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Date: 17 January 2025

**DIRECTION UNDER PARAGRAPH 10 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. In accordance with Paragraph 10 of Amended Standard Condition E12-J4 (the **Condition**):
 - a. the Licensee considers that the Event causing the Transmission Service Reduction on the Licensee's Transmission System commencing on 14 December 2023 was wholly or partially caused by an exceptional event (as defined in Amended Standard Condition E12-J1 of the Licence);
 - b. the Licensee notified the Gas and Electricity Markets Authority (the **Authority**) of the reduction in system availability within the 14-day period required by the Licence;
 - c. the Licensee has provided details of the reduction in system availability for the period 14 December 2023 to 31 December 2024 (inclusive), that the Licensee considers resulted from the exceptional event and further information requested by the Authority; 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.

3. In accordance with Paragraph 10 of the Condition, the Authority is satisfied, for the reasons specified in Annex to this direction, that the Licensee took steps to manage the impact of the Event on the availability of transmission services.
4. The Authority gave the required notice in accordance with Paragraph 11 of the Condition to the Licensee on 16 January 2025 (the **Notice**). The Authority is not obliged to seek representations from any other party.
5. The Licensee did not submit any representations.
6. The total reduction in capacity arising from this outage was 61,078 MWh in incentive year 11 (beginning 1 January 2023) and 1,014,324 MWh in year 12 (beginning January 2024).

Now therefore:

7. The Authority directs that the Licensee's reported system incentive performance for:
 - a. incentive year 11 will be increased by 61,078 MWh and
 - b. incentive year 12 will be increased by 1,014,324 MWhto offset the impact of this event.
8. This direction constitutes notice pursuant to section 49A(1)(c) of the Act.

Yours sincerely,

Stuart Borland

Deputy Director, Offshore Networks

Duly authorised by the Authority

THE AUTHORITY'S REASONS FOR ISSUING A DIRECTION UNDER PARAGRAPH 10 OF AMENDED STANDARD CONDITION E12-J4

1 Notification

- 1.1 On 14 December 2023, Gwynt y Môr OFTO plc (the **Licensee**) notified the Authority that there had been a Transmission Service Reduction on offshore export cables. The Transmission Service Reduction began on 14 December 2023 (the **2023 SSEC3 Failure**).
- 1.2 On 10 October 2024, the Licensee submitted an exceptional event (**EE**) claim for the period 14 December 2023 to 31 December 2024.

2 Exceptional event requirements

- 2.1. Paragraph 10 of Amended Standard Condition E12-J4 Condition (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, 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."

3 Decision

- 3.1 The Licensee has acted in accordance with the requirements of subparagraphs 10(a) to (c) of the Condition. Pursuant to subparagraph 10(d) of the Condition, the Authority is satisfied that the 2023 SSEC3 Failure is an exceptional event, for the reasons set out below.

Reasons for decision

- 3.2 The Authority has considered the information provided by the Licensee regarding the 2023 SSEC3 Failure against both the Licence and the Open Letters.¹
- 3.3 The Licensee provided a root cause analysis report in support of its claim that shows the root cause of the 2023 SSEC3 Failure is the same latent defect that caused the 2020 SSEC3 Failure.²
- 3.4 Ofgem's internal engineers agree; the latent defect being "*electrical activity caused by inconsistent conductivity (resulting from a manufacturing or, more likely, a design defect) of the PE sheath within the spare FOC led to a breach in the waterproofing abilities of the PE sheath that in turn allowed water to penetrate into the metallic armour, which resulted in the armour corroding and further increasing resistance within the FOC. The increased resistance led to heat that melted the armour wires surrounding the FOC casing the current to find an alternative path through the steel tube housing the fibres. Heating caused by the current flowing through the steel tube damaged both the steel tube and the plastic protective coating of the FOC, resulting in breaks in the FOC. The breaks in the FOC caused the induced current to flow through the power core lead sheath, which in turn damaged the power core insulation, which ultimately resulted in the Cable Failure*" (the **SSEC3 Latent Defect**).
- 3.5 We consider that it is unreasonable for the Licensee to have known about the SSEC3 Latent Defect when the assets were transferred to it, following construction by Gwynt y Môr Offshore Wind Farm Limited (**GYMOWFL**), or that defect would lead to a failure of the main power core. Therefore, and consistent with our previous decisions, the 2023 SSEC3 Failure resulting from the SSEC3 Latent Defect is considered to be beyond the reasonable control of the Licensee.

