

UNC Workgroup 0841 Minutes
Introduction of cost efficiency and transparency requirements for the
CDSP Budget
Tuesday 19 September 2023
via Microsoft Teams

Attendees		
Kate Elleman (Chair)	(KE)	Joint Office
Ben Mulcahy (Secretary)	(BM)	Joint Office
Oorlagh Chapman (Proposer)	(OC)	Centrica
Andy Clasper	(AC)	Cadent
David Mitchell	(DM)	SGN
Ellie Rogers	(ER)	Xoserve (CDSP)
Gregory Edwards	(GE)	Centrica
Jayne McGlone	(JMc)	Xoserve (CDSP)
Kirsty Ingham	(KI)	Centrica
Mark Cockayne	(MC)	Northern Gas Networks
Sally Hardman	(SHa)	SGN
Steve Mulinganie	(SM)	SEFE
Stephen Huang	(Shu)	Castleton Commodities UK Ltd
Tracey Saunders	(TS)	Northern Gas Networks
<p><i>This Workgroup meeting will be considered quorate provided at least two Transporter and two Shipper User representatives are present.</i></p> <p><i>The Workgroup Report is due to be presented at the UNC Modification Panel by 16 November 2023.</i></p> <p><i>Please note these minutes do not replicate/include detailed content provided within the presentation slides, therefore it is recommended that the published presentation material is reviewed in conjunction with these minutes. Copies of all papers are available at: https://www.gasgovernance.co.uk/0841/190923</i></p>		

1.0 Introduction and Status Review

Kate Elleman (KE) welcomed everyone to the meeting.

1.1. Approval of minutes (22 August 2023)

The minutes from 22 August 2023 were reviewed by the Workgroup, during which Kirsty Ingham (KI) requested some amendments be made to correctly reflect the term “*Business Plan Information Rules*”.

There were no objections from the Workgroup and the Chair agreed to make these amendments and republish the minutes which were approved on this basis.

1.2. Approval of Late Papers

No late papers were submitted to the Joint Office for this meeting.

1.3. Review of Outstanding Actions

0801: Xoserve/CDSP (JR) to review the ROM and provide an update at the next meeting.

Jayne McGlone (JMc) advised that an updated ROM had not been produced by the CDSP as they had perceived that the Modification’s requirements were not yet sufficiently specific and without a full RFQ, which they felt was currently inappropriate, required more detail before a

revised ROM could be produced. On this basis the CDSP suggested that the current ROM was still currently applicable, adding that they had performed an initial audit assessment of the current model and a review of the costs in the plan, producing a revised cost figure of approximately £100k.

The CDSP added that this had been produced on the basis of excluding the current Business Plan from the Audit, as had been discussed at DSC Contract Management Committee and perhaps introduced an opportunity to review this, in line with the Business Plan 2023/2024 and using the current resourcing already allocated to this work. The CDSP advised that this possibility would need to be further assessed internally and if they were to ask KPMG to undertake the work it would need approval.

When asked by the Chair if this would be an external audit, the CDSP advised that such work was not always external and that they have an internal audit team that agrees to an audit plan each year with the Audit and Risk Committee (ARC). Further facilities existed via KPMG but would require ARC approval. When asked about ARC membership, JMc advised she understood it to be a subset of the Xoserve Board.

Oorlagh Chapman (OC) acknowledged that this was to be discussed in DSC Contract Management Committee on 20 September, which the CDSP confirmed that the CDSP Representative managing the consideration had shared a statement overview and would be providing an update at the 20 September meeting.

The Chair summarised the CDSP response to the Action was an initial costing of £100k based on a light touch review of the process and a commitment to review what capacity existed in the current audit plan, which the CDSP confirmed.

Mark Cockayne (MC) asked if a hybrid approach was possible, where an internal audit team would undertake an initial review, which would then be reviewed by KPMG, thus benefiting from the inclusion of a level of independence. JMc acknowledged this approach was possible, adding that the CDSP was looking to audit BP23/24 irrespective of Modification 0841 - *Introduction of cost efficiency and transparency requirements for the CDSP Budget*, and if it was agreed to be reasonable to add the BP to the cycle of audits, they could look to use KPMG. They also highlighted to Parties that their own internal auditors were required to compile with the professional standards that all auditors and accountants are obligated to adhere to.

