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1981 No. 1841

**TRIBUNALS AND INQUIRIES**

**The Electricity Generating Stations and  
Overhead Lines (Inquiries Procedure) Rules 1981**

*Made* - - - - - 21st December 1981  
*Laid before Parliament*      6th January 1982  
*Coming into Operation*      1st February 1982

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The Lord Chancellor, in exercise of the powers conferred on him by section 11 of the Tribunals and Inquiries Act 1971(a) and after consultation with the Council on Tribunals hereby makes the following Rules:—

*Citation and Commencement*

1.—(1) These Rules may be cited as the Electricity Generating Stations and Overhead Lines (Inquiries Procedure) Rules 1981.

(2) These Rules shall come into operation on 1st February 1982 but shall not apply to any inquiry which has commenced before that date.

*Application of Rules*

2. These Rules apply to public inquiries caused by the Secretary of State to be held under section 34 of the Electricity Act 1957(b) in connection with—  
(a) applications under section 2 of the Electric Lighting Act 1909 (c) for consent to construct or extend a generating station on any land,

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(a) 1971 c. 62.

(b) 1957 c. 48; section 34 was amended by the Town and Country Planning Act 1971 (c. 78), Schedule 3, paragraph 8(a)(1); S.I. 1969/1498 and 1970/1537.

(c) 1909 c. 34; section 2 was amended and extended by the Electricity Act 1947 (c. 54), section 57(1) and Schedule 4, Part I, extended by the Electricity Act 1957, Schedule 4, Part II and amended by the Electricity Act 1957, section 34(1) and (2); S.R. & O. 1942/1132; S.I. 1957/48, 2227, 1969/1498 and 1970/1537.

(b) applications under section 10(b) of the Schedule to the Electric Lighting (Clauses) Act 1899(a) for consent to place any electric line other than a service line above ground except within premises in the sole occupation or control of the applicant.

### *Interpretation*

3. In these Rules, unless the context otherwise requires—

“applicant” means the Central Electricity Generating Board or, as the case may be, any Area Board established by section 1 of the Electricity Act 1947(b);

“appointed person” means the person appointed by the Secretary of State to hold the inquiry;

“county planning authority” and “district planning authority” have the meanings assigned to them by section 1 of the Town and Country Planning Act 1971(c);

“electric line” has the same meaning as in section 32 of the Electric Lighting Act 1882(d);

“generating station” has the same meaning as in section 36 of the Electricity Supply Act 1919(e);

“inquiry” means any inquiry to which these Rules apply;

“the land” means the land (including trees and buildings) to which the inquiry relates;

“local authority” has the meaning assigned to it by section 290(1) of the Town and Country Planning Act 1971(f);

“local planning authority” means—

(a) where the land is not in Greater London, the county planning authority or district planning authority, as the case may be, or

(b) where the land is in Greater London, the Greater London Council, or

(c) any local authority or committee (including a National Park Committee) exercising the functions of the said planning authority in relation to the application by virtue of any arrangement made under section 101 of the Local Government Act 1972(g);

“National Park Committee” has the meaning assigned to it by paragraph 5 of Schedule 17 to the Local Government Act 1972;

“section 34 parties” means persons who have objected to the application in accordance with the provisions of section 2 of the Electric Lighting

(a) 1899 c. 19; section 10(b) was amended by the Electricity Act 1947, section 57(1) and Schedule 4, Part III, the Electricity Act 1957, section 31 and Schedule 5, Part I; S.I. 1957/48, 1969/1498 and 1970/1537.

(b) 1947 c. 54; section 1 was amended by the Electricity Act 1957, sections 2 and 3, Schedule 4, Part I and Schedule 5, Part I.

(c) 1971 c. 78; section 1 was amended by the Local Government Act 1972 (c. 70) section 182 and Schedule 16, paragraph 43.

(d) 1882 c. 56.

(e) 1919 c. 100.

(f) 1971 c. 78; section 290(1) was amended by the Local Government Act 1972, Schedule 30.

