

Mark Feather
Director, Industry Codes and Licensing
Office of Gas and Electricity Markets
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21 January 2008

Dear Mark,

Review of industry code governance

Thank you for this opportunity to provide views in your consideration of the issues that potentially impact the current industry code governance structure and the resulting effect on the development of the industry. Drax Power Limited is supportive of moves to monitor and assess the appropriateness and effectiveness of governance structure and shall seek to engage with Ofgem throughout the process.

This document addresses a number of areas highlighted in your recent letter.

Is it time to look again at the effectiveness of code governance?

Drax Power Limited acknowledges that the Sustainable Energy Act 2003 and the Energy Act 2004 have increased the number of factors that the Authority must consider when a code modification report is received for determination. We also note that such additional considerations are not currently reflected in the industry codes when the relevant code modification groups and associated code panel are assessing modifications. We welcome a review by Ofgem into the efficiency and effectiveness of industry code governance regarding this matter.

However, we also believe it is important to consider that the nature of the industry often requires large, long-term investments from industry participants. In order to continue to encourage such investment, especially at a time of unprecedented need for investment in new low carbon technologies, a relatively stable market platform and regulatory regime is crucial.

The industry codes referred to in the open letter, which were introduced just seven years ago, underpin such stability. We urge Ofgem and the Authority to consider evolutionary approaches to any such code governance reform, should the associated analysis prove that changes are (a) in the best interest of the industry, and (b) economically viable in terms of cost versus perceived benefit.

Critical analysis of modification proposals

We note Ofgem's concerns regarding the quality of modification reports and the associated analysis undertaken. Ofgem is correct in stating that there is a need to ensure that the Authority's decisions are based upon clear and transparent reasoning and that robust analysis is provided by the regulatory process to enable the Authority to make such decisions effectively.

It is our belief that the *current* process is sufficiently adequate to achieve this aim. The current arrangements permit Ofgem representatives to attend code modification group and panel meetings.

Ofgem has the ability to oversee and offer advice on the progress of code modifications, prior to, during and on conclusion of analysis and evidence gathering. This point of access to the modification process should provide Ofgem with the means to ensure that the analysis received by the Authority is sufficiently robust to enable them to direct an appropriate decision.

The relevance of code objectives – are they still fit for purpose?

Drax Power Limited agrees that if the industry and the Authority are to work together effectively when further developing industry codes, it is crucial that both aim to satisfy objectives that achieve similar goals.

Whilst we recognise that the Authority has additional secondary objectives that may not be reflected by the industry codes, we believe that the current industry code objectives are still appropriate and effective. We welcome proposals that seek to align objectives in order to make the determination process more efficient and shall comment on the justifications of such proposals as and when they are developed.

With regards to specific code objectives, we urge the Authority to note that each code should be considered independently, taking into account the nature of the relative code and the area of the industry that it governs.

Way forward

We look forward to the forthcoming 'Powering the Energy Debate' event and shall seek to comment further on the analysis, and any subsequent proposals, as they develop.

Please do not hesitate to contact me should you wish to discuss our views.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S Cotten', with a stylized, cursive script.

Stuart Cotten

Regulation
Drax Power Limited