

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

NiQuan Energy LLC and NiQuan Energy Trinidad Limited

v.

Trinidad and Tobago

(ICSID Case No. ARB/24/17)

PROCEDURAL ORDER NO. 4

ANNEX B

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The RTT's Replies to Objections to Document Request No. 1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

[illegible][illegible]

Tribunal's Decisions on Request No. 1

GRANTED

The requested document appears to be *prima facie* relevant.

Request No: 2
Documents or Category of Documents Requested
Letters, emails and notes of meetings and calls between the Claimants (and those acting on their behalf) and the insurer (and its agents) that provided the Insurance Policy, in so far as those documents concern the claims made by NETL that are stated in Request No.1 above. It is understood from R31 , [6] that the date of such documents will be in 2021 and that Mr Ainsley Gill will be an author, sender, recipient and/or custodian of these documents. Further, it is believed that NETL and NELLC are the custodians of these documents.
Relevance and Materiality According to Requesting Party
Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports
Comments
The Claimants' Responses / Objections to Document Request No. 2
The RTT's Replies to Objections to Document Request No. 2
Tribunal's Decisions on Request No. 2
GRANTED For the same reason as for Request No. 1 above.

Request No: 3

Documents or Category of Documents Requested

The letter(s) and email(s) sent by NETL to UD notifying it of the Third Estimate of COD (CM, [168]); the Fourth Estimate of COD (CM, [169]); the Fifth Estimate of COD (CM, [172]); the Sixth Estimate of COD (CM, [174]); the Seventh Estimate of COD (CM, [179]); and the Ninth Estimate of COD (CM, [184]). The dates of the documents are on or about those stated in the CM references in the previous sentence. Mr Ainsley Gill will be an author, sender, recipient and/or custodian of those documents. Further, it is believed that NETL and NELLC are the custodians of those documents.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Claimants' Responses / Objections to Document Request No. 3

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The RTT's Replies to Objections to Document Request No. 3

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Tribunal's Decisions on Request No. 3
NO DECISION REQUIRED
The Tribunal notes that the Claimant is “willing to produce” responsive documents, and adds that production should include the letter dated 21 January 2021 mentioned in paragraph 34 above.

Request No: 4

Documents or Category of Documents Requested

An unredacted version of **C113** (minutes of a NETL Board meeting of 24 March 2016) that is cited by AG1, [85]. Mr Ainsley Gill will be an author, sender, recipient and/or custodian of this document. Further, it is believed that NETL and NELLC are the custodians of this document.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Claimants' Responses / Objections to Document Request No. 4

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The RTT's Replies to Objections to Document Request No. 4
Tribunal's Decisions on Request No. 4
NO DECISION REQUIRED The Tribunal notes that the Respondent has withdrawn its Request No. 4.

Request No: 5
Documents or Category of Documents Requested
An unredacted version of C115 (minutes of a NETL Board meeting of 14 June 2016) that is cited by AL1, [39]. It is believed that NETL and NELLC are the custodians of this document.
Relevance and Materiality According to Requesting Party
Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports
Comments
The Claimants' Responses / Objections to Document Request No. 5

The RTT's Replies to Objections to Document Request No. 5

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Tribunal's Decisions on Request No. 5

GRANTED AS SPECIFIED

The Tribunal notes the Claimants' confirmation "that they have disclosed in full without redactions all parts of the document containing the account of the disputed meeting between Ms Lewis and Minister Olivierre". It further notes the Claimants' assertion that the redacted portions of Exhibit C-115 contain commercially sensitive and confidential information. The Claimants shall therefore produce a privilege log setting forth the subject matter of the redacted part of the document, without disclosing the content of the information that is claimed to be commercially sensitive and confidential, and the basis for the claim that the document contains such information, including the applicable legal provisions.

