



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1518/5/7/22

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) ORSTED LONDON ARRAY II LIMITED
(formerly known as DONG ENERGY LONDON ARRAY II LIMITED)
(5) MASDAR ENERGY UK LIMITED

Claimants

- v -

- (1) NEXANS FRANCE SAS
(2) NEXANS SA

Defendants

CONSENT ORDER

UPON the parties having agreed to the terms of this Order

IT IS ORDERED BY CONSENT THAT:

1. The Confidentiality Ring Order dated 7 March 2023 (as amended pursuant to the Consent Order dated 5 April 2023) is amended as follows:
 - 1.1 A new paragraph 1.2 is inserted: ““**Confidential DESNZ Document**” means any non-public document disclosed by the Secretary of State pursuant to the third-party

disclosure order dated 18 July 2024 made jointly in these proceedings and Case No: 1440/7/7/22.”

1.2 Paragraphs 1.2-1.10 are renumbered as paragraphs 1.3-1.11.

1.3 A new section 9 is inserted:

“9. **CONFIDENTIAL DESNZ DOCUMENTS**

9.1 Subject to the following paragraphs 9.2 and 9.3, all Confidential DESNZ Documents disclosed in these proceedings shall, unless otherwise indicated by the disclosing party, be deemed to be designated as Outer Confidentiality Ring Information.

9.2 A Party disclosing Confidential DESNZ Documents shall indicate in writing that it is disclosing Confidential DESNZ Documents. Failure to comply with this paragraph does not alter the deemed designation of Confidential DESNZ Documents in accordance with paragraph 9.1.

9.3 If the Party receiving a Confidential DESNZ Document in accordance with this Order considers that the Confidential DESNZ Document (for the avoidance of doubt, including a part thereof) needs to be shown to any person who is not an Inner Confidentiality Ring Member or an Outer Confidentiality Ring Member, for the purposes of these proceedings:

9.3.1 that Party must provide a written request to the Secretary of State, setting out the following:

9.3.1.1 the Confidential DESNZ Document in question;

9.3.1.2 the person or persons to whom it is proposed that the Confidential DESNZ Document should be shown; and

9.3.1.3 why it is reasonable to show the Confidential DESNZ Document to that person or those persons;

9.3.2 the Secretary of State may agree in writing that the Confidential DESNZ Document may be shown to the additional person or persons concerned, and, in any event, a response should be provided within 10 working days of having initially received the written notice referred to at paragraph 9.3.1 above; and

9.3.3 should either an objection or no response be received within the 10 working-day period referred to in paragraph 9.3.2 above, the Party who considers that the Confidential DESNZ Document should be shown to the further person or persons concerned may apply to the Tribunal for an order to that effect, provided that notice is given of that application to the Secretary of State.

9.4 A Party receiving a Confidential DESNZ Document in accordance with this Order in these proceedings may request the amendment of the designation of the Confidential DESNZ Document (including amendment to a designation of not confidential) as follows:

9.4.1 the requesting Party must provide a written request to the Secretary of State (copied to the other Parties) specifying the following:

9.4.1.1 the relevant Confidential DESNZ Document concerned;

9.4.1.2 the designation the requesting Party believes is appropriate; and

9.4.1.3 why it is reasonable and necessary for the designation to be amended.

9.4.2 The Secretary of State may consent in writing to amend the designation of the Confidential DESNZ Document and, in any event, a response should be provided within 10 working days of having initially received the written notice referred to at paragraph 9.4.1 above.

9.4.3 Should either an objection or no response be received within the 10 working day period referred to in paragraph 9.4.2 above, the requesting Party may apply to the Tribunal for an order that the Confidential DESNZ Document should be designated as either: (i) Inner Confidentiality Ring Information; or (ii) not confidential (as the requesting Party deems appropriate), provided that prior written notice is given of that application to the other Parties and the Secretary of State.”

1.4 Sections 9-13 are renumbered as sections 10-14.

1.5 Paragraphs 6.1 and 7.1 are each replaced with: “This paragraph does not apply to Confidential Commission Documents, the Decision or Confidential DESNZ Documents.”

1.6 A new paragraph 13.3.3 is inserted:

“13.3.3 Notices for the Secretary of State shall be addressed to the Department for Energy Security and Net Zero, for the attention of Alexander Turner and Ben Shepherd.

Email Address: alexander.turner@energysecurity.gov.uk
ben.shepherd@energysecurity.gov.uk

Reference: RO CAT Disclosure”

2. Costs in the case.
3. There shall be liberty to apply.

The Honourable Mr Justice Richards
Chair of the Competition Appeal Tribunal

Made: 1 October 2024
Drawn: 1 October 2024