(g) 1972 c. 70; section 101 was extended by the Local Government Act 1974 (c. 7), section 25(4).

Act 1909, section 21 of the Electricity (Supply) Act 1919(a) or section 34(2) of the Electricity Act 1957 and the Electricity (Publication of Applications) Regulations 1957(b) and whose objections have not been withdrawn.

*Notification of inquiry*

4.—(1) A date, time and place for the holding of the inquiry shall be fixed and may be varied by the Secretary of State, who shall give not less than 42 days' notice in writing of the date, time and place to the applicant, to the local planning authority and to all section 34 parties at the addresses furnished by them ;

Provided that—

- (i) with the consent in writing of the applicant and of the local planning authority the Secretary of State may give such lesser period of notice as may be agreed with them and in that event he may specify a date for service of the statements referred to in paragraphs (1) and (2) of rule 5 later than the date prescribed in that paragraph ;
- (ii) where it becomes necessary or advisable to vary the time or place fixed for the inquiry, the Secretary of State shall give such notice of the variation as may appear to him to be reasonable in the circumstances ;
- (iii) where an objection has been received by the Secretary of State in accordance with the provisions of section 2 of the Electric Lighting Act 1909, section 21 of the Electricity (Supply) Act 1919 or section 34(2) of the Electricity Act 1957 and the Electricity (Publication of Applications) Regulations 1957 later than 42, but not less than 14 days before the date for the holding of the inquiry, he shall give not less than 7 days notice to that section 34 party.

(2) Where the land is under the control of the applicant it shall, not later than 42 days before the date of the inquiry, if so required by the Secretary of State, affix firmly to some object on the land, in such manner as to be readily visible to and legible by the public, such notice of the inquiry as the Secretary of State may specify ; and thereafter for such period before the inquiry as the Secretary of State may specify, the applicant shall not remove the notice or cause or permit it to be removed.

*Statements to be served before inquiry*

5.—(1) In relation to applications under section 2 of the Electric Lighting Act 1909, the Secretary of State shall, not later than 42 days before the date of the inquiry (or such later date as he may specify under proviso (i) to paragraph (1) of rule 4), serve or cause to be served on the applicant, on the local planning authority and on the section 34 parties, a written statement of any points which seem to him to be likely to be relevant to his consideration of the application ; and where a government department has expressed in writing to the Secretary of State the view that the application should not be granted either wholly or in part, or should be granted only subject to conditions, the Secretary of State shall include this expression of view in his statement and shall supply a copy of the statement to the government department concerned.

(a) 1919 c. 100; section 21 was amended by the Electricity (Supply) Act 1926 (c. 51), Schedule 6, the Electricity Act 1947, Schedule 4, Part I, the Town and Country Planning Act 1971, Schedule 24, paragraph 2; S.R. & O. 1942/1132; S.I. 1957/48, 1969/1498, 1970/211 and 1537; and extended by the Public Utilities Street Works Act 1950 (c. 30), section 17(5).

(b) S.I. 1957/2227.

(2) The applicant shall, unless it has already done so, serve on the local planning authority, on the section 34 parties and on the Secretary of State as soon as may be required by the Secretary of State and in any event not later than 28 days before the date of the inquiry, a written statement of the submissions which it proposes to put forward at the inquiry; and such a statement shall be accompanied by a list of any documents (including maps and plans) which the applicant intends to refer to or put in evidence at the inquiry and it shall afford the local planning authority and the section 34 parties a reasonable opportunity to inspect and, where practicable, take copies of such documents.

Provided that—

where, having regard to the number of section 34 parties and the length of the applicant's statement, the Secretary of State considers it expedient he may, at the request of the applicant, authorise it, instead of serving a copy of the statement on all section 34 parties, to give notice to all section 34 parties stating the times and places at which the statement may be inspected by all section 34 parties; and the applicant shall afford them a reasonable opportunity to inspect and, where practicable, to take copies of the statement and accompanying documents.

