

CUSC Modification Proposal Form

CMP404: Introducing Competitively Appointed Transmission Owners & Transmission Service Providers (Section 11)

Overview: This modification aims to introduce the concept of Competitively Appointed Transmission Owners and Transmission Service Providers for the purposes of introducing Early Competition for the design, build and ownership of Onshore Transmission assets.

Modification process & timetable



Status summary: The Proposer has raised a modification and is seeking a decision from the Panel on the governance route to be taken.

This modification is expected to have a: Low impact

NGESO, Transmission Owners, CATO's, Generators, Transmission System Operators

Proposer's recommendation of governance route

Standard Governance modification with assessment by a Workgroup

Who can I talk to about the change?

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What is the issue?

On 28 March 2022 Ofgem published its decision¹ to proceed with implementation of the Competition model for the UK's transmission network. This has been underpinned by the publication of the Energy Security Bill², which makes provision to enable competitive tenders for delivery of onshore electricity network assets. The party who wins a competition is often referred to as a Competitively Appointed Transmission Owner (CATO). The Bill will introduce powers to enable the Secretary of State to appoint a body to run tenders and to set criteria to determine a network project's eligibility to be competed. It will also extend Ofgem's power to make regulations which will set out the process by which tenders will be run.

To allow onshore electricity network competition to be implemented effectively, the competition processes, obligations, technical requirements, charges, and remuneration principles need to be embedded within the relevant codes. The Introduction of Early Competition affects SQSS, CUSC, STC(P) and Grid Code, among others. NGENSO have identified the CUSC defect, therefore the intention is to progress with this modification in tandem with associated modifications during the period between Autumn 2022 and Autumn 2023.

Why change?

Ofgem's decision to introduce Early Competition by means of Competitively Appointed Transmission Owners (CATO's) requires CUSC changes in the following ways;

- Introduce the concept of Competitively Appointed Transmission Owners CATOs and associated interpretations and definitions (Section 11, the subject of this CUSC modification proposal).

For the UK to reach net zero by 2050 and achieve independence from fossil fuels the UK needs an extensive programme of development and investment in the electricity transmission network. As part of this green energy transition, it is expected that there will be a doubling in electricity demand driven in part by the electrification of heat and transport. This will require significant reinforcement for the National Electricity Transmission System, and introduction of CATO's will contribute to facilitating this.

The Department for Business, Energy and Industrial Strategy indicate that, through the introduction of competition, consumers could see savings of up to £1 billion by 2050 on projects tendered over the next ten years. Ofgem requested for NGENSO to plan how competition could be included within the process of designing, building and owning onshore transmission assets in the early stages of the project lifecycle, known as 'Early Competition'. NGENSO's Early Competition Plan (ECP) was published in April 2021.

Introducing the concept of CATOs to the relevant industry codes ensures the safe, secure and coordinated operation of the Transmission System by establishing both the obligations on CATOs and those entities interacting with CATO assets. The first phase of the Early Competition procurement process (the pre-tender) is set to commence in the first quarter of 2024, necessitating that the proposed modifications be raised and progressed in line with the Code Administrator proposed timetable.

¹ <https://www.ofgem.gov.uk/publications/decision-early-competition-onshore-electricity-transmission-networks>

² [Energy Security Bill - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/bills/2022/energy-security-bill)

Following the completion of a competitive tender, a CATO will be awarded a Transmission Licence and categorised as an Onshore Transmission Owner. CATOs will differ from incumbent TOs insofar as, for instance, they will consist of project companies funded through a Tender Revenue Stream (TRS) to deliver a specific project based on network requirements. As a Licensed TO, CATOs will be subject to broadly the same obligations and frameworks.

What is the proposer's solution?

The following changes (in red text) are proposed to CUSC Section 11- Interpretations & Definitions

“Competitively Appointed Transmission Owner (CATO)”

means such person who has been awarded a Transmission Licence on the basis of an Onshore Tender Process and in relation to whose Transmission Licence the Standard Conditions in Section D (transmission owner standard conditions) have been given effect

Delivery Body

the person designated as the delivery body pursuant to regulations made under section 6BB of the Act

Onshore Tender Process

the process followed by the **Delivery Body** to make, in prescribed cases, a determination on a competitive basis of the person to whom an onshore transmission licence is recommended to be granted by the **Authority** or a **Relevant Contract** is recommended to be awarded, as more particularly described in the Onshore Tender **Regulations**;

Onshore Tender Regulations

those regulations made by the **Authority** in accordance with section 6C of the **Act** to facilitate the determination on a competitive basis of the person to whom an onshore transmission licence is to be granted;

