



IN THE COMPETITION
APPEAL TRIBUNAL

Case Nos: 1603/7/7/23
1628/7/7/23
1629/7/7/23
1630/7/7/23
1631/7/7/23

BETWEEN:

PROFESSOR CAROLYN ROBERTS

Applicant/Proposed Class Representative

- v -

- (1) SEVERN TRENT WATER LIMITED & SEVERN TRENT PLC**
(2) UNITED UTILITIES WATER LIMITED & UNITED UTILITIES GROUP PLC
(3) YORKSHIRE WATER SERVICES LIMITED & KELDA HOLDINGS LIMITED
(4) NORTHUMBRIAN WATER LIMITED & NORTHUMBRIAN WATER GROUP LIMITED
(5) ANGLIAN WATER SERVICES LIMITED & ANGLIAN WATER GROUP LIMITED

Respondents/Proposed Defendants

(“Parallel Defendants”)

-and-

THE WATER SERVICES REGULATION AUTHORITY

Intervener

ORDER

UPON the Proposed Class Representative (“PCR”) having filed applications for Collective Proceedings Orders in Case 1603/7/7/23 and Cases 1628-1631/7/7/23 pursuant to section 47B of the Competition Act 1998 (“**the 1998 Act**”) and Rule 75 of the Competition Appeal Tribunal

Rules 2015 (the “**Tribunal Rules**”) (collectively, the “**CPO Applications**” and/or the “**Parallel Proceedings**”)

AND UPON hearing Leading Counsel for the PCR, the Parallel Defendants, and the Water Services Regulation Authority (“**Ofwat**”) at a joint case management conference in the Parallel Proceedings on 19 March 2024 (the “**First CMC**”)

AND UPON the PCR’s requests that certain information in the Litigation Funding Agreement, the After-the-Event Insurance Policy, and Priorities Agreement (the “**Funding Documents**”) filed in each of the Parallel Proceedings be treated as confidential or be redacted as indicated in Annex 1 to her Skeleton Argument for the First CMC

AND UPON reading the written submissions of the parties filed for the First CMC

IT IS ORDERED THAT:

Forum

1. Pursuant to Rules 18, 52 and 74 of the Tribunal Rules, the CPO Applications be treated as proceedings in England and Wales.

Interveners

2. Ofwat shall have permission to intervene in these Proceedings.

Confidentiality

3. An interim confidentiality ring between the PCR and Parallel Defendants in the form agreed between the parties shall be established by separate order of the Tribunal (the “**Interim Confidentiality Order**”).
4. Following the establishment of the Interim Confidentiality Ring, the PCR shall disclose certain redacted information contained in the Funding Documents (as identified in Annex 1 of the PCR’s Skeleton Argument for the First CMC) to relevant members of the Interim Confidentiality Ring within two working days of receipt by the PCR of

copies of signed undertakings by those members in the terms required by the confidentiality ring.

Joint case management and evidence

5. The CPO Applications be jointly case managed up to, and including, the hearing of the CPO Applications.
6. The CPO Applications shall be heard together at a single joint hearing, with evidence and submissions made with respect to each CPO Application to stand as evidence and submissions in the other CPO Applications so far as relevant and appropriate.

List of issues

7. The PCR and Parallel Defendants shall file a list of issues setting out those matters, beyond the issues relevant to the authorisation and eligibility criteria stated in section 47B of the Competition Act 1998 and Rules 78 and 79(1)-(3) of the Tribunal Rules (the “**Vanilla CPO Issues**”), which are to be determined at the September CPO Hearing (as defined in paragraph 11 below) by 4pm on 16 April 2024 the (“**Non-Vanilla CPO Issues**”). In the event that the parties cannot reach agreement, they shall file a composite draft showing the areas of agreement and disagreement, for the Tribunal to determine on the papers.

