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Emailed to css@ofgem.gov.uk

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Dear Andrew,

Reviewing the Consolidated Segmental Statement (CSS) – Ofgem’s initial proposals

Drax Group plc (Drax) owns two retail businesses, Drax Energy Solutions (formerly trading as Haven Power) and Opus Energy, which together supply renewable electricity and gas to over 220,000 business premises. Drax also owns and operates a portfolio of renewable electricity generation assets across the UK – providing enough power for the equivalent of more than 8 million homes. Drax also conducts activities in the UK that are unregulated by Ofgem - focused on Energy Services and Electric Vehicle ChargePoint installations - and activities outside of the UK, predominantly in North America - focused on biomass pellet production and sales. This response is on behalf of the whole Drax Group and is non-confidential.

We agree that it is important Ofgem monitors suppliers’ and generators’ financial resilience so that it can fulfil its statutory duties. We also agree that a degree of transparency around suppliers’ revenues, costs and profitability is helpful for legitimacy. However, those two aims can be best achieved by different targeted means. We therefore support the intent of requiring more licensees to submit an annual CSS but see no need or justification for the reporting and publication of “Other Activities”, or indeed generation activities.

The regulatory framework has moved on since Ofgem last reviewed the CSS with suppliers and generators now subject to vastly increased financial reporting and monitoring. Suppliers are also obligated to retain sufficient capital and liquidity to meet ongoing liabilities and obliged to give Ofgem early warnings of any financial issues. We therefore see no evidence to justify the use of the CSS in further monitoring financial resilience.

Moreover, the energy market has changed considerably since the inception of the CSS with vertical integration now being far less prevalent. We therefore see no justification for the publication of revenues, costs and profits pertaining to either generation activities or “Other Activities”, simply because they are activities conducted as part of wider commercial activities of corporate entities that hold a GB energy supply licence. Such a requirement is particularly inappropriate when those affiliated activities operate in competitive markets against competitors who are not subject to the same level of cost or resource burden, and who are not mandated to publish commercially confidential information. This is particularly important in relation to “Other Activities” but is equally applicable to generation activities given licensed generators who do not also hold a supply licence are not obliged to publish such information.

Finally, the proposal not to include a Transition Period is unreasonable given the cost and resource burden it would otherwise alleviate, and no justification has been given for the need to expedite the



implementation of these new requirements – indeed the low priority Ofgem has itself given to the proposals to expanding the scope of the CSS, given its last consultation on the topic was over two years ago, indicates there is little justification.

The appendix to this letter provides our responses to the individual consultation questions. We would welcome the opportunity to discuss our views expressed in this response with you.

Yours sincerely,

Matt Young

Group Head of Regulation

Appendix – Detailed responses to consultation questions

Q1. What are your views on proposal to expand the market coverage of the CSS?

We agree that it is important Ofgem monitors suppliers' financial resilience so that it can fulfil its statutory duties. We also agree that a degree of transparency around suppliers' revenues, costs and profitability is helpful for legitimacy. We therefore support the proposal to include more suppliers within the scope of the CSS.

Q2. Do you have any other thoughts on the CSS?

We see no evidence to justify the use (or value) of the CSS in further monitoring financial resilience. The regulatory framework has moved on since Ofgem last reviewed the CSS with suppliers and generators now subject to vastly increased financial reporting and monitoring. Suppliers are also obligated to retain sufficient capital and liquidity to meet ongoing liabilities and obliged to give Ofgem early warnings of any financial issues. If Ofgem deem further information regarding financial resilience is necessary for it to fulfil its statutory duties then we believe it would be far more appropriate and efficient to request that as part of its regular reporting requirements, and for that information to be treated as confidential.

While we agree that a degree of transparency around suppliers' revenues, costs and profitability is helpful for legitimacy, the energy market has changed considerably since the inception of the CSS with vertical integration now being far less prevalent and there being no evidence of vertical integration being a regulatory or competition concern. We therefore see no justification for the publication of revenues, costs and profits pertaining to either generation activities or "Other Activities".

Q3. Do you agree with our consideration that the current proposal will not impose significant costs upon newly obligated suppliers? If you consider otherwise, then please let us know and provide any supporting evidence.

We do not agree. We estimate that requiring newly obligated suppliers to provide a first CSS by the end of April 2024 would require at least one additional FTE, at a cost upwards of £100,000, as we would need to expedite our reporting schedule and construct a new CSS report that diverges from our standard financial reporting.

A Transition Period in the first year would allow suppliers to set up and map initial processes to produce a robust CSS, materially reducing our initial implementation costs and the unexpected resource burden, as we could accommodate the requirement into our current reporting schedule and remove the need to add additional resource.

