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Date: 30 March 2022

Dear Simon,

**DIRECTION UNDER PARAGRAPH 9 OF AMENDED STANDARD CONDITION E12-J4
OF THE OFFSHORE TRANSMISSION LICENCE**

Whereas:-

1. Gwynt y Môr OFTO plc (the **Licensee**) is the holder of an offshore transmission licence (the **Licence**) granted under section 6(1)(b) of the Electricity Act 1989 (the **Act**).
2. Unless otherwise defined, capitalised terms in this Direction and its Annex shall have the same meaning as given to them in the Licence.
3. In accordance with Paragraph 9 of the Amended Standard Condition E12-J4 (the **Condition**):
 - a. the Licensee considers that the Transmission Service Reduction on the Licensee's Transmission System, commencing on 7 March 2021, was caused by an Exceptional Event;
 - b. the Licensee notified the Gas and Electricity Markets Authority (the **Authority**) of the event which resulted in the transmission service reduction within 14 days of its occurrence;
 - c. the Licensee has provided details of the reduction in system availability, for the period 7 March 2021 to 31 December 2021 (inclusive), that the Licensee considers resulted from the Exceptional Event and further information required by the Authority in relation to the event; and
 - d. the Authority is satisfied, based on the evidence provided by the Licensee to date and for the reasons specified in the Annex to this Direction, that the event notified under sub-paragraph (b) above constitutes an Exceptional Event as defined in Amended Standard Condition E12-J1.
4. In accordance with Paragraph 10 of the Condition, the Authority is satisfied, based on the evidence provided by the Licensee to date and for the reasons specified in the Annex to this Direction, that the Licensee took steps, consistent with Good Industry Practice, to manage the impact of the event on the

availability of services (both in anticipation of the event and after the event had occurred).

5. The Authority gave the required notice in accordance with Paragraph 11 of the Condition to the Licensee on 24 January 2022 (the **Notice**).
6. The Licensee made representations on 2 February and 14 February 2022, in response to the Notice.

On 4 February 2022, the Licensee stated *"The OFTO had thought that we had provided Ofgem with all necessary information to allow Ofgem to assess the EE claim, at least up to 31 December 2021 [...] If Ofgem requires further information, please can you let me know [...] and I will endeavour to provide it without delay?"* On 14 February 2022, the Licensee stated its disagreement with Ofgem's view and considers it *"did not have sufficient information to proceed to order new cable in October 2020"* and that decision is *"further complicated by the extent of cable removed during the repair campaign to fix the power core fault"*.

We consider these representations do not have a material impact on our draft decision dated 24 January 2022, in that we will assess whether the Licensee followed Good Industry Practice from October 2021 when transmission services have been restored. However, we have amended the decision to reflect the comments above and other representations, where relevant.

The Licensee also considers paragraph 4.14 [above] reflects *"only part of the information shared with the Authority on page 9 of the January 2022 letter"*. We agree but note that paragraph 4.15 expands on the information provided in the January 2022 letter in sufficient detail to capture the Licensee's comments whilst protecting commercially confidential information.

Now therefore:

7. The Authority directs that the Licensee's reported system incentive performance be adjusted to offset the duration of the outage from 9am on 7 March 2021 to 30 September 2021: reported system incentive performance for incentive year 7 (beginning 1 January 2021) will be increased by 332,194.27 MWh to offset the impact of this event;
8. This Direction constitutes notice pursuant to section 49A(1)(c) of the Act.

We will consider whether the Licensee followed Good Industry Practice warranting an adjustment to reported system incentive performance beyond 30 September 2021 (both in securing replacement cable and undertaking the repair) when transmission services have been restored and the Licensee has provided all necessary information up to and including the date transmission services are restored.

