

Final Modification Report

GC0172: Replacing References to Electricity Supply Industry Arbitration Association

Overview: This modification looks to replace the Electricity Arbitration Association (EAA) with the London Court of International Arbitration (LCIA) within the Grid Code.

Modification process & timetable



Have 10 minutes? Read the full [Final Modification Report](#)

Have 30 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 unanimously that the Proposer's solution is implemented.

This modification is expected to have a: **Low impact** on Grid Code Parties

Modification drivers: Efficiency

Governance route Standard Governance modification to proceed to Code Administrator Consultation

Who can I talk to about the change?

Proposer:
Joseph Henry
Joseph.henry2@nationalgrid.com
Phone: 07970673220

Code Administrator Contact:
Lizzie Timmins
Elizabeth.Timmins@nationalgrideso.com

Contents

Contents	2
What is the issue?	3
Why change?	3
What is the solution?	4
Legal text.....	4
What is the impact of this change?	4
Proposer's assessment against the Applicable Objectives	4
Proposer's assessment against Grid Code Objectives	4
Proposer's assessment of the impact of the modification on the stakeholder / consumer benefit categories.....	5
Code Administrator Consultation Summary	5
Panel Recommendation Vote	5
Panel conclusion.....	8
When will this change take place?	8
Implementation date	8
Date decision required by	8
Implementation approach	8
Interactions	8
Acronyms, key terms and reference material	8
Annexes	8

What is the issue?

Since 1993, the CUSC has used the Electricity Arbitration Association (EAA) as its official arbitration provider for any arbitration or disputes.

In BSC modification [P457](#), it was highlighted that “[...]the EAA has not been used by a Market Participant since its inception in 1993 and does not provide good value for money for BSC Parties as monthly payments are required, irrespective of whether there are any disputes to consider. Moreover, the EAA is rarely used in commercial agreements, does not maintain its website and requires monthly payment, irrespective of whether their services are used. This therefore does not offer good value for money for BSC Parties”.

[P457](#) proposed that the EAA was replaced within the Balancing and Settlement Code (BSC) by the London Court of International Arbitration (LCIA) and removed the obligation on Elexon to make regular payments for arbitration services, instead only paying LCIA in the event of a dispute requiring resolution. This modification was approved by the Authority on 01 November 2023.

The Grid Code currently contains 1 reference to the **Electricity Supply Industry Arbitration Association** in its Glossary and Definitions and 1 reference in its General Conditions.

As it has been established that the EAA is *de facto*¹ defunct, it would be appropriate to align arbitration to that of other codes such as the BSC and the Retail Energy Code (REC).

Why change?

- i) The EAA has not been used in any industry dispute since 1993, and is not contactable. Its website is not updated, and as such it seems inappropriate for the CUSC, Grid Code and STC to list this as its official arbitration provider.
- ii) The LCIA is an internationally recognised provider of arbitration services. The LCIA is also experienced in the resolution of Energy Codes disputes, and is the official arbitration service of both the BSC and the REC.
- iii) The LCIA offer a service whereby it requires payment in instances where there is a dispute requiring arbitration. Elexon were responsible previously for paying the overhead costs of the EAA. Whilst the CUSC and Grid Code Panels did not pay for this service, it references the service on 15 different instances.
- iv) The LCIA is a not-for-profit company limited by guarantee. The LCIA Board is “[...]made up largely of prominent London-based arbitration practitioners, is principally concerned with the operation and development of the LCIA's business and with its compliance with applicable company law²”. They provide an appropriate level of expertise to administer arbitration disputes within the CUSC. The charges for this arbitration service fall upon the party initialising the arbitration. These costs are set out on the LCIA website³. This Grid Code change is needed as the definition is Cross Referenced within the CUSC, and

¹ <https://dictionary.cambridge.org/dictionary/english/de-facto>

² [Introduction \(lcia.org\)](#)

³ [LCIA Website - Costs](#)

the current Grid Code definition makes reference to the EAA as the Electricity Supply Industry Arbitration Association.

- v) The provisions will be an improvement on the current service within the CUSC provisions.

What is the solution?

Remove the definition of Electricity Supply Industry Arbitration Association and add a new definition for London International Court of Arbitration to the Grid Code. Reflect the change in definition within the General Conditions.

Legal text

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

What is the impact of this change?

Proposer's assessment against the Applicable Objectives

Proposer's assessment against Grid Code Objectives	
Relevant Objective	Identified impact
(a) To permit the development, maintenance and operation of an efficient, coordinated and economical system for the transmission of electricity	Neutral
(b) Facilitating effective competition in the generation and supply of electricity (and without limiting the foregoing, to facilitate the national electricity transmission system being made available to persons authorised to supply or generate electricity on terms which neither prevent nor restrict competition in the supply or generation of electricity);	Neutral
(c) Subject to sub-paragraphs (i) and (ii), to promote the security and efficiency of the electricity generation, transmission and distribution systems in the national electricity transmission system operator area taken as a whole;	Neutral
(d) To efficiently discharge the obligations imposed upon the licensee by this license and to comply with the Electricity Regulation and any relevant legally binding decisions of the European Commission and/or the Agency; and	Negative
(e) To promote efficiency in the implementation and administration of the Grid Code arrangements	Positive Change will help enable an efficient arbitration process.