Could the Licensee have taken action to prevent the event occurring?

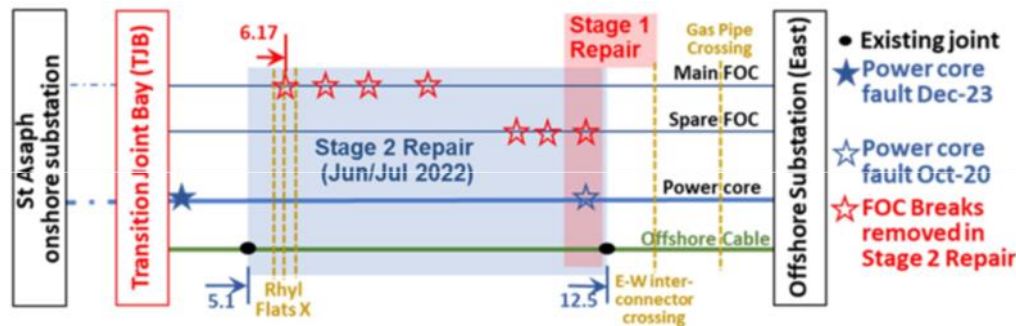
- 3.6 Following the repair of the 2020 SSEC3 Failure in July 2023, the Licensee states it continued to test SSEC3 for Fibre Optic Cable (**FOC**) breaks on a monthly basis; Further FOC breaks were discovered:
- a) in October 2022 at location KP.5.1 – close to the site of the 2020 SSEC3 Failure);
 - b) between November 2022 and January 2023 between location KP4.81 and KP4.95, and
- 3.7 By 21 March 2023, all FOCs were recorded broken at around location KP0.28.³
- 3.8 Based on previous events on SSEC3, we consider the Licensee could not have taken action to prevent a Transmission Service Reduction occurring due to the SSEC3 Latent Defect; be that a pre-emptive repair of FOC breaks when they were discovered, prior to the 2023 SSEC3 Failure, or a repair after SSEC3 failed in December 2023.
- 3.9 Figure 1, below, shows the various FOC breaks locations in pictorial form.

Figure 1

¹ [Open letter on the Authority's approach towards Exceptional Events for offshore transmission owners \(OFTOs\) | Ofgem](#)

² On [10 February 2021](#), [24 November 2021](#), [30 March 2022](#) and [16 February 2023](#) (**previous decisions**), Ofgem concluded that the SSEC3 Latent Defect led to the 2020 SSEC3 Failure was an exceptional event (**EE**).

³ Licensee states "*This meant that between KP0.28 and KP4.81 (c.4.53km) the FOC was disconnected from earth. So testing could not identify any further FOC breaks in this cable section*".



Did the Licensee follow Good Industry Practice between the 2023 SSEC3 Failure in December 2023 and the start of the cable repair on 2 July 2024?

