



**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

Supported by:

**CAPITAL METERS LIMITED
SIEMENS PLC
METER FIT (NORTH EAST) LIMITED
METER FIT (NORTH WEST) LIMITED**

Interveners

ORDER

UPON reading the correspondence from the legal representatives of all the parties to this Appeal and from EDF Energy, Scottish Power, Scottish and Southern Energy, E.ON UK plc, British Gas and RWE npower relating to National Grid's application to extend the confidentiality ring to include Mr John Rothwell and Mr David Pickering

AND UPON hearing the legal representatives of the parties at a case management conference on 22 September 2008 and at a hearing on 8 October 2008

AND UPON Mr David Pickering and Mr John Rothwell prior to the making of this Order, having each given a written undertaking to the Tribunal, in the terms of the Schedule to this Order

IT IS ORDERED THAT:

1. For the purposes of this Order, “**Confidential Information**” is defined as:
 - a. information on Ofgem’s case file which has not been made available to National Grid by Ofgem in the course of the administrative procedure;
 - b. confidential passages contained in the pleadings and/or annexes to pleadings, including witness statements, served in these proceedings other than those served by Siemens; and
 - c. confidential information disclosed to National Grid by any of the parties during the course of these proceedings save as disclosed by Siemens;

which is claimed as confidential by:

- i. any of the parties to these proceedings;
 - ii. EDF Energy, Scottish Power, Scottish and Southern Energy, E.On UK plc, British Gas or RWE npower.
2. For the purposes of this Order, “**Relevant Advisers**” are Mr David Pickering and Mr John Rothwell and those persons from time to time admitted by Order of the Tribunal to the confidentiality ring established by the Tribunal in these proceedings.
3. National Grid be permitted immediately to disclose the Confidential Information to Mr David Pickering and Mr John Rothwell.
4. Costs be reserved.
5. There be liberty to apply.

Vivien Rose
Chairman of the Competition Appeal Tribunal

Made: 8 October 2008
Drawn: 8 October 2008



SCHEDULE

In respect of any Confidential Information disclosed to them pursuant to this Order each of Mr David Pickering and Mr John Rothwell undertakes that they will comply with the following requirements in the following terms:

I, [name], of [firm or company] undertake to the Tribunal as follows:

1. I will not disclose the Confidential Information to any person who is not a Relevant Adviser 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.
7. I will not carry out any further work in relation to the meter business for National Grid Metering (other than in my present capacity of assisting National Grid in relation to the current proceedings including if relevant any appeal from a judgment in these proceedings) or for Utility Metering Services Ltd (trading as OnStream) for a period starting with the date of this undertaking and expiring one calendar year after either: (i) the final date for lodging an appeal against the final judgment by the Tribunal, or, if such an appeal is lodged, the date on which it is determined by the final court seized of the proceedings; or, (ii) the date on which I

cease work in relation to the current proceedings due to transferral to another internal post or change of employment, if earlier.