

WEDNESDAY 1ST JULY 2009

IN THE COURT OF APPEAL

012632

ON APPEAL FROM THE OTHER TRIBUNAL

1106/5/7/08

BEFORE LORD JUSTICE CARNWATH
LORD JUSTICE JACOB
And LORD JUSTICE PATTEN
B E T W E E N

ENGLISH WELSH & SCOTTISH RAILWAY LIMITED

APPELLANT

- and -

ENRON COAL SERVICES LIMITED (IN LIQUIDATION)

RESPONDENT

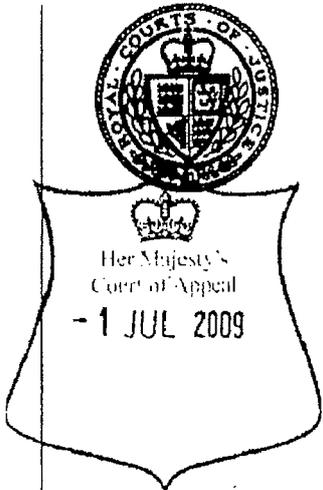
ON READING the Appellant's Notice sealed on the 15th April 2009 filed on behalf of the Claimant applying for permission to appeal with appeal to follow if granted from the order of The Competition Appeal Tribunal dated 12th March 2009

AND ON HEARING Mark Brealey QC and Maya Lester and Mr Daniel Beard of Counsel of both parties

IT IS ORDERED that

- 1) The Appellant be given permission to appeal and the appeal be allowed;
- 2) The Respondent be given permission to cross appeal and the cross appeal be refused;
- 3) Paragraphs 34 to 43 of the Amended Claim Form be rejected, pursuant to Rule 40 of the Competition Appeal Tribunal Rules;
- 4) The Respondent do pay the Appellant its costs of the Appellant's appeal to the Court of Appeal; its costs of the Respondent's cross appeal to the Court of Appeal; and its costs of the Rule 40 application before the Competition Appeal Tribunal, such costs be assessed if not agreed.
- 5) Permission to appeal to the House of Lords be refused

[The Court Sat from 10.32-13.00 & from 14.00-15.20 on 16 June 2009]



COURT 75
Application No.
C3/2009/0815
- 1 JUL 2009