Steve Mulinganie (SM) noted that it had been previously clarified that the assurance activity was to procure a third party to check that the Business Plan requirements have been met and the budget was suitable based on the Business Plan. The CDSP advised that this was a separate consideration to the internal audit and that any procurement activity would commence after the Modification's scope was finalised and Authority Direction confirmed, thereby ensuring criteria were fixed and any reputational risk generated by changing parameters was minimised.

The expressed intention not to go to market ahead of authority direction was questioned, and SM stated that the industry was practised with progressing activity at risk with an awareness of potential regret expenditure, adding it seemed reasonable to go to tender with an expressed pre-condition of dependence upon authority approval, and he suggested that using such an approach addressed concerns of reputational risk.

The CDSP noted that the specifications of procurement tenders historically have been typically agreed upon by the DSC Change Management Committee and usually included the instruction to await any Authority Decision, though recognised the option to commence earlier is available. They observed that the cost given for this Modification was more specific than the usual price ranges provided, though it was still a Rough Order of Magnitude and subject to market testing when procurement did commence.

The Chair asked the CDSP if the £100k cost figure would be included in the revised ROM, adding that it would be worth understanding if any more detail would come out in the Modification to enable the CDSP to produce a new version of the ROM.

SM stated that to his mind the requirements were clear and was mindful of a timing issue, noting that if the procurement was delayed to being commenced post-decision, it would mean eight to ten months added to the process and potentially missing the next cycle. KI agreed, adding that they were indeed looking at this audit being conducted at the end of the next Business Planning cycle, citing around March to include the Business Plan in the scope of the Modification, giving 9 months for Procurement if KPMG couldn't be included in the scope.

Oorlagh Chapman (OC) as Proposer, shared that her expectation was to see a new ROM in this meeting, and the Action on the CDSP had been to provide this. The CDSP recognised this had been misunderstood, sharing that activities had been performed by CDSP staff stepping in to assist due to unexpected absences. Oorlagh appreciated this and stated that all the information that could be required for the production of a new ROM had been provided in the last meeting's minutes and accordingly requested that a new ROM be provided to the Joint Office to be published next week (W/c 25 September).

The Chair noted the CDSP's agreement to this requirement, confirming that an updated ROM was expected in the next week, reiterating that no further details were thought necessary to produce the ROM and if any questions did arise, suggesting the CDSP reach out to the Proposer as necessary. It was confirmed that once the Joint Office received the new ROM it would be published.

Update: New Action 0901.

New Action 0901: CDSP (ER/JMc) to provide a revised ROM W/c 25 September

2.0 Updated ROM

ROM provision was discussed in detail under item 1.3 Review of Outstanding Actions above.

3.0 Business Rules and Legal Text Update

The Proposer advised that a draft of the Legal Text had been shared with her, though it was not yet ready for publishing, noting that it was two pages in length and that she expected fully formed Legal Text to be available at the next Workgroup.

Andy Clasper (AC) confirmed that an initial draft had been produced that included some questions, and that answers had been provided by the Proposer and Cadent and these had been sent back to the Lawyers for consideration.

The Chair asked the Workgroup if it was perceived that the Business Rules (BRs) were finalised so that Legal Text could be formally requested.

Tracey Saunders (TS) shared that reading through the Modification and the Business Plan Information Rules had generated a few questions and/or suggestions she wished to share with the Workgroup and acknowledged that the decision to make any subsequent changes to the Modification sat with the Proposer. These questions and suggestions were reviewed, commencing with the Business Plan Information Rules. She advised that she agreed that the Modification adds transparency but suggested that the current wording of the CDSP using 'its best endeavours to ensure transparency' under the Transparency heading on Page A be replaced with a more considered 'reasonable endeavours to demonstrate transparency'.

On Page B she suggested that the statement 'For the avoidance of doubt, the CDSP *shall* share the full and unredacted versions of the above items, excluding feedback received in confidence, with the Committee.' be amended to '*...may share...*' to make allowances for conflicts with other

contracts that the CDSP may hold that prohibit such sharing and enabling the exclusion of information by exception, in preference to the current absolute statement.