Request No: 6
Documents or Category of Documents Requested
An unredacted version of C127, which are the minutes of a NELLC Board meeting of 20 October 2017, and Ms Lewis refers to that meeting in AL1, [47-49]. It is believed that NETL, NELLC and Mr Ainsley Gill are the custodians of this document.
Relevance and Materiality According to Requesting Party
Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports
Comments
The Claimants' Responses / Objections to Document Request No. 6

[REDACTED]

The RTT's Replies to Objections to Document Request No. 6

[REDACTED]

[REDACTED]

Tribunal's Decisions on Request No. 6

GRANTED AS SPECIFIED

The Tribunal notes the Claimants' confirmation that the redacted passages in section 1.7 at pp. 2-3 and section 2 at p. 4 of Exhibit C-127 contain "no further information or details concerning Ms Lewis' meeting with Dr Rowley or the SCE meeting scheduled for 23 October 2017", as well as their assertion that the former contain information that is protected by legal advice privilege and the latter information that is commercially sensitive and confidential. As for the prior request, the Claimants shall produce a privilege log setting forth the subject matter of the redacted part of the document, without disclosing the content of the information that is claimed to be commercially sensitive and confidential, and the basis for the claim that the document contains such information, including the applicable legal provisions.

Request No: 7

Documents or Category of Documents Requested

Notices of Events of Default issued by the Collateral Agent and/or Agent to NELLC pursuant to the NELLC-RBL Charge (CM, [150]), the Amended NELLC-RBL Charge (CM, [163]), the Second Amended NELLC-RBL Charge (CM, [166]), the Third Amended NELLC-RBL Charge (CM, [223]), the Fourth Amended NELLC-RBL Charge (CM, [364]), and the NELLC-JMMB Charge (CM, [392]) (**together “the Charges”**). The Charges secured loans to NETL by Noteholders. It is believed that NELLC, NETL and Mr Ainsley Gill are the custodians of these documents. It is understood that at least one of the Notices of Events of Default will be dated around October 2024, when the Receiver was appointed to NETL (CM, [402]).

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Claimants’ Responses / Objections to Document Request No. 7

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
The RTT's Replies to Objections to Document Request No. 7	
	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
Tribunal's Decisions on Request No. 7	
GRANTED The requested documents appear to be <i>prima facie</i> relevant.	

Request No: 8

Documents or Category of Documents Requested

The “*technical, legal and financial due diligence*” reports that the Claimants produced in regard to the Plant before they acquired it by way of the SPA, and on the basis of which the Claimants concluded that “*the Plant is only good for scrap*” (see **C92**, p 13, dated 30 January 2013). It is believed that NELLC, NETL and Mr Ainsley Gill are the custodians of these documents. It is understood that the date of these documents will be between November 2011 and 19 May 2016.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

The Claimants’ Responses / Objections to Document Request No. 8

[REDACTED]

[illegible]

The RTT's Replies to Objections to Document Request No. 8

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[illegible]

[REDACTED]

Tribunal's Decisions on Request No. 8

GRANTED

The requested documents appear to be *prima facie* relevant. Moreover, the request is sufficiently specific and production would not be overly burdensome, it being specified that the request concerns the “technical, legal and financial due diligence” mentioned in Exhibit C-92 (at p. 13) that existed as at 30 January 2013.

[REDACTED]

Tribunal's Decisions on Request No. 9

GRANTED AS SPECIFIED

The Tribunal notes that the Claimants agree “to search for and produce any responsive documents that are not privileged”. For each document for which privilege is claimed and which the Claimants may wish to redact in whole or in part, the Claimants shall produce a privilege log setting forth (i) the author(s), (ii) the recipient(s), (iii) the date on which the document was generated and/or communicated, (iv) the subject matter of the redacted part of the document, without disclosing the content of the information claimed to be privileged, and (v) the basis for the claim that the document contains privileged information, including the applicable legal provisions, if any. For the avoidance of doubt, the Claimants shall extend their search to responsive documents in the possession of Messrs. Suliman and Moore.

Request No: 10

Documents or Category of Documents Requested

Letters, emails and notes of meetings and calls between the Claimants' management and CariCRIS (the rating agency) that led CariCRIS to issue the rating report in regard to NETL in September 2019 (C153), which, according to the Claimants, refers to the GORTT committing to provide "*a guaranteed supply of natural gas*" (JM1, [15]). The dates in regard to those documents are on or about September 2019.

