

Date: 8 November 2018  
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**By Email Only To: [DraxRe-power@pins.gsi.gov.uk](mailto:DraxRe-power@pins.gsi.gov.uk)**

Dear Sirs

**Application by Drax Power Ltd for an Order Granting Development Consent for the Drax Re-power Project (the "Project")**

**Written Representations of National Grid Electricity Transmission plc and National Grid Gas plc**

**1 Introduction**

- 1.1 We act on behalf of National Grid Electricity Transmission plc ("**NGET**") and National Grid Gas plc ("**NGG**"), together "**NG**."
- 1.2 NGET owns, manages and operates the electricity transmission network in England and Wales, with day-to-day responsibility for balancing supply and demand. NGET has a statutory duty (under Section 9 of the Electricity Act 1989) to maintain 'an efficient, co-ordinated and economical' system of electricity transmission.
- 1.3 NGG owns, manages and operates the national gas transmission infrastructure in Great Britain. NGG has a statutory duty (under Section 9 of the Gas Act 1986) to develop, maintain, and operate economic and efficient networks and to facilitate competition in the supply of gas in Great Britain.
- 1.4 Both NGET and NGG have existing apparatus and interests within the Order limits for which satisfactory protection is required.

**2 Existing Apparatus**

- 2.1 NGET and NGG made a relevant representation in respect of the Project on 29 August 2018 (the "**Relevant Representation**") in order to protect existing apparatus and land interests falling within the Order limits which are owned or held by NGET and NGG respectively.
- 2.2 With reference to the list of apparatus identified in the Relevant Representation, and to the Applicant's Responses to Relevant Representations (dated October 2018), the apparatus owned or held by NGET which remain likely to be impacted by the Project are as follows:
  - a) DRAX4 (400kV) Substation;
  - b) 4VJ (400kV) overhead line route, Towers 01, 01A, 02, 02A;

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- c) 4VC (400kV) overhead line route, Towers 340, 341;
- d) 66kV cables between DRAX1 Substation and Camblesforth 66kV Substation; and
- e) 400kV cables in the vicinity of the DRAX4 Substation.<sup>1</sup>

2.3 Similarly, the apparatus owned or held by NGG which remain likely to be impacted by the Project are as follows:

- a) Feeder 29 – Asselby to Pannal high pressure gas pipeline; and
- b) DRAX above ground installation.

2.4 (The individual items of apparatus identified in Paragraphs 2.2 and 2.3 of this Written Representation are hereafter collectively referred to as the “**Apparatus**”).

2.5 In respect of the Apparatus likely to be affected by the Project, protective provisions (benefitting NGET and NGG respectively) will need to be included within the Order and/or within a confidential commercial agreement to ensure that:

- a) all of NGET’s and NGG’s existing interests and other rights (including rights of access) in respect of such Apparatus are unaffected by powers authorising the grant and extinguishment of rights, or of the exercise of compulsory acquisition, survey, temporary use and/or stopping-up powers; and
- b) appropriate protection for the retained Apparatus is maintained during and after construction of the Project. (This includes compliance with all relevant standards on safety clearances, ENA (TS) 43-8 (‘Development near overhead lines’), and HSE Guidance Note GS6 (‘Avoiding Danger from Overhead Electric Lines’)).

2.6 In particular, Plot No. 5 (as identified on Sheet 3 of the Land Plans) is known to encompass the primary surface water outfall drain from the adjacent Drax4 Substation site. NGET and NGG have confirmed that a large portion of the land falling within Plot No. 5 acts as a natural soakaway for surface water discharge and is, consequently, comprised of very soft ground. In order to protect existing sub-surface cables, the use of heavy machinery and other similar construction apparatus within this area would need to be carefully regulated and the proposed method of works approved by NGET and NGG in advance.

2.7 Without an agreement or qualification on the exercise of unfettered compulsory powers or connection to the Apparatus, NGET and NGG consider that the following consequences may arise:

- a) a risk to health and safety caused by a failure to comply with all relevant industry safety standards, legal requirements and Health and Safety Executive standards;

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<sup>1</sup> The Applicant has confirmed in its Responses to Relevant Representations that neither the Camblesforth (66kV) Substation nor the 4VH (400kV) overhead line route, Tower 01 will be affected by the Project.

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- b) potentially serious hazardous consequences for individuals located in the vicinity of the Project, if damage to Apparatus causes it to fail; and/or
- c) potential impacts on the continuity of supply.

2.8 NGET and NGG together reiterate that their respective rights to retain the Apparatus in situ and their rights of access to inspect, maintain, renew or repair such Apparatus located within or in close proximity to the Order limits should be maintained at all times and access to inspect such Apparatus must not be restricted during or after construction.

### 3 **Security of the Drax Substation**

3.1 NG wish to place on record that the DRAX4 (400kV) Substation (the "**Drax Substation**") has been designated as a Critical National Infrastructure ("**CNI**") site. As such, the Drax Substation site currently benefits from enhanced security measures, including a high-security palisade fence, CCTV surveillance and 'anti-dig' foundations. External contractors are also subject to additional security screening before entering onto the site.

3.2 In order to avoid any detrimental impact on the availability, integrity or delivery of essential services, NG request that the exercise of any powers pursuant to the Order which are likely to affect, or be undertaken within the vicinity of, the Drax Substation site be subject to appropriate restrictions so as to avoid interference with existing security measures.

