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Date: 20 February 2024

Dear Simon,

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

Whereas:

1. TC Lincs OFTO Limited (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 the 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 18 July 2022 and ending on 30 July 2022, 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 that the Licensee considers resulted from the Exceptional Event; and
 - d. the Authority is satisfied, 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 of the Licence.
4. In accordance with Paragraph 10 of the Condition, the Authority is satisfied, 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 23 January 2024 (**the Notice**).

6. No representations were made by the Licensee in response to the Notice.

Now therefore:

7. The Authority directs that the Licensee's reported system incentive performance be adjusted to offset the full duration of the outage: reported system incentive performance for incentive year 10 (beginning 1 January 2022) will be increased by a total of 77,906 MWh to fully offset the impact of this event.
8. This Direction constitutes notice pursuant to section 49A(1)(c) of the Act.

Yours sincerely,



Yvonne Naughton
Head of OFTO Licensing and Compliance

Duly authorised by the Authority

ANNEX

REASONS FOR ACCEPTANCE OF AN EXCEPTIONAL EVENT CLAIM SUBMITTED BY TC LINCS OFTO LTD UNDER PARAGRAPH 9 OF AMENDED STANDARD CONDITION E12- J4

1 Notification

- 1.1 On 19 July 2022, the Licensee notified the Authority that there had been a Transmission Service Reduction on one of its export cables. The Transmission Service Reduction ran from 18 to 30 July 2022.
- 1.2 The Licensee submitted an Exceptional Event claim to the Authority on 22 March 2023.

2 Exceptional Event requirements

- 2.1 Paragraph 9 of the Condition provides that the Authority shall adjust the value of the monthly capacity weighted unavailability 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;
 - 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 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."

Decision

- 2.3 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 that the Transmission Service Reduction was caused by an Exceptional Event, for the reasons set out below.

3 Reasons for decision

- 3.1 The Authority has considered the information provided by the Licensee (including independent technical reports that support their claim) against both the Licence and the open letter dated 4 January 2024 (the **Open Letter**).
- 3.2 The Licensee explained that during a routine site inspection on 12 November 2021 a leak was identified on the L2 yellow phase cable sealing connection and a small quantity of insulating fluid was on the ground.
- 3.3 The Licensee has demonstrated to our satisfaction that the root cause of the fault was due to a latent defect either in the design or installation of the cable sealing end.
- 3.4 We consider that the integrity of the cable seals in question cannot be tested visually. They are, in essence, a sealed unit and so any problem only becomes evident once it has occurred (or at least started to deteriorate or fail to some degree).
- 3.5 The Licensee has inspected and maintained the equipment in line with the manufacturers recommendations and has demonstrated that there is no non-invasive way of inspecting for leaks on the asset in question.
- 3.6 We consider that the Licensee has demonstrated that the fault would not have been apparent during the due diligence process that occurs prior to asset transfer and that there was no indication of damage or degradation until the insulating fluid leakage was discovered in November 2021.
- 3.7 Given this, we accept that the Licensee could not reasonably have been expected to identify the fault during the due diligence process prior to asset transfer, and that the original cause of the event was beyond the reasonable control of the Licensee. We therefore consider that the claim constitutes an Exceptional Event within the terms of the Licence and the Open Letter.

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

- 4.1 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.

4.2 Therefore, the Authority directs that the Licensee's reported system incentive performance be adjusted to offset the full duration of the Transmission Service Reduction:

- 77,906 MWh reported system incentive performance for incentive year 10 (1 January 2022 to 31 December 2022).