



**IN THE COMPETITION  
APPEAL TRIBUNAL**

**Case:1099/1/2/08**

**B E T W E E N:**

**NATIONAL GRID PLC**

Appellant

**-v-**

**GAS AND ELECTRICITY MARKET AUTHORITY**

Respondent

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**ORDER**

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**UPON** reading the request from National Grid relating to the establishment of a confidentiality ring:

**AND UPON** Ofgem indicating its consent to the request;

**AND UPON** each of the persons named in Part A of the Schedule to this Order ("the Relevant Advisers"), having given a written undertaking to the Tribunal in terms of Part B of the Schedule to this Order

**IT IS ORDERED THAT:**

1. For the purposes of this Order:
  - a. **"Confidential Information"** is defined as information on Ofgem's case file which has not been made available to National Grid by Ofgem in the course of the administrative procedure, on grounds of confidentiality.

- b. **"Relevant Advisers"** are those persons:
- i. listed in Part A of the Schedule to this Order; or
  - ii. authorised by the Tribunal upon further application.
2. Ofgem shall hereafter disclose un-redacted versions of the documents identified in 1(a) above on condition that such un-redacted versions and any Confidential Information contained within these shall be disclosed only to the Relevant Advisers listed in Part A of the Schedule to this Order.
  3. Ofgem shall comply with paragraph 2 above by 5.00pm on 29 May 2008.
  4. If National Grid wishes to add any additional person as a Relevant Adviser for the purposes of paragraph 1(b) above, it shall apply to the Tribunal indicating whether Ofgem consents or does not consent to the addition of that person.
  5. In the event that any Relevant Adviser takes up a commercial role within National Grid at any time they be immediately excluded from the confidentiality ring.
  6. Costs be reserved.
  7. There be liberty to apply.

**The Honourable Mr Justice Barling**  
President of the Competition Appeal Tribunal

Made: 23 May 2008  
Drawn: 23 May 2008

## **SCHEDULE**

### **Part A**

This part contains the names of Relevant Advisers:

#### **National Grid**

##### *External Counsel and Solicitors*

Jon Turner QC (of Monckton Chambers)

Josh Holmes (of Monckton Chambers)

Guy Lougher

James Bryan

Amy Hitchen

Zoë Baker

Nicola Frances (all of Pinsent Masons LLP)

##### *External economists*

David Matthew (of NERA)

## **Part B**

In respect of any Confidential Information disclosed to them pursuant to this Order, each Relevant Adviser mentioned in Part A of this Order undertakes that they will comply with the following requirements in the following terms:

I, [name], of [firm or company] being [legal or other qualification] and regulated so far as my professional conduct is concerned by [regulatory body if any] undertake to the Tribunal as follows:

1. I will not disclose the Confidential Information to any person outside those listed in Part A without the consent of the person originally disclosing the information or the permission of the Tribunal.
2. I will use the Confidential Information only for the purpose of these proceedings (and for no other proceedings or use).
3. The documents containing the Confidential Information will remain in my custody or the custody of the other Relevant Advisers at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access.
4. The production of further copies by me of the documents containing the Confidential Information shall be limited to those required for the use of the Relevant Advisers for the purposes of these proceedings.
5. Any such copies and the documents in paper form containing the Confidential Information will be returned to Ofgem at the conclusion of the present proceedings (including any appeal to the Court of Appeal) or at such time as I am excluded from the confidentiality ring if earlier; any such copies and the documents containing the Confidential Information in electronic form will either be returned where possible or where that is not possible will be rendered inaccessible from any computer system, disk or device so that it is not readily available to any person.
6. Save that none of the requirements listed at paragraphs 1 to 4 above shall prevent the Relevant Advisers from disclosing to the party advised by them information which such party has already received by lawful means or which is in the public domain.