

To: Diamond Transmission Partners Hornsea One Limited

**Electricity Act 1989
Section 11A(1)(a)**

**Modification of the amended standard conditions of the offshore electricity
transmission licence held by Diamond Transmission Partners Hornsea One
Limited**

1. Diamond Transmission Partners Hornsea One Limited is the holder of an electricity offshore electricity transmission licence ('the Licence') granted or treated as granted under section 6(1)(b) of the Electricity Act 1989 ('the Act').
2. Under section 11A(2) of the Act the Gas and Electricity Markets Authority ('the Authority')¹ gave notice on 11 November 2022 ('the Notice') that we propose to modify:
 - a) The definition of 'Competent Authority' and 'Exceptional Event' in Amended standard licence condition E12-A1, and
 - b) Part C of amended standard licence condition E12-J4 of the Licence.
3. We stated that any representations to the modification proposal must be made on or before 9 December 2022.
4. A copy of the Notice was sent to the Secretary of State in accordance with section 11A(4)(b) of the Act, and we have not received a direction that the change should not be made.
5. We received seventeen responses (representing thirty-three Licensee's/Interested Parties) to the Notice, which we carefully considered. We have placed all non-confidential responses that specifically responded to these modification proposals on our website. Our response to these comments is set out in the accompanying letter.
6. We are making these licence changes to clarify that Offshore Transmission Owners ('OFTOs') can seek to recover costs incurred to connect a third party to the OFTOs system, including connections to provide stability on the National Electricity Transmission System ('NETS'), for example, a third party providing a transmission system service.
7. The effect of the modifications will be to make it clear that OFTOs can seek to recover costs where the OFTO has entered into an agreement with the system operator under Standard Licence Condition ('SLC') E17 and the OFTO incurs costs as a result of that agreement.
8. Where an application for permission to appeal our decision is made to the Competition and Markets Authority ('CMA') under section 11C of the Act, Rule 5.7 of the Energy


¹ The terms "the Authority", "we" and "us" are used interchangeably in this document.

Licence Modification Appeals: Competition and Markets Authority Rules² requires that the appellant must send to any relevant licence holders who are not parties to the appeal a non-sensitive notice setting out the matters required in Rule 5.2. The attached Schedule 2 provides a list of the relevant licence holders in relation to this modification. Section 11A(10) of the Act sets out the meaning of 'relevant licence holder'.

Under the powers set out in section 11A(1)(a) of the Act, we hereby modify the definition of 'Competent Authority' and 'Exceptional Event' in Amended standard licence condition E12-A1 and Part C of amended standard licence condition E12-J4 of the offshore electricity transmission licence of Diamond Transmission Partners Hornsea One Limited in the manner specified in attached Schedule 1.

This decision will take effect from 23 August 2023.

This document is notice of the reasons for the decision to modify the offshore electricity transmission licence held by Diamond Transmission Partners Hornsea One Limited as required by section 49A(2) of the Act.



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Stuart Borland
Deputy Director, Offshore Network Regulation

Duly authorised on behalf of the
Gas and Electricity Markets Authority

27 June 2023

² CMA70 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/655601/energy-licence-modification-appeals-rules.pdf

Schedule 1

Amended Standard Condition E12–A1: Definitions and Interpretation

[...]

Definitions in alphabetical order

6. In these amended standard conditions unless the context otherwise requires:

"Competent Authority"	means the Secretary of State, the Authority, the Compliance Officer, the Stock Exchange, the Panel on Takeovers and Mergers, or any local or national agency, regulatory body, authority, department, inspectorate, minister (including Scottish and Welsh Ministers), ministry, official or public or statutory person (whether autonomous or not) of, or of the government of, the United Kingdom, the United States of America or the European <u>Union Community</u> .
"Exceptional Event"	means 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, or 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.

Amended Standard Condition E12–J4: Restriction of Transmission Revenue: Annual Revenue Adjustments

1. The purpose of this condition is to provide for adjustments to Allowed Transmission Owner Revenue (OFTO_t) in relation to the Licensee's Transmission System performance and this condition shall not take effect until the transmission system to which this licence relates has been transferred to the licensee.

2. For the purposes of paragraph 4 of amended standard condition E12– J2 (Restriction of Transmission Revenue: Revenue from Transmission Owner Services), the performance availability revenue adjustment term (PA_t) is derived from the following formula:

$$PA_t = AI_t + ICA_t \quad (9)$$

where:

AI_t means the Transmission System Availability Incentive, whether of a positive or of a negative value, as derived from the formula set out in paragraph 6;

ICA_t means the Incremental Capacity Incentive Adjustment term as derived from the formula set out in paragraph 18.

Part A: Transmission System Availability Incentive

3. [...]

