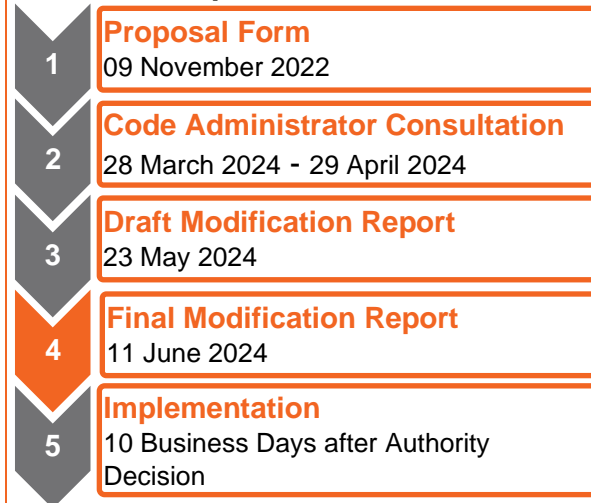


Final Modification Report

CMP403: Introducing Competitively Appointed Transmission Owners & Transmission Service Providers (Section 14)

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



Have 5 minutes? Read our [Executive summary](#)

Have 30 minutes? Read the full [Final Modification Report](#)

Have 60 minutes? Read the full Final Modification Report and Annexes.

Status summary: This report has been submitted to the Authority for them to decide whether this change should happen.

Panel recommendation:

The Panel has recommended by majority that the Proposer's solution is implemented.

This modification is expected to have a: **Low impact** on ESO, Transmission Owners, CATOs, Generators, Transmission System Operators and The Authority

Governance route Standard Governance modification proceeded straight to Code Administrator Consultation

Who can I talk to about the change?

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Executive summary

What is the issue?

Ofgem published a decision on March 28, 2022, confirming their intention to proceed with the implementation of the Early Competition model. The Energy Security Bill, introduced to Parliament on 06 July 2022, enables competitive tenders for onshore electricity network assets. The goal is to reach net zero emissions by 2050 and achieve independence from fossil fuels. Doubling electricity demand, driven by electrification of heat and transport, necessitates significant reinforcement of the National Electricity Transmission System. Competitive tenders can contribute to this transition. To allow Early Competition to be implemented effectively, the competition processes, obligations, technical requirements, charges, and remuneration principles need to be embedded within the relevant codes.

What is the solution and when will it come into effect?

Proposer's solution: Amendments to CUSC Section 14 required to ensure that payments made through the Onshore Tender Process are recovered from TNUoS and BSUoS.

Implementation date: 10 Business Days after the Authority decision.

Panel recommendation: The Panel has recommended by majority that the Proposer's solution is implemented.

What is the impact if this change is made?

- 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.
- 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 CATO regime is expected to reduce costs in cases where a non-incumbent TO or non-TO alternative solution is appointed for new NETS
- Better and more innovative and secure solutions to network boundary capacity constraints could be identified because of the CATO competitive process.

Interactions

There are further modifications for the other electricity industry codes such as Grid Code (GC0159), CUSC (CMP404 – non charging), SQSS (GSR031), and STC (CM086 and CM087) but no direct interactions are expected.

What is the issue?

On 28 March 2022 Ofgem published its decision¹ to proceed with implementation of the Early Competition model. This has been underpinned by the publication of the Energy Security Bill², introduced to Parliament on 6 July 2022 (The Energy Bill was given Royal Assent on 26 October 2023) makes provision to enable competitive tenders for delivery of onshore electricity network assets. 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 Early 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 the Grid Code, SQSS, CUSC and STC among others. The ESO are proposing this modification in association with the modifications that will be progressed to the other GB Codes and frameworks during the period between Autumn 2022 and Spring 2024.

Why Change?

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 CATOs 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 ESO 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'. ESO'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.

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.

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

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

What is the solution?

Proposer's Solution

To ensure that payments made through the Onshore Tender Process are recovered effectively from TNUoS and BSUoS: the following changes (shown in red) are proposed to CUSC Section 14.