Workgroup members noted that exclusions for reasons of confidentiality were already permitted earlier in the same clause and that such redactions necessitated the details provided in the bullet points provided, which the Proposer confirmed, adding that the full and unredacted versions would only be shared with the DSC Contract Management Committee.

TS stated that, as the DSC Contract Management Committee was not an agent of the CDSP, anything that could not be shared beyond the CDSP would include prohibiting sharing with the DSC Contract Management Committee, recognising other wording suggestions of 'where possible' or 'where permitted' could be used to avoid a potential governance issue which could see the CDSP in conflict, noting that there could also be challenges in regards to the Gemini Contract. SM observed that the CDSP had already agreed to share the details of the Correla contract with the DSC Contract Management Committee and suggested that such alterations to the Modification would weaken it.

The Chair commented that there were notifications throughout the UNC stating that no party should be required to break the law, and asked if there were sufficient overarching caveats of this nature to address the concerns expressed. TS commented that the UNC was technically a contract itself, making the hierarchy between it and other contracts the CDSP held unclear.

SM shared a view that such limitations were normally comparable to information that would not be shared in a court of law, adding that this was the measure used in the information requested by Ofgem. He added that weakening the wording would enable a party who had the benefit of the altered clause to then add permission clauses to all their existing contracts to facilitate using the now altered clause to their advantage. He emphasised that the purpose of this Modification was openness and transparency. TS made the distinction that Ofgem is the licence provider, adding that the current wording of 'shall' could present the CDSP with no option other than to breach a contract.

The CDSP commented that the Correla contract was their main contract and they were sharing a minimally redacted copy of that as part of their desire to be as transparent as they can possibly be, adding that the proposed change of text would protect all DSC parties as they share liability should a breach occur.

The Workgroup discussed the suggestion that the lawyers be approached to ask if a provision of this nature was unusual in these terms, as it was being implied that it was an unenforceable requirement. The Chair asked if it would be reasonable to ask the lawyers for a view, which the Legal Text provider noted would be providing legal guidance on a subsidiary document, which is not something the lawyers usually do when preparing Legal Text. There was a subsequent suggestion that there was probably a provision in the UNC for subsidiary documents.

TS moved on to question the section on Outputs at the bottom of Page C, and specifically, the last sentence states that *the proposed commitments (outcomes and outputs) must be appropriate, well-evidenced and reflect continuous improvement...* suggesting that this be altered to include the maintenance of existing KPIs rather than the reference to continuous improvement, as the current drafting did not allow for measures that exceeded all targets and had reached 'perfection' which could not reasonably be expected to further improve. Mark Cockayne (MC) added that the issue of diminishing returns should also be considered, as it frequently proved that improving on already high-performing measures was not economically efficient.

KI commented that 'continuous improvement' was a recognised business term that reflected a range of processes, suggesting that a company returning perfect 100% measures was not something that occurred. SM agreed, noting that his organisation generally added continuous improvement terms to their contracts as a principle and a well-understood term, and he had never seen it applied in a limited manner, believing it to be part and parcel of normal business.

Gregory Edwards (GE) explained that the rules in the document had been set up in a manner that was perceived as they should stipulate but allowances existed for the CDSP to explain

where they cannot meet these requirements, and as such he felt there was no need for the rules to be watered down.

TS moved on to the list of bullet points that came under '*In the draft and final versions of the CDSP Budget the CDSP shall clearly justify the need for each proposed Investment.*' on page D she suggested that the bullet point asking for the '*the consequences to Customers, consumers and the CDSP*' could have the word '*potential*' inserted before '*consequences*'.

Also, at the top of Page E where the paragraph starts '*Each investment proposal paragraph states each cost-benefit analysis (CBA)*' a list of bullet points provides details that the CDSP must include, which TS suggested should recognise that not all details may be known at the time of publication, which the text should make allowances for. KI cited this as an example of GE's earlier commentary that a facility exists for the CDSP to explain what they cannot share, and that it would be expected that the CDSP would bring such issues forward for discussion.

