



Jenny Boothe
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8th October 2009

Dear Jenny,

Code Governance Review: Governance of charging methodologies – initial proposals

Drax Power Limited (“Drax”) is the operating subsidiary of Drax Group plc and the owner and operator of Drax Power Station in North Yorkshire. In March 2009, Drax acquired a small electricity supply business, Haven Power Limited (“Haven”); Haven supplies some 20,000 small and medium sized business customers and provides an alternative route to market for some of Drax’s power output.

Drax welcomes Ofgem’s consultation regarding the governance of charging methodologies. A full response to the questions raised in the consultation can be found in Appendix 1; however, Drax would like to put forward the following high-level views:

- Drax believes that *all* affected parties of the relevant industry codes / charging methodologies should be able to raise charging modifications and take part in the associated development and analysis process;
- The ability to progress charging modifications alongside other associated industry code modifications is welcome;
- Option 3 appears to:
 - Provide greater transparency;
 - Allow the proposer of a given modification to make representations to the industry;
 - Ensures that *all* industry participants have the *choice* to take a greater role in the charging modification process; and
 - Provides greater accountability with regards to decision making;
- Whilst Option 2 would be an improvement in comparison to the status quo, the charging modification process would still lack independence from the Transmission Network Owner and the decision maker would remain unaccountable for its actions;
- Drax agrees that “windows” in which to raise and implement charging modifications appear to be a sensible approach; however, an ability to extend development timescales may be required in order to avoid a loss of work due to there not being enough time to fully consider a given proposal;
- For the reasons set out above, Drax believes that Option 3 would be the most appropriate way forward, i.e. charging regimes to form a part of a relevant existing industry code.

We look forward to viewing both Ofgem's and industry participants' responses to this consultation. In the meantime, if you would like to discuss any of the views expressed in this response, please feel free to contact me.

Yours sincerely,

By email

Stuart Cotten

Regulation
Drax Power Limited

Appendix 1: Drax Response to Consultation Questions

Chapter 3: Initial qualitative and quantitative analysis of impacts

Question 1: Do you agree with the output from the assumptions made within the quantitative analysis undertaken?

Whilst Option 2 may result in lower modification assessment and implementation costs, it also has less associated benefits; Option 2 does not provide a sufficient increase in industry engagement regarding the development and analysis of modifications (i.e. the network operator retains overall control), nor does it deliver increased accountability with regard to decision making.

We do not believe that there would be any greater benefit in implementing Option 4 over Option 3. There would be a cost associated with the development and ongoing administration of the new charging codes under Option 4, whilst Option 3 would utilise existing procedural structure. Plus, depending upon the way in which the new codes were structured, Option 4 may also add a further layer of complexity for industry parties.

Overall, we believe Option 3 would provide the best cost / benefit balance.

Question 2: Are there any factors that you believe should have been considered in this analysis?

No.

Chapter 4: Further proposals

Question 1: Which governance Option do you consider is the most appropriate for charging methodologies?

Drax believes that Option 3 would be the most appropriate way forward, with the charging regime forming part of an existing industry code. All affected parties associated with such codes would be able to raise charging modifications *and* take part in the associated development and analysis process. The ability for charging modifications to be progressed alongside other associated industry code modifications is also welcome; we believe that this process was a positive move forward during the recent Transmission Access Review.

Option 3 provides greater transparency, allows the proposer of a given modification to make representations to the industry, ensures that *all* industry parties have a choice in whether to take a greater role in the charging modification process and provides greater accountability with regards to decision making (i.e. opens a Competition Commission appeal route).

Drax believes that the differing objectives of the existing industry codes and the associated charging modification processes should not be a barrier to the successful implementation of Option 3; however, it is essential that clear guidance regarding the objectives associated with each type of modification is developed prior to implementing the new charging modification regime.

Whilst Option 2 would be an improvement on the status quo by allowing industry parties to raise proposals, such modifications would lack an independent review via a modification group, the control of the process would still be held by a single signatory, and the regulator would remain unaccountable for its decisions (i.e. there would be no Competition Commission appeal route).

Question 2: Do you agree that we should initially focus on gas and electricity transmission charges, with gas distribution potentially to follow as a second phase?

The phased approach put forward by Ofgem appears reasonable.

Question 3: Do you agree that annual/biannual change and implementation windows are the most appropriate mitigation measures to progress going forward for all the options?

Drax believes that the suggested change and implementation window approach would be the most appropriate mitigation measure. Annual windows would ensure that parties are able to identify and plan their resource requirements for the charging modification development and implementation periods (i.e. resource for modification groups, consultation responses and potential implementation); they will also ensure that approved charging modifications are implemented in a manner that causes the least disruption to industry parties.

Drax agrees with Ofgem's assessment of annual restrictions on the number of modifications raised and minimum thresholds for network users; these proposals may disadvantage smaller parties and those parties that have less available resource.

Question 4: Do you consider a 3 or 4 month window to be sufficient time to consider modification proposals? Please indicate your preference for either 3 or 4 months.

It would seem reasonable to have a 4 month window for the consideration of modifications and the ability to raise urgent modifications outside of the window; however, the circumstances in which urgent modifications could be raised must be clearly defined prior to the implementation of the new charging modification regime.

It is also vital that sufficient time is set aside to consider charging modifications and the potential adverse consequences that such changes may cause. If the modification process is rushed, resulting in insufficient industry analysis and assessment, there will be an increased risk of (a) further corrective (and disruptive) modifications being required and (b) potential failure to implement key reforms due to legal challenges on the grounds of process. It would therefore appear sensible to allow extensions (outside of the 4 month window) for charging modifications; this could work in a similar fashion to extensions under the CUSC modification process (i.e. on a case by case basis) and would avoid valuable industry work being lost due to there not being enough time to fully consider a proposal.

Question 5: Do you agree with our approach to defining "affected parties" who would be entitled to raise modification proposals?

Drax believes that affected parties should include all signatories to the relevant industry code and consumer representatives. This would ensure that all parties that are affected by the charging procedures and the charging modification process are able to raise proposals and influence the debate.