



Making a positive difference  
for energy consumers

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Date: 20 December 2023

Dear Chris,

**Notice of consultation to modify conditions of the electricity transmission licence (the Licence) proposed to be granted to the successful bidder for the Moray East Offshore Wind Farm project.**

We have today commenced a consultation under section 8A of the Electricity Act 1989 on the proposed modifications to certain standard conditions of the electricity transmission licence that may be granted to TC Moray East OFTO Limited (a consortium of Transmission Capital Partners Limited Partnership and International Public Partnerships Limited) (the **Applicant** and the **Preferred Bidder** of the Moray East Offshore Wind Farm project). The Licence will be granted to the Applicant if it becomes the successful bidder for the Moray East Offshore Wind Farm project (the **Project**).

The attached consultation notice is published on our website and sets out details of the proposed modifications, including why they are proposed and their effect, the closing date of the consultation, and how to respond.

We are proposing to add a number of amended standard conditions to the transmission licence that may be granted to the Applicant should the Preferred Bidder become the successful bidder for the Project. These proposed conditions are detailed in the section 8A notice.

In accordance with our statutory requirements and best practice we have brought the proposed modifications to the attention of persons likely to be affected and provided copies of the notice to:

- the Secretary of State for Energy Security and Net Zero;
- Citizens Advice;
- Citizens Advice Scotland;
- The Health and Safety Executive;
- The Scottish Executive;
- Consumer Scotland and
- The Project Developer – Moray Offshore Windfarm (East) Limited.

## Project specific licence modifications

The project specific modifications that have been included in this licence are summarised below.

### Amended Standard Condition E12-J3 (Restriction of Transmission Revenue: Allowed Pass-through Items)

The offshore regime incentivises licensees to manage costs efficiently over a defined period<sup>1</sup> but also recognises that licensees may not be best placed to manage risks where they are not sufficiently within their control. There are therefore a number of pre-defined revenue adjustment mechanisms in the licence that seek to optimally reallocate risk for a small number of known, but unpredictable, factors.

The Authority considers that the most appropriate way of providing the Applicant with a method to recoup costs and/or expenses (as the case may be) resulting from defined contingent events (summarised below) in connection with this Project, is by including a CEA term in the licence.

We have therefore added pass-through mechanism (the **contingent event revenue adjustment** or **CEA**) to amended standard condition E12-J3 (Restriction of Transmission Revenue: Allowed Pass-through Items).

#### *Summary of CEA mechanism*

The CEA mechanism is a bespoke term in the Licence providing for revenue adjustments for discrete pass-through items in relation to the Moray East transmission system. In summary, when determined by the Authority, it provides for an adjustment to the licensee's revenue entitlement should costs and/or expenses arise in specified circumstances as set out in the Licence. These are where the licensee has been required either:

1. whereby the Secretary of State to increase the size of its security in respect of its Decommissioning Plan to account for the payment of VAT (a **contingent event** in the licence); and/or
2. by the national electricity transmission system operator to undertake works to reduce the impact or likelihood of sub synchronous voltage oscillations on the National Electricity Transmission System.

#### *Rationale for Contingent Event Revenue Adjustment Term*

The use of such a licence adjustment mechanism is necessary in this case for the following reasons:

1. The Preferred Bidder was not aware (and could not reasonably be expected to have been aware) of either the contingent event and/or the materiality of the contingent event (as the case may be) prior to and for the purposes of submitting its Invitation to Tender (**ITT**) submission.
2. It has not been possible for the Preferred Bidder to resolve or fully mitigate the contingent event by way of commercial agreement with relevant parties or by any other mechanism which would provide an appropriate solution; and

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<sup>1</sup> 23-year period for the proposed TC Moray East OFTO Limited licence

3. The event is both contingent and material, in that:

- 3.1. There are uncertain costs and/or expenses (as the case may be) which could not be forecast, and which may be incurred by the licensee because of the contingent event; and
- 3.2. It is likely that if the contingent event arises it would have a material impact on the costs and/or expenses (as the case may be) incurred by the licensee.

Amended Standard Condition E12-J4 (Restriction of Transmission Revenue: Annual Revenue Adjustments)

We have added additional exclusion limbs to paragraph 8 of amended standard condition E12-J4 (Restriction of Transmission Revenue: Annual Revenue Adjustments) which lists the circumstances under which a transmission service reduction on the licensee's transmission assets will not be included in the calculation of the availability incentive. These additional limbs allow the licensee to exclude a duration from the calculation of the Transmission System Availability Incentive in circumstances below:

1. Works related to upgrading the Moray East transmission system from 275kV to 400kV and where the loss of revenue associated with the reduction of transmission system availability is not recoverable under any commercial arrangement.
2. Any reduction in transmission system availability due to unacceptable gassing levels in any of the onshore or offshore shunt reactors or due to a fault, defect or damage which has been caused by unacceptable gassing levels in one or more shunt reactor(s), including any reduction in transmission system availability arising as a result of any associated unplanned works required;
3. Any reduction in transmission system availability solely as a result of an event or circumstance under which the licensee has been required by the national electricity transmission system operator to take action to reduce the impact or likelihood of sub synchronous voltage oscillations on the National Electricity Transmission System.

Having considered all of the circumstances, we have decided that it is appropriate and proportionate to include these bespoke exclusion limbs, in the limited circumstances prescribed, to protect the licensee against revenue losses that may occur as a result of these project specific circumstances.

Amended standard condition E12-J2 (Restriction of Transmission Revenue: Revenue from Transmission Owner Services) - Tender revenue stream

Amended standard condition E12-J2 (Restriction of Transmission Revenue: Revenue from Transmission Owner Services) sets out the proposed tender revenue stream for the Project for the purposes of the section 8A consultation (the **s8A TRS**). The s8A TRS is based on the tender revenue stream bid by the Preferred Bidder at the ITT stage of the tender process, which has been updated as appropriate to reflect further information available to the Preferred Bidder since the date of the ITT submission, including the draft final transfer value for the Project. The s8A TRS assumes that 100% of the draft final transfer value will be paid to the Project developer on asset transfer. Details of the transfer value which is reflected in the s8A TRS are set out in the draft cost assessment report for the Project, which is published on our website today ([www.ofgem.gov.uk](http://www.ofgem.gov.uk)).

If you have any queries regarding the information contained within this letter you should contact Yash Audichya on 020 7901 3889 or by email to [offshorelicensing@ofgem.gov.uk](mailto:offshorelicensing@ofgem.gov.uk).

Yours sincerely,

**Sean Payne**  
**Head of OFTO Tender Management**