When commentary was made that the document appeared to be stipulating requirements that are then negated in the Legal Text, KI explained that the aim was the opposite in that the two go in tangent with the Business Plan Information Rules Document stating the requirements and the Legal Text detailing the permitted responses.

TS subsequently moved to Page F and the Third-party assurance activities, noting that it appeared to require a third-party full audit every year and suggested instead that it specify that such audits be performed on requests issued by the DSC Contract Management Committee.

KI confirmed the intent was for an audit every year though not an extensive and expensive affair, but to ensure efficiency and robustness as standard practice. She added that if this demonstrates, after a period, that the Business Plan Information Rules is accurately meeting requirements then the facility exists to allow the rules to be changed.

TS questioned prescriptively adding such high costs every year rather than being able to focus on specific areas of concern, which the DSC Contract Management Committee could discuss and assess best approaches on. She questioned why the plan was full of absolutes and as such impacted the role of the DSC Contract Management Committee which already sought to ensure everything was done appropriately and was effectively an independent third party with oversight already in place. GE commented that where monopoly providers exist separate third parties are often used, adding that it was important to bear in mind that the assurance was about the product or output, namely the Business Plan, and not the processes.

KI added that whilst the DSC Contract Management Committee was involved and holds discussions with the CDSP as to whether the plan rules are followed its members are not accredited auditors and would approach matters with views from their own business perspectives.

TS asked what other monopolies the Proposer was referring to, stating that the named parties were so much bigger than the CDSP and expressed reservations about the additional cost to deliver potentially the same service. GE acknowledged that comparable monopoly organisations had been cited throughout the development of the Modification, adding that Xoserve was not at the bottom of the scale, and larger than other organisations such as RECCo.

TS also highlighted the consideration of licencing requirements, which GE responded to stating that the key consideration behind the Modification was not so much whether the CDSP is a licenced entity but whether it is a monopoly service provider.

TS added that she agreed with most of the elements within the Modification and that her questions were about considering potential challenges and calling out issues that concerned her. She asked if the discussions would be picked up by the Legal Text provider. When AC confirmed the intent to look at the Business Rules as the sole source of Legal Text TS shared that in the development of Modification 0800 - *Introducing the concept of a derogation framework into Uniform Network Code* the lawyers had reviewed the Guidance Document to ensure it and the Legal Text worked together and had a clear hierarchy, which was an approach she thought this Modification would similarly benefit from.

TS raised questions on the Modification's Business Rules, firstly asking if the repeated written requirement of the CDSP's costs be 'economic and efficient' should be revised to present the objective as a review to minimise costs without impacting services. The Chair advised that the Workgroup had discussed this phraseology in previous meetings where it had been agreed to be appropriate as a well-used phrase and the Proposer confirmed that they were happy with the term.

TS suggested that under BR4 the third bullet point should specify that '*reasonable endeavours*' should be undertaken to meet the minimum requirements, rather than the current absolute '*Shall*' though she recognised that this may also be addressed in the Legal Text. She also noted that BR5 states that the DSC Contract Management Committee may approve a proposed amendment, whilst later direction is given that the amendment would go to the UNCC, and thus suggested that the text be changed to reflect the DSC Change Management Committee could recommend an amendment to the UNCC. KI acknowledged this, noting the explanatory note provided below the BR that shared that this was already with the Lawyers to clarify in the Legal Text.

TS noted that BR6 stipulates an annual process in which the CDSP agrees to the minimum level of detail requirements with the DSC Contract Management Committee. She advised that clause A15 3C of the Transporters License requires that the CDSP will take into consideration views from Shippers, noting that if a level of detail is preset upfront then the CDSP would be unable to take on board the view of Shippers, as the Transporters Licence requires. Accordingly, she suggested adding '*in addition to existing processes*' to provide the CDSP the ability to flex with consultation feedback.

