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DIRECTION UNDER PARAGRAPH 9 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. Unless otherwise defined, capitalised terms in this Direction and its Annex shall have the same meaning as given to them 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 15 October 2020, 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, for the period 15 October 2020 to 31 December 2020 (inclusive), 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, 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 as defined in Amended Standard Condition E12-J1.
4. In accordance with Paragraph 10 of the Condition, 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 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 22 January 2021 (the **Notice**).
6. No representations were made by the Licensee in response to the Notice.

Now therefore:

7. The Authority directs that:
 - a. the Licensee's reported system incentive performance be adjusted to offset the duration of the outage from 15 October 2020 to 31 December 2020: reported system incentive performance for incentive year 6 (beginning 1 January 2020) will be increased by a combined total of 266,200 MWh to offset the impact of this event;
 - b. the Licensee must provide to the Authority the final Root Cause Analysis report related to this Transmission Services Reduction, and any other information requested by the Authority, as soon as available, and in any case by such time as specified by the Authority in any further request;
 - c. following consideration of the final Root Cause Analysis report, and any further information, if the Authority is no longer satisfied that:
 - i. the event notified under sub-paragraph 3(b) above constitutes an Exceptional Event as defined in Amended Standard Condition E12-J1; or
 - ii. the Licensee took steps, consistent with Good Industry Practice, to manage the impact of the event on the availability of services, in accordance with Paragraph 10 of the Condition,

the Authority may amend or revoke (as relevant) this Direction in accordance with section 107(b) of the Act;

- d. should the Licensee fail to provide the Root Cause Analysis report within 3 days of receipt of the first draft the Authority may revoke this Direction in accordance with section 107(b) of the Act, and the Licensee will be required to repay all and any amount of the reported system incentive performance adjustment; and
 - e. any repayment to be made by the Licensee in accordance with subparagraphs (c) or (d) above will be made by the Licensee in the next available revenue return to National Grid Electricity System Operator, such that this amount will be offset against revenue to be paid to the Licensee in the following financial year.
8. This Direction constitutes notice pursuant to section 49A(1)(c) of the Act.

Yours sincerely,



Jourdan Edwards
Head of the OFTO Regime, Systems & Networks
Duly authorised by the Authority

**ANNEX: REASONS FOR ACCEPTANCE OF AN EXCEPTIONAL EVENT CLAIM
SUBMITTED BY GWYNT Y MÔR OFTO PLC UNDER PARAGRAPH 9 OF AMENDED
STANDARD CONDITION E12-J4**

1 Notification

- 1.1 On 15 October 2020, Gwynt y Môr OFTO plc (the **Licensee**) notified the Authority that there had been a Transmission Service Reduction on one of its export cables.
- 1.2 The Licensee submitted an Exceptional Event claim to the Authority on 24 November 2020, alongside details of the actions the Licensee has taken since it discovered the issue and up to 31 December 2020.

2 Exceptional Event requirements

- 2.1. Paragraph 9 of Amended Standard Condition E12-J4 (the **Condition**) provides that the Authority shall adjust the value of the reported system incentive performance 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 the European Commission 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 9(a) to (c) of the Condition. Pursuant to subparagraph 9(d) of the Condition, the Authority is satisfied on the evidence provided by the Licensee to date that the Transmission Service Reduction was caused by an Exceptional Event, for the reasons set out below.

4 Reasons for decision

- 4.1 The Authority has considered the information provided by the Licensee to date against both the Licence and the open letter dated 22 October 2014 (the **Open Letter**).