(3) The applicant shall make a representative available at the inquiry to give evidence in elucidation of the statement referred to in paragraph (2) of this rule.

(4) The local planning authority shall serve on the applicant, on the section 34 parties and on the Secretary of State, within such time before the inquiry as the Secretary of State may specify and in any event not later than 28 days before the date of the inquiry, a written statement of any submissions which it proposes to put forward at the inquiry; and such a statement shall be accompanied by a list of any documents (including maps and plans) which it intends to refer to or put in evidence at the inquiry and it shall, if so required by the Secretary of State, afford the applicant and the section 34 parties a reasonable opportunity to inspect and, where practicable, take copies of such documents.

Provided that—

where, having regard to the number of section 34 parties and the length of the local planning authority's statement, the Secretary of State considers it expedient he may, at the request of the local planning authority, authorise it, instead of serving a copy of the statement on all section 34 parties, to give notice to all section 34 parties, stating the times and places at which the statement may be inspected by all section 34 parties; and the local planning authority shall afford them a reasonable opportunity to inspect and, where practicable, take copies of the statement and accompanying documents.

(5) The local planning authority shall make a representative available at the inquiry to give evidence in elucidation of any statement referred to in paragraph (4) of this rule.

#### *Appearances at the inquiry*

6.—(1) The persons entitled to appear at the inquiry shall be—

- (a) the applicant;
- (b) the local planning authority;
- (c) where the land is not in Greater London, the council of the county in which the land is situated, if it is not the local planning authority;

- (d) where the land is not in Greater London, the council of the district in which the land is situated (or the Council of the Isles of Scilly, as the case may be), if it is not the local planning authority ;
  - (e) where the land is in Greater London, the Common Council of the City of London or the council of the London borough in which the land is situated, as the case may be ;
  - (f) where the land is in a National Park, the National Park Committee (if any), if it is not the local planning authority ;
  - (g) any joint planning board constituted under section 1 of the Town and Country Planning Act 1971 (or any joint planning board or special planning board re-constituted under Part I of Schedule 17 to the Local Government Act 1972), where that Board is not the local planning authority ;
  - (h) where the land is in an area designated as the site of a new town, the development corporation of the new town ;
  - (i) section 34 parties ;
  - (j) in relation to applications under section 2 of the Electric Lighting Act 1909, owners and lessees of land situate within three hundred yards of the land.
- (2) Any other person may appear at the inquiry at the discretion of the appointed person.
- (3) The applicant and any local authority may appear by their clerk or by any other officer appointed for the purpose by the applicant or local authority or by counsel or solicitor ; and any other person may appear on his own behalf or be represented by counsel, solicitor or any other person.
- (4) Where there are two or more persons having a similar interest in the matter under inquiry, the appointed person may allow one or more persons to appear for the benefit of some or all persons so interested.

*Representatives of government departments at inquiry*

7.—(1) Where a government department has expressed in writing to the Secretary of State the view that the application should not be granted either wholly or in part, or should be granted only subject to conditions and the Secretary of State has set out such view in the statement referred to in rule 5(1), a representative of the government department concerned shall be made available to attend the inquiry.

(2) Such representative shall at the inquiry state the reasons for the view expressed by his department and shall give evidence and be subjected to cross-examination to the same extent as other witnesses, save that nothing in this rule shall require such a representative of a government department to answer any questions which in the opinion of the appointed person is directed to the merits of government policy and the appointed person shall disallow any such questions.

*Procedure at inquiry*

8.—(1) Except as otherwise provided in these Rules, the procedure at the inquiry shall be such as the appointed person shall in his discretion determine.

(2) Unless in any particular case the appointed person with the consent of the applicant otherwise determines, the applicant shall begin and shall have the right of final reply ; and the other persons entitled or permitted to appear shall be heard in such order as the appointed person may determine.

(3) The applicant and the local planning authority shall be entitled to call evidence and cross-examine persons giving evidence, but any other persons appearing at the inquiry may do so only to the extent permitted by the appointed person.

