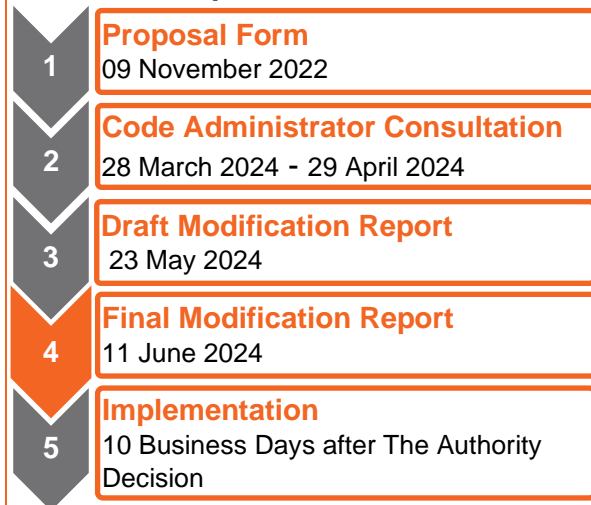


## Final Modification Report

# 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 &amp; 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** 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 \(CMP403 – charging\)](#), [SQSS \(GSR031\)](#), and STC ([CM086](#) and [CM087](#)) but no direct interactions are expected.

## What is the issue?

On 28 March 2022 Ofgem published its decision<sup>1</sup> to proceed with implementation of the Early Competition model. This has been underpinned by the publication of the Energy Security Bill<sup>2</sup>, 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?

Ofgem's decision to introduce Early Competition by means of Competitively Appointed Transmission Owners (CATOs) 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 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

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

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

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 solution?

### **Proposer's solution**

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

<b>“Competitively Appointed Transmission Owner (CATO)”</b>	means such person who has been awarded a <b>Transmission Licence</b> on the basis of an <b>Onshore Tender Process</b> and in relation to whose <b>Transmission Licence</b> the Standard Conditions in Section D (transmission owner standard conditions) have been given effect
<b>“Delivery Body”</b>	the person designated as the delivery body pursuant to regulations made under section 6BB of the <b>Act</b>
<b>“Onshore Tender Process”</b>	the process followed by the <b>Delivery Body</b> 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 <b>Authority</b> or a <b>Relevant Contract</b> is recommended to be awarded, as more particularly described in the Onshore Tender <b>Regulations</b> ;
<b>“Onshore Tender Regulations”</b>	those regulations made by the <b>Authority</b> in accordance with section 6C of the <b>Act</b> to facilitate the determination on a competitive basis of the person to whom an onshore transmission licence is to be granted;
<b>“Onshore Transmission Licensee”</b>	means-NGET, Scottish Hydro Electric Transmission plc, SP Transmission plc, a <b>Competitively Appointed Transmission Owner</b> or such other person in relation to whose transmission licence the Standard Conditions in Section D (transmission owner standard conditions) have been given effect;
<b>“Relevant Contract”</b>	has the meaning given to that term in section 6BA of the <b>Act</b>
<b>“Transmission Licences”</b>	the transmission licences granted to <b>The Company</b> , <b>NGET</b> , SP Transmission Limited, Scottish Hydro Electric Transmission Limited, any <b>Competitively Appointed Transmission Owner</b> and any <b>Offshore Transmission Licensee</b> under the Act and references to “transmission licensee” and “transmission licensees” will be construed in the CUSC accordingly;

**Legal text**

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

**What is the impact of this change?****Proposer's assessment against the Applicable Objectives**

<b>Proposer's assessment against CUSC Non-Charging Objectives</b>	
<b>Relevant Objective</b>	<b>Identified impact</b>
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	<b>Positive</b> 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).
(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;	<b>Neutral</b> 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	<b>Neutral</b>
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	<b>Positive</b> 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	<b>Neutral</b>
Lower bills than would otherwise be the case	<b>Positive</b> 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	<b>Neutral</b>
Reduced environmental damage	<b>Positive</b> 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	<b>Positive</b> 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 CMP404 Original Proposal better facilitates the Applicable CUSC Objectives?	The respondent stated that objectives A and D 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.
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### **Panel Recommendation Vote**

The Panel met on 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 noticed that within the proposed new definition of “Competitively Appointed Transmission Owner (CATO)” the following defined terms had not been highlighted in bold within the consulted legal text: Transmission Licence, Onshore Tender Process

Panel members agreed that these changes were typographical and did not change the meaning of the legal text. These changes have been included in Annex 2.

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

Panel Member: **Andrew Enzor - User Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Yes	Neutral	Neutral	Yes	Yes
<b>Voting Statement</b>					
I agree with the proposer’s 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)?	Overall (Y/N)
Original	Yes	Yes	Neutral	Neutral	Yes
<b>Voting Statement</b>					
This mod introduces competition at transmission via CATOs into section 11 of the CUSC. We assess this mod as better meeting applicable objective (a) as the introduction of CATOs is via the Energy Bill and this mod therefore allows for the efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence. This change will also 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 (b) by facilitating competition in the generation and supply of electricity.					

Panel Member: **Binoy Dharsi - User Panel Member**



	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Neutral	Neutral	Yes	Yes	Yes
<b>Voting Statement</b>					
This modification satisfies CUSC Objectives c, and d, in such that it makes the necessary amendments to CUSC Section 14 required to ensure that payments made through the Onshore Tender Process are recovered from TNUoS and BSUoS from the CATO regime					

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

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Yes	Neutral	Neutral	Yes	Yes
<b>Voting Statement</b>					
<p>This CATO non-charging mod better facilitates CAO (A), 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.</p> <p>The mod also better facilitates CAO (D) (Promoting efficiency in the implementation and administration of the CUSC arrangements): 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 non-charging parts of CUSC would be left "wrong" without this mod once CATO comes in).</p>					

Panel Member: **Garth Graham - User Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Yes	Neutral	Neutral	Yes	Yes
<b>Voting Statement</b>					
No statement provided.					

Panel Member: **Joe Colebrook - User Panel Member**

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

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 - User Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Yes	Neutral	Neutral	Yes	Yes
<b>Voting Statement</b>					
As per CMP403 and with respect to CMP404 positively impacting ACO's A and D: 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 - User Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Yes	No	Neutral	No	No
<b>Voting Statement</b>					
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 - User Panel Member**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Overall (Y/N)
Original	Yes	Neutral	Neutral	Yes	Yes
<b>Voting Statement</b>					
This enables CMP 403 through providing necessary definitions and 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	a) and d)
Andy Pace	Original	a) and b)
Binoy Dharsi	Original	c) and d)
Christian Parsons	Original	a) and d)
Garth Graham	Original	a) and d)
Joe Colebrook	Original	a) and d)
Joseph Dunn	Original	a) and d)
Kyran Hanks	Baseline	
Paul Jones	Original	a) and d)

### 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

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

### Interactions

- |   |   |  |  |
|---|---|--|--|
| <input checked="" type="checkbox"/> Grid Code   | <input type="checkbox"/> BSC                              | <input checked="" type="checkbox"/> STC      | <input checked="" type="checkbox"/> SQSS |
| <input type="checkbox"/> European Network Codes | <input type="checkbox"/> EBR Article 18 T&Cs <sup>3</sup> | <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 \(CMP403 – charging\)](#), [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

<sup>3</sup> 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 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.

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
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	CMP404 Proposal form
Annex 2	CMP404 Legal Text
Annex 3	CMP404 Code Administrator Consultation Response