

**To:**

**The General Manager  
Gwynt y Môr OFTO plc  
350 Euston Road  
Regents Place  
LONDON NW1 3AX**

**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:
  - a) the Licensee considers that the transmission service reduction on the Licensee's transmission system commencing on 25 September 2015 and ending on 26 February 2016 was caused by an exceptional event;
  - b) the Licensee notified the Gas and Electricity Markets Authority (the "Authority") of the event on 25 September 2015, 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 further information required by the Authority in relation to the event; and
  - d) the Authority is satisfied, for the reasons specified in the Annex, that the event notified under sub-paragraph (b) above was an exceptional event.
3. The transmission service reduction took place from 25 September 2015 to 26 February 2016, a total of 154 days. In accordance with Paragraph 10 of Amended Standard Condition E12-J4, the adjustment to reported system incentive performance shall be based on the extent to which the Authority is satisfied that the Licensee has taken reasonable steps, consistent with Good Industry Practice, to manage the impact of the event on the availability of services. The Authority is satisfied that for the majority of the period of the transmission service reduction the Licensee took such steps. However, in the process of restoring service, we consider that there was one avoidable incident where the steps taken were not consistent with Good Industry Practice, which led to a delay of 25 days.

4. The Authority gave notice in accordance with Paragraph 12 of Amended Standard Condition E12-J4 of the Licence to the Licensee on 6 December 2016 (the "Notice").
5. The Licensee submitted representations regarding the avoidable incident to the Authority on 6 January 2017 and subsequently met the Authority on 8 February 2017. We have considered the representations made by the Licensee very carefully, and our views are set out in the Annex to this direction.

Now therefore:

6. The Authority directs that the Licensee's reported system incentive performance be adjusted to offset the duration of the outage as follows:-
  - the total reduction in capacity arising from this outage was 337,394.4 MWh in incentive year 3 (beginning 1 January 2015) and 194,299.0 MWh in incentive year 4 (beginning 1 January 2016);
  - the Authority agrees for incentive year 3 to make an adjustment for the full outage period of 97 days, 23 hours and 11 minutes;
  - the Authority agrees for incentive year 4 to make an adjustment for the full outage period of 56 days and 10 hours, minus 25 days;
  - reported system incentive performance for incentive year 3 months 9 to 12 (September to December) will therefore be increased by 337,394.4 MWh, to offset the impact of this event; and
  - reported system incentive performance for incentive year 4 months 1 and 2 (January to February) will therefore be increased by 108,199 MWh, to offset the impact of this event. <sup>1</sup>

This direction constitutes notice pursuant to section 49(1)(c) of the Act.

**Dated: 3 April 2017**

**Akshay Kaul**  
**Partner, Commercial Networks**

**Duly authorised by the Authority**

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<sup>1</sup> Availability is measured in Megawatt Hours (MWh). The system capacity of each cable at Gwynt y Mor is 138 MW. The duration in hours multiplied by the system capacity gives the total impact of the interruption in MWh.

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

### **1 Introduction**

- 1.1 This Annex sets out the reasons for the Authority's decision to issue a direction under Paragraph 10 of Amended Standard Condition E12-J4 of the offshore transmission licence (the "Licence"), granted to Gwynt y Môr OFTO plc (the "Licensee") under section 6(1)(b) of the Electricity Act 1989.
- 1.2 The direction adjusts the Licensee's reported system incentive performance for the incentive periods commencing on 1 January 2015 and 1 January 2016.
- 1.3 The structure of the rest of this Annex is as follows:
  - Section 2 sets out the exceptional event notification submitted by the Licensee for consideration under Paragraph 10 of Amended Standard Condition E12-J4 of the Licence;
  - Section 3 sets out the Authority's reasons for its decision on whether the notified event was an exceptional event; and
  - Section 4 sets out the Authority's directed adjustment to the Licensee's reported system incentive performance, including the reasons for a reduction of 25 days from the claim.