Part B: Transmission System Availability Incentive: Supplementary Provisions

13. [...]

Part C: Incremental Capacity Incentive Adjustment

18. For the purposes of paragraph 2, the Incremental Capacity Incentive Adjustment term (ICA_t) is derived from the following formula:

$$ICA_t = ACA_t \times RIT_t \quad (30)$$

where:

ACA_t means the ~~additional capacity incremental~~ investment adjustment, which for the purposes of this licence shall take the value zero, but may be changed in accordance with paragraph 19.

RIT_t means the revenue indexation adjustment term calculated in accordance with the formula specified in paragraph 4 of amended standard condition E12–J2 (Restriction of Transmission Revenue: Revenue from Transmission Owner Services).

19. For the purposes of paragraph 18, the ~~additional capacity incremental~~ investment adjustment term (ACA_t) shall be determined by the Authority in accordance with paragraphs 20 to 22 and shall otherwise take the value zero.
20. Where the licensee has entered into an agreement with the System Operator in accordance with standard condition E17 (Obligations in relation to offers for connection etc) ~~to provide additional capacity~~ it shall:
- (a) submit a notice in writing to the Authority, together with supporting evidence, setting out the revenue adjustment that it considers is required to remunerate the costs that it will incur in ~~providing that additional capacity~~ complying with that agreement which shall include (without limitation):
 - (i) the amount of additional capacity (if any) that the licensee is contractually required to make available to the System Operator;
 - (ii) the capital costs that it expects to incur in ~~providing the additional capacity~~ complying with that agreement, demonstrating that such costs are not more than 20 per cent of the original investment cost incurred by the licensee in respect of the Licensee's Transmission System in the Commencement-Relevant Year;

- (iii) the anticipated additional costs of operation and maintenance- that are expected to be incurred as a consequence of ~~providing the additional capacity entering into that agreement~~; and
 - (iv) the costs of financing the additional investment in the Licensee's Transmission System.
- (b) provide such additional information as the Authority may require to make a determination of the appropriate revenue adjustment in accordance with paragraph 22.
21. A notice referred to in paragraph 20 shall be given as soon as is reasonably practicable after the licensee has entered an agreement with the System Operator in accordance with standard condition E17 (Obligations in relation to offers for connection etc), and, in any case, not later than three months after the end of the Relevant Year in which it occurs. 22.
22. The Authority shall determine :
- (a) the revenue adjustment (ACA_t) that would be required to remunerate the efficient costs that the Authority considers to have been reasonably incurred by the licensee; (b) the Relevant Year from which the revenue adjustment shall apply.
23. For the purposes of paragraph 22, in determining an appropriate adjustment:
- (a) the Authority may request that the licensee provide such information that it reasonably requires for the purposes of making its determination. The licensee is required to provide such information within the timescales set out by the Authority;
 - (b) the Authority shall, following consultation with interested parties, notify the licensee in writing of its proposed determination of the ~~additional capacity~~ incremental investment adjustment (ACA_t);
 - (c) the licensee₂ shall have 28 days, or such extended time as permitted by the Authority, within which to make representations to the Authority's proposed determination that has been notified to it pursuant to sub-paragraph (b);
 - (d) the Authority, having regard to any representations made by the licensee and not withdrawn, shall propose a modification to the ACA_t pursuant to sections 11A to 11F of the Act. The proposed modification shall only take effect where made by the Authority in accordance with sections 11A to 11F of the Act.

Schedule 2 - List of relevant Licensees

Licensee	Conditions modified
TC Barrow OFTO Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
TC Beatrice OFTO Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
Diamond Transmission Partners BBE Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
TC Dudgeon OFTO plc	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
Diamond Transmission Partners Galloper Limited	Amended Standard Condition E12-A1: Definitions and Interpretation Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
Greater Gabbard OFTO plc	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
TC Gunfleet Sands OFTO Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
Gwynt y Môr OFTO plc	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
Diamond Transmission Partners Hornsea One Limited	Amended Standard Condition E12-A1: Definitions and Interpretation Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
Humber Gateway OFTO Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
TC Lincs OFTO Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
Blue Transmission London Array Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
TC Ormonde OFTO Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
Diamond Transmission Partners RB Limited	Amended Standard Condition E12-A1: Definitions and Interpretation Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments

TC Rampion OFTO Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
TC Robin Rigg OFTO Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
Blue Transmission Sheringham Shoal Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
Thanet OFTO Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
Blue Transmission Walney 1 Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
Blue Transmission Walney 2 Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
Diamond Transmission Partners Walney Extension Limited	Amended Standard Condition E12-A1: Definitions and Interpretation Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
TC Westernmost Rough OFTO Limited	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments
WoDS Transmission plc	Amended Standard Condition E12 - J4: Restriction of transmission revenue: Annual revenue adjustments