
Connection and Use of System Code (CUSC) CMP437: Update CUSC arrangements to replace the Electricity Arbitration Association (EAA) with the London Court of International Arbitration (LCIA) (Charging) (CMP437)

Decision: The Authority¹ determines that this modification should be made²

Target audience: National Energy System Operator (NESO), Parties to the CUSC, the CUSC Panel and other interested parties

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Implementation date: Ten working days following Authority decision

Background

The CUSC sets out the procedures to be followed in the event of a party dispute. This includes provisions for CUSC code parties to undertake arbitration pursuant to the arbitration rules of the Electricity Arbitration Association (EAA). However, since its inception in 1993, the services of the EAA have not been used by any CUSC party.

In the Balancing and Settlement Code (BSC), an equivalent modification was approved by Ofgem in November 2023. P457³ proposed that the EAA be replaced in the BSC by the London Court of International Arbitration (LCIA) and removed the obligation on Elexon (BSC code administrator) to make regular payments for arbitration services, instead only paying LCIA in the event of a dispute requiring resolution.

The Grid Code and the System Operator – Transmission Owner Code have implemented similar arbitration modifications through GC0172 and CM098 respectively.

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day-to-day work. This decision is made by or on behalf of GEMA.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

³ [Authority decision on BSC modification P457 | Ofgem](#)

The modification proposal

CMP437 was raised by National Grid ESO (the Proposer) on 9 May 2024 and seeks to replace references to the EAA in the CUSC Charging Methodologies provisions with the LCIA where applicable.

The Proposer sets out in the Final Modification Report, the reasons for change are as follows:

- i) The EAA has not been used in any industry dispute since 1993 and cannot be contacted. Its website is not updated, and as such it seems inappropriate for the CUSC to list this as it's 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) Elexon as the BSC code administrator, were responsible previously for paying the overhead costs of the EAA. While the CUSC did not pay for this service, it references the service in non-charging sections on multiple instances. The LCIA offer a service whereby it only requires payment in instances where there is a dispute requiring its arbitration services.
- iv) The LCIA is a not-for-profit company limited by guarantee. They can provide an appropriate level of expertise to administer arbitration disputes within the CUSC. The charges for this arbitration service would fall upon the party initiating the arbitration.
- v) The proposed changes will be an improvement on the current service within the CUSC.

The Proposer believes that EAA is a defunct organisation, and this change would allow the CUSC to appropriately align its arbitration services to that of the other codes such as the Balancing and Settlement Code and the Retail Energy Code.

CUSC Panel⁴ recommendation

At the CUSC Panel meeting on 26 July 2024, the Panel unanimously considered that CMP437 would better facilitate the CUSC charging objectives (a) and (e) and therefore recommended to implement.

⁴ The CUSC Panel is established and constituted from time to time pursuant to and in accordance with section 8 of the CUSC.

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 7 August 2024. We have considered and taken account of the response to the industry consultation on the modification proposal attached to the FMR.⁵ We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable charging objectives⁶ of the CUSC⁷
- directing that the modification be made is consistent with our principal objective and statutory duties⁸

Reasons for our decision

We consider this modification proposal will better facilitate CUSC charging objectives (a) and (e). We believe the proposal has a neutral impact on the remaining CUSC charging objectives.

(a) that compliance with the connection 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;

Panel view

Most of the Panel considered that having a working and effective disputes resolution service would encourage competition in electricity supply and generation markets to better facilitate this CUSC charging objective.

⁵ CUSC modification proposals, modification reports and representations can be viewed on NESO's website at: [CMP437: Update CUSC arrangements to replace the Electricity Arbitration Association with the London Court of International Arbitration \(LCIA\) \(Charging\)](#)

⁶ For the avoidance of doubt, we have made our assessment for this Proposal with reference to the Applicable Code Objectives that came into effect on 1 October 2024. As noted in our letter to Panel dated 06 March 2025, and having not received representations to the contrary, we consider that updates the modifications to the Applicable Code Objectives (which came into effect on 1 October 2024 upon the establishment of NESO) would not have materially impacted any assessment of objectives and subsequent analysis and voting undertaken by Panel.

⁷ As set out in Standard Condition E2 of the Electricity System Operator Licence.

⁸ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

Our view

We agree with the Panel that by replacing a non-functioning arbitration service with one that is effectively working encourages competition and gives confidence to new entrants to the market. Therefore, we consider CMP437 to better facilitate charging objective (a) than the current provisions in the baseline.

(e) promoting efficiency in the implementation and administration of the connection charging methodology.

Panel view

The Panel considers the current arbitration arrangements to be inefficient because the EAA is non-operational. Therefore, by replacing a non-functioning service with one that is operational will better facilitate CUSC charging objective (e).

Our view

We agree with the Panel's assessment and consider that this modification will afford greater efficiency in the implementation and administration of the CUSC arrangements. We therefore agree that CMP437 better facilitates charging objective (e) in comparison to the baseline.

Decision notice

In accordance with Standard Condition E2 of the Electricity System Operator Licence, the Authority, hereby directs that modification proposal CMP437: Update CUSC arrangements to replace the Electricity Arbitration Association (EAA) with the London Court of International Arbitration (LCIA) (Charging) be made.

Gavin Baillie

Head of Industry Codes

Signed on behalf of the Authority and authorised for that purpose