- 14.14.1 Transmission Network Use of System charges reflect the cost of installing, operating and maintaining the transmission system for the Transmission Owner (TO) (~~including Competitively Appointed Transmission Owners (CATOs)~~) Activity function of the Transmission Businesses of each Relevant Transmission Licensee. These activities are undertaken to the standards prescribed by the Transmission Licences, to provide the capability to allow the flow of bulk transfers of power between connection sites and to provide transmission system security.
- 14.14.2 ~~A Maximum~~ The ~~a~~Allowed ~~r~~Revenue (~~MAR~~) defined for these activities ~~and those associated with pre-vesting connections~~ is ~~set by~~ ~~agreed with~~ the **Authority** at the time of the Transmission Owners' price control review for the succeeding price control period. ~~The allowed revenue can be adjusted during the price control period.~~ Transmission Network Use of System Charges are set to recover the ~~Maximum a~~Allowed ~~r~~Revenue as set by the ~~p~~Price ~~c~~Control (where necessary, allowing for any K_t adjustment for under or over recovery in a previous year net of the income recovered through pre-vesting connection charges).
- 14.14.2a ~~The payments made to Competitively Appointed Transmission Owners (CATOs) are not set via a price control of the same form as incumbent Transmission Owners; instead, the payment to each CATO takes the form of a Tender Revenue Stream (TRS). The method for determining the TRS for a CATO will be prescribed within its licence. Transmission Network Use of System Charges are set to recover the Allowed Revenue which is determined in accordance with the terms of the CATO's licence, such Allowed Revenue may include amongst other things the TRS, adjustments for indexation and incentivisation, and other payments provided for under its licence~~
-
- 14.30.6 BSUoS Charges comprise the following costs:
- (i) The Total Costs of the Balancing Mechanism
 - (ii) Total Balancing Services Contract costs
 - (iii) Payments/Receipts from **The Company's** incentive schemes
 - (iv) Internal costs of operating the System
 - (v) Costs associated with contracting for and developing Balancing Services
 - (vi) Adjustments
 - (vii) Costs invoiced to **The Company** associated with Manifest Errors and Special Provisions.
 - (viii) BETTA implementation costs
 - (ix) Financing and administrative costs, as agreed by The Authority, associated with the management of the Covid Support Scheme in 14.30.13, the Exceptional Costs Support Scheme in 14.30.21, and the Further Costs Support Scheme in 14.30.27.
 - (x) ~~All costs under Relevant Contracts awarded through the Onshore Tender Process~~

Legal Text

The legal text for this change can be found in full in Annex 2.

Post raising the modification the Proposer was made aware that the term “Maximum Allowed Revenue” had been altered in the TOs’ price controls, 14.14.2 has been updated to align with the reference in 14.14.2a.

What is the impact of this change?

Proposer’s assessment against the Applicable Objectives

Proposer’s assessment against CUSC Charging Objectives	
Relevant Objective	Identified impact
(a) That compliance with the use of system charging methodology facilitates effective competition in the generation and supply of electricity and (so far as is consistent therewith) facilitates 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.
(b) That compliance with the use of system charging methodology results in charges which reflect, as far as is reasonably practicable, the costs (excluding any payments between transmission licensees which are made under and accordance with the STC) incurred by transmission licensees in their transmission businesses and which are compatible with standard licence condition C26 requirements of a connect and manage connection);	Neutral
(c) That, so far as is consistent with sub-paragraphs (a) and (b), the use of system charging methodology, as far as is reasonably practicable, properly takes account of the developments in transmission licensees’ transmission businesses;	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. The Energy Bill, approved 26 October 2023, provides for tendering of onshore transmission projects and their delivery by competitively appointed transmission owners (CATOs).
(d) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	Neutral
(e) Promoting efficiency in the implementation and administration of the system charging methodology.	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 charging provisions have to be changed to reflect the forthcoming CATO regime
**The Electricity Regulation referred to in objective (d) 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

Code Administrator Consultation Summary

The Code Administrator Consultation was issued on the 28 March 2024, closed on 29 April 2024, and received 1 non-confidential response. A summary of the response can be found in the table below, and the full response can be found in Annex 3.

