

To offshore transmission owners,
current and prospective bidders for
Offshore Transmission Licences and
other interested parties

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Consultation on proposed modifications to Offshore Transmission licences

Introduction

The Authority is seeking views on a number of proposed modifications to Offshore Transmission licences (**OFTO licences**). These cover the following areas: -

1. Consequential licence modifications due to the end of the transition period

Minor changes to Amended Standard Condition E12-A1: Definitions and Interpretation (**ASC E12-A1**) in four OFTO licences, to make changes required to ensure that the licences are consistent with UK law at the end of the transition period following the United Kingdom's (**UK**) exit from the European Union.

2. End of Tender Revenue Stream

- a) Amended Standard Condition E12-J3: Restriction of Transmission Revenue: Allowed Pass-through Items (**ASC E12-J3**), where we propose the creation of two new pass-through terms to allow all Offshore Transmission Owners (**OFTOs**) to claim for the cost of carrying out Health Reviews of their transmission assets, and the Investment Works needed to extend the lifetime of those assets. This will make an important contribution towards the Government's ambition to put in place 50GW of offshore wind by 2030;
- b) Amended Standard Condition E12-J4: Restriction of Transmission Revenue: Annual Revenue Adjustments (**ASC E12-J4**), where we propose to allow all OFTOs to claim adjustments for availability lost as a direct result of carrying out the Health Reviews and, if necessary, the Investment Works.

3. Changes to decommissioning costs

ASC E12-J3, to allow OFTOs licensed in tender rounds 1 (**TR1**) to 3 (**TR3**) to seek to recover additional costs or expenses incurred:

- a) in the event that Value Added Tax (**VAT**) is applied to decommissioning costs where this is not already provided for in the licence elsewhere; and/or
- b) as a result of the disallowance of scrap value from the decommissioning security, consistent with licences granted from tender round 4 (**TR4**) onwards.

4. Incremental capacity arrangements

Part C of ASC E12-J4 (**ASC E12-J4 Part C**), to make it clear that all OFTOs can seek to recover costs where they have entered into an agreement with the system operator under Standard Licence Condition E17: Obligations in relation to offers for connection etc. (**SLC E17**) and the OFTO has incurred costs as a result of that agreement.

Background

1. Proposed modification to ASC E12-A1 (Consequential licence modifications due to the end of the transition period (EU Exit))

On 14 January 2019, Ofgem gave notice of its intention to modify a number of licences to ensure that the definitions were consistent with UK law at the end of the transition period following the UK's exit from the European Union. On 11 February 2021, Ofgem made a decision to make those modifications.¹ Four OFTO licences were granted in the period between Ofgem giving notice of its intent to modify the licence and publishing its decision; the licences listed below were not included in that decision. As such, the Authority is now consulting on modifications to ASC E12-A1 in the following licences, to ensure these also reflect those amendments to UK law:

- Diamond Transmission Partners Galloper Limited;
- Diamond Transmission Partners Hornsea One Limited;
- Diamond Transmission Partners RB Limited, and
- Diamond Transmission Partners Walney Extension Limited.

2. End Of Tender Revenue Stream

The Authority set out a number of decisions in our July 2021 paper², after carefully considering responses to the consultation document³ previously issued in March 2021. The Authority is now consulting on modifications to the OFTO licence which give effect to some of those decisions.

a) Proposed Modifications to amended standard condition ASC E12-J3 (Cost of Health Review and Investment Works)

The Authority has decided that costs that are economically and efficiently incurred by OFTOs as a direct result of carrying out health reviews (reviews designed to identify the additional investment needed to extend the lifetime of their transmission assets) should be reimbursed.

¹ Link to our [Decision on consequential licence modifications due to the end of the transition period | Ofgem](#)

² <https://www.ofgem.gov.uk/publications/end-tender-revenue-stream-decision>

³ <https://www.ofgem.gov.uk/publications/offshore-transmission-owner-ofto-end-tender-revenue-stream-consultation-concerning-policy-development>

The Authority has also decided that the incumbent OFTO should be reimbursed for investment costs that are incurred economically and efficiently, which are beyond the scope of the current revenue stream.

