



IN THE COMPETITION APPEAL TRIBUNAL

Case No: 1440/7/7/22

BETWEEN:

CLARE MARY JOAN SPOTTISWOODE CBE

Class Representative

- v -

- (1) **NEXANS FRANCE S.A.S.**
(a company incorporated under the laws of France)
(2) **NEXANS S.A.**
(a company incorporated under the laws of France)
(3) **NKT A/S (formerly NKT HOLDING A/S)**
(a company incorporated under the laws of Denmark)
(4) **NKT VERWALTUNGS GMBH (formerly NKT CABLES GMBH)**
(a company incorporated under the laws of Germany)
(5) **PRYSMIAN CAVI E SISTEMI S.R.L.**
(a company incorporated under the laws of Italy)
(6) **PRYSMIAN S.P.A.**
(a company incorporated under the laws of Italy)

Defendants

Case No: 1518/5/7/22

AND BETWEEN:

- (1) **LONDON ARRAY LIMITED**
(2) **RWE RENEWABLES UK LONDON ARRAY LIMITED (FORMERLY KNOWN AS E.ON CLIMATE & RENEWABLES UK LONDON ARRAY LIMITED)**
(3) **ORSTED LONDON ARRAY LIMITED (FORMERLY KNOWN AS DONG ENERGY LONDON ARRAY LIMITED)**
(4) **~~GREENCOAT LONDON ARRAY LIMITED (FORMERLY KNOWN AS ORSTED LONDON ARRAY II LIMITED (FORMERLY AND PRIOR TO THAT KNOWN AS DONG ENERGY LONDON ARRAY II LIMITED))~~**
(5) **MASDAR ENERGY UK LIMITED**

Claimants

- v -

- (1) **NEXANS FRANCE S.A.S.**
(2) **NEXANS S.A.**

Defendants

ORDER FOLLOWING JOINT PRE-TRIAL REVIEW

UPON the Tribunal having made a Joint Case Management Order on 22 May 2024 (the “**Joint CMC Order**”) in Case No. 1440/7/7/22 (the “**Spottiswoode Proceedings**”) and Case No. 1518/5/7/22 (the “**London Array Proceedings**”) defining the ROC Issue which has been listed for trial between 19 May and 6 June 2025 (the “**ROC Issue Trial**”), immediately after the trial in the London Array Proceedings, which is due to commence on 29 April 2025 (“**the London Array Trial**”)

AND UPON the Pre-Trial Review held pursuant to paragraph 17 of the Joint CMC Order

AND UPON hearing counsel for the London Array Claimants, the Nexans Defendants, the Prysmian Defendants, the NKT Defendants and the Class Representative

AND UPON the parties having reached an agreement with the Department for Energy, Security and Net Zero (“**DESNZ**”) on terms recorded in an email of 14:19 on 20 March 2025, that they could apply (without objection from DESNZ) for the documents and information disclosed by the Secretary of State for Energy, Security and Net Zero, pursuant to the Tribunal’s Orders for Third Party Disclosure dated 18 July 2024 and 11 November 2024 (the “**DESNZ Disclosure**”) to be re-designated as non-confidential, save for documents attracting collective cabinet responsibility

IT IS ORDERED THAT:

A. ORDERS MADE IN BOTH SETS OF PROCEEDINGS

1. The trial timetable for the London Array Trial and the ROC Issues Trial is approved in the form appearing in the Annex hereto.
2. The parties shall not be permitted to put any document to any factual witness in cross-examination if that document has not been either (i) mentioned by the witness in his or her evidence; (ii) specifically pleaded; or (iii) specifically referred to in the reports of the parties’ respective experts, unless:
 - (a) The party that intends to put the document to the witness has provided notice to the party calling the witness of its intention to do so. Such notice shall be provided at least three clear business days prior to the relevant witness being called and shall identify the document(s) that the notifying party intends to put to that witness; or
 - (b) The Tribunal otherwise gives permission for the relevant document(s) to be put to the witness.

B. ORDERS MADE IN THE LONDON ARRAY PROCEEDINGS

3. The Claimants have permission to rely upon the witness statement of Mr Döring dated 19 March 2025. The Defendants have permission to file responsive evidence by 11 April 2025.