Code Administrator Consultation Summary

Question	
Do you believe that the CMP403 Original Proposal better facilitates the Applicable CUSC Objectives?	The respondent stated that objectives C and E facilitate the solution best.
Do you have a preferred proposed solution?	The respondent preferred the original proposed solution.
Do you support the proposed implementation approach?	The respondent supports the proposed implementation approach.
Do you have any other comments?	The respondent stated that this modification forms part of a suite of modifications across the Codes to enable implementation of Early Competition through the CATO regime.

Panel Recommendation Vote

The Panel met on the 31 May 2024 to carry out their recommendation vote.

They assessed whether a change should be made to the CUSC by assessing the proposed change and any alternatives against the Applicable Objectives.

Panel comments on Legal text

Ahead of the vote taking place, a Panel member felt that the terms 'Allowed Revenue' and 'Price Control' are not defined terms and therefore they should not be capitalised. The Proposer agreed and noted that the capitalisation of 'Allowed Revenue' and 'Price Control' were used inconsistently throughout the Baseline and would need to be addressed in the future.

Panel members agreed that these changes were typographical and did not change the meaning of the legal text.

The legal text for CMP403 has amended the Baseline in Section 14.14.2 as part of this modification. The legal text can be found in Annex 2.

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Andrew Enzor – Users Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Neutral	Neutral	Yes	Neutral	Yes	Yes
Voting Statement						
I agree with the proposers assessment against the applicable objectives.						

Panel Member: **Andy Pace - Consumers' Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Yes	Neutral	Yes	Neutral	Neutral	Yes
Voting Statement						
This mod introduces competition at transmission via CATOs. This change will result in a more efficient expansion of the transmission network which will ultimately result in lower costs for generation and demand customers. We therefore assess this mod as better meeting applicable objective (a) by facilitating competition in the generation and supply of electricity. We also assess it as better meeting applicable objective (c) as it amends the charging methodology to take account of the development of the transmission businesses by clarifying how the tender revenue streams for CATOs are treated from a TNUoS perspective.						

Panel Member: **Binoy Dharsi – Users Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Neutral	Neutral	Yes	Neutral	Yes	Yes
Voting Statement						

This modification facilitates the obligation to reflect the CATO regime within the CUSC as directed.

Panel Member: **Christian Parsons - ESO Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Neutral	Neutral	Yes	Neutral	Yes	Yes

Voting Statement

This CATO charging (section 14) mod better facilitates CAO (c), taking account of the developments in transmission licensees' transmission businesses: the conclusion of an early competition tender process will result in a preferred bidder. This party will accede to the codes and be awarded a licence by Ofgem. There will be new licence conditions for the existing TOs to cooperate with CATOs and new TO licences for the CATOs. These are developments in transmission licensees' transmission businesses.

The mod also better facilitates CAO E (Promoting efficiency in the implementation and administration of the system charging methodology): the Electricity Act 2023 contains legislation to enable competition in onshore electricity transmission. Secondary regulations will also be in place to support this and updates to Licence conditions. This modification is to provide the required charging provisions to reflect this forthcoming CATO regime so that the CUSC can still be properly administered to reflect that regime (the CUSC section 14 would be left "wrong" without this mod, once CATO comes in).

Panel Member: **Garth Graham – Users Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Neutral	Neutral	Yes	Neutral	Yes	Yes

Voting Statement

No statement provided.

Panel Member: **Joe Colebrook – Users Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Neutral	Neutral	Yes	Neutral	Yes	Yes

Voting Statement

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.

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.

Panel Member: **Joseph Dunn – Users Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Neutral	Neutral	Yes	Neutral	Yes	Yes
Voting Statement						
With respect to CMP403 positively impacting ACO's C and E: Assuming other code/licence changes are made in conjunction with this, the original will enable costs and therefore charges to be appropriately accounted for from CATOs.						