3.3 NG would be willing to engage with the Applicant in order to consider additional restrictions or other protective measures which are commensurate with the designation of the Drax Substation.

### 4 **Exercise of Compulsory Acquisition Powers over the Drax Substation**

4.1 NG also consider that the current geographical extent of both north-western 'limbs' of Plot No. 5 (as identified on Sheet 3 of the Land Plans) does not accurately reflect the outcome of commercial discussions between NGET and the Applicant.

4.2 In particular, NG is concerned that the 'limbs' within Plot No. 5 include parts of the Drax Substation which house existing operational assets belonging to NGET and should not, therefore, be subject to the proposed powers of compulsory acquisition.

4.3 NG requests that the extent of both north-western 'limbs' of Plot 5 be reduced so as to avoid interference with NGET's existing operational assets.

### 5 **Exercise of Compulsory Acquisition Powers in connection with Work No. 5**

5.1 On 6 November, NG received a written request from the Applicant regarding the proposed exercise of compulsory acquisition powers in connection with Work No.5.<sup>2</sup>

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<sup>2</sup> Email correspondence from the Applicant refers to Work No.5A. However, as NG are not aware of the existence of a Work No.5A in the draft Order, it has been assumed for the purposes of this Written Representation that reference was intended to be made to Work No. 5.

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- 5.2 It is not immediately clear to NG what compulsory acquisition powers are being sought by the Applicant, and indeed whether such powers are intended to be in addition to those powers of acquisition already identified in the draft Order and corresponding Land Plans in relation to Plot 9A (in respect of which NGET holds a freehold interest in subsoil extending beneath the highway).
- 5.3 In light of the foregoing, and noting the limited time which NG has had to consider the likely operational effects of this request before the deadline for submission of its Written Representation, NG wishes to register a holding objection in respect of the proposed exercise of compulsory acquisition powers by the Applicant in these particular circumstances.
- 5.4 NG respectfully requests that the Applicant engages in further discussions at the earliest opportunity in order to clarify the purpose and extent of the proposed compulsory powers relating to Work No.5.

## 6 **Objection to the Project**

- 6.1 Neither NGET nor NGG object to the Project in principle.
- 6.2 However, as the proposed Order does not yet contain protective provisions expressed to be for the protection of the Apparatus which are satisfactory to NGET and NGG respectively, NGET and NGG wish to register a further holding objection to the Project to remain in force until such time as appropriate measures are agreed upon.
- 6.3 NGET and NGG each consider that it is essential that protective provisions on their standard terms are included within the Order and/or within a confidential commercial agreement in order to ensure adequate protection for the Apparatus.
- 6.4 NGET and NGG are currently engaged in discussions with the Applicant regarding the protection of the Apparatus, and are continuing negotiations to seek to reach agreement on the specific protective provisions to be included in the Order.
- 6.5 However, to the extent that it is not possible to reach agreement, and attendance at a subsequent Compulsory Acquisition Hearing or Issue Specific Hearing is necessary, then NGET and NGG each reserve the right to provide further written information in advance in support of any detailed issues remaining in dispute between the parties at that stage.

## 7 **Response to Written Question CA 1.5**

- 7.1 Finally, we append to this Written Representation a copy of NG's response to Written Question CA 1.5 (Connection Agreements).
- 7.2 This response has been submitted jointly with the agreement of the Applicant.

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Yours faithfully



**Bryan Cave Leighton Paisner LLP**

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## Appendix 1

### Joint Response to Written Question CA 1.5 (Connection Agreements)

ExA Ref	Question to	Question
CA 1.5	Applicant National Grid	<b>Connection Agreements</b> Update the position in respect to connections to National Grid's electricity and gas infrastructure and how this will be secured.

- 1.1 With regard to electricity, an agreement was entered into with National Grid Electricity Transmission plc (NGET) on 12<sup>th</sup> July 2018 to vary the existing Bilateral Connection Agreement for Unit X (in order to increase the transmission entry capacity to 5031 Megawatts (mW) from 1<sup>st</sup> April 2023). A further application (modification application) will be completed for Unit Y when Drax takes the final investment decision for Unit Y.
- 1.2 With regard to gas, National Grid Gas plc (NGG) has advised that there is capacity available for both Units X and Y. A Planning and Advanced Reservation of Capacity Agreement (PARCA) has been completed and approved by National Grid for capacity for Unit X on 12<sup>th</sup> October 2018. The PARCA for Unit Y PARCA would follow closer to when Unit Y is proposed to be constructed.
- 1.3 With regard to a gas connection agreement to the National Transmission System, NGG has accepted an application made by Drax on 01 March 2018. A connection offer is expected to be made by 01 December 2018 according to the NGG connection acceptance letter.
- 1.4 It is noted that NGG visited the proposed connection point to Feeder 29 on Wednesday 08 August 2018, and no concerns were raised regarding the connection point as contained in the Proposed Scheme. Indeed, the connection point, the Above Ground Installation, has been developed and designed in conjunction with NGG.
- 1.5 An updated Other Consents and Licences document (now Rev 002) has been submitted for Deadline 2, providing updates on the above consents and licences processes.