4. In the event that Nexans intend to submit the evidence of Mr Jacobsen pursuant to a hearsay notice, such notice shall be supplied by 11 April 2025.
5. The Claimants have permission to file, no later than 2 April 2025, further expert evidence from Mr Bell responding to the matters Dr Davis raises in his Appendix I to the Joint Expert Report: “Revisions and Statistical Appendix”. The Tribunal is not expecting any additional expert evidence beyond this. However, in the event that either expert witness wishes to file any other response to any matters raised in the Joint Expert Statement, the party instructing that expert will provide a copy of the draft response to the opposing party by 2 April 2025. By 4 April 2025 the opposing party shall say whether it consents to such response coming into evidence. If it consents, the response shall be filed and served within one business day. If it does not consent, within 2 business days the party seeking to introduce such evidence shall apply to the Tribunal by letter seeking permission to file the further response and explaining the grounds upon which such permission is sought. Any such application shall be resolved by the Tribunal on the papers unless the Tribunal considers that a hearing is required, in which case such a hearing shall be convened for the earliest convenient date.
6. In the event that the expert witnesses agree to file an updated version of the Joint Expert Statement, it shall be filed by 16 April 2025.
7. The expert witnesses in the field of economics who address overcharge issues in the London Array proceedings shall give evidence concurrently, starting at the beginning of the period allocated for expert evidence in the trial timetable for the London Array trial. The Tribunal intends to circulate a protocol for the concurrent evidence session during the agreed reading days. After the witnesses have given concurrent evidence, there will be an opportunity for the opposing party to cross-examine each such expert. At this stage, the Tribunal envisages that the parties will have at least 2 hours each to cross-examine each expert but will provide a firmer indication when it circulates the protocol. . In view of the time-limit on cross-examination, neither party shall be required to put its whole case to the opposing expert in cross-examination.
8. Skeleton arguments for the London Array trial shall be filed and exchanged on 25 April 2025, such skeletons to be a maximum of 50 pages each. A bundle of authorities shall be filed and exchanged on 28 April 2025.
9. The List of Issues for the trial in the London Array Proceedings is approved in the form appearing at Tab 1 of the bundle named PTR2. In the event that issue 6 on the said List of Issues arises, the respective experts shall seek to agree the answer to it following the hand-down of the Tribunal’s judgment from the London Array and ROC Issue Trials. If they cannot agree the answer, each expert shall submit a short further paper (limited to 5 pages) setting out his views on the same within 14 days of the hand-down of the said judgment.

C. ORDERS MADE IN THE SPOTTISWOODE PROCEEDINGS

10. Expert economic evidence shall be addressed at the ROC Issue Trial by means of the sequential cross-examination of experts rather than concurrent evidence.
11. Opinion expressed in the expert reports on legal and factual matters, including the interpretation of non-technical DESNZ Disclosure documents need not be the subject of cross-examination.
12. The Tribunal shall take the following approach in respect of installation costs:
 - (a) For the purpose of determining the ROC Issue, in the first instance, the Tribunal shall assume that installation costs were affected by the infringement.
 - (b) Insofar as the Tribunal may find when determining the ROC Issue that inclusion or exclusion of installation costs would make a difference to the result in the Spottiswoode Proceedings, then the Tribunal shall so indicate in its judgment and provide associated reasoning.
13. The DESNZ Disclosure, hitherto designated as Inner or Outer Confidentiality Ring Information, shall no longer be so designated and may be referred to by all parties in open court, save for those documents which have been identified as attracting Collective Cabinet Responsibility. The parties shall:
 - (a) notify DESNZ if any further DESNZ Disclosure documents are added to the trial bundle;
 - (b) redact all references to DESNZ Disclosure documents before providing any documents requested by non-parties. The parties shall liaise with Tribunal staff in order to arrange for the redaction of DESNZ Disclosure information from ROC Issue Trial transcripts, prior to publication of the transcripts on the CAT website;
 - (c) refuse any request from a non-party for disclosure of a DESNZ Disclosure document and inform DESNZ that the request has been made; and
 - (d) if a non-party applies to the Tribunal for disclosure of a DESNZ Disclosure document, notify DESNZ so that it has the opportunity to make representations to the Tribunal.
14. Skeleton arguments for the ROC Issue Trial shall be exchanged and filed by 4pm on 28 April 2025. The Class Representative's skeleton argument shall not exceed 35 pages. The skeleton arguments for all other parties combined shall not exceed 60 pages.
15. A bundle of authorities for the ROC Issue Trial shall be agreed and filed by 4pm on 30 April 2025.