- 3.10 The repair of the SSEC3 Cable Failure began on 2 July 2024.
- 3.11 For the reasons set out below, we consider the Licensee followed Good Industry Practice (**GIP**) in its preparations for the repair of SSEC3 between December 2023 and July 2024; GIP being “the exercise of that degree of skill, **diligence, prudence and foresight** which would **reasonably and ordinarily be expected** from a skilled and experienced operator engaged in the same type of undertaking **under the same or similar circumstances**.” (emphasis added).
- 3.12 We note that the License continues to be in a challenging financial position as a result of continuing issues with the cable and the associated cost implications of the repairs.
- 3.13 The Licensee states it considered what actions could be taken following the discovery of the FOC breaks together with the potential consequences of each option – stating its review was conducted in the context [at that time] of the Licensee having “*completed two expensive repairs without any cost recovery and the prospect of GYMOWFL challenging any positive IAE decision*” – the two repairs referred to being the repairs of the 2020 SSEC3 Failure.
- 3.14 Following the 2023 Cable Failure, the Licensee, GYMOWFL and Ofgem entered into tri-partite discussions concluding on 9 May 2024, as to the approach to be taken to repair the 2023 SSEC3 Failure and other matters.
- 3.15 Following conclusion of those discussions, the Licensee was able to enter into the cable repair contract on 16 May 2024, on the understanding that any funds resulting from any positive Income Adjusting Event determination by the Authority, to grant costs incurred as a result of the 2020 SSEC3 Failure, would be available to allow it to undertake this repair.
- 3.16 Based on the information provided by the Licensee, we consider it would not have been prudent, diligent or reasonable to for the Licensee to enter into a contract for repairs which would put the Licensee into further financial difficulty. The directors of a company have a duty to promote the success of a company for the benefit of its shareholders. In doing so they should consider the consequences for employees, stakeholders and communities, and to enter into a contract which would potentially exacerbate the financial issues of the company would, arguably, be contrary to this duty. Therefore it was reasonable for the directors to ensure that they had the funds available before entering into a binding contract for high value works to be carried out.

Did the Licensee follow GIP I when undertaking the repair between 2 July 2024 and 31 December 2024?

- 3.17 The Licensee undertook a repair of SSEC3 between 2 July and 30 August 2024. For the reasons set out above, we consider the Licensee followed GIP when undertaking the repair.
- 3.18 On 30 August 2024, transmission services were restored but limited to 90MW to reduce the risk of further Fibre Optic Cable (**FOC**) breaks (the **export cap**). On 29 November 2024, the service cap was changed from 90MW to 60MW. On 22 December 2024, the export cap changed to 76MW (from 60MW) at the request of Gwyn y Môr Offshore Wind Farm Limited (**GYMOWFL**).
- 3.19 We understand the replacement cable necessary to undertake further repairs to remove known FOC breaks was delivered to UK in December 2024. Transmission services are expected to be fully restored when the remaining FOC breaks are repaired.
- 3.20 We note the views of the Licensee's independent advisers that:
- a) *"It is not possible to quantify in any meaningful way the relationship between the probability of failure and the maximum power, except to say that a reduced maximum power level will lead to a reduced likelihood of failure; and*
 - b) *there is no guarantee that a 60MW cap would prevent a power fault occurring and equally there is no guarantee that a power core fault will occur with a 90MW cap (although maintaining a cap at this level is not recommended). The decision on what level to set the power cap is therefore a commercial one."*
- 3.21 Having reviewed the views of the Licensee's independent advisers and consistent with previous decision we consider the Licensee followed GIP in both applying the export cap and in ordering the replacement cable necessary to allow it to undertake a further repair in a timely fashion.

Timing of the decision

- 3.22 Primarily as a result of the financial consequences of the cable repairs it had to fund in 2015 and 2020, the Licensee continues to face significant financial difficulties. The Licensee asked the Authority to expedite its decisions on this EE claim.
- 3.23 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 event constitutes an EE 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 31 December 2024.
- 3.24 The Authority reserves the right to amend this Direction should any future information provided by the Licensee make it appropriate to do so.
- 3.25 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.

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

- 3.26 Therefore, the Authority directs that the value of the Licensee's monthly capacity weighted unavailability be adjusted as follows:
- a) the total reduction in capacity arising from this Event was 61,078 MWh in incentive year 11 (beginning 1 January 2023), the reported system incentive performance for incentive year 11 shall be increased by 61,078 MWh, to offset the impact of this event.
 - b) the total reduction in capacity arising from this Event was 1,014,324 MWh in incentive year 12 (beginning 1 January 2024), the reported system incentive performance for incentive year 12 shall be increased by 1,014,324 MWh, to offset the impact of this event.