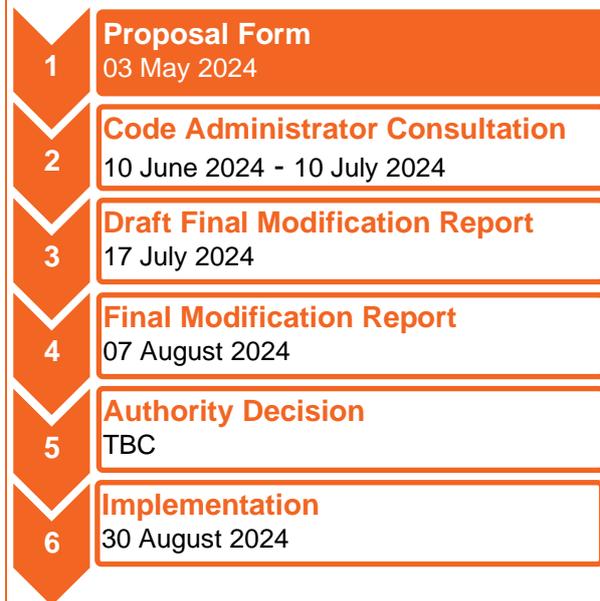


Grid Code Modification Proposal Form

GC0172: Replacing References to Electricity Supply Industry Arbitration Association

Overview: The Electricity Arbitration Association (EAA) is now defunct. This modification looks to replace the EAA and with the London Court of International Arbitration (LCIA) from provisions in the general conditions and definitions sections of the codes. This body is defined in the Grid Code currently as the Electricity Supply Industry Arbitration Association.

Modification process & timetable



Status summary: The Proposer has raised a modification and is seeking a decision from the Panel on the governance route to be taken.

This modification is expected to have a: Low impact

Grid Code Parties

Modification drivers: Efficiency

Proposer's recommendation of governance route

Standard Governance modification to proceed to Code Administrator Consultation

Who can I talk to about the change?

Proposer:

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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* 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 in non-charging sections 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”*¹. 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 website². This Grid Code change is needed as the definition is Cross Referenced within the CUSC, and the current Grid Code definition makes reference to the EAA as the Electricity Supply Industry Arbitration Association.

¹ [Introduction \(lcia.org\)](#)

² [LCIA Website - Costs](#)

ESO

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

What is the proposer's 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

See Annex 1

What is the impact of this change?**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

ESO

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, SQSS and STC

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

10 Business Days after decision; the code changes will need to be implemented prior to 01 September 2024 to align with CMP398.

Date decision required by

15 August 2024

Implementation approach

Code to be updated upon decision. No systems and processes will require update.

Proposer's justification for governance route

Governance route: Standard Governance modification to proceed to Code Administrator Consultation

As the modification seeks to change the process of arbitration in the Grid Code and aligns with proposed CUSC and STC changes. The Authority should make a decision on this. This is a minor change and does not require a Workgroup.

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 ³ | <input type="checkbox"/> Other
modifications | <input type="checkbox"/> Other |

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	Legal Text

³ 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.