It is believed that the Claimants' management in this regard includes, but is not limited to, Mr Ainsley Gill, Mr John Andrews, Ms Alison Lewis, Mr Nicholas Galt, Mr Roger Moore, Mr David Small, Mr Malcolm Wells, Mr David Dhanoo, Mr Inshan Suliman and Mr Rafael Samperio ("**the Management**"). The Management are the authors, senders, recipients and/or custodians of such documents. Further, it is believed that NETL and NELLC are the custodians of these documents.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Claimants' Responses / Objections to Document Request No. 10

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The RTT's Replies to Objections to Document Request No. 10

[REDACTED]

Tribunal's Decisions on Request No. 10
GRANTED AS SPECIFIED
The Claimants shall produce responsive documents sufficient to show on what basis the rating agency CariCRIS reached the conclusion at p. 3, item 2 of its report dated September 2019 (Exhibit C-153) that NETL had obtained from the government of the RTT the execution of a 25-year Gas Delivery, Sale and Purchase Agreement “to provide for a guaranteed supply of natural gas for the Proposed GTL plant”. Those documents appear to be <i>prima facie</i> relevant and production would not be overly burdensome.

Request No: 11

Documents or Category of Documents Requested

Letters, emails and notes of meetings and calls between the Claimants and those entities (**“the LRT Entities”**) that set the terms of the LRT carried out during the period 9-12 February 2023 in so far as those documents concern that LRT. The dates of those documents are likely to be before 9-12 February 2023.

It is believed that, on the Claimants’ side, the authors, senders, recipients and/or custodians of such documents include, but are not limited to, Mr Ainsley Gill, Mr John Andrews, Ms Alison Lewis, Mr Nicholas Galt, Mr Roger Moore, Mr David Small, Mr Malcolm Wells, Mr David Dhanoo, Mr Inshan Suliman and Mr Rafael Samperio. Further, it is believed that NETL and NELLC are the custodians of these documents.

According to [60] of the RFA, the LRT Entities include the Claimants’ lenders (which include JMMB and RBL), UD, Aon (insurer) and the engineer of record for the Plant (BDES). The LRT Entities will also be authors, senders, recipients and/or custodians of such documents.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Claimants’ Responses / Objections to Document Request No. 11

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The RTT's Replies to Objections to Document Request No. 11

[REDACTED]

Tribunal's Decisions on Request No. 11

DENIED

The *prima facie* relevance of the requested documents is not sufficiently demonstrated.

Request No: 12
Documents or Category of Documents Requested
In regard to “... revised criteria outlined in updated versions of the ‘Lenders’ Reliability Test Procedures’ ... and the ‘Performance Test Procedures’ which set out the Plant Performance Guarantees provided by the Engineer of Record to the Client ...” (referred to in C40, p 1, [1]), the RTT requests the “updated versions of the ‘Lenders’ Reliability Test Procedures’ ... and the ‘Performance Test Procedures’”. The dates of these documents are unknown, but will be before 9 February 2023 (the date of the LRT). It is believed that, on the Claimants’ side, the authors, senders, recipients and/or custodians of such documents include, but are not limited to, Mr Ainsley Gill, Mr John Andrews, Ms Alison Lewis, Mr Nicholas Galt, Mr Roger Moore, Mr David Small, Mr Malcolm Wells, Mr David Dhanoo, Mr Inshan Suliman and Mr Rafael Samperio. Further, it is believed that NETL and NELLC are the custodians of these documents. It is also believed that the LRT Entities will also be authors, senders, recipients and/or custodians of such documents.
Relevance and Materiality According to Requesting Party
Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports ████████████████████ Comments ████████████████████
The Claimants’ Responses / Objections to Document Request No. 12
██
The RTT’s Replies to Objections to Document Request No. 12
██
Tribunal’s Decisions on Request No. 12
DENIED The <i>prima facie</i> relevance of the requested documents is not sufficiently demonstrated

Request No: 13

Documents or Category of Documents Requested

The contract between the Claimants and Commonwealth Engineering Construction (“CEC”) to construct the Plant (“the CEC Construction Contract”).

This date of this contract is likely to be around 2013 – see C94, p 5.

It is believed that Mr Ainsley Gill, NETL and NELLC are the custodians of this document.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]
The Claimants’ Responses / Objections to Document Request No. 13
[REDACTED]
The RTT’s Replies to Objections to Document Request No. 13
[REDACTED]
Tribunal’s Decisions on Request No. 13
NO DECISION REQUIRED The Tribunal notes the Claimants’ assertion that “the requested documents do not exist”.

