

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**Mainstream Renewable Power Ltd and others**

**v.**

**Federal Republic of Germany**

**(ICSID Case No. ARB/21/26)**

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**PROCEDURAL ORDER NO. 9**

***Members of the Tribunal***

Ms. Wendy Miles KC, President of the Tribunal  
Mr. Antolín Fernández Antuña, Arbitrator  
Dr. Charles Poncet, M.C.L., Arbitrator

***Secretary of the Tribunal***

Ms. Martina Polasek

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22 August 2023

**TABLE OF CONTENTS**

|     |   |    |
|-----|---|----|
| I.  | INTRODUCTION .....                                    | 2  |
| II. | ORGANIZATION OF THE HEARING .....                     | 3  |
|     | A. Date, Location and Format of the Hearing.....      | 3  |
|     | B. Order of Proceedings and Schedule .....            | 3  |
|     | C. Oral Statements .....                              | 4  |
|     | D. Time Allocation.....                               | 4  |
|     | E. Attendance.....                                    | 5  |
|     | F. Documents for Use at the Hearing .....             | 6  |
|     | 1. Electronic Hearing Bundle.....                     | 6  |
|     | 2. Agreed Chronology.....                             | 6  |
|     | 3. Cross-Examination Bundles.....                     | 7  |
|     | 4. Demonstrative Exhibits.....                        | 7  |
|     | 5. New Evidence .....                                 | 9  |
|     | G. Examination of Witnesses of Fact and Experts.....  | 10 |
|     | H. Recordings of the Hearing.....                     | 12 |
|     | I. Transcription .....                                | 13 |
|     | J. Interpretation .....                               | 13 |
|     | K. Public Access and Data Protection.....             | 14 |
|     | 1. Public Access .....                                | 14 |
|     | 2. Data Privacy.....                                  | 15 |
|     | L. Post-Hearing Briefs and Submissions on Costs ..... | 15 |
|     | M. In-person Sanitary Arrangements.....               | 16 |
|     | ANNEX A.....  | 17 |

## **I. INTRODUCTION**

1. On 22 November 2021, the Tribunal issued Procedural Order No. 1, subsequently amended on 26 January 2022, setting out, *inter alia*, possible dates for hearings in this arbitration.
2. On 7 June 2022, the Tribunal issued Procedural Order No. 3, denying the Respondent's request for bifurcation and confirming that a hearing on jurisdiction, merits and damages would be held between 18 – 29 September 2023 (the "**Hearing**").
3. Following exchanges between the Parties, by their respective communications of 10 and 12 October 2022, the Parties informed the Tribunal of their agreement that the Hearing will be held in-person in London, United Kingdom. All times in this Order are local, *i.e.* British Summer Time (BST).
4. On 10 August 2023, the Tribunal sent the Parties a draft of this Order regarding the Hearing, inviting the Parties to seek agreement on the organization of the Hearing, including a daily schedule for the Hearing, in accordance with Section 19.1 of Procedural Order No.1. The Parties provided their comments on 15 August 2023, identifying the matters on which they agreed and separately briefly setting out in writing their views on matters on which they were unable to agree for discussion at the pre-hearing organizational meeting ("**Pre-Hearing Conference**" or "**PHC**").
5. On 14 August 2023, the Parties submitted their respective List of Participants for the Pre-Hearing Conference.
6. Pursuant to Section 19.1 of Procedural Order No. 1, on 16 August 2023, the Tribunal held the Pre-Hearing Conference with the Parties by video conference. The participants were:

The Tribunal:

Ms. Wendy Miles KC, President of the Tribunal

Mr. Antolín Fernández Antuña, Arbitrator

Dr. Charles Poncet, M.C.L., Arbitrator

ICSID Secretariat:

Mr. Gouvert Coppens, Legal Counsel, ICSID

On behalf of the Claimants:

Mr. Aidan Guinan, Mainstream Renewable Power Ltd.  
Mr. Remi Tissa, Mainstream Renewable Power Ltd.  
Dr. Markus Burgstaller, Hogan Lovells International LLP  
Mr. Scott Macpherson, Hogan Lovells International LLP  
Ms. Iris Sauvagnac, Hogan Lovells International LLP  
Ms. Eden Jardine, Hogan Lovells International LLP

On behalf of the Respondent:

Ms. Annette Tiemann, Federal Ministry of Economic Affairs and Climate Action  
Mr. John Schabedoth, Federal Ministry of Economic Affairs and Climate Action  
Dr. Anke Meier, Noerr PartG mbB  
Dr. Barbara Maucher, Noerr PartG mbB  
Ms. Lucie Gerhardt, Noerr PartG mbB

7. A recording of the Pre-Hearing Conference was made, deposited in the archives of ICSID and made available to the Members of the Tribunal and the Parties on 16 August 2023.
8. Having carefully considered the Parties' positions, the Tribunal sets out in this Procedural Order the procedural rules for the conduct of the Hearing. These rules incorporate those on which the Parties have agreed, as well as the Tribunal's determinations on matters on which the Parties have been unable to agree.

