

# Energy Licence Modification Appeals 2026

## Summary of provisional determinations

**14 August 2026**

### What is the GEMA decision under appeal to the CMA?

1. The Competition and Markets Authority (**CMA**) determines appeals about price controls in some regulated sectors, including gas distribution, when a regulated company or a company affected by a price control decides to appeal the decisions made by a regulator.
2. The price control decision appealed is that of the energy regulator, the Office of Gas and Electricity Markets (**Ofgem**) which is governed by the Gas and Electricity Markets Authority (**GEMA**), in which GEMA decided on 3 February 2026 to modify the gas transportation licences of gas distribution network companies (**GDNs**) in order to give effect to the RIIO-3<sup>1</sup> price control (**GEMA Decision**).<sup>2</sup> GEMA set out its decision about the scope of the RIIO-3 price control in Final Determinations dated 4 December 2025 (**FDs**).<sup>3</sup> Under the FDs and GEMA Decision, GEMA set allowed revenues for GDNs in Great Britain for the five-year period from 1 April 2026 to 31 March 2031.
3. GEMA sets this price control every five years after considering factors such as the cost of operating the gas networks efficiently, plans for investment in infrastructure, and the appropriate return for investors in the GDNs. In doing so, GEMA must act in accordance with its statutory duties, including its principal objective to protect the interests of existing and future consumers.<sup>4</sup> In this context, GEMA seeks to balance the interests of current and future consumers by ensuring that allowed revenues under the RIIO-3 price control are no higher than necessary.

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<sup>1</sup> RIIO is an acronym for Revenues = Incentives + Innovation + Outputs and RIIO-3 refers to the third RIIO price control which GEMA has determined.

<sup>2</sup> Ofgem (2026) [Licence Modification Notice](#) of the Gas Transporter Licences held by licensees.

<sup>3</sup> [RIIO-3 Final Determinations for the Electricity Transmission, Gas Distribution and Gas Transmission sectors | Ofgem](#)

<sup>4</sup> Section 4AA(1) Gas Act 1986.

## Who appealed the GEMA decision?

4. On 3 March 2026, five energy companies who operate GDNs in Great Britain<sup>5</sup> (the **Appellants**) sought permission to appeal GEMA's Decision to the CMA pursuant to section 23B(3) of the Gas Act 1986 (**GA86**). They all appealed GEMA's Decision in respect of GEMA's assessment of the ongoing efficiency challenge (**OE**). In addition, SGN appealed GEMA's Decision in respect of GEMA's determination of SGN's RIIO-3 totex model allowances.
5. On 31 March 2026, the CMA granted permission to appeal to all Appellants on all of the grounds described above, subject to the condition that each of the Appellants' grounds of appeal relating to GEMA's assessment of OE, which each of the Appellants raised in their respective Notices of Appeal, be considered together.
6. On 23 April 2026, Citizens Advice applied for permission to intervene in the appeals. On 28 April 2026, the CMA granted Citizens Advice permission to intervene in relation to the grounds of appeal concerning GEMA's assessment of OE.<sup>6</sup>
7. The main submissions of the Appellants, GEMA (together the **Parties**) and Citizens Advice can be found on the CMA case page [here](#).

## What has the CMA provisionally decided?

8. We provisionally consider that the GEMA Decision was not wrong on the basis of any of the grounds of appeal. We have issued the Parties with our provisional determinations setting out our provisional findings and reasons for those findings. This summary is not part of those provisional determinations but is published as a high-level update for the public.
9. The CMA's role in energy appeals is not to revisit GEMA's entire decision and decide the whole matter afresh ourselves. The law requires us instead to decide whether the decision is wrong on the basis of one of five statutory grounds.<sup>7</sup> We carry out our assessment in the context of the specific arguments put forward to us by appellants. In this case, we assessed a wide range of evidence provided to us by the Parties in their written submissions, responses to requests for information and in the teach-in and hearings and considered whether GEMA was wrong in reaching its decision on the specific issues appealed.

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<sup>5</sup> Cadent Gas Limited (**Cadent**), Northern Gas Networks Limited (**NGN**), Southern Gas Networks plc and Scotland Gas Networks plc (**together, SGN**), and Wales & West Utilities Limited (**WWU**).

<sup>6</sup> [CMA Decision on Permission to Intervene by Citizens Advice](#).

<sup>7</sup> The statutory grounds are set out in section 23D(4)(a) to (e) GA86: GEMA, in taking its Decision, failed properly to have regard to (or to give appropriate weight to) its statutory duties; the GEMA Decision was based on errors of fact; GEMA's licence modifications failed to achieve their stated effect; and the GEMA Decision was wrong in law.

10. We set out below a summary of our provisional decisions on the grounds raised by the Appellants.

### **Ongoing efficiency (OE) grounds of appeal**

11. The OE challenge reflects GEMA's assessment of the scope for productivity improvements that even the most efficient company in the sector should be able to achieve, for example, by adopting new technologies. In practice, it is applied as a reduction to modelled cost allowances. The GDNs appealed GEMA's decision to set the OE challenge at 1% per year.
12. The GDNs argued that GEMA setting the OE challenge at 1% per year was too high and that GEMA was wrong in its:
  - (a) assumption that GDNs are insulated from the wider productivity slowdown in the UK economy;
  - (b) analysis of quantitative evidence (including historical data and forward looking independent forecasts); and
  - (c) analysis of qualitative evidence.
13. We provisionally consider that GEMA was not wrong in its approach to the above matters, nor that GEMA's approach to these matters cumulatively means that it was wrong in its overall approach to setting the OE challenge at 1%.

### **SGN total expenditure (totex) allowances grounds of appeal**

14. SGN argued that GEMA was wrong in its determination of SGN's RIIO-3 totex allowances through:
  - (a) GEMA's decision to overwrite SGN's Tier 1 mains replacement expenditure (repex) forecasts by applying an industry-wide normalisation; and
  - (b) GEMA's use of a single totex regression model that combines multiple cost drivers into a single 'composite scale variable' (CSV) with uniform weights in determining those allowances.
15. We provisionally consider that GEMA was not wrong on either of these grounds and that there is no basis to find that any of the statutory grounds of appeal are made out.

### **What happens next?**

16. We have issued the provisional determinations to the Parties (and Citizens Advice in respect of OE) and invited them to comment.

17. The CMA has until 30 September 2026 to decide whether to allow or dismiss the appeals. We will consider the comments from the Parties and Citizens Advice on our provisional determinations and will issue our final determinations in line with the statutory deadline.
18. Once we have issued our final determinations, a non-sensitive version of it will be published on our case page.