16. Written closing submissions shall be exchanged and filed by 4pm on 30 May 2025.
17. The List of Issues for the ROC Issue Trial is approved in the partially agreed form appearing at tab 8 of the bundle named PTR1.

D. FINAL PROVISIONS

18. Costs in the case. (That is to say, for the avoidance of doubt, that the costs incurred by the London Array Parties shall be costs in the London Array Proceedings whilst the costs incurred by the Spottiswoode Parties shall be costs in the Spottiswoode Proceedings.)
19. The London Array Parties and the Spottiswoode Parties have permission to apply.

The Honourable Mr Justice Jonathan Richards
Chair of the Competition Appeal Tribunal

Made: 21 March 2025
Drawn: 31 March 2025

ANNEX

LONDON ARRAY TRIAL			
DATE	DAY	TIME	HEARING STEPS
WEEK 1			
T 29 April	Day 1		Reading Day
W 30 April	Day 2		Reading Day
T 1 May	Day 3		Reading Day
F 2 May	Day 4	am	Claimants' Opening Submissions
		pm	Defendants' Opening Submissions
WEEK 2			
M 5 May	Day 6		<i>Tribunal not sitting – Early May Bank Holiday</i>
T 6 May	Day 7	am	Claimants' Factual Witnesses
		pm	Defendants' Factual Witnesses
W 7 May	Day 8	am	Defendants' Factual Witnesses
		pm	Expert evidence
T 8 May	Day 9	am	Expert evidence
		pm	
F 9 May	Day 10	am	Expert evidence
		pm	
WEEK 3			
M 12 May	Day 11		<i>Tribunal not sitting / Break between Evidence and Closings to prepare Written Closing Skeletons</i>
T 13 May	Day 12		<i>Tribunal not sitting / Break between Evidence and Closings to prepare Written Closing Skeletons</i>
W 14 May	Day 13		Break for Tribunal to read Written Closing Skeletons
T 15 May	Day 14	am	Claimants' Closing Submissions (Defendants' Closing Submissions to Start if time allows)
		pm	
F 16 May	Day 15	am	Defendants' Closing Submissions (cont'd)
		pm	Claimants' Reply

ROC ISSUE TRIAL			
DATE	DAY	TIME	HEARING STEPS
WEEK 1			
M 19 May	Day 1		Reading Day
T 20 May	Day 2	am	Class Representative's Opening Submissions
		pm	Defendants' / London Array Claimants' Opening Submissions
W 21 May	Day 3	am	Factual witness Mr McNeal
		pm	Expert evidence (Mr Druce)
T 22 May	Day 4	am	Expert evidence (Mr Druce)
		pm	Expert evidence (Mr Druce until 3:15pm then the experts for the ROC Aligned Parties* (consecutively))
F 23 May	Day 5	am	Expert evidence for the ROC Aligned Parties*
		pm	Expert evidence for the ROC Aligned Parties*
Tribunal not sitting Monday 26 May 2025 – Monday 2 June 2025 (vacation)			
WEEK 2			
T 3 June	Day 6		Break for Tribunal to read Written Closing Submissions (exchanged on 30 May 2025)
W 4 June	Day 7		Class Representative's Closing Submissions
T 5 June	Day 8	am	Class Representative's Closing Submissions
		pm	Defendants' / London Array Claimants' Closing Submissions
F 6 June	Day 9	am	Defendants'/ London Array Claimants' Closing Submissions
		pm	Class Representative's Reply

**Note: the term "ROC Aligned Parties" as used above refers to the London Array Claimants and to the Prysmian and Nexans Defendants (respectively).*