- 4.2 On 23 January 2020, during a routine test of the fibres in the spare fibre optic cable (**FOC**), the Licensee's O&M contractor identified that all fibres within the spare FOC within subsea export cable 3 (**SSEC3**) had failed (the **initial FOC break**). The initial FOC break is located at or close to the location where a repair was undertaken in 2015 (the **hotspot repair**).
- 4.3 Between February and September 2020, the Licensee undertook further tests to check for any degradation of the power cores and to improve the accuracy of the location of the break.
- 4.4 On 15 October 2020, the Licensee discovered a second break on the spare FOC within SSEC3, located approximately 1.5km from the the initial FOC failure (the **second FOC break**).
- 4.5 On 15 October 2020, the main power core in SSEC3 failed in the vicinity of the second FOC break.
- 4.6 The Licensee has appointed an expert adviser to conduct the root cause analysis (**RCA**). The RCA report, however, will not be available until after the offshore cable has been repaired and the faulted cable has been recovered from the seabed and tested in a laboratory. The Licensee, therefore, has also provided a report from the University of Southampton. That report concludes that it is:
- 4.6.1 probable that the two FOCs have defective semicon sheaths; and
 - 4.6.2 very likely the hotspot repair joint, or its installation, caused a weakness in the spare FOC at the site of the hotspot repair that subsequently led to the second FOC break and the failure of the main power core
- "...entirely possible that this second region was an inherently weak spot that had already been degraded, and the process of degradation was exacerbated by the overstressing caused by the first fault on the FOC."*
- 4.7 We agree that it is more likely than not that the initial FOC break led to the second FOC break, which subsequently led to the failure of the main power cable. Based on the evidence available and submitted to date, we consider that it is likely that the the Transmission Services Reduction is the result of the failure of the spare FOC either due to an inherent defect, and/or an issue that arose as a result of a previous repair on the FOC. We note, however, that when the hotspot repair was carried out, all the tests were passed.
- 4.8 We have considered whether the Licensee could have prevented the failure by acting when it first became aware of the issues in January/February 2020. Tests undertaken by the Licensee in June, July and September 2020 did not identify any break in the main power core, nor the second FOC break. In addition, the Licensee has explained that even if it had undertaken a repair in early 2020, it is likely that this would not have prevented the failure of the power core, as the failure location (the second FOC break) was not identified until the October 2020 fault occurred and that second FOC break may not have developed by January/February 2020. Based on the information we have to date, and absent the final RCA report, we do not have sufficient information to conclude that a repair undertaken prior to October 2020 would have prevented the second spare FOC break from occurring.
- 4.9 Based on the information provided by the Licensee to date, we consider that the Licensee has, to date, followed Good Industry Practice in the repair of the cable after the fault occurred; in securing the repair contract and the necessary permits. As set out in the accompanying Direction, we will reconsider this position on receipt

of the RCA report and any other relevant information related to the Transmission Services Reduction.

- 4.10 Subject to the final RCA report, and based on the evidence provided by the Licensee to date, we therefore consider that it is likely that the cause of the power core failure is the result of the failure of the FOC either due to an inherent defect, or an issue that arose as a result of the hotspot or its repair. Given that when the hotspot repair was carried out all the tests were passed we consider that the way in which the 'hotspot repair' was undertaken is less likely to be the cause of the failure. Therefore, we consider it more likely that the failure of the main power core is the result of an inherent defect, exacerbated by overstressing caused by the initial spare FOC break.
- 4.11 We consider that it is unreasonable for the Licensee to have known about the inherent defects in the spare FOC, or that those defects would lead to a failure of the main power core. Therefore, based on the information provided by the Licensee to date, we consider that the event constitutes an Exceptional Event.

5 Timing of decision

- 5.1 On 2 October 2020, the Licensee notified us that, primarily as a result of the financial consequences of the cable repairs it had to fund in 2015, it would face significant financial difficulties funding any further cable repairs. The Licensee asked the Authority to expedite its decisions on a number of other exceptional event claims that the Authority was considering. At that time, the Licensee was aware of the FOC issues on SSEC3, albeit it was unaware that the main power core was close to failure. The main power core on SSEC3 subsequently failed, which led to the Licensee submitting this claim.
- 5.2 The Authority has assessed the Licensee's financial position in light of the evidence provided by the Licensee and considers it is reasonable in these rare circumstances to determine whether the event constitutes an Exceptional Event 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 2020. This adjustment is based on the initial root cause evidence provided by technical advisers, whilst the Transmission Services remain unrestored however note that the adjustment is not prospective – it is only applicable to the duration of unavailability of the transmission system to 31 December 2020.
- 5.3 As set out in the Direction, however, the Authority's decision to determine the claim prior to the final RCA being available, and as the outage continues, is conditional on a requirement that the RCA report, and all further information relating to this Transmission Services Reduction, being provided to the Authority as soon as it becomes available. The Authority has the ability to amend or revoke this Direction as appropriate. This is also the case should the further information not be provided within a specified period determined by the Authority.
- 5.4 We confirm that the Authority considers all Exceptional Event claims on a case-by-case basis and does not expect that the approach taken here would be appropriate for future claims outside of similarly outstanding circumstances.

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

- 6.1 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.
- 6.2 Therefore, the Authority directs that the Licensee's reported system incentive performance be adjusted to offset the duration of the Transmission Service Reduction from 15 October to 31 December 2020 as follows: 266,200 MWh reported system incentive performance for incentive year 6 (1 January 2020 to 31 December 2020).