



Making a positive difference
for energy consumers

Mr Ian Naylor
Gwynt y Môr OFTO plc
Focus Point
3rd Floor
21 Caledonian Road
London
N1 9GB

By email only:

ian.naylor@threepwoodconsulting.com

Email: Offshore.Reporting@ofgem.gov.uk

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Dear Mr. Naylor,

Final determination in relation to notice of an income adjusting event from Gwynt y Môr OFTO plc

1. On 6 July 2023, 19 March 2024, 20 January 2025 and 28 November 2025, the Authority determined the event that occurred on 15 October 2020 and resulted in the failure of Subsea Export Cable 3 (**SSEC3**) on the Gwynt y Môr OFTO plc (the **2020 Cable Failure**)¹ was an Income Adjusting Event (**IAE**) pursuant to Amended Standard Condition E12-J3 (Restriction of Transmission Revenue: Allowed Pass-through Items) of its Licence (the **Condition**).²
2. On 22 October 2025, the Authority received a further notice (the **Notice**) from Gwynt y Môr OFTO plc (the **Licensee**) in respect of costs incurred as a result of the 2023 Cable Failure:
 - i. further costs incurred in respect to the Stage 3 repair of SSEC3, totalling £37,074.05 (**the Stage 3 Costs**).

¹ The 2023 Cable Failure was determined as constituting an IAE in the January 2025 Determination.

² Links to [determination dated 6 July 2023](#), [determination dated 19 March 2024](#), [determination dated 20 January 2025](#) and [determination dated 28 November 2025](#)

- ii. further costs incurred in respect to the Stage 4 repair of SSEC3, totalling £23,701,766.37 (**the Stage 4 Costs**).
 - iii. further costs incurred in respect of a future repair to SSEC3, totalling £84,062.06 (**the Stage 5 Costs**).
 - iv. costs incurred in years 2025/26 in respect to the Stage 3 and Stage 4 repairs that were deferred from the November 2025 IAE Determination, totalling £383,043.49 (**Stage 3 and Stage 4 Deferred Costs**).
3. The Authority has considered the current claim. The costs claimed are costs incurred as a result of the 2023 Cable Failure. We determined the 2023 Cable Failure constitutes an IAE for the reasons provided in the January 2025 IAE Determination.³ In respect to the costs claimed in the notice, the Authority has determined:
- i. A partial allowed income adjustment (IAT_t) for year 2025/26 to reflect the Stage 3 Costs, Stage 4 Costs and Stage 3 and Stage 4 Deferred Costs incurred in respect of that year. We consider this is necessary to restore the financial position of the Licensee to the position as if the IAE had not taken place.⁴
 - ii. In accordance with paragraph 21(c)(iii) of the Condition, it is not yet possible to make a final determination of the allowed income adjustment (IAT_t) for year 2025/26. This is because:
 - a. the Licensee has claimed costs incurred in this year in respect to the Stage 5 repair (the Stage 5 Costs) in circumstances where the Stage 5 repair has not yet commenced; and
 - b. the 2025/26 financial year has not yet concluded and therefore the Licensee may incur further costs in respect of the IAE in 2025/26 which it may then seek to claim under the Condition.

We will make a final determination of the amount for year 2025/26 as soon as reasonably practicable (i.e. after the financial year has concluded and any further claims in respect of that year are made).

³ See paragraphs 22-39 of our [January 2025 IAE Determination](#).

⁴ Paragraph 21(c) of Amended Standard Condition E12-J3 (Restriction of Transmission Revenue: Allowed Pass-through Items) of its Licence (the **Condition**).

