



[2012] CAT 23

IN THE COMPETITION
APPEAL TRIBUNAL

Case No. 1166/5/7/10

B E T W E E N :

ALBION WATER LIMITED

Claimant

-v-

DŴR CYMRU CYFYNGEDIG

Defendant

ORDER

UPON the Tribunal making an Order on 23 April 2012, paragraph 6 of which set out the timetable for the conduct of this claim up to and including the final hearing (as amended by the Order of 25 April 2012) (the “Procedural Order”)

AND UPON the Defendant applying, by way of a letter dated 9 August 2012, for (i) a 14-day extension to the period for the filing of reply evidence provided for by paragraph 6(f) of the Procedural Order and (ii) permission to submit expert evidence addressing the Claimant’s quantum calculations and, in particular, the question of indexation (together, the “Applications”)

AND UPON reading the representations made on behalf the Claimant in respect of the Applications, and the Defendant’s representations in reply

IT IS ORDERED THAT:

1. The Procedural Order be varied by the deletion of subparagraph (f) of paragraph 6 and the substitution of the following text:

“If so advised, the Defendant file and serve any reply evidence within 39 days of service of the Re-amended Defence.”

2. The Defendant’s application to submit expert evidence be refused.
3. There be liberty to apply.

REASONS

The Procedural Order required any reply evidence to be filed within 28 days of service of the Re-amended Defence, which date fell on 17 August 2012. The Defendant applied for an extension of the period for the filing of reply evidence due to the unavailability of one of the factual witnesses upon whose evidence it wishes to rely, the individual in question being on holiday. The Claimant has indicated that it did not object to a short extension of the relevant period until 24 August. Taking into account the public holiday, which falls on 27 August, however, the Tribunal considers that there is little, or no, prejudice to the Claimant in granting the Defendant an extension for the filing of reply evidence until close of business on 28 August.

As regards the Defendant's application for permission to submit expert evidence in relation to quantum and, in particular, the question of indexation, the Tribunal is of the view that expert evidence on this issue would unnecessarily increase the costs of this litigation and would be disproportionate at this stage of the proceeding. If the Defendant wishes to address the Tribunal on the question of indexation, that can be done by way of submission without the need for expert evidence.

I see no reason to vary the other deadlines set out in the Procedural Order and expect the parties to adhere to them.

Vivien Rose
Chairman of the Competition Appeal Tribunal

Made: 23 August 2012
Drawn: 23 August 2012