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Non-confidential

Dear Connections team,

Supplemental Ofgem Guidance on the determination of disputes: Gate 2 to Whole Queue

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. Drax also owns Drax Energy Solutions, which supplies renewable electricity and provides energy services solutions, including Electric Vehicle (EV) chargepoints, to business premises.

Our views expressed in this response to Ofgem’s proposed supplemental guidance are informed by extensive recent experience of the connections process, including connecting our three new-build Open Cycle Gas Turbines in England and Wales, development works associated with the expansion of our Pumped Storage Hydro (PSH) power station in Scotland (Cruachan), modification applications for our existing Cruachan PSH asset and our Drax Power Station in Yorkshire, and numerous EV charge point connections across the country at Distribution level.

In general, we are supportive of the proposed guidance. Nevertheless, there are some areas that require greater clarity and robustness to ensure that the disputes process provides meaningful and timely recourse for customers facing complex, one-off variations to existing contracts during the G2tWQ exercise.

Question 1 - Does the G2tWQ Determinations Guidance in Appendix 1 clearly set out the Authority’s determination processes for disputes arising from the Gate 2 to Whole Queue exercise and its expectations of disputing parties?

The guidance states that a determination will only be accepted if the party can produce “*evidence that NESO and/or the DNO has not correctly followed the TMO4+ process...or has reached an incorrect decision*”. Greater clarity is required around the type and threshold of evidence needed for a customer to demonstrate an “incorrect decision”, especially since the Authority’s presumption is that the terms offered are reasonable. We feel that this clarification is important given that Ofgem will not intervene simply because a party disagrees with NESO’s decision.

The guidance mandates that parties must have exhausted Alternative Disputes Resolution (ADR) routes and provide evidence before escalating the issue to Ofgem. We accept the principle and intent of this requirement, but its reasonableness is contingent upon the speed and efficacy of the ADR routes. Ofgem should ensure that DNOs and NESO have in place streamlined processes and that those processes are followed in practice.

We disagree with the Authority's position that financial compensation is not within the scope of its determination functions for G2tWQ disputes. Given the potential for significant, demonstrable financial impact, the absence of any financial redress renders the dispute process largely ineffective. We believe the provisions in section 44C of the Electricity Act, with particular reference to 44C(4)(a), affords the Authority powers to make an Order on the relevant licensee that can include *"incidental, supplemental and consequential provisions"*, and such provisions could reasonably include compensation to the affected party. We ask the Authority to reconsider its position and to make financial resolutions where NESO or DNOs are demonstrably the cause of material errors or undue delays, the result of which being they've not met their licence obligations, including (but not limited to) duties to operate efficiently.

Question 2 - *Is there any additional clarity that you think is needed on the determinations procedures in the G2tWQ Determinations Guidance?*

The guidance highlights that the timescale for reaching a determination can take many months and that consequentially the range of workable beneficial outcomes will likely be limited. The efficacy of the determination process and preceding ADR process relies on NESO and DNOs handling disputes in a timely manner. We therefore believe there should be a formalised Service Level Agreement, including target timescales for the initial assessment, to avoid any delays in processing. Without specified service levels and prescribed timescales for the NESO and DNOs to work to, the determination procedure will be undermined and the impact on the customer exacerbated, particularly if the viability of project is undermined.

We would similarly expect that Ofgem will prioritise resolving any disputes relating to Gate 2 projects/offers over those at Gate 1. Gate 2 projects are implicitly more time-critical to achieving CP30 targets, so it would be logical to expedite resolution of any associated dispute. It would be helpful if Ofgem could confirm/clarify any prioritisation or expedited procedure.

Additional comments

The dispute determination process is highly restrictive, limiting requests for determination to only procedural errors or manifestly incorrect decisions. We are concerned that this approach rules out any genuine challenge to the interpretation or application of the Gate 2 methodologies themselves. The Gate 2 Criteria Methodology sits outside of the CUSC and lacks a dedicated route for appeal or dispute. This leaves a significant aspect of the TMO4+ process without a dispute process to support customers. The narrow scope and limitations of the G2tWQ determinations process make it unlikely that the process will result in any change in project status or queue position, without which a project's development could be significantly impaired.

We note that the TMO4+ reforms tie connection eligibility to finite capacity allocated under the CP2030 Action Plan. It is therefore possible that a project could meet all technical and readiness criteria but fail to secure a Gate 2 offer simply because the allocated capacity has been reached. If this is the case, the project may instead receive a Gate 1 offer. The determination guidance needs to clarify whether a determination can be used to review decisions where a project is deprioritised due to constraints on allocated capacity, or if this outcome is presumed reasonable as a function of the TMO4+ decision.

The G2tWQ exercise, coupled with NESO's revised timelines, has introduced substantial delays, pushing back anticipated connections dates by up to a year. This delay undermines the certainty of previously received connection agreements which formed the basis for investment decisions and subsequent development spend. We are greatly concerned that projects that previously held firm connection dates may now receive Gate 2 offers with significantly later connection dates leading to substantial increases in developer costs. It

is our view that the determination process should consider the scale of investment already incurred as a legitimate factor in determining whether an 'incorrect decision' has been made, i.e. if an equivalent project has been prioritised in the queue despite having incurred significantly less development expenditure and as such is implicitly less 'ready'.

We would also highlight the urgent need for clarity and consistent application around the 'protection' mechanisms promised to certain projects. For instance, projects with connection dates prior to the end of 2027 that met the Gate 2 criteria were assured their connection dates would be protected. However, many projects with original connection dates in 2025 (or earlier) remain unconnected and without certainty. This discrepancy creates a significant risk that projects with a 'passed date' may be re-sequenced behind projects with future dates. We urge Ofgem to provide explicit guidance on how such conflicts will be resolved, ensuring the integrity of 'protected' connection dates is upheld.

We would be happy to discuss any aspect of our response with you further if it would be helpful.

Yours faithfully,

Matt Young

Group Head of Regulation

Drax Group Plc