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	Neutral
Benefits for society as a whole	Neutral
Reduced environmental damage	Neutral
Improved quality of service	Positive This change will enable efficient arbitration processes within the CUSC, Grid Code, and STC

Code Administrator Consultation Summary

The Code Administrator Consultation was issued on the 10 June 2024 and closed on 10 July 2024 and received one response. No late responses were received. 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 GC0172 Original Proposal better facilitates the Grid Code Objectives?	The respondent stated that the proposal better facilitated objective (e). They also believed that the change would help enable an efficient arbitration process in the Grid Code, CUSC and SQSS.
Do you support the proposed implementation approach?	The respondent supported the implementation approach.
Do you have any other comments?	None raised.
Legal text issues raised in the consultation	
None raised.	
EBR issues raised in the consultation	
None raised.	

Panel Recommendation Vote

The Panel met on the 25 July 2024 to carry out their recommendation vote. They assessed whether a change should be made to the Grid Code by assessing the proposed change against the Applicable Objectives.

Vote 1: Does the Original facilitate the Applicable Objectives better than the Baseline?

Panel Member: Alan Creighton, Network Operator Representative

	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	Neutral	Neutral	Yes	Yes
Voting Statement						
The proposed text change is the minimum required to replace the reference to the Electricity Arbitration Associated with an alternative arbitration service offered by the London Court of International Arbitration (LCIA), which is a positive step. The proposed new definition in the Glossary and Definitions and the reference to the LCIA in the General Conditions GC.10 could be improved and it is suggested that this could be added to a subsequent housekeeping change.						

Panel Member: Alastair Frew, Generator Representative

	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	Neutral	Neutral	Yes	Yes
Voting Statement						
This replaces a defunct organisation which has never been used with modern active arrangements						

Panel Member: Antony Johnson, Alternate ESO Representative

	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	Neutral	Neutral	Yes	Yes
Voting Statement						
Against objective E, this change is positive as it will help in the Grid Code Governance process.						

Panel Member: David Monkhouse, Offshore Transmission Representative

	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	Neutral	Neutral	Yes	Yes
Voting Statement						
A replacement for the EAA seems necessary and the proposal to utilise LCIA seems reasonable.						

Panel Member: Graeme Vincent, Alternate Network Operator Representative

	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	Neutral	Neutral	Yes	Yes
Voting Statement						

This modification will replace an inactive service provider and will introduce into the Grid Code an arbitration process which is consistent with other industry codes.

Panel Member: **Fraser Norris, Generator Representative**

	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	Neutral	Neutral	Yes	Yes
Voting Statement						
This modification will allow a more efficient arbitration process and will align the Grid Code with the BSC.						

Panel Member: **Robert Longden, Supplier Representative**

	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	Neutral	Neutral	Yes	Yes
Voting Statement						
It is long overdue that the Arbitration process was updated. This Modification makes the appropriate changes						

Panel Member: **Ross Kirkwood, Onshore Transmission Representative**

	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	Neutral	Neutral	Yes	Yes
Voting Statement						
As noted in the DFMR the EAA has not been used since 1993 and no longer serves any purpose and the change will enable efficient arbitration processes with Grid Code as well as other forums.						

Vote 2 – Which option is the best?

Panel Member	BEST Option?	Which objectives does this option better facilitate? (If baseline not applicable).
Alan Creighton	Original	E
Alastair Frew	Original	E
Antony Johnson	Original	E
David Monkhouse	Original	E
Graeme Vincent	Original	E
Fraser Norris	Original	E
Robert Longden	Original	E
Ross Kirkwood	Original	E

Panel conclusion

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

When will this change take place?**Implementation date**

10 Business Days after decision. The code change ideally needs to be implemented prior to 01 September 2024 to align with [CMP398](#).

Date decision required by

TBC

Implementation approach

No systems and processes will require updating as part of this modification.

Interactions

- | | | | |
|--|--|---|--------------------------------|
| <input checked="" type="checkbox"/> CUSC | <input type="checkbox"/> BSC | <input checked="" 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 |

This modification has been raised alongside CUSC modifications [CMP436](#) and [CMP437](#), and STC modification [CM098](#).

Acronyms, key terms and reference material

Acronym / key term	Meaning
BSC	Balancing and Settlement Code
CUSC	Connection and Use of System Code
EAA	Electricity Arbitration Association
EBR	Electricity Balancing Regulation
GC	Grid Code
LCIA	London Court of International Arbitration
REC	Retail Energy Code
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
T&Cs	Terms and Conditions

Annexes

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

⁴ If your modification amends any of the clauses mapped out in Annex GR.B of the Governance Rules section of the Grid Code, 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 Regulation (EBR – EU Regulation 2017/2195). All Grid Code modifications must be consulted on for 1 month in the Code Administrator Consultation phase, unless they are Urgent modifications which have no impact on EBR Article 18 T&Cs. N.B. This will also satisfy the requirements of the NCER process.