Request No: 14

Documents or Category of Documents Requested

The construction contract between NETL and Junior Sammy Contractors Limited to construct the Plant and amendments thereto, which are referred to in **C151**.

The date of this contract is stated in **C151** to be 12 December 2018, and the amendments are said to be 10 June 2019 and 15 July 2019.

It is believed that Mr Ainsley Gill, NETL and NELLC are the custodians of these documents.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Claimants' Responses / Objections to Document Request No. 14

[REDACTED]

[REDACTED]

The RTT's Replies to Objections to Document Request No. 14
[REDACTED] [REDACTED] [REDACTED] [REDACTED]
Tribunal's Decisions on Request No. 14
GRANTED The requested document appears to be <i>prima facie</i> relevant, the request is sufficiently specific and production would not be overly burdensome.

Request No: 15
Documents or Category of Documents Requested
Letters, notices, emails and notes of meetings and calls between the Claimants and Commonwealth Engineering Construction (“CEC”) regarding the Claimants’ termination of the contract between the Claimants and CEC to construct the Plant (“the CEC Construction Contract”). It is not known when the CEC Construction Contract was terminated and, therefore, the dates of these documents are not known. It is believed that NETL and NELLC are the custodians of these documents, along with the Management (as defined in Request 15 above).
Relevance and Materiality According to Requesting Party
Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports [REDACTED] Comments [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
The Claimants’ Responses / Objections to Document Request No. 15
[REDACTED]
The RTT’s Replies to Objections to Document Request No. 15
[REDACTED]
Tribunal’s Decisions on Request No. 15
NO DECISION REQUIRED The Tribunal notes the Claimants’ statement that “the requested documents do not exist”.

Request No: 16

Documents or Category of Documents Requested

Letters, notices, emails and notes of meetings and calls between the Claimants' management ("**the Management**") and Junior Sammy Contractors Limited regarding the Claimants' termination of the contract between the Claimants and Junior Sammy Contractors Limited to construct the Plant. The dates of these documents are unknown.

It is believed that the Management includes, but is not limited to, Mr Ainsley Gill, Mr John Andrews, Ms Alison Lewis, Mr Nicholas Galt, Mr Roger Moore, Mr David Small, Mr Malcolm Wells, Mr David Dhanoo, Mr Inshan Suliman and Mr Rafael Samperio. The Management will be authors, senders, recipients and/or custodians of such documents. It is believed that NETL and NELLC are also the custodians of these documents.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Claimants' Responses / Objections to Document Request No. 16

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The RTT's Replies to Objections to Document Request No. 16

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Tribunal’s Decisions on Request No. 16

GRANTED IN PART AND AS SPECIFIED

The Tribunal notes the Claimants’ assertion that documents within the scope of this request “are not likely to exist” because “NiQuan never formally terminated the construction contract with JSCL”. At the same time, considering their statement above that “*JSCL ceased to be involved in the development, commissioning and start-up of the GTL Plant*” and that of Mr. Gill at para. 169(a) of his witness statement *inter alia* that “various failings” by JSCL that had “led to the Incident” meant that “things could not continue with JSCL”, the Claimants shall produce responsive documents relating to the termination of their relationship with JSCL.

Request No: 17

Documents or Category of Documents Requested

Letters, notices, emails and notes of meetings between the Claimants' management ("**the Management**"), and between the Claimants' Management and third-party vendors who provided technical assistance in regard to the Plant, where the technical problems/bottlenecks concerning the Plant identified in [275] of the Red Heather Report were discussed ("**the Bottlenecks**").

The dates of these documents are between 2011 and August 2023.

It is believed that the Management includes, but is not limited to, Mr Ainsley Gill, Mr John Andrews, Ms Alison Lewis, Mr Nicholas Galt, Mr Roger Moore, Mr David Small, Mr Malcolm Wells, Mr David Dhanoo, Mr Inshan Suliman and Mr Rafael Samperio. The Management will be authors, senders, recipients and/or custodians of such documents. It is believed that NETL and NELLC are also the custodians of these documents.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

The Claimants' Responses / Objections to Document Request No. 17

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The RTT's Replies to Objections to Document Request No. 17

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

████████████████████

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466
---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----

Tribunal's Decisions on Request No. 17

GRANTED IN PART AND AS SPECIFIED

The request is overly broad, and production would be unduly burdensome. That said, the Claimants shall produce responsive documents showing when they first became aware of the Bottlenecks.