### **2 Exceptional event notification submitted by the Licensee**

- 2.1 The Licensee notified the Authority on 25 September 2015 that it considered a transmission service reduction that commenced on 25 September 2015 (and subsequently concluded on 26 February 2016) was caused wholly by an exceptional event.
- 2.2 The Licensee submitted a supporting narrative and a technical report provided by the independent consultants Edif ERA (ERA) to the Authority in support of this claim. The ERA report explained that damage to a fibre optic cable most likely occurred during manufacture. It was not possible for ERA to say at exactly what stage the cable had been damaged, but it was most likely that the damage had occurred either during storage or the coiling process that took place before the outer layers of the cable and the armour were wrapped around the inner strands.
- 2.3 Construction work at Gwynt y Môr was completed in 2013, around eighteen months prior to the date on which the Licence was granted to the Licensee on 12 February 2015.

### **3 Authority's reasons for its decision on the event**

- 3.1 The Authority considered this claim against the terms of the licence using the general approach on the evaluation of exceptional events set out in its open letter published on 22 October 2014. The Authority is satisfied that the event was an exceptional event as defined under Amended Standard Condition E12-J4 of the Licence for the following reasons:-
  - The Licensee identified that the transmission service reduction resulted from damage that had been caused to the fibre optic cable on circuit 2 during

storage or the coiling process, before the separate cables were wrapped into the collective cable.

- The cables were laid on the sea floor and covered by concrete mattresses at least eighteen months prior to the date the Licence was granted on 12 February 2015 and the point at which the offshore transmission system was transferred to the Licensee. As such the Licensee could not reasonably have known about this defect.
- There was no indication prior to the failure on 25 September 2015 that any installation defect was present. The Licensee conducted due diligence of the transmission assets prior to asset transfer which did not disclose the fault. There was also no indication that the developer of the assets was aware that the cable had been damaged. Since asset transfer, the Licensee had adequate systems and processes in place to monitor the operation of the transmission assets. These did not indicate that there was any defect in the cable. As such the Licensee could not have reasonably acted to prevent the failure event.
- The event was therefore beyond the reasonable control of the Licensee.

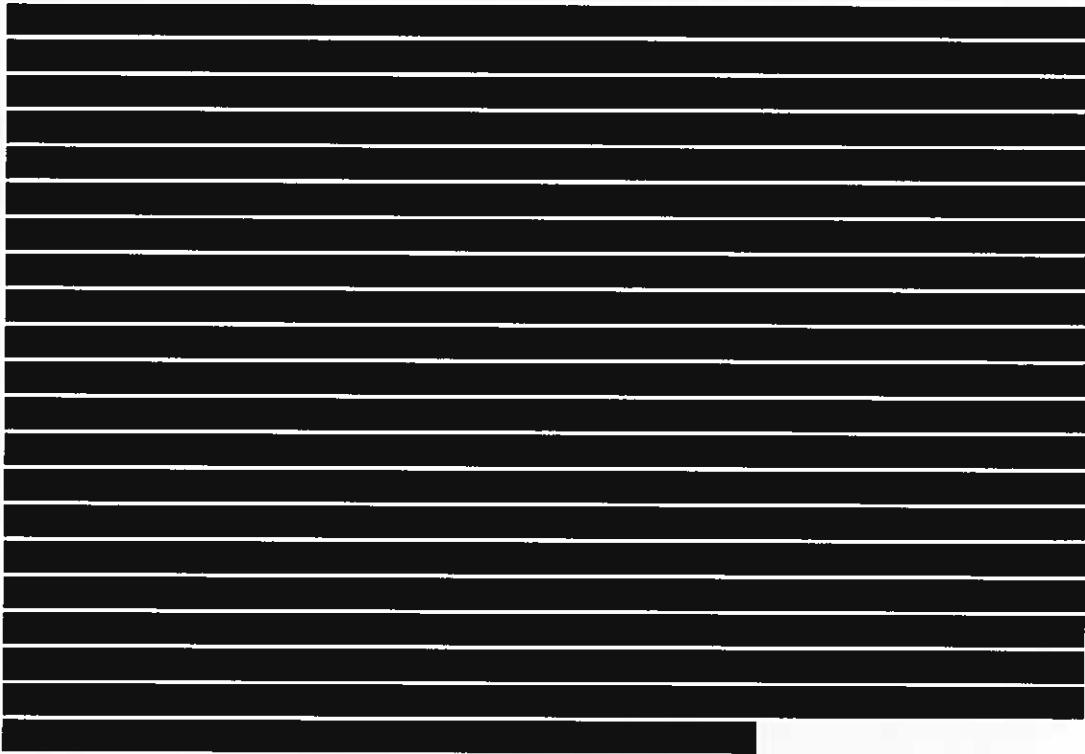
#### **4. Authority's adjustment to the reported system incentive performance under Paragraph 10 of Amended Standard Condition E12-J4**

