
Connection and Use of System Code (CUSC) CMP404: Introducing Competitively Appointed Transmission Owners & Transmission Service Providers (Section 11) (CMP404)

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

Date of publication: 25 March 2025

Implementation date: 10 working days after The Authority decision

Background

On 28 March 2022 Ofgem published its decision³ to proceed with implementation of the Early Competition model in onshore electricity transmission. This has been underpinned by the publication of the Energy Security Bill, introduced to Parliament on 6 July 2022 (the Energy Bill was given Royal Assent on 26 October 2023 becoming the 'Energy Act 2023' (the 'Act'))⁴ which makes provision to enable competitive tenders for delivery of onshore electricity network assets. The Act introduces primary legislation required to allow for the competitive tendering of onshore electricity transmission projects. It extends Ofgem's power to make regulations which will set out the process by which tenders will be run.⁵ Following this, the Criteria Regulations⁶ set the criteria to determine the competition eligibility for a network project.

To allow onshore Early Competition to be implemented effectively, the competition processes, obligations, technical requirements, charges, and remuneration principles need to be

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 [Decision on early competition in onshore electricity transmission networks | Ofgem](#)

⁴ [Energy Act 2023](#)

⁵ [Draft Electricity \(Early-Model Competitive Tenders for Onshore Transmission Licences\) Regulations 2024 for consultation | Ofgem](#)

⁶ [The Electricity \(Criteria for Relevant Electricity Projects\) \(Transmission\) Regulations 2024](#)

embedded within the relevant industry codes. This modification is proposed to align relevant codes to the enabling legislation and does not constitute a recommendation by the Panel as to the benefits of Competitively Appointed Transmission Owners (CATOs).

The introduction of Early Competition legislation affects the Grid Code (GC), Connection and Use of System Code (CUSC), the System Operator – Transmission Owner Code (STC) and the Security and Quality of Supply Standard (SQSS). NESO is proposing this modification in association with the modifications that have been progressed to the other industry codes and frameworks during the period between Autumn 2022 and Winter 2024. The proposed modifications include the STC proposals CM086 and CM087, the GC proposal GC0159, the CUSC proposals CMP403 and CMP404, and the SQSS proposal GSR031. The Authority decisions for these proposals have been published as separate publications.

The modification proposal

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 electricity transmission assets.

CMP404⁷ ('the Proposal') was raised by the Electricity System Operator (ESO), now known as NESO ('the Proposer') on 9 November 2022. The Proposal seeks to amend CUSC Section 11 to introduce the concept of CATOs and associated interpretations and definitions.

The Proposer considers the Proposal to be a positive for the Applicable CUSC Objectives (ACOs) (i)⁸ and (iv)⁹, and neutral against the remaining Objectives. In the Proposer's view, the Proposal is in line with the assumed new licence conditions and changes in the STC required to support the CATOs thus being positive for the ACO (i). The Proposer also believes that the CUSC non-charging content has to be changed to reflect the forthcoming CATO regime thus being a positive for the ACO (iv).

⁷ The full legal text for this change can be found here: [CMP403 and CMP404: Introducing Competitively Appointed Transmission Owners & Transmission Service Providers \(Section 14 and 11\) | National Energy System Operator](#)

⁸ ACO (i) the efficient discharge by the licensee of the obligations imposed upon it under the Electricity Act 1989 and by this licence

⁹ ACO (iv) promoting efficiency in the implementation and administration of the CUSC arrangements.

The Code Administrator Consultation was issued on the 28 March 2024, closed on 29 April 2024, and received one non-confidential response. The respondent preferred the Proposal supports the proposed implementation approach. The respondent stated that this modification forms part of a suite of required modifications across the Codes to enable implementation of Early Competition through the CATO regime.

CUSC Panel¹⁰ recommendation

At the CUSC Panel meeting on 31 May 2024, a majority of the CUSC Panel (the Panel) considered that CMP404 would better facilitate the CUSC Objectives, and the Panel therefore recommended its approval.

Our decision

We have considered the issues raised by the modification proposal and the final Modification Report (FMR) dated 11 June 2024. We have considered and taken into account the responses to the industry consultation(s) on the modification proposal which are attached to the FMR¹¹. We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable Objectives of the CUSC¹²
- directing that the modification be made is consistent with our principal objective and statutory duties¹³

¹⁰ The CUSC Panel is established and constituted from time to time pursuant to and in accordance with section 8 of the CUSC.

¹¹ CUSC modification proposals, modification reports and representations can be viewed on NESO's website at: [CMP403 and CMP404: Introducing Competitively Appointed Transmission Owners & Transmission Service Providers \(Section 14 and 11\)](#)

¹² As set out in Standard Condition E2 of the Electricity System Operator Licence.

¹³ 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.

Reasons for our decision

We consider this modification proposal will better facilitate CUSC Objectives (i) and (iv) and has a neutral impact on the remaining Objectives.¹⁴ We have decided to accept CMP404 for the reasons set out below.

(i) the efficient discharge by the licensee of the obligations imposed upon it under the Electricity Act 1989 and by this licence;

The majority of the Panel recommended that the Proposal has a positive impact on this Objective. A supporting statement on Objective (i) by a Panel member states the Proposal has a positive impact on the Objective as the Proposal takes into account the developments in transmission licensees' transmission businesses in which the conclusion of an early competition tender process will result in a preferred bidder. A Panel member also stated that the Proposal is consistent with other expected STC changes and licence modifications.

Our March 2022 decision on the development of early competition in onshore electricity transmission networks¹⁵ provided for our decision to award licences to successful bidders. In our September 2024 consultation on the draft Electricity (Early-Model Competitive Tenders for Onshore Transmission Licences) Regulations 2024 (Tender Regulations¹⁶) we consulted on the Tender Regulations which if made and approved by the Secretary of State, will govern the Early Competition tender exercise for granting CATO licences. Introducing the concept of CATOs to CUSC Section 11 is therefore essential in ensuring the Objective is achieved and therefore, we agree with the Panel that the Proposal will be impact positively on Objective (i).

¹⁴ 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 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.

¹⁵ [Decision on early competition in onshore electricity transmission networks | Ofgem](#)

¹⁶ [Draft Electricity \(Early-Model Competitive Tenders for Onshore Transmission Licences\) Regulations 2024 for consultation | Ofgem](#)

(iv) promoting efficiency in the implementation and administration of the CUSC arrangements

The majority of the Panel recommended that the Proposal has a positive impact on this Objective. The Proposer said that the Proposal is required as the CUSC non-charging content has to be changed to reflect the forthcoming CATO regime. There are other, similar voting statements from the Panel to this, which state the changes are necessary for the forthcoming CATO regime so that the CUSC can still be properly administered to reflect that regime.

We recently consulted on the Tender Regulations.¹⁷ If approved by the Secretary of State, the Tender Regulations will make provision for the process of awarding CATO licenses. It is our view that the Proposal will help facilitate the awarding of CATO licenses, alongside other forthcoming CATO policy decisions. We therefore agree with the Panel that following the forthcoming changes in the CATO regime the Proposal will constitute a positive impact on Objective (iv).

Decision notice

In accordance with Standard Condition E2 of the Electricity System Operator Licence, the Authority, hereby directs that modification proposal CMP404: 'Introducing Competitively Appointed Transmission Owners & Transmission Service Providers (Section 11)' be made.

Jon Sharvill

Principal Policy Expert, Networks

Signed on behalf of the Authority and authorised for that purpose

¹⁷ [Draft Electricity \(Early-Model Competitive Tenders for Onshore Transmission Licences\) Regulations 2024 for consultation | Ofgem](#)