Request No: 18

Documents or Category of Documents Requested

Letters, notices, emails and notes of meetings between the Claimants' management and JMMB (the Claimants' financier) regarding the viability of the Plant.

It is believed that the Management includes, but is not limited to, Mr Ainsley Gill, Mr John Andrews, Ms Alison Lewis, Mr Nicholas Galt, Mr Roger Moore, Mr David Small, Mr Malcolm Wells, Mr David Dhanoo, Mr Inshan Suliman and Mr Rafael Samperio. The Management will be authors, senders, recipients and/or custodians of such documents. It is believed that NETL and NELLC are also the custodians of these documents.

The relevant people at JMMB will include Mr Julian Mair, Mr Doyl Smith, and Mr Damion Brown, and therefore they are also likely to be authors, senders, recipients and/or custodians of such documents.

The dates of these documents will be from when JMMB first considered being involved in financing the Plant.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Claimants' Responses / Objections to Document Request No. 18

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The RTT’s Replies to Objections to Document Request No. 18

[REDACTED]

Tribunal’s Decisions on Request No. 18

GRANTED IN PART AND AS SPECIFIED

The Tribunal notes that the Claimants agree to search for and produce any responsive documents that are not privileged in the period between 1 September 2019 and 9 January 2020. The Respondent, which seeks to extend the period until 25 January 2024, has insufficiently explained the *prima facie* relevance of documents postdating JMMB’s decision to finance the project in respect to JMMB’s perception on the viability of the GTL plant.

To the extent that the Claimants assert privilege for any responsive document, they shall produce a privilege log setting forth for each document for which privilege is claimed the elements described in Request No. 9 above.

Request No: 19
Documents or Category of Documents Requested
Letters, notices, emails and notes of meetings between the Claimants' management and Jeffries (an investment bank) (the Claimants' potential financier) in which Jeffries gave the reasons as to why it did not wish to finance the Plant. It is believed that the Claimants' management includes, but is not limited to, Mr Ainsley Gill, Mr John Andrews, Ms Alison Lewis, Mr Nicholas Galt, Mr Roger Moore, Mr David Small, Mr Malcolm Wells, Mr David Dhanoo, Mr Inshan Suliman and Mr Rafael Samperio. The Management will be authors, senders, recipients and/or custodians of such documents. It is believed that NETL and NELLC are also the custodians of these documents. The dates of these documents will be around the date of the First Incident (7 April 2021).
Relevance and Materiality According to Requesting Party
Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports [REDACTED] Comments [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
The Claimants' Responses / Objections to Document Request No. 19
[REDACTED] [REDACTED] [REDACTED]
The RTT's Replies to Objections to Document Request No. 19
[REDACTED] [REDACTED]
Tribunal's Decisions on Request No. 19
GRANTED AS SPECIFIED The Tribunal notes the Claimants' agreement "to search for and produce any responsive documents that are not privileged" in the period between April and July 2021. To the extent that the Claimants assert privilege for any responsive document, they shall produce a

privilege log setting forth for each document for which privilege is claimed the elements described in Request No. 9 above.

Request No: 20
Documents or Category of Documents Requested
Quotes from Siemens Energy, and any other vendors, to overhaul the K20/SynGas Compressor, which is referred to in [231] of the Red Heather Report. It is believed that the Claimants and Mr Ainsley Gill are custodians of these documents. The date of these documents is likely to be around May 2023.
Relevance and Materiality According to Requesting Party
Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports [REDACTED] Comments [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
The Claimants' Responses / Objections to Document Request No. 20
[REDACTED] [REDACTED]
The RTT's Replies to Objections to Document Request No. 20
[REDACTED] [REDACTED]
Tribunal's Decisions on Request No. 20
GRANTED AS SPECIFIED The Tribunal notes the Claimants' agreement "to search for and produce any responsive documents that are not privileged and not already produced". To the extent that the Claimants assert privilege for any responsive document, they shall produce a privilege log setting forth

for each document for which privilege is claimed the elements described in Request No. 9 above.