CPO response, joint expert evidence and replies

8. The Parallel Defendants shall file and serve a single consolidated response addressing the CPO Applications and the Non-Vanilla CPO Issues (the “**Consolidated Response**”), together with any supporting evidence, by 4pm on 31 May 2024. Each of the Parallel Defendants shall be permitted to individually address distinct points specific to them in the Consolidated Response (or in any annex thereto).
9. The PCR shall file and serve a consolidated Reply to the Consolidated Response (and any distinct points raised by the individual Parallel Defendants), together with any supporting evidence (if so advised) by 4pm on 15 July 2024.

10. Ofwat shall have permission to serve a statement concerning the description by the parties of the relevant regulatory regime and any ongoing relevant regulatory investigations, by 4pm on 31 July 2024.

CPO Hearing(s) and list of issues

11. A joint hearing of the CPO Applications shall be listed for the week commencing 23 September 2024 with a time estimate of 4 days (and 1 day in reserve) (the “**September CPO Hearing**”), to address the Vanilla CPO Issues and the Non Vanilla CPO Issues.
12. There shall be a second joint hearing in the Parallel Proceedings listed for the week commencing 13 January 2025 with a time estimate of 4 days (and 1 day in reserve) (“**January Hearing**”).

Skeleton arguments and bundles for the September CPO Hearing

13. The PCR, Parallel Defendants (jointly) and Ofwat shall file and serve their skeleton arguments for the September CPO Hearing by 4pm on 16 September 2024. Each of the Parallel Defendants shall be permitted to address distinct points specific to them in their joint skeleton.
14. The PCR’s skeleton argument for the September CPO Hearing shall be limited to no more than 50 pages. The Parallel Defendants’ skeleton argument (which may contain annexes and/or addenda specific to certain Parallel Defendants) shall be limited to no more than 60 pages.
15. The PCR shall file an electronic version and six hard copies of the agreed hearing bundle for the September CPO Hearing by close of business on 16 August 2024.
16. The PCR shall file an electronic version of an agreed authorities bundle for the September CPO Hearing by 4pm on 18 September 2024 and a supplemental bundle (if needed) by 12pm (midday) on 20 September 2024.

Publicity

17. The PCR shall publicise the CPO Applications and the September CPO Hearing in accordance with (i) the terms of a Notice(s) approved by the Tribunal, and (ii) the proposals contained in the Notice and Administration Plan filed with the CPO Applications by 30 May 2024.
18. The PCR shall publicise, in accordance with paragraphs 17, 18 and 20 of this Order, the right under Rule 76(10)(c) of the Tribunal Rules of persons with an interest to object to the CPO Applications or the authorisation of the PCR at the September CPO Hearing by 30 May 2024.
19. The PCR shall publicise, in accordance with paragraphs 17 and 20 of this Order, the right under Rule 79(5) of the Tribunal Rules of members of the proposed class to make an application to the Tribunal for permission to make oral and/or written submissions at the September CPO Hearing by 30 May 2024.

Objections to the CPO Applications and applications for permission to make observations

20. Any person with an interest (including any member of the proposed class) may object to the CPO Applications or the authorisation of the PCR by writing to the Tribunal stating their reasons for objecting by 4pm on 11 July 2024. Any member of the proposed class may also seek permission to make oral observations at the September CPO Hearing, by making an application for such permission, with reasons, as part of their written objections.
21. Any third party with a legitimate interest (who is not a member of the proposed class) who seeks permission to make written and/or oral observations at the September CPO Hearing is to make such application, supported by reasons, to the Tribunal by 4pm on 11 July 2024.

General

22. By agreement the parties may vary without further order any deadline in this Order provided that they inform the Tribunal of such agreement in advance of the expiry of the relevant deadline and the extension does not affect the date of the September CPO Hearing or the January Hearing.
23. Costs shall be costs in the case.
24. Costs of Ofwat's participation shall be reserved.
25. There shall be liberty to apply.

Sir Marcus Smith
President of the Competition Appeal Tribunal

Made: 1 May 2024
Drawn: 1 May 2024