



IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST (ChD)

Sir Geoffrey Vos, Chancellor of the High Court

Dated: 28 February 2020

HC-2015-000275

BETWEEN

- (1) SP POWER SYSTEMS LIMITED**
- (2) SCOTTISH POWER UK PLC**
- (3) SCOTTISH POWER ENERGY NETWORKS HOLDINGS LIMITED**
- (4) SP MANWEB PLC**
- (5) SP TRANSMISSION PLC**

Scottish Power Claimants

and

- (1) PRYSMIAN S.P.A**
- (2) PRYSMIAN CONSTRUCTION COMPANY LIMITED**
- (3) PRYSMIAN CABLES & SYSTEMS LIMITED**
- (4) PRYSMIAN CAVI E SISTEMI SRL**
- (5) PRYSMIAN CABLES (2000) LIMITED**

Defendants

the “Scottish Power Proceedings”

**AND BETWEEN:
2015-000269**

Claim No: HC-

NATIONAL GRID ELECTRICITY TRANSMISSION PLC

NGET Claimant

and

- (1) ABB LTD**
- (2) ABB POWER T&D LIMITED**
- (3) ABB LIMITED**
- (4) ABB HOLDINGS LIMITED**
- (5) ABB AB**
- (6) ABB ASEA BROWN BOVERI LTD**
- (7) ABB NORDEN HOLDING AB**
- (8) ABB AG**
- (9) ABB BETEILIGUNGSUND VERWALTUNGSGESELLSCHAFT MBH**
- (10) NKT HOLDING A/S**
- (11) NKT CABLES LIMITED**
- (12) NKT CABLES A/S**
- (13) NKT CABLES GROUP A/S**

(14) NKT CABLES GMBH
(15) PRYSMIAN S.P.A
(16) PRYSMIAN CONSTRUCTION COMPANY LIMITED
(17) PRYSMIAN CABLES (2000) LIMITED
(18) PRYSMIAN CABLES & SYSTEMS LIMITED
(19) PRYSMIAN CAVI E SISTEMI SRL
(20) SAFRAN SA

Defendants

the “NGET Proceedings”

ORDER

UPON reading the letter dated 17 February 2020 from the Claimants’ solicitors and the letter dated 20 February 2020 from the Defendants’ solicitors

AND UPON the Court noting that the current court timetable for these Proceedings lays down hearing windows which it is desirable for the Competition Appeal Tribunal (the “Tribunal”) to adhere to, insofar as practicable, subject to further developments in the litigation

AND UPON the Court noting the desirability of the transferred Proceedings being presided over by a panel chaired by a High Court judge

IT IS ORDERED THAT:

- 1 The Scottish Power Proceedings and the NGET Proceedings (together “**the Proceedings**”), which relate to:
 - (a) a claim to which section 47A of the Competition Act 1998 applies; and/or
 - (b) an infringement issue (as defined in section 16(6) of the Enterprise Act 2002);are hereby transferred to the Tribunal for its determination of those issues pursuant to section 16(4) of the Enterprise Act 2002 and/or section 16(1) of that Act together with Regulation 2(a) of the Section 16 Enterprise Act 2002 Regulations 2015.
- 2 The sending of this Order to the parties and Tribunal shall constitute notice to them for the purposes of paragraphs 8.5 and 8.12 of Practice Direction 30 and CPR Rule 30.4(1).
- 3 For the avoidance of doubt:
 - (a) neither this Order giving effect to the said transfer, nor the transfer itself, is intended to alter, limit or exclude in any respect any element of the Scottish Power Claimants’ claim and the NGET Claimant’s claim as constituted in this court prior to the transfer

taking effect. If and to the extent that any element of either of the claims as constituted in this court prior to the transfer taking effect is not capable of falling within the jurisdiction of the Tribunal on a transfer or would be altered, limited or excluded by this Order or the transfer, it is not subject to this Order and remains within the jurisdiction of this court;

- (b) the Proceedings were and shall continue to be regarded as having been commenced in this court. Any further statements of case or amendments to a statement of case shall be made in accordance with the Civil Procedure Rules and not with the Competition Appeal Tribunal Rules 2015 (“the CAT Rules”);
- (c) any appeal to the Court of Appeal against the determination by the Tribunal of the issues transferred or an order of the court giving effect to that determination shall be governed by the rules in CPR Part 52; and
- (d) this court may give such further directions or make such further order as it thinks fit in connection with the transfer and/or with any such element referred to above.

4 There shall be liberty to apply.

Reasons

- A. It is appropriate to transfer these proceedings to the Tribunal for the reasons given in *Sainsbury’s Supermarkets Limited v. MasterCard Incorporated & Ors* [2018] EWCA 1536 (Civ) at [357].
- B. It is hoped that the current timetable of hearings can be adhered to by the Tribunal, but there can never be any certainty that the vicissitudes of litigation will not necessitate alterations to that timetable on appropriate grounds.

DATED: 28th February 2020

Service of this Order

The court has provided a sealed copy of this Order to the Serving Party: Bryan Cave Leighton Paisner LLP, Adelaide House, London Bridge London EC4R 9HA (Ref: Joby Davies / Rachel Ziegler and Andrew Hockley/Ed Coulson)

A copy of the sealed order was sent by the Serving Party to:

- 1. Macfarlanes LLP, 20 Cursitor Street, London EC4A 1LT (Ref: Cameron Firth/Simon Day), by email**
- 2. Freshfields Bruckhaus Deringer LLP, 65 Fleet Street London EC4Y 1HS (Ref: Mark Sansom), by email**
- 3. Addleshaw Goddard LLP, Milton Gate, 60 Chiswell Street, London EC1Y 4AG (Ref: Mark Molyneux), by email**

4. **Hogan Lovells International LLP, Atlantic House, Holborn Viaduct, London EC1A 2FG (Ref: Nicholas Heaton and Paul Chaplin), by email**