Panel Member: **Kyran Hanks – Users Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	No	Yes	Yes	Neutral	No	No
Voting Statement						
It does seem to me that any case has been made for this change. Extra complexity will be introduced for little extra gain. The challenge facing the industry is to massively increase the amount of transmission capacity to deliver net zero. Adding another layer of complexity would seem to be a barrier to that objective. It would be better for Ofgem properly to regulate the TOs and ensure that they build capacity, rather than hold back capacity which arguably has been the case to date.						
However, I accept that the policy decision - right or wrong - has been made - and in that sense ESO is seeking to align the CUSC with the policy decision. If this is the right course of action, it is noticeable that there was only one response. So, my vote is balanced - as can be seen - and I end up voting no at this stage.						

Panel Member: **Paul Jones – Users Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Neutral	Yes	Neutral	Neutral	Yes	Yes
Voting Statement						
This allows the ESO to fulfil its obligations in respect of CATOs under the relevant legislation and licence conditions.						

Vote 2 – Which option best meets the Applicable Grid Code Objectives?

Panel Member	BEST Option?	Which objectives does this option better facilitate? (If baseline not applicable).
Andrew Enzor	Original	c) and e)
Andy Pace	Original	a) and c)
Binoy Dharsi	Original	c) and e)
Christian Parsons	Original	c) and e)
Garth Graham	Original	a),b) and c)
Joseph Colebrook	Original	c) and e)

Joseph Dunn	Original	c) and e)
Kyran Hanks	Baseline	N/A
Paul Jones	Original	b) and e)

Panel conclusion

The Panel has recommended by majority that the Proposer's solution is implemented.

When will this change take place?

Implementation date

10 Business Days after The Authority decision

Date decision required by

Q2 2024 – aligned with the other CATO modifications

Implementation approach

It is regarded as certain that the TRS revenues will always be known ahead of 30 January before the start of the coming charging year in which they are due to be paid to the CATO(s).

Interactions

- | | | | |
|---|---|--|--|
| <input checked="" type="checkbox"/> Grid Code | <input type="checkbox"/> BSC | <input type="checkbox"/> STC | <input checked="" type="checkbox"/> SQSS |
| <input type="checkbox"/> European Network Codes | <input type="checkbox"/> EBR Article 18 T&Cs ³ | <input type="checkbox"/> Other modifications | <input type="checkbox"/> Other |

There are further modifications for the other electricity industry codes such as Grid Code (GC0159), CUSC (CMP404 – non charging), SQSS (GSR031), and STC (CM086 and CM087) but no direct interactions are expected.

Acronyms, key terms and reference material

Acronym / key term	Meaning
BEIS	Department for Business, Energy and Industrial Strategy
BETTA	British Electricity Trading and Transmission Arrangements
BSC	Balancing and Settlement Code
BSUoS	Balancing Services Use of System
CATO	Competitively Appointed Transmission Owners
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code
EBR	Electricity Balancing Regulation
ECP	Early Competition Plan
ESO	Electricity System Operator
EV	Electric Vehicle
NETS	National Electricity Transmission System
SQSS	Security and Quality of Supply Standards
STC	System Operator Transmission Owner Code

³ If the modification has an impact on Article 18 T&Cs, it will need to follow the process set out in Article 18 of the European Electricity Balancing Guideline (EBGL – 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.

T&Cs	Terms and Conditions
TNUoS	Transmission Network Use of System
TRS	Tender Revenue Stream

Reference material

- [CMP403 and CMP404: Introducing Competitively Appointed Transmission Owners & Transmission Service Providers \(Section 14 and 11\)](#)
- [GSR031: Introducing Competitively Appointed Transmission Owners](#)
- [GC0159: Introducing Competitively Appointed Transmission Owners](#)
- [CM086: Introducing Competitively Appointed Transmission Owners & Transmission Service Providers](#)
- [CM087: Introducing Connections Process to facilitate Competitively Appointed Transmission Owners](#)

Annexes

Annex	Information
Annex 1	Proposal form
Annex 2	Legal Text
Annex 3	Code Administrator Consultation Response