Request No: 21
Documents or Category of Documents Requested
An unredacted version of C127 (minutes of a NELLC Board meeting of 20 October 2017) that is cited in the Memorial, [89], footnote 112. It is believed that NETL, NELLC and Mr Ainsley Gill are the custodians of this document.
Relevance and Materiality According to Requesting Party
Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports
[REDACTED] [REDACTED] [REDACTED] [REDACTED]
Comments
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
The Claimants' Responses / Objections to Document Request No. 21
[REDACTED] [REDACTED] [REDACTED] [REDACTED]
The RTT's Replies to Objections to Document Request No. 21
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
Tribunal's Decisions on Request No. 21
GRANTED AS SPECIFIED The Tribunal refers to its decision in relation to Request No. 6 above.

Request No: 22

Documents or Category of Documents Requested

Documents authored by or on behalf of the Claimants, from 14 August 2023 (the Valuation Date) onwards, describing the value (whether general or specific) of the Claimants' "Proprietary Technology" (as defined at Memorial, [386]), including brochures and prospectuses for the purpose of obtaining finance (including in connection with the acquisition of the Vert GTL Project (*i.e.* the Claimants' alleged new project in the US), but excluding in connection with the third-party funding of this Arbitration). It is believed that NETL and NELLC are the custodians of these documents.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

The Claimants' Responses / Objections to Document Request No. 22

[REDACTED]

The RTT's Replies to Objections to Document Request No. 22
Tribunal's Decisions on Request No. 22
GRANTED AS SPECIFIED The Tribunal notes that the Claimants agree “to search for and produce any responsive documents that are not privileged”. To the extent that the Claimants assert privilege for any responsive document, they shall produce a privilege log setting forth for each document for which privilege is claimed the elements described in Request No. 9 above.

[illegible]

Request No: 24

Documents or Category of Documents Requested

NELLC's annual financial statements covering the period from 11 March 2008 (NELLC's incorporation date) to 14 August 2023 (the Valuation Date). It is believed that NELLC is the custodian of these documents.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Claimants' Responses / Objections to Document Request No. 24
The RTT's Replies to Objections to Document Request No. 24
Tribunal's Decisions on Request No. 24
GRANTED AS SPECIFIED The Tribunal notes that the Claimants agree “to search for and produce any responsive documents that are not privileged”. To the extent that the Claimants assert privilege for any responsive document, they shall produce a privilege log setting forth for each document for which privilege is claimed the elements described in Request No. 9 above.

Request No: 25

Documents or Category of Documents Requested

NETL's FS2015 to FS2020 each confirm that NETL's Board of Directors authorised those financial statements for issue, on the dates given below (see FS2015, p 4, **SI-18** – 10 January 2019; FS2016, p 4, **SI-19** – 30 November 2018; FS2017, p 4, **SI-20** – 30 November 2018; FS2018, p 6, **SI-21** – 15 February 2021; FS2019, p 6, **SI-22** – 27 April 2020; FS2020, p 5, **SI-23** – 13 June 2021). Meanwhile, FS2021 confirms that NETL's Executive Management authorised those management accounts for issue, on the date given below (see FS2021, p 3, **SI-24** – 30 June 2022). By contrast, FS2022 and FS2023 do not contain such statements, and thus appear to be unauthorised (see FS2022, **SI-25**; FS2023, **SI-26**).

Consequently, the RTT requests the letters, emails and notes of meetings and calls between NETL/NELLC's management ("**the Management**") in which they deliberated as to the preparation, completion, approval and issue of: **(i)** NETL's FS2015 to FS2023 (*i.e.* **SI-18** to **SI-26**), including but not limited to those covering the dates listed in the preceding paragraph; **(ii)** the financial statements covered by Request No.23 above; and **(iii)** the financial statements covered by Request No.24 above.

It is believed that the Management includes, but is not limited to, Mr Ainsley Gill, Mr John Andrews, Ms Alison Lewis, Mr Nicholas Galt, Mr Roger Moore, Mr David Small, Mr Malcolm Wells, Mr David Dhanoo, Mr Inshan Suliman and Mr Rafael Samperio. The Management will be authors, senders, recipients and/or custodians of such documents. Further, it is believed that NETL and NELLC are the custodians of these documents.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

The Claimants' Responses / Objections to Document Request No. 25

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Tribunal's Decisions on Request No. 25

DENIED

The request is insufficiently specific and production would be overly burdensome. In addition, the *prima facie* relevance of documents shedding light on how the financial statements evoked in the request were prepared, approved and issued is not sufficiently demonstrated.

