
System Operator (“SO”) – Transmission Owner (“TO”) Code (“STC”) CM098 – Updating STC Arrangements to replacing the Electricity Arbitration Association with the London Court of International Arbitration (CM098)

Decision: The Authority¹ directs this modification to be made²

Target audience: National Energy System Operator (NESO), Parties to the STC, bidders and prospective bidders to the offshore tender process and other interested parties

Date of publication: 20 March 2025

Implementation date: Ten business days following the Authority’s approval.

Background

The STC sets out the procedures for dispute resolution in sections F, J, H, and Schedule 15 of the code. This currently names the Electricity Arbitration Association (EAA) as the arbitration body. Elexon, the Balancing and Settlement Code (BSC) administrator, previously paid annual overhead costs to retain the EAA as the arbitration body for dispute resolution. These services have not been utilised by any STC party since the EAA’s inception in 1993.

The BSC approved a modification [BSC P457: ‘Replace the Electricity Arbitration Association with the London Court of International Arbitration’ (LCIA)], which replaced the EAA with the LCIA. This change removed Elexon’s obligation, as the BSC code administrator, to make regular payments for arbitration services to the EAA. The change means payment is made to the LCIA only when a dispute requires arbitration to reach a resolution.

The Connection and Use of System Code (CUSC) has implemented similar modifications by introducing CMP436 to update CUSC arbitration arrangements (Non-Charging) and CMP437 to update CUSC arbitration arrangements (Charging).

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.

The modification proposal

CM098 was raised by NESO (the Proposer) on 9 May 2023 and seeks to replace references to the EAA in the STC with the LCIA where applicable.

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

- 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 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 LCIA. Whilst the STC 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 law*”.³ They provide an appropriate level of expertise to administer arbitration disputes within the STC. The charges for this arbitration service fall upon the party initialising the arbitration. These costs are set out on the LCIA website.⁴
- v) The provisions will be an improvement on the current service within the STC provisions.

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

³ [Introduction \(lcia.org\)](#)

⁴ [LCIA Website - Costs](#)

STC Modification Panel⁵ recommendation

The STC Modification Panel (the Panel) considered the FMR at its meeting on 7 August 2024. The Panel considered that CM098 would better facilitate the STC Objectives in particular:

(e) promotion of good industry practice and efficiency in the implementation and administration of the arrangements described in the STC.

The Panel indicated that this modification would have a neutral impact on objectives (a)-(d) and (f)-(g). Therefore, the panel recommended its approval for the implementation of this modification.

Our decision

We have considered the issues raised by the proposal and the FMR dated 7 August 2024. We have considered and taken account of the STC Parties included in the FMR. We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable objectives⁶ of the STC⁷
- 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 STC applicable objective (e). We believe it has a neutral impact on the remaining STC objectives. We do not consider that STC objective (a) is impacted by CM098 as there is no specific condition contained in the licensee's licence that requires arbitration nor relates to a dispute resolution process.

⁵ The STC Modification Panel is established and constituted from time to time pursuant to and in accordance with section B6 of the STC.

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 The Applicable STC Objectives are set out in Standard Condition B12 of the Transmission Licence and Standard Condition E4 of the Electricity System Operator Licence.

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

(e) promotion of good industry practice and efficiency in the implementation and administration of the arrangements described in the STC.

Panel View

The Panel unanimously agreed that an effective dispute resolution service would promote good industry practice and improve the efficiency of implementing and managing the STC arrangements, thereby better achieving the STC objective.

Our View

We agree with the Panel that by replacing a non-functioning arbitration service with one that works effectively will promote better industry practice and improve the efficiency of implementing and managing the STC. We consider the proposal, CM098, better facilitates STC objective (e) than the baseline and has a neutral impact on the other applicable objectives.

Decision notice

In accordance with Standard Condition B12 of the Electricity Transmission Licence and Standard Condition E4 of the Electricity System Operator Licence, the Authority hereby directs that modification proposal, CM098: Updating STC Arrangements to replacing the Electricity Arbitration Association with the London Court of International Arbitration, be made.

Gavin Baillie

Head of Industry Codes

Signed on behalf of the Authority and authorised for that purpose