## **II. ORGANIZATION OF THE HEARING**

### **A. DATE, LOCATION AND FORMAT OF THE HEARING**

9. The Hearing will take place in-person at the International Dispute Resolution Centre Ltd, located at 1 Paternoster Lane, London, EC4M 7BQ, United Kingdom (the "**Hearing Venue**") from Monday, 18 September to Friday, 29 September 2023, *i.e.* nine Hearing Days with one Hearing Day in reserve.
10. At the Hearing Venue, breakout rooms will be provided for the Tribunal and for each Party.

### **B. ORDER OF PROCEEDINGS AND SCHEDULE**

11. The Hearing will commence each day at 9:00 a.m. and end each day by approximately 5:15 p.m. There will be regular 15-minute breaks approximately every 90 minutes during the Hearing Day, as well as a lunch break of one hour.

12. The Hearing Schedule is set out in **Annex A** to this Procedural Order.
13. The Tribunal will administer the length of the Hearing Day with appropriate flexibility and is prepared to sit beyond 5:15 p.m., where possible, if necessary to complete the examination of a witness of fact or an expert. The Hearing Schedule is subject to any changes that the Tribunal may deem necessary or appropriate during the Hearing. The Tribunal reserves discretion, after consultation with the Parties, to adjust the Hearing Schedule as needed to accomplish the set agenda and to accommodate any technical or other disruptions.

**C. ORAL STATEMENTS**

14. On Day 1 of the Hearing, the Parties may make Opening Statements of at most 1.5 hours each.
15. At the end of the first Hearing week, the Tribunal and Parties will discuss the presentation on the final Hearing Day of Closing Statements, if any.
16. The Parties may use PowerPoint or other similar presentation software during their Opening Statements and during Closing Statements, if any. Such presentation constitutes a Demonstrative Exhibit, as regulated below in Section II.F.4.

**D. TIME ALLOCATION**

17. Pursuant to Section 20.5 of Procedural Order No. 1, the principle of equality of time shall be applied with flexibility in light of the circumstances of the case.
18. Having heard the Parties regarding time allocation following the Respondent's three new witness statements submitted with its Rejoinder on 4 August 2023, the Tribunal notes that equal time would provide each party with approximately 27 hours of Hearing Time. Given that the Claimants requested approximately 27 hours of Hearing Time in total, including the cross-examination of the three new witnesses, the Tribunal considers the existing time allocation to be sufficient to provide the Claimants with fair opportunity to cross-examine

the additional witnesses without needing to change the principle of equality of time. In any event, as noted, this principle will be applied with flexibility.

19. The time used by the Parties in oral argument or examination of witnesses and experts shall be attributable to the Party making such argument or conducting such examination. Time spent addressing objections by a Party shall be counted against the time of the Party making the objections, not against the time of the Party responding to the objection, subject to the control of the Tribunal.
20. Tribunal questions to counsel, fact witnesses or experts to clarify points being made, shall not interrupt the clock for the Party making a presentation or conducting an examination but any separate Tribunal questioning after will be allocated to Tribunal time.
21. Time used for housekeeping or to resolve technical difficulties shall be considered Tribunal time and accordingly shall not be counted against either Parties' time.
22. The Parties are expected to use the time allocated to them efficiently and avoid unnecessary slippage (*e.g.* delays in returning from breaks). In the event of excess slippage, the Tribunal may revisit the length of the sitting day or, in unusual circumstances, the time allocated to the Parties, bearing in mind equal treatment and a fair opportunity for the Parties to be heard.

**E. ATTENDANCE**

23. **By Monday 4 September 2023**, each Party will provide to ICSID its List of Participants, including any remote participants. A Party cannot amend its List of Participants after Thursday 14 September 2023 without leave from the Tribunal.
24. At the PHC, the Parties confirmed that all witnesses and experts who will be cross-examined at the Hearing are expected to attend in person.
25. Only persons on the List of Participants can access the Hearing.

**F. DOCUMENTS FOR USE AT THE HEARING**

**1. Electronic Hearing Bundle**

26. The Parties agree to engage a service provider to prepare an electronic copy of the entire case file (including pleadings, witness statements, expert reports, exhibits, legal authorities, formal correspondence, and Tribunal decisions and orders to date) (“**Electronic Hearing Bundle**”) with a consolidated hyperlinked index of all documents readable on both Mac and PC. The Parties further agree that the same service provider will operate the electronic presentation of evidence during the Hearing (“**EPE Service Provider**”).
27. Access to the Electronic Hearing Bundle will be provided by the service provider to the Arbitral Tribunal, the Parties, the Court Reporter and Interpreters as soon as possible for the EPE Service Provider. The Tribunal and ICSID will have continued access to the Electronic Hearing Bundle until the conclusion of the arbitration.
28. The Electronic Hearing bundle shall be uploaded to a platform used by the service provider to electronically present evidence at the Hearing. A copy shall also be uploaded to a designated sub-folder on the Box filesharing platform.
29. The Court Reporter and Interpreters will also be provided a copy of the Electronic Hearing Bundle via the ICSID Secretariat.

