

Draft Final Modification Report

CM098: Updating STC Arrangements to replace the Electricity Arbitration Association with the London Court of International Arbitration

Overview This modification looks to replace the EAA and replace them with the LCIA in the STC.

Modification process & timetable

1	Proposal Form 09 May 2024
2	Code Administrator Consultation 10 June 2024 - 01 July 2024
3	Draft Final Modification Report 23 July 2024
4	Final Modification Report 07 August 2024
5	Authority Decision 15 August 2024
6	Implementation 30 August 2024

Have 10 minutes? Read the full [Code Administrator Consultation](#)

Have 30 minutes? Read the full Code Administrator Consultation and Annexes.

Status summary: The Draft Final Modification Report has been prepared for the recommendation vote at Panel.

Panel recommendation: The Panel will meet on 31 July 2024 to carry out their recommendation vote.

This modification is expected to have a: **Low impact** STC Parties

Governance route Standard Governance modification to proceed to Code Administrator Consultation

Who can I talk to about the change?
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What is the issue?

Since 1993, the industry 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](#) was approved by the Authority on 1 November 2023, it proposed that the EAA was replaced within the 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.

The STC currently contains 15 references to the Electricity Arbitration Association. As it has been established that the EAA is *de facto*¹ defunct, it would be appropriate to align arbitration to that of other codes such as the BSC and the REC.

The CUSC and Grid Code are also proposed to be aligned.

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 STC to list this as its official arbitration provider.
- ii) The London Court of International Arbitration (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 law²”. 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 website³.
- v) The provisions will be an improvement on the current service within the STC provisions.

¹ <https://dictionary.cambridge.org/dictionary/english/de-facto>

² [Introduction \(lcia.org\)](#)

³ [LCIA Website - Costs](#)

What is the solution?

Proposer's solution

Update STC Sections F, J, H and Schedule 15 references to the EAA and replace with references to the LCIA.

Legal text

The legal text for this change can be found in **Annex 2**.

What is the impact of this change?

Proposer's assessment against the Applicable Objectives

Proposer's assessment against STC Objectives	
Relevant Objective	Identified impact
(a) efficient discharge of the obligations imposed upon transmission licensees by transmission licences and the Act	Neutral
(b) development, maintenance and operation of an efficient, economical and coordinated system of electricity transmission	Neutral
(c) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the distribution of electricity	Neutral
(d) protection of the security and quality of supply and safe operation of the national electricity transmission system insofar as it relates to interactions between transmission licensees	Neutral
(e) promotion of good industry practice and efficiency in the implementation and administration of the arrangements described in the STC	Positive Modification seeks to update Arbitration process to make it fit for purpose
(f) facilitation of access to the national electricity transmission system for generation not yet connected to the national electricity transmission system or distribution system;	Neutral
(g) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.	Neutral

Proposer's assessment of the impact of the modification on the stakeholder / consumer benefit categories

Stakeholder / consumer benefit categories	Identified impact
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 STC.

Code Administrator Consultation Summary

The Code Administrator Consultation was issued on the 10 June 2024 closed on 01 July 2024 and received 1 late response. A summary of the response can be found in the table below, and the full response can be found in Annex 3.

Code Administrator Consultation Summary	
Question	
Do you believe that the CM098 Original Proposal better facilitates the Applicable Objectives?	The responder believes the Proposal better facilitates objective (e). It updates the Arbitration process to make it fit for purpose
Do you support the proposed implementation approach?	Yes
Do you have any other comments?	No comments

Panel Recommendation Vote

The Panel will meet on the 31 July 2024 to carry out their recommendation vote. They will assess whether a change should be made to the STC by assessing the proposed change and any alternatives against the Applicable Objectives.

Vote 1: Does the Original, facilitate the Applicable Objectives better than the Baseline?

Panel Member: **Gareth Williams, SPT**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original								
Voting Statement								

Panel Member: **Mike Lee, OFTO**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original								
Voting Statement								

Panel Member: Neil Bennett, SHET

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original								
Voting Statement								

Panel Member: Antony Johnson, ESO

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original								
Voting Statement								

Panel Member: Richard Woodward, NGET

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original								
Voting Statement								

Vote 2 – Which option best meets the Applicable Objectives?

Panel Member	Best Option	Which objectives does this option better facilitate? (If baseline not applicable).
Gareth Williams		
Mike Lee		
Neil Bennett		
Antony Johnson		
Richard Woodward		

Panel conclusion

Panel will meet on 31 July 2024 to carry out their recommendation vote.

When will this change take place?

Implementation date

10 Business Days post decision

Date decision required by

By 15 August 2024

Implementation approach

No systems and processes will require updating, as a result of this modification.

Interactions

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> Grid Code | <input type="checkbox"/> BSC | <input checked="" type="checkbox"/> CUSC | <input checked="" type="checkbox"/> SQSS |
| <input type="checkbox"/> European
Network Codes | <input type="checkbox"/> Other
modifications | <input type="checkbox"/> Other | |

The CUSC and Grid Code are also proposed to be updated.

Acronyms, key terms and reference material

Acronym / key term	Meaning
BSC	Balancing and Settlement Code
CM	Code Modification
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code
EAA	Electricity Arbitration Association
EBR	Electricity Balancing Regulation
LCIA	London Court of International Arbitration
REC	Retail Energy Code
SQSS	Security and Quality of Supply Standards
STC	System Operator Transmission Owner Code
T&Cs	Terms and Conditions

Annexes

Annex	Information
Annex 1	Proposal Form
Annex 2	Legal Text
Annex 3	Code Administrator Consultation response