

**DIRECTION UNDER PARAGRAPH 9 OF AMENDED STANDARD CONDITION E12-J4 OF THE OFFSHORE TRANSMISSION LICENCE**

**To:**

**The General Manager  
Humber Gateway OFTO Limited  
350 Euston Road  
LONDON  
NW1 3AX**

**DIRECTION UNDER PARAGRAPH 9 OF AMENDED STANDARD CONDITION E12-J4 OF THE OFFSHORE TRANSMISSION LICENCE**

Whereas:-

1. Humber Gateway OFTO Limited (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 given to them in the Licence.
3. In accordance with Paragraph 9 of Amended Standard Condition E12-J4 (the "Condition"):
  - (a) the Licensee considers that the Transmission Service Reduction on the Licensee's Transmission System commencing on 6 February 2018 and ending on 22 March 2018 was caused by an Exceptional Event;
  - (b) the Licensee notified the Gas and Electricity Markets Authority (the "Authority") of the event on 7 February 2018, 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 Annex 1 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, for the reasons specified in Annex 1 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 2 March 2020 (the "Notice").
6. No representations were made by the Licensee in response to the Notice.

Now therefore:

7. The Authority directs that the Licensee's reported system incentive performance be adjusted to offset the full duration of the outage: reported system incentive performance for incentive year 4 (beginning 1 January 2018) will be increased by a combined total of 116,261 MWh to fully offset the impact of this event.

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

**Dated: 9 March 2020**

**Jourdan Edwards**

**Head of the OFTO Regime, Systems & Networks**

**Duly authorised by the Authority**

## **ANNEX 1**

### **REASONS FOR ACCEPTANCE OF AN EXCEPTIONAL EVENT CLAIM SUBMITTED BY HUMBER GATEWAY OFTO LIMITED UNDER PARAGRAPH 9 OF AMENDED STANDARD CONDITION E12-J4**

#### **1 Notification**

- 1.1 On 7 February 2018, Humber Gateway OFTO Limited (the **Licensee**) notified the Authority that there had been a Transmission Service Reduction on one of its two export cables, and that the Licensee might in due course submit an Exceptional Event claim in connection with this incident. The Transmission Service Reduction ran from 6 February 2018 to 22 March 2018 (the **Failure Event**).
- 1.2 The Licensee submitted an Exceptional Event claim to the Authority on 13 July 2018.

#### **2 Exceptional Event requirements**

- 2.1. Paragraph 9 of 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, 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 that the Failure Event is 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 regarding the Failure Event against both the Licence and the open letter dated 22 October 2014 (the **Open Letter**).
- 4.2 The Licensee confirmed that the export cable failed due to damage onshore, inside a duct made of polypropylene pipe. Deposits indicated that the fault had started in the cable and was not caused by damage outside of the duct. The investigation by the cable manufacturer found that (as paraphrased by the Licensee) '*the fault is due to a relatively small diameter indentation made to the exterior of the cable*' and that the '*damage must have occurred pre installation as it would not have been possible for something to perforate the HDD duct and remain undetected*'.
- 4.3 Given this, we accept that the Licensee could not reasonably have been expected to identify the fault during the due diligence process prior to asset transfer, and that the root cause of the event was beyond the reasonable control of the Licensee. We therefore consider that the claim constitutes an Exceptional Event within the terms of the Licence and our open letter.

### **5 Authority's adjustment to the reported system incentive performance under Paragraph 10 of the Condition**

- 5.1 In accordance with Paragraph 10 of the Condition, where the Authority is satisfied that an Exceptional Event has occurred, 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).

- 5.2 Two significant delays occurred during the repair. It took the Licensee four working days to conclude that not all of the switchgear earths had been disconnected, and then contact the manufacturer for advice. It then took a further ten days before the manufacturer agreed to visit the site to investigate the earthing issue.
- 5.3 In our view, it was reasonable for the Licensee to have carried out testing for four days before contacting the manufacturer for advice. We note that the Licensee followed the switchgear manual provided by the manufacturer, and that this did not identify the earthing issue that had arisen (at the voltage transformer). We also note that the Licensee took all reasonable steps to press the switchgear manufacturer to take action and provide assistance on this issue as quickly as possible.
- 5.4 Given this action taken by the Licensee, we are satisfied that the Licensee took steps, in accordance with Good Industry Practice, to manage the impact of the event on the availability of the services.
- 5.5 Therefore, the Authority directs that the Licensee's reported system incentive performance be adjusted to offset the full duration of the outage: reported system incentive performance for incentive year 4 (beginning 1 January 2018) will be increased by 116,261 MWh to fully offset the impact of this event.