



**IN THE COMPETITION APPEAL
TRIBUNAL**

Case No. 1046/2/4/04

BETWEEN:

ALBION WATER LIMITED

Appellant

supported by

AQUAVITAE (UK) LIMITED

Intervener

-v-

DIRECTOR GENERAL OF WATER SERVICES

Respondent

supported by

DŴR CYMRU CYFYNGEDIG (1)

and

UNITED UTILITIES WATER PLC (2)

Interveners

ORDER

UPON considering the Tribunal's interim judgment handed down on 20 December 2005 [2005] CAT 40

AND UPON reviewing the parties' written representations

AND UPON hearing counsel for the parties at a case management conference on 23 January 2006

IT IS ORDERED THAT:

1. Dŵr Cymru give disclosure of original documents relevant to the matters set out at paragraph 302(a) to (d) and 302(f) to (i) of the Tribunal's interim

judgment, together with such narrative as is necessary for the purposes of explaining or clarifying matters in the disclosed material, no later than 12 noon on 20 February 2006.

2. The respondent answer the question posed at paragraph 302(e) of the Tribunal's interim judgment no later than 12 noon on 20 February 2006.
3. The parties use best endeavours to reach agreement on the matters identified at paragraph 302 of the Tribunal's interim judgment, and to prepare a list of matters which are not agreed, and the reasons for the disagreement, prior to the next case management conference.
4. Dŵr Cymru provide information and disclose such original documents as are available as to the stand alone costs of the supply of non-potable water: (a) via the Ashgrove System; and (b) to large users in Dŵr Cymru's appointed area generally; by 12 noon on 20 February 2006.
5. United Utilities provide information and such original documents as are available as to the average stand alone cost of the provision of non-potable water to large users in United Utilities' appointed area generally, by 12 noon on 20 February 2006.
6. The appellant, jointly with Aquavitae (UK) Limited, and the respondent be at liberty to adduce expert evidence, on the basis of one expert each, as to the application of the "Efficient Component Pricing Rule" or "ECPR", as applied by the respondent in the context of the decision under appeal with specific reference to paragraphs 337 to 384 of the Tribunal's interim judgment.
7. The respondent file and serve a report from the expert instructed by him pursuant to paragraph 5 above by 5pm on 20 March 2006, no extension of time being envisaged.
8. The date for the service of the report from the expert instructed by the appellant/Aquavitae (UK) Limited, or either of them, be considered at the next case management conference (and provisionally envisaged as being fixed for 24 April 2006).
9. The respondent make available any relevant material on his files, including any material relied upon by him for the purposes of paragraphs 318 to 331 of his decision of 26 May 2004, as to the application of the Efficient Component Pricing Rule in the water industry in England and Wales to the expert instructed by him pursuant to paragraph 6 above at the same time as the expert is formally instructed.

10. The respondent disclose any material made available to his expert pursuant to paragraph 9 above to the other parties by 12 noon on 20 February 2006.
11. Further consideration of whether the Tribunal should appoint its own expert on the Efficient Component Pricing Rule be deferred.
12. A further case management conference be fixed for 2pm on 2 March 2006
13. liberty to apply.

Sir Christopher Bellamy
President of the Competition Appeal Tribunal

Made 23 January 2006
Drawn 24 January 2006