Background

4. The Licensee is the holder of an offshore electricity transmission licence, granted on 11 February 2015 under section 6(1)(b) of the Electricity Act 1989 (the **Act**).
5. The Licensee provided the Notice to the Authority pursuant to paragraph 14 of the Condition, in respect of an increase in costs and/or expenses incurred by the Licensee that it considers was caused by an IAE.
6. Pursuant to paragraph 16 of the Condition, the Notice gave particulars of:
 - i. the event to which the Notice relates and why the Licensee considers the event to be an IAE;
 - ii. the amount of any change in costs and/or expenses that can be demonstrated by the Licensee to have been caused by the event and how the amount of these costs and/or expenses has been calculated;
 - iii. the amount of any allowed revenue adjustment proposed as a consequence of that event and how this allowed revenue adjustment has been calculated; and
 - iv. any other analysis or information that the Licensee considers sufficient to enable the Authority and the relevant parties to assess fully the event to which the Notice relates.

Publication of the Notice and consultation

7. Paragraph 19 of the Condition requires the Authority to publish the Notice, excluding any confidential information, following its receipt. Paragraph 21 requires that the Authority consults with the Licensee and such other persons as it considers desirable before making its determination.
8. The Licensee considered that the details of the 2023 Cable Failure and certain commercial arrangements should be kept confidential because it might seriously prejudice its ability to recover incurred costs from other parties, and that this could affect the size of the claims.
9. Under paragraph 20 of the Condition, the Authority has the discretion to determine the confidentiality of information in the Notice by balancing the need for disclosure to enable relevant parties to fully assess the 2023 Cable Failure against the risk of seriously prejudicing the interests of a person to which it relates. In the specific circumstances of the 2023 Cable Failure, the Authority agreed that the publication of

certain information about it and related commercial arrangements might seriously prejudice the interests of the Licensee in respect of its commercial discussions and therefore redacted that information. The Authority published the redacted Notice on 27 November 2025.⁵

10. In accordance with paragraph 21 of the Condition, the Authority consulted with the Licensee in relation to the Minded-to determination (MTD). The Licensee did not submit any representations.
11. The Authority also consulted with the developer of the wind farm, Gwynt y Môr Offshore Wind Farm Limited (**GYMOWFL**), as it was responsible for the construction of the transmission assets. GYMOWFL did not submit any representations.
12. Based on the facts and circumstances of the 2023 Cable Failure, the Authority does not consider it desirable to consult with any other party before making its determination. This is on the basis that the fact-specific nature of the claim limited the likelihood that any other party would have any additional information in this case that might be relevant to our determination.

Income Adjusting Event

13. Paragraph 15 of the Condition defines what constitutes an IAE, as follows:

An income adjusting event in relevant year t may arise from any of the following:

- a) an event or circumstance constituting Force Majeure;*
- b) an event or circumstance resulting from an amendment to the STC not allowed for when allowed transmission owner revenues of the Licensee were determined for the relevant year t; and*
- c) an event or circumstance other than listed above which, in the opinion of the Authority, is an income adjusting event and is approved by it as such in accordance with paragraph 21 of this licence condition,*

where the event or circumstance has, for relevant year t, increased or decreased costs and/or expenses by more than £1,000,000 (the "threshold amount").

14. The Licensee claims that the 2023 Cable Failure is an IAE pursuant to sub-paragraph 15(c) of the Condition (**Limb (c)**).
15. Under Limb (c), the Authority may approve any other event or circumstance not covered by sub-paragraphs 15(a) and (b) which, in the opinion of the Authority, is an IAE. The Condition does not expressly set out any particular qualifying criteria for

⁵ Notice is available at [Publication of notice of an Income Adjusting Event from Gwynt y Môr OFTO Limited: received October 2025](#)

determining whether an event constitutes an IAE under this limb. In our determination on an IAE claim from Blue Transmission London Array Limited dated 27 October 2016 (the **BTLAL Determination**), we set out our approach for assessing claims under Limb (c) (see, in particular, pp. 4-6 of the BTLAL Determination).⁶