Yours sincerely,



Jourdan Edwards
Head of the OFTO Regime, Networks

Duly authorised by the Authority

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REASONS FOR ACCEPTANCE OF AN EXCEPTIONAL EVENT CLAIM SUBMITTED BY GWYNT Y MÔR OFTO PLC UNDER PARAGRAPH 9 OF AMENDED STANDARD CONDITION E12-J4

1 Notification

- 1.1 On 15 October 2020, Gwynt y Môr OFTO plc (the **Licensee**) notified the Authority that there had been a Transmission Service Reduction on one of its export cables. Transmission Services were restored on 7 March 2021 at reduced capacity of 25% from 09:00 until 15:34 to allow the cable soak test and at 52.8% from 15:35 (the **service cap**).
- 1.2 On 10 February 2021, Ofgem concluded that the event that occurred on 15 October 2020 was an exceptional event and directed the full level of adjustment for the period 15 October 2020 to 31 December 2020 (the **February 2021 direction**).¹ On 24 November 2021 (the **November 2021 direction**), we concluded that the Licensee had followed Good Industry Practice (**GIP**) in the period 1 January to 08:59 on 7 March 2021.²
- 1.3 On 7 December 2021 (the **December 21 letter**), the Licensee asked “*that Ofgem make an interim (and expedited) determination on this event based on an adjustment of 469,631.75 MWH for the calendar year 2021*”. The Licensee considers Ofgem should consider an interim determination because, although it has secured funds to conduct a further repair, “*these funds cannot be used for any other purpose and the funds drawn are repaid under a cash sweep arrangement once the Licensee’s reserve accounts are replenished*” and “*the Licensee’s financial position remains very challenging in line with the position discussed with Ofgem in the final quarter of 2020*”.
- 1.4 On 7 January 2022 (the **January 22 letter**), the Licensee provided further information relating to cable manufacture, delivery timelines and repair timeline, along with its reasons why Ofgem should consider an interim determination (see paragraph above).
- 1.5 The Licensee is unable to say when it expects to restore transmission services to full availability or how long it expects the repair to take. We will continue to liaise with the Licensee until transmission services are restored.
- 1.6 This Exceptional Event claim relates to the period 7 March 2021 to 30 September 2021 inclusive (the **relevant period**).

2 Exceptional Event requirements

- 2.1. Paragraph 9 of Amended Standard Condition E12-J4 (the **Condition**) provides that the Authority shall adjust the value of the reported system incentive performance to offset the impact of an Exceptional Event where:
 - a) the licensee considers that an event on its Transmission System that causes a Transmission Service Reduction has been wholly or partially caused by an Exceptional Event;
 - b) the licensee has notified the Authority that a possible Exceptional Event had occurred, within 14 days of its occurrence;

¹ [Link](#) to the February 2021 direction.

² [Link](#) to the November 2021 direction.

- c) the Licensee has provided such information as the Authority may require in relation to the event; and
 - d) the Authority is satisfied that the notified event is an Exceptional Event.
- 2.2. An Exceptional Event is defined in Amended Standard Condition E12-J1 of the offshore transmission licence as follows:

"an Event or circumstance that is beyond the reasonable control of the licensee and which results in or causes a Transmission Service Reduction and includes (without limitation) an act of God, an act of the public enemy, war declared or undeclared, threat of war, terrorist act, blockade, revolution, riot, insurrection, civil commotion, public demonstration, sabotage, act of vandalism, fire (not related to weather), governmental restraint, Act of Parliament, any other legislation, bye law, or directive (not being any order, regulation or direction under section 32, 33, 34 and 35 of the Act) or decision of a Court of Competent Authority or the European Commission or any other body having jurisdiction over the activities of the licensee provided that lack of funds shall not be interpreted as a cause beyond the reasonable control of the licensee. For the avoidance of doubt, weather conditions which are reasonably expected to occur at the location of the event or circumstance are not considered to be beyond the reasonable control of the licensee."

3 Decision

- 3.1 The Licensee has acted in accordance with the requirements of subparagraphs 9(a) to (c) of the Condition. Pursuant to subparagraph 9(d) of the Condition, the Authority is satisfied on the evidence provided by the Licensee to date that the Transmission Service Reduction was caused by an Exceptional Event, for the reasons set out below.

4 Reasons for decision

- 4.1 The Authority has considered the information provided by the Licensee to date against both the Licence and the open letter dated 22 October 2014 (the **Open Letter**).
- 4.2 As noted above, we have previously concluded in the February 2021 direction that the event that occurred on 15 October 2020 was beyond the reasonable control of the Licensee. Circumstances have not changed, noting no new relevant information has come to light, since the February 2021 direction was issued. We do not consider that question any further in this decision.

Did the Licensee follow Good Industry Practice to manage the impact of the event and restore transmission services to full capacity?

