the Modification Proposal**

No such consequences have been identified.

**10 Analysis of any advantages or disadvantages of implementation of the Modification Proposal**

**Advantages**

Would create a clear governance framework for cost apportionment

**Disadvantages**

Would increase complexity and consequently may slow down the Modification Process.

**11 Summary of representations received (to the extent that the import of those representations are not reflected elsewhere in the Workstream Report)**

No written representations have been received.

**12 The extent to which the implementation is required to enable each Transporter to facilitate compliance with safety or other legislation**

No such requirement has been identified.

**13 The extent to which the implementation is required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence**

No such requirement has been identified.

**14 Programme for works required as a consequence of implementing the Modification Proposal**

No specific programme for works has been identified.

**15 Proposed implementation timetable (including timetable for any necessary information systems changes)**

Implementation could immediately follow a direction to implement this Proposal provided that the Gas Transporters had developed a Guidance Document.

**16 Implications of implementing this Modification Proposal upon existing Code Standards of Service**

No implications of implementing this Modification Proposal upon existing Code Standards of Service have been identified.

**17. Workstream recommendation regarding implementation of this Modification Proposal**

The Governance Workstream considers that the Proposal is sufficiently developed and should now proceed to the Consultation Phase. The Workstream also recommends that the Panel requests the preparation of legal text for this Modification Proposal.