GE suggested that the BR did not conflict with the obligations that flow down from Licences to the UNC as this was a requirement of a statement of planning principles, with nothing stopping the CDSP from responding to the DSC Contract Management Committee and Customers. He also stated that it was important not to lose sight of the Business Rule purposes, in that BR6 sets the minimum granularity requirements, adding that the CDSP could provide more detail as they saw fit. TS suggested this could result in too much information with parties overwhelmed with details that may hinder their ability to actively respond. GE suggested that the CDSP could use an Executive Summary and Backing Data structure to prevent this. TS commented that she still felt there was a conflict with Transporter Licences and would look to raise that as an issue in the subsequent consultation.

TS observed that the Modification later discusses amending the Budget and Charging methodology, and raised a concern that whilst giving the DSC Contract Management Committee the opportunity to consider this it would not be ideal to risk delays in the process due to, for example, non-quorate meetings and other, more unexpected challenges, mentioning the Covid Pandemic as an example. TS suggested it might be better to simply give an opportunity to the DSC Change Management Committee to consider them, rather than make it an obligatory requirement.

TS then advised the Workgroup that she intended to raise an Alternative Modification to address the key points she had put forward in this meeting.

SM recognised the right to raise an Alternative, expressing reservations that he did not wish to see the intent of the Modification weakened around what may be perceived as areas of conflicts and inefficiencies and noted the last comment regarding the DSC Contract Management Committee was interesting in that was made up of many of the parties in the Workgroup and that creating a roadblock was perhaps not helpful.

OC advised that she believed many of the issues touched upon in this discussion were addressed through the Legal Text, and that it was unfortunate that this could not yet be shared with the Workgroup.

TS remarked that she did not think the Legal Text would address the Licence conflict issue and that she still did not agree with the external third party audit requirements. She was conscious she was raising an Alternative late in the Modification's development and as such was not looking to touch elements of the Modification such as the preamble and would just alter those

parts she wished to change. This would also mean changes to the Legal Text would be targeted and specific with most of the text remaining as is, meaning less drafting for the lawyers. She observed that the next Modification Panel was not until October and asked if the Workgroup would be happy to discuss her Alternative at the next meeting and wanted to assure parties that she was not looking to delay the Modification.

The Chair confirmed that as soon as the Alternative Modification is submitted to the Joint Office it would be discussed at the next Workgroup meeting on 10 October as a pre-Modification. She then asked the Legal Text provider if there was anything else that required discussion.

AC commented that the current version of the Legal Text was a reasonable draft and was back with the Lawyers with Proposer feedback ready for a new version. He shared that there were some challenges around the Lawyer and his own calendar availability in the next period, so the Legal Text may prove a late paper in the next Workgroup.

4.0 Development of Workgroup Report

The Chair shared a view of commentary added to the Workgroup Report summarising developments in the August Workgroup and asked for any commentary. GE suggested that discussions had included what could be done within the current year to which SM added that whilst not directly in reference to the Modification it was probably helpful to keep reference to the 2024/2025 discussion summarises to provide the Modification Panel with an understanding of what the Workgroup discussed.

The Chair commented that it was advisable to await the Legal Text before considering if the Business Rules were sufficient.

5.0 Consideration of Implementation and the need for Transitional Text

This will be discussed in the October Workgroup.

6.0 Any Other Business

No other business was raised for the 0841 Workgroup.

7.0 Diary Planning

Further details of planned meetings are available at: www.gasgovernance.co.uk/events-calendar/month

Workgroup meetings will take place as follows:

Time / Date	Paper Publication Deadline	Venue	Workgroup Programme
10:00 Tuesday 10 October 2023	5 pm Tuesday 02 October 2023	Microsoft Teams	<ul style="list-style-type: none"> Consider Alternative Pre-Modification Review of new ROM Review of Legal Text Consideration of Implementation and the Transitional Text Development/Completion of Workgroup Report
10:00 Monday 06 November 2023	5 pm Tuesday 27 October 2023	Microsoft Teams	Contingency meeting if required

0841 Action Table						
Action Ref	Meeting Date	Minute Ref	Action	Reporting Month	Owner	Status Update
0801	22/08/23	3.0	Xoserve/CDSP (JR) to review the ROM and provide an update at the next meeting	September 2023	Xoserve/CDSP (JR)	Closed
0901	19/09/23	1.0	CDSP (ER/JMc) to provide a revised ROM W/c 25 September	October 2023	CDSP (ER/JMc)	Pending