“Onshore Transmission Licensee”

means-NGET, Scottish Hydro Electric Transmission plc, SP Transmission plc, a **Competitively Appointed Transmission Owner** or such other person in relation to whose transmission licence the Standard Conditions in Section D (transmission owner standard conditions) have been given effect;

“Relevant Contract”

has the meaning given to that term in section 6BA of the Act

“Transmission Licences”

the transmission licences granted to **The Company**, **NGET**, **SP Transmission Limited**, **Scottish Hydro Electric Transmission Limited**, any **Competitively Appointed Transmission Owner** and any **Offshore Transmission Licensee** under the Act and references to “transmission licensee” and “transmission licensees” will be construed in the CUSC accordingly;

Draft legal text

See above

What is the impact of this change?

Proposer's assessment against CUSC Non-Charging Objectives

Relevant Objective	Identified impact
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	Positive Ofgem will be licensing new CATOs. It is assumed that there will be new licence conditions for the existing TOs to co-operate with CATOs, unless this is done via change to the STC. BEIS envisages ³ specifying and consulting on various updated licence changes as are thought necessary for the CATO regime, in early 2023.
(b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity;	Neutral Whilst a CATO type regime could facilitate competition in the distribution of electricity, this mod relates to the application of a CATO type regime only in transmission space. CUSC Main Objective (b) does not relate to the facilitation of competition in the transmission of electricity.
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	Neutral
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	Positive The CATO regime is to be enacted via changes to the Electricity Act plus supporting secondary legislation from the Secretary of State, and new licence conditions from Ofgem. The CUSC non-charging content has to be changed to reflect the forthcoming CATO regime.

*The Electricity Regulation referred to in objective (c) is Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) as it has effect immediately before IP completion day as read with the modifications set out in the SI 2020/1006.

Proposer's assessment of the impact of the modification on the stakeholder / consumer benefit categories

Stakeholder / consumer benefit categories	Identified impact
Improved safety and reliability of the system	Neutral
Lower bills than would otherwise be the case	Positive The CATO regime is expected to reduce costs in cases where a non-incumbent TO or non-TO alternative solution is appointed for new NETS
Benefits for society as a whole	Neutral
Reduced environmental damage	Positive Better and more innovative solutions to network boundary capacity constraints could be identified as a result of the CATO competitive process, allowing the earlier connection of more nuclear and renewable zero carbon generation, pure green hydrogen electrolysers, EV Charger arrays and other environmentally beneficial new users
Improved quality of service	Positive Better and more secure solutions to network boundary capacity constraints or with more security for a given total cost could be identified as a result of the CATO competitive process, allowing the earlier connection of more secure affordable low carbon generation

When will this change take place?

Implementation date

10 Business Days after an Ofgem decision, if passed.

Date decision required by

September 2023 is a prudent target so as to run well ahead of any CATO appointment, and give potential CATO tenderers early visibility of the regime, giving them certainty that all code changes necessary are in place and visible.

Implementation approach

No systems or processes will be required to change as a result of this modification.

Proposer's justification for governance route

Governance route: Standard Governance modification to proceed to Code Administrator Consultation

ESO considers that these changes are fairly mechanistic and lacking in controversy or the need for judgement and debate. If a workgroup approach were taken, quoracy may be an issue. Any errors in the drafting or suggested improvements should be highlighted by code admin consultees in their responses.

Interactions

- | | | | |
|--|--|---|--------------------------------|
| <input type="checkbox"/> Grid Code | <input type="checkbox"/> BSC | <input type="checkbox"/> STC | <input type="checkbox"/> SQSS |
| <input type="checkbox"/> European
Network Codes | <input type="checkbox"/> EBR Article 18
T&Cs ⁴ | <input type="checkbox"/> Other
modifications | <input type="checkbox"/> Other |

No direct interactions are expected. Changes are being raised to the STC and the Grid Code that are also necessary to facilitate the CATO regime, but they are not directly interactive with this CUSC mod or its charging “twin” CUSC mod.

Acronyms, key terms and reference material

Acronym / key term	Meaning
BSC	Balancing and Settlement Code
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code
EBR	Electricity Balancing Regulation
ESO	Electricity System Operator
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
T&Cs	Terms and Conditions

⁴ If your modification amends any of the clauses mapped out in Exhibit Y to the CUSC, it will change the Terms & Conditions relating to Balancing Service Providers. The modification will need to follow the process set out in Article 18 of the Electricity Balancing Guideline (EBR – EU Regulation 2017/2195) – the main aspect of this is that the modification will need to be consulted on for 1 month in the Code Administrator Consultation phase. N.B. This will also satisfy the requirements of the NCER process.