**2. Agreed Chronology**

30. The Parties will submit an agreed chronology of the key relevant events **by Friday 15 September 2023**. The agreed chronology is for the benefit of the Arbitral Tribunal. It is intended to be a simple chronology of agreed dates only and not an advocacy document. The parties are invited to revert to the Arbitral Tribunal should the preparation of the agreed chronology become an unreasonable distraction from hearing preparation.
31. This document should include the relevant date, a neutral description of the event, and the relevant exhibit(s).

**3. Cross-Examination Bundles**

32. During cross-examination, the Parties will only refer to exhibits and legal authorities that already form part of the record of the case.
33. The Parties have agreed that, in view of the electronic presentation of evidence at the Hearing by the EPE Service Provider, there is no need to produce cross-examination bundles.
34. The witnesses and experts are not to be restricted to reviewing excerpts of documents and are entitled to ask to be shown any other part of the document put to them. When a document is first introduced during a cross-examination, cross-examining counsel should orient the witness or expert by taking her/him/them to the first page of the document before moving to the part relevant to the question/s.
35. If translations are used, both the original and the English version of a document should be available to a witness/expert.

**4. Demonstrative Exhibits**

36. Documents that do not form part of the record may not be presented at the Hearing unless otherwise agreed by the Parties or authorized by the Tribunal (see below, Section II.F.5 on New Evidence).
37. The Parties may use PowerPoint or other slide presentation software to accompany oral statements and electronic presentation of evidence, subject to the below rule on the use Demonstrative Exhibits.
38. Demonstrative exhibits shall be used in accordance with Section 16.9 of Procedural Order No. 1, reproduced below:

*Demonstrative exhibits (such as PowerPoint slides, charts, tabulations, etc.) may be used at any hearing, provided they contain no new evidence. Each party shall number its demonstrative exhibits consecutively and indicate on each demonstrative exhibit the number of the document(s) from which it is derived. The party*



*submitting such exhibits shall provide them in electronic and, if requested, hard copy to the other party, the Tribunal Members, the Tribunal Secretary, the court reporter(s) and interpreter(s) at the hearing at a time to be decided at the pre-hearing organizational meeting.*

39. For the avoidance of doubt, a chart, table, graph, or other means of representation that has not as such been previously introduced but is composed (exclusively) of information that is on the record, falls within the above description of a Demonstrative Exhibit.
40. Section 16.9 of Procedural Order No. 1 is supplemented such that: an electronic copy of each Demonstrative Exhibit shall be distributed by the Party intending to use it via email to the entire case distribution list **no later than by 9:00 p.m. on the evening before the beginning of the session concerned**. The Secretary of the Tribunal will forward such Demonstrative Exhibits to the Court Reporter and, if interpretation will be used, the Interpreters.
41. The purpose of this requirement is to enable the other Party to make a timely objection if it considers that any of the Demonstrative Exhibits contain new evidence or material that is inadmissible. In the event of such objection, the Parties shall endeavour to reach agreement and, if they are unable to do so, the matter shall be brought to the attention of the Tribunal.
42. Each Party shall provide a hard copy of their presentation and/or Demonstrative Exhibits referred to the Tribunal (two copies), the Court Reporter and, where applicable, the Interpreters (three copies), during the break before the beginning of the session concerned.
43. In addition, no later than promptly after the conclusion of each Hearing Day on which the corresponding presentation or demonstrative exhibit is used, the Parties shall upload such files to the case folder in the Box filesharing platform, in a sub-folder “Hearing” with one folder for each Party, designating each demonstrative with the corresponding **CD-\_\_** (for the Claimants’ demonstratives) or **RD-\_\_** number (for the Respondent’s demonstratives), starting with CD-01 or RD-01 as applicable, and, if the file is a presentation, the title of the presentation (*e.g.* “Claimants’ Opening Statement” / “Respondent’s Opening Statement”).

44. If a Party wishes to make any correction to a Demonstrative Exhibit after it has been communicated to the opposing Party and the Tribunal, as stipulated above, it shall first attempt to agree on such correction(s) with the other Party. If agreed, the Tribunal will be made aware of each correction and a new version (original file name followed by “CORRECTED [YYYY.MM.DD]”) will be uploaded to the same Box folder as the original Demonstrative Exhibit. If the other Party objects to a correction, the Party wishing to make the correction shall raise it with the Tribunal during the Hearing.