- 4.3 The Licensee is aware of a number of breaks in the spare and main fibre optic cables (FOC) that it considers could lead to cable failure in future. The Licensee intends to repair all remaining sections of cable where FOC breaks have occurred.
- 4.4 On 6 June 2021, the Licensee submitted a technical report which stated:
- 4.4.1 If the cable is put back on full load without replacing all the defective FOC sections, it is at least probable and possibly very likely that power core failure will occur within a year. If the maximum permitted load current is capped, then there is a smaller but still significant risk of failure.
 - 4.4.2 The cable failure on 15 October 2020 occurred 2 days after full loading of the cable. Therefore, loading the cable to its maximum capacity could lead to power core failures.
- 4.5 The Licensee considered it was prudent to apply the service cap until:

(a) There is an agreement between the OFTO and other stakeholders (primarily GYMOWFL and the Authority) that confirms (i) it is unreasonable to do so and (ii) the OFTO will be kept no better no worse if no cap was applied should a Future Failure occur; or

(b) A sufficiently strong technical position is presented, and accepted by the Authority, indicating that applying an export cap has little or no impact on the likelihood of a Future Failure; or

*(c) The OFTO secures delivery of at least 7.5km of cable and has sufficient funding (through either its own endeavour or an external stakeholder, or a relatively swift and successful IAE claim) to commit to a repair campaign to remove all the known FOC breaks in the SSEC3 cable (a "**Future Repair**"); or*

(d) The routine testing of the FOC cables in SSEC3 gives sufficient reason to suggest that the issues with the cable have stabilised.

- 4.6 We note the Licensee has since secured sufficient funding to purchase replacement cable.
- 4.7 The Licensee states that it did not repair all known FOC breaks which formed part of the repair undertaken between October 2020 and March 2021 (the **March repair**), as it did not have sufficient cable and "*could not procure sufficient cable in a reasonable time frame*" to do so.
- 4.8 In addition, the Licensee noted that "*before [the cable failed in] October 2020, [it] was not aware that the FOC faults reported in January/February 2020 would definitely result in a power core fault – this was only a possibility that became a certainty with the occurrence of the fault on 15 October 2020.*"
- 4.9 The Licensee notes that the number of breaks in the FOC continued to increase, and over a longer section of cable, since first discovered in January/February 2020; thus, had it ordered cable in January/February 2020 it may not have ordered sufficient cable to repair all the known FOC breaks.
- 4.10 The Licensee set out its rationale for the level of the service cap based on the probability of failure and stated, "*applying a 50% export cap is justified in preference to a 25% or 0% export cap*". The Licensee provided independent technical advice, which stated (subject to a caveat as to the accuracy it was possible to provide of such figures) "*...with a 75% cap on max load current, the probability of failure is reduced to ~75% in the first year of operation. If the load current is capped at 50%, the probability of failure is reduced to around 40% in the same time period.*"

Purchase, manufacture and delivery of the replacement cable

- 4.11 We accept that the Licensee was not reasonably obliged to have ordered and taken delivery of sufficient cable to undertake a full repair of SSEC3 as part of the March repair. We note the Licensee placed the order for replacement cable at end March 2021 and (after some delays in shipment) expects the replacement cable will be delivered around/by end February 2022.
- 4.12 We consider the earliest date the Licensee could have placed an order for sufficient cable to undertake the repair was October 2020, when the Licensee had sufficient knowledge that the FOC breaks would lead to cable failure and the extent of the FOC breaks were known.

4.13 Based on an order for the cable being placed in October 2020, with an approximate 7 to 9 month lead time for manufacture (the cable would be ready to ship around May to July 2021) and 2-3 months for delivery, we estimate the earliest date the Licensee could have taken delivery of replacement cable is end July 2021.

4.14 The Licensee's statement below indicates cable delivery on or around July 2021 was possible:

"discussions with cable suppliers regarding on the manufacture of 6km of cable [...] held in November/December 2020 indicated

*(i) cable manufacture in 7 to 8 months from placing an order, or
(ii) about end of July [2021] for an order placed by the end of December [2020]"*.

This is consistent with our analysis above.

