

To all offshore transmission  
owner licensees, current and  
prospective bidders for Offshore  
Transmission Licences, and other  
interested parties

Your Ref:

Our Ref:

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Date: 27 November 2020

Dear stakeholders,

### **Decision on proposed modification to Amended Standard Condition E12-J3 of Offshore Transmission Licences – new threshold bands for Income Adjusting Events**

1. In August 2020, the Authority<sup>1</sup> conducted a statutory consultation (the **Consultation**)<sup>2</sup> on proposed modifications to the amended standard conditions of the existing offshore transmission (**OFTO**) licences under section 11A of the Electricity Act (the **Act**). Those modifications fell into three main groupings, including modifications for all OFTO licences to Amended Standard Condition E12-J3 (the **IAE Condition**) as set out in the 28 November 2018 Decision Document (the **Decision Document**)<sup>3</sup>. Following that consultation, on 17 November 2020, we published our decision<sup>4</sup> on the proposed modifications to existing licences.
2. We confirm that the relevant modifications made to the IAE Conditions for existing OFTO licences will also be incorporated into future OFTO licences for the reasons set out in our 17 November 2020 decision.
3. Alongside the Consultation, the Authority also sought views on a proposed modification to paragraph 15 of the IAE Condition in relation to the threshold amount of costs or expenses to be incurred or saved for an event to be considered an Income Adjusting Event (**IAE**). This modification was previously set out in the Decision Document. It was proposed only for future OFTO licences granted in tender round 6 onwards.

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<sup>1</sup> The terms “the Authority”, “we” and “us” are used interchangeably in this document.

<sup>2</sup> <https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-proposed-modifications-offshoretransmission-licences>.

<sup>3</sup> <https://www.ofgem.gov.uk/publications-and-updates/income-adjusting-events-policy-offshore-transmission-owner-licences>.

<sup>4</sup> [https://www.ofgem.gov.uk/system/files/docs/2020/11/decision\\_letter\\_-\\_17\\_nov\\_20.pdf](https://www.ofgem.gov.uk/system/files/docs/2020/11/decision_letter_-_17_nov_20.pdf)

4. For OFTOs with a final transfer value below £100m, the minimum threshold amount for an IAE claim is presently set at £0.5m, and for OFTOs with a transfer value above £100m, the threshold is set at £1.0m. The Authority proposed to create two additional thresholds for large new projects:
  - a) £2.0m where the final transfer value exceeds £500m; and
  - b) £4.0m where the final transfer value exceeds £1,000m.
5. We received eleven responses to the Consultation, and all non-confidential responses were published on the Ofgem website on 17 November 2020. Responses received were broadly supportive of the proposed new threshold bands. Of those representations that provided specific representations related to the proposal:
  - a) three consultees stated that they do not believe there is a linear correlation between the total value of the OFTO assets and the point where unforeseen costs become significant, and, for this reason, believe that the threshold should instead be set at £1m for all OFTOs valued above £100m;
  - b) one respondent considered that the proposed bands were indeed proportionate to the increased revenue levels available to OFTOs from larger transmission systems; and
  - c) one respondent considered that it made sense for the threshold to increase, to reflect growing OFTO transfer values, but suggested that the values for the two new bands should instead be set at £5.0m and £10.0m respectively.
6. When the offshore regime was implemented, the Authority put in place two IAE threshold bands, which were linked to the transfer value of OFTO assets. As OFTO projects have become larger, the level of the IAE threshold has fallen as a proportion of transfer value from roughly 1:100 in tender round one, to 1:300 in tender round five. To ensure an ongoing link between the threshold and transfer value for larger projects, we consider it appropriate to introduce the two new threshold bands. Having considered the consultation representations, which include both support for even larger threshold bands, and opposition to the introduction of new bands at all, we have decided to introduce the new threshold as consulted on; we consider that this strikes an appropriate balance to maintain the threshold to project value proportions as intended by the condition and note that this falls within the range seen for OFTOs to date.
7. We therefore confirm, as proposed in our Consultation, that future licences issued after this date will be subject to two additional threshold bands at paragraph 15 of the IAE Condition: (a) £2.0m where the final transfer value exceeds £500m, and (b) £4.0m where the final transfer value exceeds £1,000m.
8. If you have any questions in relation to this letter, please contact Stephen Taylor, Networks, at [Stephen.Taylor@ofgem.gov.uk](mailto:Stephen.Taylor@ofgem.gov.uk).

Yours sincerely

**Jourdan Edwards**  
**Head of the OFTO Regime, Networks**