## **5. New Evidence**

45. A Party shall not introduce any new evidence, exhibits, or legal authorities except in accordance with Section 16.3 of Procedural Order No. 1, which provides:

*Neither Party shall be permitted to submit additional or responsive documents after the filing of its respective last written submission, unless the Tribunal determines that special circumstances exist based on a reasoned written request followed by observations from the other Party.*

*16.3.1. Should a Party request leave to file additional or responsive documents, that Party may not annex the documents that it seeks to file to its request.*

*16.3.2. If the Tribunal grants such an application for submission of an additional or responsive document, the Tribunal shall ensure that the other Party is afforded sufficient opportunity to make its observations concerning such a document.*

46. To avoid disruption of the Hearing Schedule, any application to introduce new evidence, if any, should be made **no later than Friday 1 September 2023** unless there are exceptional reasons why that deadline cannot be met. Such reasons must be explained in the application. In any event, also for any applications made on or before this deadline, the above-mentioned standard of Section 16.3 of Procedural Order No. 1 applies to all applications.

47. After reviewing the Parties' written observations and hearing their submissions at the PHC, the Tribunal dismisses the Claimants' request to exclude the witness statements of the three new witnesses submitted by the Respondent with its Rejoinder on the Merits on 4 August 2023, *i.e.* the Witness Statements of [REDACTED] and [REDACTED]. The Tribunal's reasoning will follow separately in Procedural Order No. 10. The weight, if any, to be afforded to the testimony of these witnesses will remain a matter for the final award.
48. In light of the above-mentioned witness statements, the Claimants are allowed to introduce new documentary evidence that is strictly responsive to the new evidence raised in the mentioned witness statements **by Wednesday 13 September 2023** (any translations as needed are to be submitted by that same date).

**G. EXAMINATION OF WITNESSES OF FACT AND EXPERTS**

49. The examination of witnesses of fact and experts is regulated by Section 18 of Procedural Order No. 1 as supplemented by this Order.
50. On 7 August 2023, the Parties identified the witnesses of fact and experts they wish to call for examination at the Hearing.
51. Witnesses of fact and experts shall be examined in the order set out in the Hearing Schedule in **Annex A** to this Procedural Order, as agreed by the Parties in accordance with Section 18.16 of Procedural Order No. 1.
52. In accordance with Section 18.4 of Procedural Order No. 1, any witness who has submitted a witness statement or expert who has submitted an expert report must, at the request of the other party made within the applicable time-limits, or at the request of the Tribunal, be made available for examination at the hearing. The Parties shall ensure fact witnesses and experts are available at least one Hearing Day in advance of their scheduled appearance in order to avoid any gaps in the Hearing Schedule.

53. Regarding the Claimants' witness who is unable to participate in the Hearing, the Claimants will submit an updated medical certificate to the Tribunal **by Friday 1 September 2023**.
54. Following up on Section 18.14 of Procedural Order No. 1, witnesses of fact shall not be allowed in the hearing room or to access the Hearing remotely before giving oral evidence and shall not be given access to the transcript of oral testimony or argument prior to their examination. Experts shall be allowed in the hearing room at all times and are allowed to access the transcript of oral testimony or argument prior to their examination.
55. The examination shall be conducted in accordance with Sections 18.10 through 18.12 of Procedural Order No. 1:

*18.10 Witnesses will first be briefly examined by counsel for the party that is presenting the witness ("direct examination"), for the purpose of introducing the witness and having him or her confirm the statement or report, including any corrections to be made thereto. Direct examination may not introduce new matters not already covered by the written statement or report. Experts may give a presentation before the start of their cross-examination, in lieu of traditional direct examination. The duration of the direct examination of fact witnesses and expert presentations presumptively shall be decided during the pre-hearing organizational meeting after consulting the parties.*

*18.11. Following direct examination and/or expert presentations, the witness or expert may then be examined by counsel for the opposing party ("cross-examination"). Cross-examination of a witness or expert shall not go beyond the scope of the issues and matters relevant to the matters in dispute.*

*18.12. Following the cross-examination, "re-direct examination" of a witness or expert may be carried out by the party presenting that witness or expert but shall be limited to the matters that arose during cross-examination of that witness or expert. The Tribunal shall decide upon any request for re-cross examination from the parties.*

56. In accordance with Section 18.10 of Procedural Order No. 1, direct examination must be brief and, in any event, not exceed 5 minutes.
57. Experts may summarize their expert reports in a presentation that should not exceed 30 minutes. The presentations of the Parties' experts on quantum may use up to 40 minutes for their presentations. Experts may use PowerPoint or similar presentation software and other visual aids during their presentations, in accordance with the rules regarding Demonstrative Exhibits detailed in this Order.
58. If an expert report is co-authored by multiple experts, these experts will divide the time allocated for a presentation between them. Experts who co-authored an expert report will be examined together.
59. In accordance with Section 18.13 of Procedural Order No. 1, the Tribunal may examine a witness or expert at any time during the oral procedure. The Tribunal may also decide to question experts from both Parties at the same time, so-called "expert conferencing", after consulting the Parties.
60. Both witnesses of fact and experts are prohibited from discussing any aspect of the case during breaks in the course of their examination, including, as applicable, overnight or over the weekend if the examination is continued the next Hearing Day.

