



Mark Feather
Director, Industry Codes and Licensing
The Office of Gas and Electricity Markets
9 Millbank
London
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16th January 2009

Dear Mark,

Review of Industry Code Governance – Environment and Code Objectives

Thank you for this opportunity to provide our views regarding the potential inclusion of environmental objectives as part of the industry codes.

Consultation Letter

In order to consider the implications of including such environmental objectives within the industry codes, we must first consider the fundamental role of the codes and the processes that they govern. The codes in question cover both technical and commercial processes for the efficient operation of the industry, with the modification process being a function that allows the identification and resolution of defects within the codes in order to promote the relevant code's objectives.

It should be recognised that members of modification groups will participate due to their expertise on the defect that the modification aims to address, or their knowledge of the processes that govern them, rather than due to an understanding of how such modifications could impact on wider environmental issues. It is our belief that the skill-sets contained within such modification groups should ensure that the Authority can rely upon credible assumptions and analysis when determining the outcome of the modification.

It has to be recognised that there is already a large body of highly detailed environmental legislation surrounding the operation of the industry, supervised by a range of authorities, and Ofgem needs to ensure that whilst satisfying its own environmental duties, it does not duplicate the roles of these organisations. Ofgem must also be mindful of the potential for environmental issues to introduce costs and constraints into the sector, which will both influence the operation of an efficient market in the short term and may have a significant effect of the sector's longer term development.

Drax believes that the current code objectives (particularly for the BSC and CUSC) allow for the quantification of the reduction in Greenhouse Gas emissions as part of the objective to improve efficiency. In fact, modification groups have already initiated the process of performing such an exercise with regards to Carbon emissions, where applicable, without the need for a change in licence conditions. Carbon emissions and the carbon market do appear to fall within the expertise of modification groups; however, should wider environmental objectives be introduced, it is important that Ofgem recognises the additional time and resource required to consider such issues, particularly in the light of the recent criticism that the industry has received regarding the quality of modification reports received by the Authority.

It should be noted that the industry codes in question are very industry specific and are administered and modified in the interests of the industry as a whole (as mentioned above, modifications aim to identify and address process defects). The environmental objective currently resides with a public body whose remit includes the protection of consumers; whilst this does not preclude the ability for the industry to help

shape the environmental debate, it would seem more appropriate for the environmental considerations that are more community specific (such as visual amenity, landscape and flora and fauna) to remain firmly within the Authority's remit than that of the relevant code panel.

Further to this, such specific environmental implications are very difficult to quantify for generic code modifications and tend to be very localised to the circumstance in which they are being addressed. These issues are considered in depth by the relevant planning and environmental authorities (including the Environment Agency) on a case by case basis. Drax does not believe that such specific issues could be reasonably covered by the industry codes.

Ofgem's consultation letter raises the option of requiring code panels to consult on environmental issues as part of the modification process. Use of such arrangements, in order to utilise the industry's environmental expertise that may otherwise not be present within modification groups, may be of greater use to the Authority than the limited environmental expertise of the modification group itself.

In Summary

In the case of the BSC and the CUSC, modification groups are now considering the effects of Greenhouse Gas emissions (where appropriate), without the need for a modification to licence conditions (to date this has been Carbon emissions related analysis, which is by far the most significant gas emitted by the electricity industry, in terms of volume). Therefore, Drax does not see the merit in amending the relevant licence conditions.

Further to this, wider environmental considerations, such as visual amenity, landscape and flora and fauna, would be very difficult to consider, given that the effects are very localised or community based. Such issues are addressed by the relevant planning and environmental authorities on a case by case basis. Drax does not see any merit in modification groups and/or code panels considering such issues.

Drax believes that it may be more appropriate for the Authority *to seek the industry's views on environmental implications via the modification group / code panel consultation processes that currently exist*. Effectively delegating the regulator's environmental role to the relevant code panel does not appear appropriate.

Should you wish to discuss our views further, please do not hesitate to contact me.

Yours sincerely,

Stuart Cotten

Regulation
Drax Power Limited