

Erratum notice – Modification of the amended standard conditions of the offshore electricity transmission licence held by Thanet OFTO Limited

The Authority¹ issued a notice² under section 11A of the Electricity Act 1989 on 17 November 2020 modifying amended standard conditions of the offshore electricity transmission licence held by Thanet OFTO Limited (the **Notice**).

We have identified an error in the Schedule to the Notice. The Notice outlined a modification to amended standard condition E12-J1: Definitions and Interpretation, and the Schedule set out the drafting of the intended modifications, however in error referenced this as a modification to amended standard condition E12-A1, rather than E12-J1.

We have amended that part of the Schedule, attached, that contains the error, and have shown the amendment in red font. The remainder of the Schedule and Notice remain as published on 17 November 2020.

If you have any questions regarding this letter, please contact Stephen Taylor on 0203 263 9936.

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Jourdan Edwards
Head of the OFTO Regime, Networks

Duly authorised on behalf of the
Gas and Electricity Markets Authority

10 December 2020

¹ The terms 'The Authority', "we" and "us" are used interchangeably in this letter. The Authority is the Gas and Electricity Markets Authority.

² <https://www.ofgem.gov.uk/publications-and-updates/decision-modifications-offshore-transmission-licences>.

Schedule 1: Licence Modification

We have included the sections of the amended standard licence conditions we have decided to remove or amend below. Deletions are shown in strike through and new text is double underlined.

Amended Standard Condition E12-~~AJ1~~: Definitions and Interpretation

Insert the following definitions in amended standard condition E12-~~AJ1~~:

A. after the definition of "exceptional event" and before the definition of "incentive period":

‘ "Force Majeure" means any event or circumstance which is beyond the reasonable control of the licensee including act of God, strike, lockout or other industrial disturbance, 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, lightning, fire, storm, flood, earthquake, accumulation of snow or ice, lack of water arising from weather or environmental problems, explosion, governmental restraint, Act of Parliament, other legislation, bye law and Directive (not being any order, regulation or direction under sections 32, 33, 34 and 35 of the Act) and provided, for the avoidance of doubt, that weather conditions which are reasonably to be expected at the location of the event or circumstance are also excluded as not being beyond the reasonable control of the licensee.’

and

B. after the definition of "transmission service reduction" and before the definition of "unit":

‘ "Uninsurable" means that the Authority determines either that:

(a) Insurance is not available to the licensee in respect of all or part of its Transmission Assets in the Worldwide Offshore Transmission Asset Insurance Market with reputable insurers of good standing in respect of a Risk; or

(b) the Insurance premium payable for insuring that Risk is at such a level that the Risk is deemed as not being insurable in the Worldwide Offshore Transmission Asset Insurance market with reputable insurers of good standing.

Where:

(c) a "Risk" means the physical loss or damage requiring replacement or rectification of Transmission Assets, which is caused by a Latent Defect resulting from material workmanship design plan or specification;

- (d) “Insurance” means the indemnity which would normally be covered by an Operational All Risk insurance policy with a LEG3/06 exclusion, or equivalent, which includes indemnity for the full cost of replacement or rectification of the Offshore Transmission Assets (but not improvement) rendered necessary by damage which is the consequence of a Latent Defect;
- (e) a “Latent Defect” means a flaw in Offshore Transmission Assets, which:
- i. is an actual defect in material workmanship design plan or specification, not the damage resulting from the defect; and
 - ii. existed but which would not have been apparent to an efficient licensee in the position of the licensee at the time the Offshore Transmission Assets were transferred to it;
- (f) “LEG 3/06” means the London Engineering Group Unique Market Reference for the Model “Improvement” Defects Wording;
- (g) “Worldwide Offshore Transmission Asset Insurance Market” means all insurers who, after an exhaustive search, would reasonably be understood by an efficient licensee, in the position of the licensee, to be participating in the business of insuring offshore transmission assets (to be determined by the Authority); and
- (h) “Offshore Transmission Asset/s” means the transmission system to which the licensee’s Offshore Transmission Owner licence relates as set out in Annex B to amended standard condition E12-B1 (Transmission System Area) in the licensee’s Offshore Transmission Owner Licence.’