



**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:

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

Interveners

ORDER

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

AND UPON the Gas and Electricity Market Authority (“Ofgem”) indicating its consent to the request

AND UPON hearing the legal representatives of the parties and the proposed interveners at a case management conference on 23 May 2008

AND UPON the Tribunal immediately following the case management conference on 23 May 2008 making an order establishing an initial limited confidentiality ring

AND UPON reading the correspondence from the legal representatives of the parties indicating that they have reached agreement as to the establishment of an order to replace the Tribunal's order of 23 May 2008 according to the terms herewith

AND UPON each of the persons named in Parts A and B of the Schedule to this Order having given a written undertaking to the Tribunal in terms of Part C of the Schedule to this Order

IT IS ORDERED THAT:

1. For the purposes of this Order:
 - (a) **“Confidential Information”** is defined as:
 - (i) 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 (“Confidential Information Type 1”);
 - (ii) Confidential passages redacted from Ofgem's Decision of 21 February 2008 (Ref: 27/08); and confidential passages in pleadings and/or annexes to pleadings, including witness statements (“Confidential Information Type 2”).
 - (b) **“Relevant Advisers”** are those persons who are:
 - (i) listed in Parts A and B of the Schedule to this Order; or
 - (ii) authorised by the Tribunal upon further application.
2.
 - (a) Ofgem shall disclose un-redacted versions of the documents identified as containing Confidential Information Type 1 to National Grid 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, and
 - (b) All parties shall disclose un-redacted versions of the documents identified as containing Confidential Information Type 2 on condition that such un-redacted versions and any Confidential Information contained within these shall be disclosed only to the Relevant Advisers listed in Parts A and B of the Schedule to this Order.
3. Ofgem shall comply with paragraph 2 (a) above by 13 June 2008.
4. The parties shall comply with paragraph 2 (b) above by serving un-redacted versions of any documents containing Confidential Information Type 2 on the same dates as are set out in the Tribunal's Case Management Order for the service of their redacted equivalents or, if any such documents have already been served, as soon as practicable but no later than 13 June 2008.

5. If any of the parties 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 the other parties consent to the addition of that person.
6. In the event that any Relevant Adviser takes up a commercial role within any of the parties they will be immediately excluded from the confidentiality ring.
7. Costs be reserved.
8. There be liberty to apply.

The Honourable Mr Justice Barling
President of the Competition Appeal Tribunal

Made: 12 June 2008
Drawn: 12 June 2008

SCHEDULE

Part A

National Grid

External Counsel and Solicitors

Jon Turner QC
Josh Holmes
Meredith Pickford (all of Monckton Chambers)

Guy Lougher
James Bryan
Amy Hitchen
Zoe Baker
Nicola Frances (all of Pinsent Masons LLP)

Internal Adviser

Janet Bidwell

External economists

David Matthew (of NERA)
Thilo Klein
Alexander Lavicka
Laurence Wilse-Samson

Part B

Siemens plc

External Counsel and Solicitors

Christopher Vajda QC
Kassie Smith (both of Monckton Chambers)

Jonathan Hofstetter
Julia Dodds
Louise Smith
Edward Miller
Lesley Davey (all of Reed Smith)

Capital Meters Limited

External Counsel and Solicitors

Malcolm Nicholson
Michael Rowe

Ruchit Patel
Jonathan Cotton
Matthew Bunting (all of Slaughter and May)

External economists (representing CML and Siemens)

Derek Ridyard
Jan Peter Van Der Veer
Vitaly Pruzhansky (all of RBB Economics)

Meter Fit (North West) Limited / Meter Fit (North East) Limited

External Counsel

Fergus Randolph (of Brick Court Chambers)

Internal Advisers

Gavin Young
Dee Sarwar

Part C

In respect of any Confidential Information disclosed to them pursuant to this Order, each Relevant Adviser mentioned in Parts A and B 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 [and B][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 or the person originally disclosing the Confidential Information 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 5 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.