16. In assessing whether an event or circumstance is an IAE under Limb (c), we have considered, consistent with the BTLAL Determination, whether it is appropriate for the Licensee to manage the risk of the event. To determine this, we have considered the extent to which the Licensee was, or should have been, in a position to foresee the event or circumstances and the level of control it had to mitigate the impact of such event.
17. We considered the following factors:
 - a) whether the Licensee knew of the event or circumstance before it arose or ought to have known of it;
 - b) whether the risk of damage of that type was reasonably foreseeable (even if the particular way in which the damage has occurred may not have been);
 - c) whether there are nevertheless exceptional factors in the relevant case that mean that the event or circumstance, or its consequences, could not have been reasonably foreseeable; and
 - d) the ability of the Licensee to manage the risk or impact by putting in place and pursuing risk management arrangements such as insurance, commercial recourse against third parties and/or operating practices.
18. As noted in the BTLAL Determination, we consider that such an approach is consistent with the overarching design of the OFTO regime and with the Authority's statutory duties, in particular its principal objective to protect the interests of existing and future consumers in relation to electricity conveyed by transmission systems.⁷ For example, we do not consider it to be in the interests of consumers⁸ to pass through those costs arising from a type of damage that was (or should have been) foreseeable to a bidder/OFTO, solely because the precise damage of that type that occurred was not foreseeable. We therefore consider it appropriate to adopt a narrower, rather than a broader, construction of Limb (c) in this regard. Such an approach also seeks to ensure

⁶ https://www.ofgem.gov.uk/system/files/docs/2016/10/btlal_iae_determination_final.pdf

⁷ Section 3A of the Electricity Act 1989.

⁸ Whilst we recognise that the charging regime will in part or whole allocate costs for IAEs to offshore windfarm developers, we refer to consumers bearing these costs in the sense that all costs passed through into network charges are ultimately borne by consumers through their energy payments.

that bidders are properly incentivised to conduct due diligence in respect of the assets, to put in place appropriate commercial arrangements prior to asset transfer and to pursue any relevant third parties who may be liable (such as developers, manufacturers, installers, and insurers). The OFTO regime facilitates commercial transactions for large-scale infrastructure investment. We consider that the OFTO is responsible for managing its investment including adopting what it considers are suitable risk management measures.

Determination on whether the 2023 Cable Failure constitutes an IAE under Limb (c)

19. We confirm the determination we made in our January 2025 IAE Determination that the latent defect in the sheath of the SSEC3 cable (**SSEC3 Latent Defect**) that ultimately led to the 2023 Cable Failure constitutes an “event or circumstance” that is an IAE pursuant to Limb (c) for the reasons set out in paragraphs 22 – 39 of that Determination.⁹

Allowed income adjustment (IAT_t)

20. Paragraph 21 of the Condition requires that the Authority determine (after consultation with the licensee and such other persons as it considers desirable):

- i. whether any or all of the costs and/or expenses given in the Notice were caused or saved by an income adjusting event (**paragraph 21(a) of the Condition**);
- ii. whether the event or circumstance has increased or decreased the costs and/or expenses given in the notice pursuant to paragraph 14 by more than the threshold amount (**paragraph 21(b) of the Condition**); and
- iii. if so, whether the amount of the proposed income adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if that income adjusting event had not taken place, and if not, what allowed income adjustment would secure that effect (**paragraph 21(c) of the Condition**).

⁹ See fn 3 for a link to the January 2025 IAE Determination.

Stage 3 Costs

21. The Licensee has incurred Stage 3 Costs totalling £37,074.05 in the 2025/26 financial year.
22. For the reasons set out further below, Stage 3 costs incurred in 2025/26 totalling £37,074.05 are awarded.
23. We consider the Stage 3 Costs incurred were caused by an IAE, being the SSEC3 Latent Defect, therefore paragraph 21(a) of the Condition is met in respect of these costs.
24. Stage 3 Costs incurred in the 2025/26 financial year of £37,074.05 and claimed in the October 2025 Notice do not exceed the threshold amount of £1m. However, when these Stage 3 Costs are added to other costs incurred in this year (see paragraphs 28) the threshold amount for the year is exceeded and therefore paragraph 21(b) of the Condition is satisfied.

