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## Connection and Use of System Code (CUSC) CMP403: Introducing Competitively Appointed Transmission Owners & Transmission Service Providers (Section 14) (CMP403)

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Decision                                      The Authority<sup>1</sup> determines that this modification should be made<sup>2</sup>

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

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Date of publication:                          25 March 2025

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Implementation date:                        10 working days after Authority decision

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### Background

On 28 March 2022 Ofgem published its decision<sup>3</sup> 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'))<sup>4</sup> 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.<sup>5</sup> Following this, the Criteria Regulations<sup>6</sup> 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 embedded within the relevant industry codes. This modification is proposed to align relevant

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<sup>1</sup> 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.

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

<sup>3</sup> [Decision on early competition in onshore electricity transmission networks | Ofgem](#)

<sup>4</sup> [Energy Act 2023](#)

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

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

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.

CMP403<sup>7</sup> ('the Proposal') was raised by the Electricity System Operator (ESO), now known as NESO ('the Proposer') on 9 November 2022. The Proposal seeks amendments to CUSC Section 14 to ensure that payments made through the Onshore Tender Process are recovered from TNUoS and BSUoS.

The Proposer considers the Proposal to be positive against Applicable CUSC Charging Objectives (ACOs) (f)<sup>8</sup> and (h)<sup>9</sup>, and neutral against the remaining Objectives. In the Proposer's view, the Proposal will support Ofgem's licencing of new CATOs by facilitating conditions for existing TOs to co-operate with CATOs thus being positive for the ACO (f). The Proposer also believes that the changes to the CUSC charging provisions the Proposal introduces reflect the forthcoming CATO regime, therefore being positive for ACO (h).

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<sup>7</sup> 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](#)

<sup>8</sup> ACO (f) That, so far as is consistent with (a) and (b), and is reasonably practicable, the Use of System Charging Methodology properly takes account of the developments in Transmission Licensees' Transmission Businesses and the ISOP Business.

<sup>9</sup> ACO (h) Promoting efficiency in the implementation and administration of the Use of System Charging Methodology.

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 and supports the proposed implementation approach. The respondent stated that this modification forms part of a suite of modifications across the Codes to enable implementation of Early Competition through the CATO regime.

### **CUSC Panel<sup>10</sup> recommendation**

At the CUSC Panel meeting on 31 May 2024, a majority of the CUSC Panel (the Panel) considered that CMP403 would better facilitate the CUSC Charging 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 FMR.<sup>11</sup> We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable Objectives of the CUSC<sup>12</sup>
- directing that the modification be made is consistent with our principal objective and statutory duties<sup>13</sup>

### **Reasons for our decision**

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

<sup>11</sup> 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 \(Section 14 and 11\)](#)

<sup>12</sup> As set out in Standard Condition E2 of the Electricity System Operator Licence.

<sup>13</sup> 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.

We consider this modification proposal will better facilitate CUSC Objectives (f) and (h) and has a neutral impact on the remaining objectives.<sup>14</sup> We have decided to accept CMP403 for the reasons set out below.

***(f) that, so far as is consistent with (a) and (b), and is reasonably practicable, the Use of System Charging Methodology properly takes account of the developments in Transmission Licensees' Transmission Businesses and the ISOP Business;***

The majority of the Panel recommended that the Proposer's Proposal has a positive impact on this Objective. A Supporting statement on ACO (f) by a Panel member states amendments in the charging methodology "take account the development of the transmission businesses by clarifying how the tender revenue streams for CATOs are treated from a TNUoS perspective" and therefore assist in meeting the Objective.

We consider the Proposal provides the necessary modifications to the STC to enable TOs to co-operate with CATOs. In our July 2024 Decision on policy updates to Early Competition in onshore electricity transmission networks<sup>15</sup> we set out the decision for our proposal of TNUoS revenue over / under recovery. This decision provided our rationale for allowing CATOs to recover their full revenue irrespective of TNUoS under-recovery by the NESO in particular years. The Proposal will help facilitate this decision and therefore, we agree with the Panel members and consider the Proposal to have a positive impact on this Objective.

***(h) promoting efficiency in the implementation and administration of the Use of System Charging Methodology***

The majority of the Panel recommended that the Proposal has a positive impact on ACO (h). A supporting statement from a Panel member stated, "this modification is to provide the required charging provisions to reflect this forthcoming CATO regime so that the CUSC can still be properly administered to reflect the regime."

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<sup>14</sup> 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.

<sup>15</sup> [Decision on Early Competition in onshore electricity transmission networks: policy update | Ofgem](#)

We agree with the Proposer’s assessment against this Objective that the CUSC charging provisions have to be changed to better reflect the forthcoming CATO regime. We consider this will promote efficiency in the administration of the charging methodology system. Following our July 2024 decision on policy updates to Early Competition in onshore electricity transmission networks and in line with other STC code, the forthcoming CATO regime aims to make provisions for CATOs to recover their revenue through TNUOs charges under their licence provisions and therefore we agree with the Panel members and consider the Proposal to have a positive impact on this Objective.

### **Decision notice**

In accordance with Standard Condition E2 of the Electricity System Operator Licence, the Authority, hereby directs that modification proposal CMP403: Introducing Competitively Appointed Transmission Owners & Transmission Service Providers (Section 14) be made.

**Jon Sharvill**

**Principal Policy Expert, Networks**

Signed on behalf of the Authority and authorised for that purpose