4.15 However, the Licensee states that further consideration was needed before it could order cable. On 17 December 2021, we asked the Licensee for the reasons why an order for replacement cable was not placed around 15 October 2020, when the Licensee knew for certain that the cable had failed and the extent of the FOC issues was known. In response, the Licensee agreed *"Following the fault on 15 October 2020, [it] was in a position to make a more accurate assessment of the cable length it required to remove all the FOC faults and the power core fault"*. However, the Licensee noted:

4.15.1 *"there were still several variables to determining the actual length required, including:*

- i. The extent of cable replaced during the imminent repair of the power core fault;*
- ii. Minimising the number of joints that would be left on the seabed in the long term"*.

4.15.2 *"negotiations with the cable suppliers progressed to get more details on the specification and delivery to best suit the Licensee's requirements, noting that this was a multi-million pound order with long lead times so placing an order in haste could have very damaging outcomes"*.

4.16 We note that, in February 2021, the Licensee asked manufacturers to update the offer made in November/December 2020 for 6km of cable to 7.5km of cable and that *"both of the revised proposals offered cable ready for delivery by 30 September 2021"*.

Conclusion

4.17 Based on the expert technical advice provided by the Licensee and our own internal advisers we consider the application of the service cap is within the scope of a range of steps, consistent with Good Industry Practice, to manage the impact of the event on the availability of services for the relevant period. The Licensee was not required further to mitigate the impact of the known breaks in the FOC, because it was not reasonably obliged to have ordered and taken delivery of sufficient cable to undertake a full repair of SSEC3 as part of the March repair.

4.18 For the reasons set out above, we consider that the Licensee could have placed the order for replacement cable on or around October 2020 with delivery estimated around September 2021. We consider the delay in placing the order for replacement cable until March 2021 may have led to a delay to the start of the repair and thus extended the length of time the service cap is in place. In addition, we note there

have been some delays in the shipment of the cable that may be beyond the reasonable control of the Licensee that also need full consideration when transmission services have been restored. We consider it is prudent we take all information into account before deciding whether to penalise the Licensee.

- 4.19 We will consider whether the Licensee followed Good Industry Practice warranting an adjustment to reported system incentive performance beyond 30 September 2021 (both in securing replacement cable and undertaking the repair) when transmission services have been restored and the Licensee has provided all necessary information.
- 4.20 As transmission services are reduced as a result of the service cap, we expect the Licensee to take all reasonable preparations to begin the repair and remove the service cap as soon as possible after the cable is delivered rather than wait for periods where the availability incentive weighted average is lower.

Timing of decision

- 4.21 On 2 October 2020, the Licensee notified us that, primarily as a result of the financial consequences of the cable repairs it had to fund in 2015, it would face significant financial difficulties funding any further cable repairs. The Licensee asked the Authority to expedite its decisions on a number of other exceptional event claims that the Authority was considering.
- 4.22 The Authority has assessed the Licensee's financial position in light of the evidence provided by the Licensee and considered it is reasonable in these particular circumstances to determine whether the events constitute Exceptional Events whilst the transmission services remain unrestored. Following consideration of the claim in accordance with the Licence, the Authority finds that the Transmission Service Reduction was caused by an Exceptional Event and therefore considers it appropriate to direct an adjustment to the reported system incentive performance for the period ending 30 September 2021.
- 4.23 The Authority reserves the right to amend this Direction should any future information provided by the Licensee make it appropriate to do so.
- 4.24 We confirm that the Authority considers all Exceptional Event claims on a case-by-case basis and the approach taken in relation to this Exceptional Event claim is reflective of the particular circumstances applying to the Licensee.

(i) Authority's adjustment to the reported system incentive performance under Paragraph 10 of Amended Standard Condition E12-J4

- a) In accordance with Paragraph 10 of the Condition, the adjustment to reported system incentive performance shall be based on the extent to which the Authority is satisfied that the Licensee had taken steps, consistent with Good Industry Practice, to manage the impact of the event on the availability of services (both in anticipation of the event and after the event has occurred). The Authority has considered whether the Licensee has taken steps in accordance with Good Industry Practice to manage the impact of the event and is satisfied that the Licensee acted in accordance with Good Industry Practice during the relevant period.
- b) Therefore, the Authority directs that the Licensee's reported system incentive performance be adjusted to offset the duration of the Transmission Service Reduction from from 9am on 7 March 2021 to 30 September 2021 as follows: 332,194.27 MWh

reported system incentive performance for incentive year 7 (1 January 2021 to 31 December 2021).