#### **H. RECORDINGS OF THE HEARING**

61. In accordance with Section 21.1 of Procedural Order No. 1, an audio recording will be made of the Hearing and will be shared with the Parties and the Tribunal at the conclusion of the Hearing.
62. Except for the Court Reporter, who will make his own audio recording of the Hearing for the purposes of preparing the transcript, the Tribunal and the Parties agree that the attendees will not otherwise record the Hearing or any part of it, including audio, video or photographs.

**I. TRANSCRIPTION**

63. Real-time transcription in English shall be made available to the Hearing participants. Hearing participants shall connect to the transcript by opening a link on a separate device. The details (link, password) and instructions to connect to the live transcript shall be provided by the ICSID Secretariat to the Hearing participants before the start of the first Hearing Day.
64. Transcription services will be provided by [REDACTED]. The Court Reporter may seek to clarify the record from time to time during the course of the Hearing. In order to have an as accurate transcript as possible, the Parties are encouraged not to speak too fast and to avoid speaking over each other.
65. The Parties are reminded that, during cross-examination involving interpretation, additional time is required for the interpretation to be completed and recorded by the Court Reporter before a next question is asked – even if the cross-examining attorney understands the witness’s/expert’s response in the original language.
66. Pursuant to Section 21.3 of Procedural Order No. 1, the Parties shall agree on any corrections to the transcripts of the Hearing within 45 days of the later of the dates of the receipt of the sound recordings and transcripts – unless otherwise agreed between the Parties. The Tribunal shall decide upon any disagreement between the Parties. The agreed corrections and those decided on by the Tribunal will be communicated to the Court Reporter to be entered in the transcripts (“**Revised Transcripts**”). The Court Reporter will circulate the Revised Transcripts to the Tribunal, the Secretary of the Tribunal and the Parties.

**J. INTERPRETATION**

67. The ICSID Secretariat has made arrangements for German-English interpretation for the examination of those witnesses and experts who submitted their original statements in German.

68. The Parties have indicated that the following witnesses and experts will require interpretation when providing evidence, which includes possible interpretation support for witnesses/experts who, even though their original statement was made in German, may be able to testify mostly in English provided they can switch to German if needed:

○ *Fact Witnesses:*

Claimants

- [REDACTED]
- [REDACTED]

Respondent

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

○ *Expert Witnesses:*

Claimants

- [REDACTED]

Respondent

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**K. PUBLIC ACCESS AND DATA PROTECTION**

**1. Public Access**

69. In accordance with Section 20.6 of Procedural Order No. 1, on 21 July 2023, the Tribunal consulted with the Parties regarding the possibility to have a public hearing, inviting them to inform the Tribunal whether either Party objects to public access to the Hearing. For the

Respondent, it has always been and still is of the utmost importance that the Hearing be conducted in public. Respondent thus requested the Hearing to be open to the public. The Claimants did not agree to a public Hearing.

70. As mentioned in the Tribunal's letter to the Parties dated 4 August 2023, having considered the Parties' positions as again set out in their respective communications of 26 and 28 July 2023, the Tribunal noted that under ICSID Arbitration Rules 32(2), it may open the Hearing to third parties only with the agreement of both Parties. Pursuant to ICSID Arbitration Rule 32(2), no other persons besides those listed in this provision, *i.e.* the parties, their agents, counsel and advocates, witnesses and experts during their testimony, and officers of the Tribunal, may attend or observe all or part of the Hearing. In the absence of such agreement, no persons except those listed in ICSID Arbitration Rule 32(2) may attend the Hearing.

## **2. Data Privacy**

71. The list of participants for the Hearing will contain personal data provided to ICSID in the context of the Hearing, including names and contact information, such as business email addresses and telephone numbers. This data is processed for the purpose of the legitimate interests of the Parties in resolving efficiently their dispute and, in particular, to ensure that procedural documents and Hearing arrangements are properly communicated to the Parties, their legal representatives, the Members of the Tribunal and other participants providing services for the Hearing.

## **L. POST-HEARING BRIEFS AND SUBMISSIONS ON COSTS**

72. In accordance with Section 22.1 of Procedural Order No. 1, the Parties and the Tribunal shall discuss whether Post-Hearing Briefs are desirable and, if so, their modalities at the conclusion of the Hearing.
73. The Parties and Tribunal shall also discuss the modalities of the Submissions on Costs and establish a schedule for their submission.



