

**Code Administrator Consultation Response Proforma****CMP436: Update CUSC arrangements to replace the Electricity Arbitration Association (EAA) with the London Court of International Arbitration (LCIA) (Non-Charging)**

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses to [cusc.team@nationalgrideso.com](mailto:cusc.team@nationalgrideso.com) by **5pm on 10 July 2024**. Please note that any responses received after the deadline or sent to a different email address may not receive due consideration.

If you have any queries on the content of this consultation, please contact



GC0172 Code  
Administrator Consultation [cusc.team@nationalgrideso.com](mailto:cusc.team@nationalgrideso.com)

Respondent details	Please enter your details	
<b>Respondent name:</b>	Joseph Henry	
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<b>Which best describes your organisation?</b>	<input type="checkbox"/> Consumer body <input type="checkbox"/> Demand <input type="checkbox"/> Distribution Network Operator <input type="checkbox"/> Generator <input type="checkbox"/> Industry body <input type="checkbox"/> Interconnector	<input type="checkbox"/> Storage <input type="checkbox"/> Supplier <input checked="" type="checkbox"/> System Operator <input type="checkbox"/> Transmission Owner <input type="checkbox"/> Virtual Lead Party <input type="checkbox"/> Other

**I wish my response to be:**

(Please mark the relevant box)

☒ **Non-Confidential** (this will be shared with industry and the Panel for further consideration)

☐ **Confidential** (this will be disclosed to the Authority in full but, unless specified, will not be shared with the Panel or the industry for further consideration)

**For reference the Applicable CUSC (non-charging) Objectives are:**

- The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;
- 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;

- c) *Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency \*; and*
- d) *Promoting efficiency in the implementation and administration of the CUSC arrangements.*

*\*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.*

**For reference, (for consultation questions 4 & 5) the Electricity Balancing Regulation (EBR) Article 3 Objectives and regulatory aspects are:**

- a) *fostering effective competition, non-discrimination and transparency in balancing markets;*
- b) *enhancing efficiency of balancing as well as efficiency of national balancing markets;*
- c) *integrating balancing markets and promoting the possibilities for exchanges of balancing services while contributing to operational security;*
- d) *contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector while facilitating the efficient and consistent functioning of day-ahead, intraday and balancing markets;*
- e) *ensuring that the procurement of balancing services is fair, objective, transparent and market-based, avoids undue barriers to entry for new entrants, fosters the liquidity of balancing markets while preventing undue market distortions;*
- f) *facilitating the participation of demand response including aggregation facilities and energy storage while ensuring they compete with other balancing services at a level playing field and, where necessary, act independently when serving a single demand facility;*
- g) *facilitating the participation of renewable energy sources and supporting the achievement of any target specified in an enactment for the share of energy from renewable sources.*

**What is the EBR?**

The Electricity Balancing Regulation (EBR) is a European Network Code introduced by the Third Energy Package European legislation in late 2017.

The EBR regulation lays down the rules for the integration of balancing markets in Europe, with the objectives of enhancing Europe's security of supply. The EBR aims to do this through harmonisation of electricity balancing rules and facilitating the exchange of balancing resources between European Transmission System Operators (TSOs). Article 18 of the EBR states that TSOs such as the ESO should have terms and conditions developed for balancing services, which are submitted and approved by Ofgem.

**Please express your views in the right-hand side of the table below, including your rationale.**

**Code Administrator Consultation questions**

1	Please provide your assessment for the	Mark the Objectives which you believe the proposed solution better facilitates:
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	proposed solution against the Applicable Objectives?	Original	<input checked="" type="checkbox"/> A <input checked="" type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D
		Against objective A, we believe that the proposal is positive because it allows for a more efficient arbitration service within the CUSC. Against objective B, we believe it is positive because it allows for an effective disputes process within CUSC. Against C, we believe this proposal is neutral. Finally, against objective D, we believe the proposal is positive because of the improvements identified to the arbitration process.	
2	Do you support the proposed implementation approach?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		This proposal should be implemented as suggested within our original proposal.	
3	Do you have any other comments?	No further comments	
4	Do you agree that CMP436 does impact the <a href="#">Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the CUSC?</a>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		The proposal touches areas of the code impacted by EBR	
5	Do you have any comments on the impact of CMP436 on the EBR Objectives?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		Click or tap here to enter text.	