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Network Price Controls
Ofgem
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Canary Wharf
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RIIO2@ofgem.gov.uk

Non-confidential

Dear Sir/Madam,

RIIO-2 Draft Determinations – Electricity Transmission

Drax Group plc (Drax) owns and operates a portfolio of flexible, low carbon and renewable electricity generation assets – providing enough power for the equivalent of more than 8.3 million homes across the UK. The assets include Drax Power Station, based at Selby, North Yorkshire, which is the country's single largest source of renewable electricity. Drax also owns two retail businesses, Haven Power and Opus Energy, which together supply renewable electricity and gas to over 390,000 business premises.

We support Ofgem's aim that the RIIO-2 price controls ensure energy consumers get better value, better quality of service and environmentally sustainable outcomes. To that end, it is essential that the RIIO-2 determinations do not act as a barrier to the much-needed investment in power generation or the electrification of heat and transport required to achieve Net Zero ambitions. Moreover, the RIIO-2 price controls must ensure the network companies are adequately funded to invest in their networks to maintain a proper level of resilience and security of supply.

We're unable to comment on the general suitability of the proposals due to the information asymmetry around network assets and operations. However, we are concerned about Ofgem's draft determination to further consider proposals for three Synchronous Compensators (£155m total cost) under Scottish Power Transmission's (SPT's) Medium Sized Investment Projects (MSIP) Re-opener. The participation of network monopolies in competitive markets – in this case the ancillary services market - allows network companies to leverage their unique position and compete using regulated network assets; this drastically departs from the level playing field of undistorted competition.

Transmission Owners (TOs) have exclusive or privileged access to information about electricity networks that gives them an unfair advantage in stability services provision, including forecasting and planning data, network maintenance data, as well as real-time visibility of network conditions (e.g. granular data on network constraints). TOs also have access to commercially sensitive information about the performance, the properties and the capabilities of all the assets connected to their respective networks, that would give them an unfair advantage.

Moreover, if TOs are allowed to compete with market participants in the provision of stability services to the ESO, there is a high risk of conflicts of interest and potential discriminatory practices, for example, in relation to the connection of competing assets to the transmission network. We note that effective competition is not only threatened where there is evidence of past anti-competitive conduct, or evidence that there 'will' be anti-competitive conduct in future. It is well established that even the *risk of anti-competitive conduct is sufficient* to raise investment risk and deter new market entry. Indeed, this is precisely why the EU regime, and the UK legislative framework, require the regulated activities of network companies to be ring-fenced.

Ofgem's principal statutory duty is to protect the interests of current and future consumers. It must do so where appropriate by promoting effective competition. Accordingly, unless there is compelling reason to do otherwise, Ofgem's primary duty of protecting consumers should be met through the promotion of competition. However, as explained above, allowing network monopolies to participate in competitive markets would be distortive and thus detrimental to competition. Moreover, there is no evidence that competition in the provision of stability services to the ESO is currently or expected to be ineffective.

Under Section 5A of the Utilities Act 2000, Ofgem has a duty to carry out an impact assessment where Ofgem considers a proposal to be 'important'. Allowing TOs to compete in ancillary services markets is unprecedented and there can be no question that this proposal is important given the potential consequences for all providers of balancing services, the wider wholesale electricity market and ultimately for consumers. Ofgem's impact assessment supporting its RIIO-2 Draft Determinations, does not consider the impacts of this specific proposal from SPT in any depth. An impact assessment is vital, not just for Ofgem to fulfil its statutory duties, but also to ensure a fair procedure, with stakeholders able to understand how Ofgem has quantified various risks and impacts. Without further assessment, it is impossible to conclude that allowing SPT to develop synchronous compensators is compatible with Ofgem's principal statutory duty to protect the interests of current and future consumers.

We note that in its Draft Determination Ofgem recognises that "*network company's participation in areas <u>outside its licence</u> can in some cases cause distortions in markets*". We believe that the development of synchronous compensators by the TOs would be outside the scope of their licence. We would also highlight that Article 54 of the recast Electricity Directive (EU) 2019/944 introduces strict conditions around TOs' ability to develop, own, manage or operate storage facilities, such as synchronous compensators. We do not believe the conditions set out in Article 54 are met in GB.

We do recognise that SPT intends to develop these projects only if the market fails to deliver the necessary solutions in a timely and economic fashion. However, it is often the case that the ESO's requirements for a specific service are not met by the market through a single tender. There are various reasons why that can and does happen unrelated to the effectiveness of the market (e.g. tender design, lead time, contract length, payment structure, penalty design, unclear technical requirements, etc.). As such, if the ESO's requirements are only partially met through an open tender (e.g. Stability Pathfinder Phase 2), this should not be interpreted as a market failure which would otherwise justify the participation of network companies in the stability services market.

Yours faithfully,

Submitted via email

Matt Young

Group Head of Regulation
Drax Group plc.