Request No: 26

Documents or Category of Documents Requested

NETL's FS2018 to FS2020, being audited financial statements, each include the following statement in the auditor's (EY's) report: "*We communicate with the Board of Directors regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.*" (see FS2018, p 5, **SI-21**; FS2019, p 5, **SI-22**; FS2020, p 4, **SI-23**).

Consequently, the RTT requests any such or equivalent communication (including letters, notices, emails and notes of meetings and calls): **(i)** from EY to the Claimants in connection with NETL's FS2018 to FS2020 (*i.e.* **SI-21** to **SI-23**); **(ii)** from Grant Thornton to the Claimants in connection with NETL's FS2015 to FS2017 (*i.e.* **SI-18** to **SI-20**); **(iii)** from any other external accountant to the Claimants in connection with NETL's financial statements; and **(iv)** from any external accountant to the Claimants in connection with NELLC's financial statements. It is believed that NETL and NELLC are the custodians of these documents.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

The Claimants' Responses / Objections to Document Request No. 26

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

The RTT's Replies to Objections to Document Request No. 26

[illegible]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[illegible]

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

[illegible]

any significant deficiencies in internal control” identified during EY’s audit. That request is sufficiently specific and production would not be unduly burdensome.

As for items (ii)-(iii) of Request No. 26, the *prima facie* relevance is not sufficiently demonstrated.

Request No: 27

Documents or Category of Documents Requested

Letters, emails and notes of meetings and calls between NETL/NELLC's management ("**the Management**") in which they deliberated as to whether or not NETL should cease to engage external accountants to prepare its financial statements, which it did following FS2020. It is believed that the Management includes, but is not limited to, Mr Ainsley Gill, Mr John Andrews, Ms Alison Lewis, Mr Nicholas Galt, Mr Roger Moore, Mr David Small, Mr Malcolm Wells, Mr David Dhanoo, Mr Inshan Suliman and Mr Rafael Samperio. The Management will be authors, senders, recipients and/or custodians of such documents. Further, it is believed that NETL and NELLC are the custodians of these documents.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Claimants' Responses / Objections to Document Request No. 27

[illegible]

The RTT's Replies to Objections to Document Request No. 27

[illegible]

[illegible][illegible][illegible]

[REDACTED]

Tribunal's Decisions on Request No. 27

DENIED

At the outset, the Tribunal notes the Claimants' position that "the lack of audited statements requires NiQuan to evidence its sunk cost on a "*bottom-up*" basis, as part of its claim for damages as well as them agreeing to disclose as part of the document production phase all

the documents they have secured since their Memorial “that evidence NiQuan’s sunk cost claim between 2021 to 2023”.

As for Request No. 27 specifically, the *prima facie* relevance of the requested documents is not sufficiently demonstrated.

Tribunal's Decisions on Request No. 28
DENIED The <i>prima facie</i> relevance of the requested documents is insufficiently demonstrated.

[REDACTED]

[REDACTED]

Tribunal's Decisions on Request No. 29

GRANTED

Notwithstanding the Claimants' willingness to voluntarily produce all the sunk cost documentation they retrieved since their Memorial and their statement that "[a]ny information seemingly missing from NETL's payment registers" would be contained in that documentation, the Claimants shall produce the requested documents. Those documents appear to be *prima facie* relevant.

Request No: 30

Documents or Category of Documents Requested

The index/sitemap for and/or metadata database from the Claimants' document management platform, at <<https://niquanenergy1.sharepoint.com>> (or such other addresses as may have been used). It is believed that Microsoft SharePoint platforms store extensive metadata as to the materials housed on them (including filename, creation date, modification date, uploader/creator/modifier and filepath), and that such metadata can be output to Excel format. Further, it is believed that NETL and NELLC are the custodians of this document.

Relevance and Materiality According to Requesting Party

Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports

[REDACTED]

Comments

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Claimants' Responses / Objections to Document Request No. 30

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

	[REDACTED]
The RTT's Replies to Objections to Document Request No. 30	
	[REDACTED]
Tribunal's Decisions on Request No. 30	
NO DECISION REQUIRED The Tribunal notes that the Respondent has withdrawn its Request No. 30.	