

**The General Manager
Humber Gateway OFTO
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Date: 21 April 2020

**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 1 July 2019 and ending on 3 July 2019 was caused by an Exceptional Event;
 - (b) the Licensee notified the Gas and Electricity Markets Authority (the "Authority") of the event on 4 July 2019, 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 31 March 2020 (the "Notice").

6. No representations were made by the Licensee in response to the Notice, save for a minor point of clarification.

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 5 (beginning 1 January 2019) will be increased by a combined total of 6,023 MWh to fully offset the impact of this event.

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

Dated: 21 April 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 4 July 2019, 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 1 July 2019 to 3 July 2019 (the **Failure Event**).
- 1.2 The Licensee submitted an Exceptional Event claim to the Authority on 1 August 2019.

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 When investigating a cable failure in February 2018 (which was the subject of a separate claim), the Licensee identified a separate sheathing fault which did not pose an immediate threat to the integrity of the cable. However they regarded it as an indicator that a fault was developing, which could in time lead to a further cable failure. The OFTO therefore decided to focus on repairing the first cable failure in February-March 2018, and to defer the sheathing fault repair to a later date.
- 4.3 The Licensee originally intended to carry out the repair in September 2018. However they found during preparation that there was a lack of space between the bonding leads for the two cables, and decided that the repair should be postponed to allow a safe system of work to be developed.
- 4.4 During the repair works in July 2019, the location of the sheath fault was identified as a faulty cable joint, which was located in an area that was prone to flooding. The repair team concluded that a clip designed to prevent water ingress had not been fitted correctly during construction, and the water penetration was so severe that they had to strip down the joint and remake it. The faulty joint was located in a joint pit buried under a metre of soil.

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 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.
- 5.3 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 5 (beginning 1 January 2019) will be increased by 6,023 MWh to fully offset the impact of this event.