4.1 The Authority is satisfied that the Licensee has in place (and had in place prior to the cable failure) operational and maintenance procedures which are consistent with Good Industry Practice (GIP). Further, after the occurrence of the cable failure, the Licensee took prudent and timely steps to identify the root cause of the fault and mobilised appropriate resources to repair the fault in a timely manner. The Authority is satisfied that, except as set out below, the actions of the Licensee and those acting on its behalf in restoring transmission services were reasonable, proportionate and efficient.

4.2 However, in the process of restoring service, we consider that there was an avoidable incident that prolonged the outage. In January 2016, the sub-contractor crossed the cable phases twice during the cable repair. The fact that the cable had been lowered to the seabed before the discovery of the second crossing incident resulted in an extensive onshore repair in February 2016 to rectify the phasing. Based on the incident investigation report provided by the Licensee, representations made to the Authority on 6 January and 8 February 2017 and external technical advice, we believe that GyM's cable repair contractor did not take reasonable steps, consistent with GIP to prevent the crossing of the cable.

4.3

[REDACTED]



- 4.4 As supported by our technical advice and the Licensee's Phasing Investigation Report, we believe the main cause of the phasing incident was that the cable repair contractor did not make correct use of the information provided from the phasing tests on 23 January 2016. It sought to rectify the phasing cross identified on 23 January prior to the completion of jointing works on 25 January 2016 but in doing so caused a phasing roll.
- 4.5 The Licensee stated in its phasing investigation report sent to us on 10 November 2016 and in our meeting of 8 February 2017 that it believes that the phasing incident occurred due to confusion between the outgoing jointing shift team and the oncoming jointing shift team. There are well established procedures across the onshore and offshore industries to avoid human error in a 24 hour shift environment. The cable repair contractor's failure to ensure that critical information was shared accurately across the shift handover is inconsistent with GIP.
- 4.6 The Authority originally proposed to deduct 33 days from the 2016 adjustment, on the basis that the cable repair contractor's failure to take reasonable steps consistent with GIP began on 23 January, when it failed to line up the cable sections correctly, and the transmission service reduction concluded on 26 February. However, the Licensee has argued that poor weather meant it was not possible for them to carry out the final phasing test at the offshore substation until 31 January, and that the system could not then have gone live until 1 February. We have accepted this argument and the deduction therefore now comes to 25 days rather than 33 days.

**5. Licensee's representations in response to the Authority's draft direction**

- 5.1 The Licensee has made a number of points on 6 January and 8 February 2017, in setting out its view that the Authority should not deduct the delay resulting from the