**M. IN-PERSON SANITARY ARRANGEMENTS**

74. All in-person participants of the Hearing shall abide by any health and sanitary requirements applicable at the Hearing Venue, if any.
75. Any participant experiencing COVID-19 symptoms shall refrain from attending the Hearing until they have obtained a negative rapid antigen test and shall immediately inform the Tribunal and ICSID Secretariat.
76. The Tribunal may restrict the number of individuals allowed in the Hearing room, after consulting the Parties.

On behalf of the Tribunal,

[signed]

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Ms. Wendy Miles  
President of the Tribunal  
Date: 22 August 2023

**ANNEX A**

**HEARING SCHEDULE**

| <b>WEEK 1</b><br><b>18 – 22 SEPTEMBER 2023</b>               |                     |  |
|--|---------------------|--|
| <b>Monday</b><br><b>18 September</b><br><b>9:00 – 17:15</b>  | 9:00 – 9:30 (30m)   | Housekeeping                               |
|  | 9:30 – 11:00 (90m)  | Claimants’ Opening Statement               |
|  | 11:00 – 11:15 (15m) | Coffee/tea break                           |
|  | 11:15 – 12:45 (90m) | Respondent’s Opening Statement             |
|  | 12:45 – 13:00 (15m) | Coffee/tea break                           |
|  | 13:00 – 13:30 (30m) | Questions to the Parties from the Tribunal |
|  | 13:30 – 14:30 (1h)  | Lunch break                                |
|  | 14:30 – 14:35 (5m)  | Direct examination of CW, ██████████       |
|  | 14:35 – 16:00 (85m) | Cross-examination of CW, ██████████        |
|  | 16:00 – 16:15 (15m) | Coffee/tea break                           |
|  | 16:15 – 17:15 (60m) | Cross-examination of CW, ██████████        |
|  |                     |  |
| <b>Tuesday</b><br><b>19 September</b><br><b>9:00 – 17:15</b> | 9:00 – 9:15 (15m)   | Housekeeping                               |
|  | 9:15 – 10:00 (45m)  | Cross-examination of CW, ██████████        |
|  | 10:00 – 10:15 (15m) | Redirect examination of CW, ██████████     |
|  | 10:15 – 10:30 (15m) | Questions to CW, ██████████ ██████████     |
|  | 10:30 – 10:45 (15m) | Coffee/tea break                           |
|  | 10:45 – 10:50 (5m)  | Direct examination of CW, ██████████       |
|  | 10:50 – 12:15 (85m) | Cross-examination of CW, ██████████        |
|  | 12:15 – 13:15 (60m) | Lunch break                                |
|  | 13:15 – 14:45 (90m) | Cross-examination of CW, ██████████        |
|  | 14:45 – 15:00 (15m) | Coffee/tea break                           |
|  | 15:00 – 16:30 (90m) | Cross-examination of CW, ██████████        |

*Mainstream Renewable Power Ltd and others v. Federal Republic of Germany*  
(ICSID Case No. ARB/21/26)

Procedural Order No. 9 – Annex A

|  |                     |   |
|--|---------------------|---|
|  | 16:30 – 16:45 (15m) | Coffee/tea break                        |
|  | 16:45 – 17:00 (15m) | Redirect examination of CW, [REDACTED]  |
|  | 17:00 – 17:15 (15m) | Questions to CW, [REDACTED] [REDACTED]  |
|  |                     |   |
| <b>Wednesday<br/>20 September<br/>9:00 – 17:15</b> | 9:00 – 9:15 (15m)   | Housekeeping                            |
|  | 9:15 – 9:20 (5m)    | Direct examination of RW, [REDACTED]    |
|  | 9:20 – 10:30 (70m)  | Cross-examination of RW, [REDACTED]     |
|  | 10:30 – 10:45 (15m) | Coffee/tea break                        |
|  | 10:45 – 12:05 (80m) | Cross-examination of RW, [REDACTED]     |
|  | 12:05 – 12:20 (15m) | Redirect examination of RW, [REDACTED]  |
|  | 12:20 – 13:20 (60m) | Lunch break                             |
|  | 13:20 – 13:35 (15m) | Questions to RW, [REDACTED] [REDACTED]  |
|  | 13:35 – 13:40 (5m)  | Direct examination of RW, [REDACTED]    |
|  | 13:40 – 14:50 (70m) | Cross-examination of RW, [REDACTED]     |
|  | 14:50 – 15:05 (15m) | Coffee/tea Break                        |
|  | 15:05 – 16:35 (90m) | Cross-examination of RW, [REDACTED]     |
|  | 16:35 – 16:50 (15m) | Coffee/tea break                        |
|  | 16:50 – 17:05 (15m) | Re-direct examination of RW, [REDACTED] |
|  | 17:05 – 17:15 (10m) | Questions to RW, [REDACTED] [REDACTED]  |
|  |                     |   |
| <b>Thursday<br/>21 September<br/>9:00 – 17:15</b>  | 9:00 – 9:15 (15m)   | Housekeeping                            |
|  | 9:15 – 9:20 (5m)    | Direct examination of RW, [REDACTED]    |
|  | 9:20 – 10:30 (70m)  | Cross-examination of RW, [REDACTED]     |
|  | 10:30 – 10:45 (15m) | Coffee/tea break                        |
|  | 10:45 – 11:45 (60m) | Cross-examination of RW, [REDACTED]     |
|  | 11:30 – 11:45 (15m) | Redirect examination of RW, [REDACTED]  |
|  | 11:45 – 12:00 (15m) | Questions to RW, [REDACTED] [REDACTED]  |