Q4. What are your thoughts on our proposal to publish a list of obligated suppliers to our website in December each year?

We have no concerns with this proposal.

Q5. Do you agree with our proposal to remove the requirement for suppliers to be vertically integrated suppliers to submit a CSS?

Yes, we agree – the energy market has changed considerably since the inception of the CSS with vertical integration now being far less prevalent and no evidence to suggest it is any longer a regulatory or competition concern. Therefore, the primary objective of publishing the CSS should now be to promote financial transparency and legitimacy of suppliers, in which case more suppliers should be required to report and publish CSS. However, given that objective, we see no reason why generation and “other” activities should be reported in the CSS when generators and competitors in other markets without an associated supply licence are not captured by the same requirements. Such an asymmetric approach to mandating the publication of commercially confidential information is wholly inappropriate, unwarranted and risks distorting competition.

Q6. Do you agree with the proposal to lower thresholds for the domestic and non-domestic market?

Yes – refer to our answer to question 1.

Q7. What are your views on our proposal not to request additional financial information?

We’re pleased that Ofgem has reflected earlier industry feedback and has decided to remove the previously proposed “additional financial information” and granular segmentation (i.e. data split by customer type and tariff) as it avoids us from needing to attempt costly and burdensome system and process changes.

Q8. What are your thoughts on our proposal to include an additional column for reporting ‘other’ activities separate to the supply or generation business?

We strongly dispute the need and relevance of suppliers reporting “Other Activities”, as it risks distorting the market if competitors in other markets are not obliged to publish the same commercially confidential information.

If suppliers can utilise economies-of-scope to earn profits beyond supply licensed activities, which in turn fosters their interest and appetite for continued participation in the retail market, then Ofgem should be encouraging this, especially where those affiliated activities accelerate decarbonisation of the energy system (e.g. through the provision of energy services or Electric Vehicle Charge Points). It is unfair and irrational to require companies to publish commercially confidential information pertaining to their performance and investments in areas outside of the licensed supply market to the sole benefit of its competitors.

Should Ofgem proceed with this proposal, Ofgem should not publish nor require suppliers to publish commercially sensitive information in the public domain. If there is a need for Ofgem to share information publicly, we are not averse to Ofgem publishing an anonymised and aggregated report that doesn’t enable individual suppliers or their parent company to be identified.

Q9. What are your thoughts on our proposal not to include a transition period for the first year of reporting now that the additional financial information and the audit requirement have been removed?

It would be extremely difficult for newly obligated suppliers to submit a timely and accurate first CSS under Ofgem’s proposed timeline. With licence modifications not due to take effect until March 2024, suppliers would only have a maximum of two months to submit a CSS that reflects



2023 activities. This feels unnecessarily rushed and risks Ofgem receiving a materially lower quality of information by forcing suppliers to look retrospectively and make arbitrary apportionments during a busy period where the statutory accounts typically absorb the full time and focus of our finance teams.

Good regulatory practice would be to afford suppliers sufficient time to plan and begin capturing information to a newly mandated level of detail and to then reconcile and verify that information through an audited process. Our clear preference would be to align the ongoing CSS reporting date with the date by which all suppliers are required to file and make public their statutory accounts (or those of its parent company), i.e. nine months after the end of their financial year. This approach would allow all suppliers to robustly reconcile their CSS submissions back to their published statutory accounts at an entity level. An additional benefit of this approach is that the source information used for each CSS will have been audited in a majority of cases (where the supplier is required to have their statutory accounts audited) and would give Ofgem confidence that the information is robust, comparable, and prepared in accordance with the requirements and guidance.

If nine months is not acceptable on an enduring basis - because it is deemed time critical for Ofgem to receive a completed CSS over and above the other financial information it has separately reported by licensees - then we believe newly obligated suppliers should be afforded at least nine months in the first year, given the need to set up and map initial processes to produce a robust CSS.

Q10. Do you agree with our proposal to remove the audit requirement and instead propose the CSS must reconcile back to statutory accounts?

In principle, we support this proposal on the basis that suppliers will be required to reconcile their CSS to their audited annual financial statements. However, where those statutory reports are not required to be finalised until 5 months after the proposed 4-month reporting deadline for the CSS, then this makes robust reconciliation impracticable and creates an inherent and material risk of mismatch. That risk could only be mitigated by mandated parties accelerating their statutory reporting and associated auditing, which would incrementally increase the cost and resource burden and would be a direct consequence of the proposed reporting timeline.

Q11. Do you agree with the proposal that Ofgem retains the right to request an audit where there may be cause for concern?

Yes, we agree.