- [REDACTED]
- [REDACTED]
- 5.6 The Licensee asserts that the phasing incident should be considered in light of the risks of operating in an offshore environment and that another experienced sub-contractor could reasonably have made the same mistake in the same circumstances. We recognise the difficulties in relation to weather and safety for offshore repairs. However, we do not consider that the weather or operating in an offshore environment prevented the cable repair contractor from taking reasonable steps consistent with GIP when completing the joint or accurately sharing information between shift teams. We note that a planned phasing check was not carried out on 22 January because the phasing testing team could not get onto the offshore platform to carry out phasing tests and that the timetable was tightened due to poor weather conditions. However, the Marine Warranty Surveyor believed there was sufficient time to conduct the jointing when issuing a Certificate of Approval on 22 January. This provided a five day window to complete the Omega joint and carry out one phasing check. The Licensee has also confirmed that the cable repair contractor did not state at any point during the repair that it had insufficient time to make the joint correctly.
- 5.7 The Licensee contends that the Authority has misunderstood the roles of its sub-contractors responsible for issuing permits to work, technical assurance and following the Licensee's Inspection and Test Plan (ITP). We accept that we may not have fully misunderstood these matters when issuing the draft direction but are confident we have now clarified these issues following the Licensee's representations to the Authority on 6 January and our meeting of 8 February 2017.
- 5.8 The Licensee argues it has acted in accordance with GIP in all instances during the service restoration process and that it went over and above GIP in requesting a confirmatory phasing test be carried out prior to completion of the joint. The Licensee appointed a credible and experienced specialist contractor to manage and conduct the repair. The Licensee argues that it could not have carried out a second confirmatory test before the joint was laid on the seabed on 25 January because there was no remaining weather window to do so. It further contends that it could not have reasonably done anything more to manage the impact of the failure event and therefore considers it should be entitled to the full adjustment to the reported system incentive performance figure. We do not consider it necessary to analyse in detail the steps taken by the Licensee itself in regard to the phasing incident for the purposes of determining this claim as there is sufficient evidence that the Licensee's contractor has caused an avoidable delay from failing to take steps consistent with GIP.
- 5.9 It is the Licensee's obligation to manage the impact of the event on availability. If a Licensee chooses to appoint contractors to restore the service following an outage, the Licensee remains responsible under the Licence for that obligation. The risk of ~~operational defects impacting the Licensee's ability to comply with its licence~~ obligations is a risk for a Licensee to contemplate. The Licensee is best placed to manage that risk and it is reasonable to expect them to do so.

5.10 Therefore, where a Licensee chooses to appoint a contractor, the acts of the contractor will be relevant in how the Authority determines that that Licensee, pursuant to the obligations under its Licence, has acted consistent with GIP. It is not simply a matter of contracting itself, and doing the preparatory work to enable the contractor to work, that will mean a Licensee has acted in a manner consistent with GIP, however experienced the contractor is.

5.11 With respect to the contracting out of repair services, the Authority considers it is for the Licensee to mitigate and manage the associated risks, including the performance and/or default of a contractor. How the Licensee chooses to do this and the commerciality of the terms it can negotiate, is a matter for the Licensee.

██████████ We note the Licensee's concerns that under its contract it is unable to recover the full cost from the cable repair contractor for the cable crossings. ██████████  
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5.13 The Licensee also sought an explanation about information redacted by the Authority from documents provided to the Licensee under a Freedom of Information request on 15 December 2016. The information was redacted because it was not relevant to the deduction proposed in connection with the Licensee's exceptional event claim.

**6. The Authority's Direction**

- 6.1 The Authority therefore directs that the Licensee's reported system incentive performance be adjusted to offset the duration of the outage as follows:-
- The reduction in capacity arising from this outage was 337,394.4 MWh in incentive year 3 (beginning 1 January 2015) and 194,299.0 MWh in incentive year 4 (beginning 1 January 2016);
  - The Authority agrees for incentive year 3 to make an adjustment for the full outage period of 97 days, 23 hours and 11 minutes;
  - The Authority agrees for incentive year 4 to make an adjustment for the full outage period of 56 days and 10 hours, minus 25 days;
  - The Authority therefore agrees to increase the reported system incentive performance for incentive year 3 (beginning 1 January 2015) months 9 to 12 (September to December) by 337,394.4 MWh; and
  - The Authority therefore agrees to increase the reported system incentive performance for incentive year 4 (beginning 1 January 2016) months 1 and 2 (January and February) by 108,199 MWh.