|   |                     |  |
|---|---------------------|--|
|   | 12:00 – 13:00 (60m) | Lunch break                                    |
|   | 13:00 – 13:05 (5m)  | Direct examination of RW, [REDACTED]           |
|   | 13:05 – 14:30 (85m) | Cross-examination of RW, [REDACTED]            |
|   | 14:30 – 14:45 (15m) | Coffee/tea break                               |
|   | 14:45 – 15:30 (45m) | Cross-examination of RW, [REDACTED]            |
|   | 15:30 – 15:45 (15m) | Redirect examination of RW, [REDACTED]         |
|   | 15:45 – 16:00 (15m) | Questions to RW, [REDACTED] [REDACTED]         |
|   | 16:00 – 16:15 (15m) | Coffee/tea break                               |
|   | 16:15 – 16:20 (5m)  | Direct examination of RW, [REDACTED]           |
|   | 16:20 – 16:50 (30m) | Cross-examination of RW, [REDACTED]            |
|   | 16:50 – 17:05 (15m) | Redirect examination of RW, [REDACTED]         |
|   | 17:05 – 17:15 (15m) | Questions to RW, [REDACTED] [REDACTED]         |
|   |                     |  |
| <b>Friday<br/>22 September<br/>9:00 – 17:15</b> | 9:00 – 9:15 (15m)   | Housekeeping                                   |
|   | 9:15 – 9:45 (30m)   | Direct presentation by CE (Legal), [REDACTED]  |
|   | 9:45 – 10:30 (45m)  | Cross-examination of CE (Legal), [REDACTED]    |
|   | 10:30 – 10:45 (15m) | Coffee/tea break                               |
|   | 10:45 – 12:20 (90m) | Cross-examination of CE (Legal), [REDACTED]    |
|   | 12:20 – 13:20 (60m) | Lunch break                                    |
|   | 13:20 – 13:35 (15m) | Redirect examination of CE (Legal), [REDACTED] |
|   | 13:35 – 13:50 (15m) | Questions to CE (Legal), [REDACTED] [REDACTED] |
|   | 13:50 – 14:20 (30m) | Direct presentation by RE (Legal), [REDACTED]  |
|   | 14:20 – 14:50 (30m) | Cross-examination of RE (Legal), [REDACTED]    |
|   | 14:50 – 15:05 (15m) | Coffee/tea break                               |

|   |  |   |
|---|--|---|
|   | 15:05 – 16:15 (70m)                    | Cross-examination of RE (Legal), [REDACTED]       |
|   | 16:15 – 16:30 (15m)                    | Redirect examination of RE (Legal), [REDACTED]    |
|   | 16:30 – 16:45 (15m)                    | Questions to RE (Legal), [REDACTED]               |
|   | 16:45 – 17:00 (15m)                    | Coffee/tea break                                  |
|   | 17:00 – 17:15 (15m)                    | Housekeeping to discuss Closing Statements        |
| <b>WEEK 2</b><br><b>25 – 29 SEPTEMBER 2023</b>              |  |   |
| <b>Monday</b><br><b>25 September</b><br><b>9:00 – 17:15</b> | 9:00 – 9:15 (15m)                      | Housekeeping                                      |
|   | 9:15 – 9:45 (30m)                      | Direct presentation by CE (Industry), [REDACTED]  |
|   | 9:45 – 10:30 (45m)                     | Cross-examination of CE (Industry), [REDACTED]    |
|   | 10:30 – 10:45 (15m)                    | Coffee/tea break                                  |
|   | 10:45 – 12:30 (90m)                    | Cross-examination of CE (Industry), [REDACTED]    |
|   | 12:30 – 13:00 (60m)                    | Lunch break                                       |
|   | 13:00 – 13:15 (15m)                    | Redirect examination of CE (Industry), [REDACTED] |
|   | 13:15 – 13:30 (15m)                    | Questions to CE (Industry), [REDACTED]            |
|   | 13:30 – 14:00 (30m)                    | Direct presentation of RE (Industry), [REDACTED]  |
|   | 14:00 – 14:30 (30m)                    | Cross-examination of RE (Industry), [REDACTED]    |
|   | 14:30 – 14:45 (15m)                    | Coffee/tea break                                  |
|   | 14:45 – 16:15 (90m)                    | Cross-examination of RE (Industry), [REDACTED]    |
|   | 16:15 – 16:30 (15m)                    | Coffee/tea break                                  |
|   | 16:30 – 16:45 (15m)                    | Redirect examination of RE (Industry), [REDACTED] |
| 16:45 – 17:15 (30m)   | Questions to RE (Industry), [REDACTED] |   |