Stage 4 Costs

25. The Licensee has incurred Stage 4 Costs totalling £23,701,766.37 in the 2025/26 financial year.
26. For the reasons set out further below is that Stage 4 Costs incurred in 2025/26 totalling £23,701,766.37 are awarded.
27. We consider the Stage 4 Costs incurred were caused by an IAE, being the SSEC3 Latent Defect, therefore paragraph 21(a) of the Condition is met in respect of these costs.
28. The Stage 4 Costs incurred in the 2025/26 year of £23,701,766.37 exceed the threshold amount of £1m and therefore paragraph 21(b) of the Condition is satisfied.

Stage 5 Costs

29. In general terms, we consider the Stage 5 Costs claimed in respect of the Stage 5 repair relate to the same IAE as the Stage 3 Costs and Stage 4 Costs being claimed under this Notice, being the SSEC3 Latent Defect. However, in accordance with paragraph 21(c)(iii) of the Condition, it is not yet possible to make a determination in respect of these Stage 5 Costs on the basis that the Stage 5 repair has not yet commenced and the 2025/26 financial year has not yet concluded and the Licensee may claim further costs in respect of this year. Accordingly, we will make a final

determination on the Stage 5 Costs claimed in respect of the years 2025/26 as soon as reasonably practicable.

Stage 3 and Stage 4 Deferred Costs from November 2025 IAE Determination

30. Some Stage 3 and Stage 4 Costs claimed in respect to the notice that was the subject of the November 2025 IAE Determination were deferred as they did not exceed the threshold amount of £1m for 2025/26 totalling £383,043.49, being:

- i. Stage 3 Costs incurred in 2025/26 financial year of £1,338.40, and
- ii. Stage 4 Costs incurred in 2025/26 financial year of £381,705.09.

31. It is now possible to make a determination of these costs as further relevant claims in respect to the 2025/26 financial year have been received.

32. For the reasons set out further below the Stage 3 Deferred Costs totalling £1,338.40 incurred in years 2025/26 are awarded.

33. We consider the Stage 3 Deferred Costs incurred were caused by an IAE, being the SSEC3 Latent Defect, therefore paragraph 21(a) of the Condition is met in respect of these costs.

34. The Stage 3 Deferred Costs incurred in 2025/26 financial year of £1,338.40 do not alone exceed the threshold amount of £1m. However, when these costs are added to other awarded costs incurred in 2025/26 (see paragraph 28 above), the threshold amount for the year is exceeded and therefore paragraph 21(b) of the Condition is satisfied.

35. For the reasons set out further below the Stage 4 Deferred Costs totalling £381,705.09 incurred in years 2025/26 are awarded.

36. We consider the Stage 4 Deferred Costs incurred were caused by an IAE, being the SSEC3 Latent Defect, therefore paragraph 21(a) of the Condition is met in respect of these costs.

37. The Stage 4 Deferred Costs incurred in 2025/26 financial year of £381,705.09 do not alone exceed the threshold of £1m. However, when these costs are added to other awarded costs incurred in 2025/26 (see paragraph 28 above), the threshold amount for the year is exceeded and therefore paragraph 21(b) of the Condition is satisfied.

Deductible pursuant to paragraph 21(c)(i)(a)(i) of the Condition

38. Paragraph 21(c)(i) of the Condition states that a deductible may be applied “*unless, and to the extent that, the Authority has already applied such reductions to a previous income adjustment related to the same event or circumstance as year.*”

39. The Authority has determined that a deductible should not be applied to the costs awarded in this determination because a deductible of £3m has already been applied to this IAE (being the Latent Defect on SSEC3).

40. This letter constitutes the Authority’s determination in relation to the Notice.

41. If you have any questions or wish to discuss this determination further, please contact Claire McCormick at claire.mccormick@ofgem.gov.uk.

Yours sincerely,

Stuart Borland
Deputy Director, Offshore Network Regulation

For and on behalf of the Gas and Electricity Markets Authority