Under existing licences, costs may, in certain defined circumstances, be “passed-through” to consumers. These include costs for network rates, for the Crown Estate lease, for decommissioning cost increases (where legislation has been amended) and two specific terms relating to asset repairs or failures – Income Adjusting Events (IAE) and Contingent Event Adjustments (CEAs).

The Authority is proposing to introduce two new pass-through terms for additional costs incurred when carrying out the health review and, if applicable, the investment works. We propose to amend ASC E12-J3 to state that an OFTO may submit a claim for the cost of the health review and, if applicable, the investment works to the Authority for consideration. In each case, the OFTO will be required to submit written evidence to the Authority; the Authority may seek further information from the OFTO; and the Authority will then consider the level of any award that would be appropriate. The costs must be directly attributable to the health review and, if applicable, the investment works in each case, and must (as mentioned above) have been incurred economically and efficiently. The scope of the health review and, if applicable, the investment works must also be approved by the Authority in advance.

The Authority will require the OFTO to share the results of the health reviews with relevant stakeholders. The generator will ultimately have to meet the majority of the costs incurred through the TNUoS charging mechanism.

b) Proposed Modifications to ASC E12-J4 (Availability Lost During Health Reviews And Investment Works)

The Authority has decided that all OFTOs should be able to claim an adjustment for availability lost as a direct result of carrying out health reviews of their transmission assets, and as a direct result of investment works needed to extend the lifetime of those assets.

Stakeholders have indicated in engagement that they expect to lose availability for around 4 to 7 days while the health reviews are conducted. They have also informed the Authority that 7 days should be a sufficient amount of time for the investment works where these are relatively straightforward, but that longer outages may be needed if the works are more extensive. The likely duration and cost of those works should become clear once the health reviews have been conducted. In each case, the generator will carry out the health review of their assets first (six years before the end of the tender revenue stream, T-6). The generator’s review will then be shared with the OFTO concerned and the Authority, so that the scope of the OFTO’s health review can be discussed and agreed with the Authority. The OFTO’s health review (at T-5) will in turn be shared with the generator and Authority so that the scope of the investment works needed to extend the lifetime of the transmission assets can also be approved by the Authority, including the likely duration and anticipated cost.

The Authority is therefore proposing to modify ASC E12-J4 to state that for health reviews and investment works, OFTOs may claim an adjustment for lost availability for outages of up to and including 7 days in each case, without needing the prior approval of the Authority. We believe this should cover most health reviews as well as some investment works where the works are straightforward, and that this approach would be consistent with the typical length of outages that have been claimed under this section to date. The scope of the health review and investment works should be approved by the Authority in

advance and the health review and investment works should also be carried out in accordance with guidance to be published by the Authority.

The Authority is proposing that, where longer outages of more than 7 days have occurred, the OFTO should be required to submit claims to the Authority for consideration, under arrangements similar to those that are already in place for exceptional events under ASC E12-J4. This would be the case for both health reviews and the investment works. These arrangements would allow the Authority to require further information or analysis from the OFTO where necessary in connection with their claim, and to make an adjustment based on the extent to which the OFTO had followed Good Industry Practice, the guidance and any directions issued by the Authority.

3. Proposed Modification to ASC E12-J3 (application of VAT to decommissioning costs and/or disallowance of scrap value from the decommissioning security)

All OFTO licences granted from TR3 onwards provide a mechanism that allows OFTOs to claim an adjustment in the event that VAT is applied to decommissioning costs.

All OFTO licences granted from TR4 onwards provide a mechanism that allows OFTOs to claim for costs incurred as a result of the disallowance of scrap value from the decommissioning security.