| <b>Tuesday<br/>26 September<br/>9:00 – 17:15</b>   | 9:00 – 9:15 (15m)   | Housekeeping   |
|--|---------------------|--|
|  | 9:15 – 10:25 (70m)  | Direct presentation of CE (Quantum/Regulatory),<br>[REDACTED]  |
|  | 10:25 – 10:40 (15m) | Coffee/tea break   |
|  | 10:40 – 12:00 (95m) | Cross-examination of CE (Quantum/Regulatory),<br>[REDACTED]    |
|  | 12:00 – 13:00 (60m) | Lunch break  |
|  | 13:15 – 14:45 (90m) | Cross-examination of CE (Quantum/Regulatory),<br>[REDACTED]    |
|  | 14:45 – 15:00 (15m) | Coffee/tea break   |
|  | 15:00 – 16:30 (90m) | Cross-examination of CE (Quantum/Regulatory),<br>[REDACTED]    |
|  | 16:30 – 16:45 (15m) | Coffee/tea break   |
|  | 16:45 – 17:00 (15m) | Cross-examination of CE (Quantum/Regulatory),<br>[REDACTED]    |
|  | 17:00 – 17:15 (15m) | Redirect examination of CE (Quantum/Regulatory),<br>[REDACTED] |
|  |                     |  |
| <b>Wednesday<br/>27 September<br/>9:00 – 17:20</b> | 9:00 – 9:15 (15m)   | Housekeeping   |
|  | 9:15 – 9:45 (30m)   | Direct presentation by RE (Regulatory),<br>[REDACTED]          |
|  | 9:45 – 10:30 (45m)  | Cross-examination of RE (Regulatory)<br>[REDACTED]             |
|  | 10:30 – 10:45 (15m) | Coffee/tea break   |
|  | 10:45 – 11:45 (60m) | Cross-examination of RE (Regulatory)<br>[REDACTED]             |
|  | 11:45 – 12:00 (15m) | Redirect examination of RE (Regulatory)<br>[REDACTED]          |
|  | 12:00 – 13:00 (1h)  | Lunch break  |
|  | 13:00 – 13:40 (40m) | Direct presentation of of RE (Quantum),<br>[REDACTED]          |
|  | 13:40 – 14:30 (50m) | Cross-examination of of RE (Quantum),<br>[REDACTED]            |
|  | 14:30 – 14:45 (15m) | Coffee/tea break   |
|  | 14:45 – 16:15 (90m) | Cross-examination of RE (Quantum),<br>[REDACTED]               |

*Mainstream Renewable Power Ltd and others v. Federal Republic of Germany*  
(ICSID Case No. ARB/21/26)

Procedural Order No. 9 – Annex A

|   |                     |   |
|---|---------------------|---|
|   | 16:15 – 16:30 (15m) | Coffee/tea break                                      |
|   | 16:30 – 17:05 (25m) | Cross-examination of RE (Quantum),<br>[REDACTED]      |
|   | 17:05 – 17:20 (15m) | Redirect examination of RE (Quantum),<br>[REDACTED]   |
|   |                     |   |
| <b>Thursday<br/>28 September<br/>9:00 – 17:15</b> | 9:00 – 9:15 (15m)   | Housekeeping  |
|   | 9:15 – 10:30 (75m)  | Time in reserve for expert conferencing (if required) |
|   | 10:30 – 10:45 (15m) | Coffee/tea break                                      |
|   | 10:45 – 12:15 (90m) | Time in reserve for expert conferencing (if required) |
|   | 12:15 – 13:15 (1h)  | Lunch break   |
|   | 13:15 – 14:45 (90m) | Claimants’ closing submission (if required)           |
|   | 14:45 – 15:00 (15m) | Coffee/tea break                                      |
|   | 15:00 – 16:30 (90m) | Respondent’s closing submission (if required)         |
|   | 16:30 – 16:45 (15m) | Coffee/tea break                                      |
|   |                     | 16:45 – 17:15 (30m)                                   |
|   |                     |   |
| <b>Friday<br/>29 September<br/>9:00 – 17:15</b>   | DAY IN RESERVE      |   |