As stated in our letter dated 8 October 2021,⁴ the Authority is now consulting on modifications to: -

- a) include specific protection that covers additional costs, unforeseen at licence grant, which may be incurred as a result of VAT being applied to the decommissioning security, consistent with protection included in licences granted in TR3 onwards. The Authority proposes to amend all OFTO licences issued in TR1 and TR2, apart from two that already contain bespoke provisions on VAT, so that these OFTOs may also claim an adjustment in the event that VAT is applied to decommissioning costs and ensure consistency across all OFTO licences, and
- a) to include specific protection that that covers additional costs or expenses, unforeseen at licence grant, which may be incurred as a result of the disallowance of any scrap value of recovered material from the decommissioning security, consistent with protection included in licences granted in TR4 onwards. The Authority proposes to amend all OFTO licences issued in TR1 to TR3, so that these OFTOs may claim for additional costs or expenses incurred as a result of the disallowance of scrap value from the decommissioning security and ensure consistency across all OFTO licences.

4. Proposed Modification to ASC E12-J4 Part C (Incremental capacity incentive adjustment)

SLC E17 obliges an OFTO to “enter into an agreement with the system operator⁵ in accordance with the STC⁶” except in the circumstances set out in SLC E17.

⁴ [Link](#) to our letter dated 8 October 2021.

⁵ The System Operator is National Grid Electricity System Operator (NGESO).

⁶ The System Operator- Transmission Owner Code.

ASC E12-J4 Part C provides a mechanism to compensate the OFTO for any additional costs incurred as a result of the OFTO entering into an agreement under SLC E17. This was referred to as the additional capacity investment adjustment or “ACA_t”.

ASC E12-J4 Part C specifically refers to the OFTO entering into an agreement with the system operator to provide ‘additional capacity’. The phrase ‘additional capacity’ is not defined in the licence. With regards to transmission system network operation, we consider ‘capacity’ refers to the capacity of the Network. However, we recognise there is a possibility that the phrase ‘additional capacity’ could be read in more limiting terms, for example, capacity to connect new/increased electricity generation only.

We propose to modify ASC E12-J4 Part C of all OFTO licences to make it clear that an OFTO can seek to recover costs where the OFTO has entered into an agreement with the system operator under SLC E17 and the OFTO incurs costs as a result of that construction and to amend “additional capacity investment adjustment” to refer to “incremental investment adjustment” or “ACA_t”.

We are proposing this modification now as we consider clarity is needed to facilitate the ability of the system operator to enter into agreements with transmission owners (including OFTOs) to provide stability on the National Electricity Transmission System (**NETS**) (through Pathfinder projects, for example).⁷

Some OFTOs have asked Ofgem to clarify how the cost recovery process in ASC E12-J4 Part C would work in practice and also how/whether an OFTO can be protected for any outages necessary to facilitate increased capacity on the offshore transmission system. We are considering these issues with affected OFTOs and the ESO.

Consultation Notices

Copies of the notices covering these modifications for each individual OFTO, together with relevant annexes have been published alongside this letter.

Next Steps

We welcome views on the licence modifications proposed in this document, including (where appropriate) whether these achieve the policy position set out in the Decision Document. Any representations must be made by e-mail on or before 9 December 2022 to offshorelicensing@ofgem.gov.uk.

We are not issuing hard copies of the modification documents, nor do we expect consultation responses by post. If, however, you do wish to receive the documents and respond by post, we are able to organise this for you. Please contact us at the email address above, or on 020 7901 7295 to request hard copies of the relevant documents and postal address for responses.

The Authority will carefully consider all responses received to this consultation document. We will then publish our decision on the proposed modifications. In accordance with section 11A(9) of the Electricity Act 1989, if the Authority makes the licence modifications, they will come into effect 56 days after the date of that decision.

⁷ There are three Pathfinder projects, each designed to solve specific problems in the system. You can find more information at [[Network Option Assessment \(NOA\) Pathfinders | National Grid ESO](#)].

Your feedback

We believe that consultation is at the heart of good policy development. We are keen to receive your comments about this consultation. Please send any general feedback comments to offshorelicensing@ofgem.gov.uk.



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