(4) The appointed person shall not require or permit the giving or production of any evidence, whether written or oral, which would be contrary to the public interest ; but, save as aforesaid and without prejudice to the provisions of rule 7(2), any evidence may be admitted at the discretion of the appointed person who may direct that documents tendered in evidence may be inspected by any person entitled or permitted to appear at the inquiry and that facilities be afforded him to take or obtain copies thereof.

(5) The appointed person may allow the applicant or the local planning authority to alter or add to the submissions contained in the statement served under paragraph (2) or (4) of rule 5, or any list of documents which accompanies such statement, so far as may be necessary for the purpose of determining the questions in issue between the parties, but shall (if necessary by adjourning the inquiry) give the applicant or the local planning authority, as the case may be, and the section 34 parties who appear at the inquiry, an adequate opportunity to consider any such alterations and additions ; and the appointed person may make in his report a recommendation as to the payment of any additional costs occasioned by any such adjournment.

(6) If any person entitled to appear at the inquiry fails to do so, the appointed person may proceed with the inquiry at his discretion.

(7) The appointed person shall be entitled (subject to disclosure thereof at the inquiry) to take into account any written representations or statements received by him before or during the inquiry from any person.

(8) The appointed person may from time to time adjourn the inquiry and, if the date, time and place of the adjourned inquiry are announced before the adjournment, no further notice shall be required.

#### *Site Inspections*

9.—(1) The appointed person may make an unaccompanied inspection of the land before or during the inquiry without giving notice of his intention to any person entitled to appear at the inquiry.

(2) The appointed person may, and shall if so required by the applicant or the local planning authority before or during the inquiry, inspect the land after the close of the inquiry and shall, in all cases where he intends to make such an inspection, announce during the inquiry the date and the time at which he proposes to do so.

(3) The applicant, the local planning authority and the section 34 parties who appeared at the inquiry shall be entitled to accompany the appointed person on any inspection of the land after the close of the inquiry ; but the appointed person shall not be bound to defer his inspection if any person entitled to accompany him is not present at the time appointed.

*Procedure after inquiry*

**10.**—(1) The appointed person shall after the close of the inquiry make a report in writing to the Secretary of State, which shall include the appointed persons's findings of fact, his conclusions and his recommendations, if any, or his reasons for not making any recommendations.

(2) Where the Secretary of State—

(a) differs from the appointed person on a finding of fact, or

(b) after the close of the inquiry takes into consideration any new evidence (including expert opinion on a matter of fact) or any new issue of fact (not being a matter of government policy) which was not raised at the inquiry.

and by reason thereof is disposed to disagree with a recommendation made by the appointed person, he shall not come to a decision which is at variance with any such recommendation without first notifying the applicant, the local planning authority and any section 34 parties who appeared at the inquiry of his disagreement and the reasons for it and affording them an opportunity of making representations in writing within 21 days or (if the Secretary of State has taken into consideration any new evidence or any new issue of fact, not being a matter of government policy) of asking within 21 days for the re-opening of the inquiry.

(3) The Secretary of State may in any case if he thinks fit cause the inquiry to be re-opened and shall cause it to be re-opened if asked to do so in accordance with the last foregoing paragraph; and, if the inquiry is re-opened, paragraphs (1) and (2) of rule 4 shall apply as they applied to the original inquiry with the substitution in paragraph (1) of "28" for "42".

*Notification of Decision*

**11.**—(1) The Secretary of State shall notify his decision, and his reasons therefor, in writing to the applicant, the local planning authority and the section 34 parties and to any person who, having appeared at the inquiry, has asked to be notified of the decision.

(2) Where a copy of the appointed person's report is not sent with the notification of the decision, the notification shall be accompanied by a summary of the appointed person's conclusions and recommendations; and if any person entitled to be notified of the Secretary of State's decision under the last foregoing paragraph has not received a copy of the appointed person's report, he shall be supplied with a copy thereof on written application made to the Secretary of State within one month from the date of the notification to him of the decision.

(3) For the purposes of this rule "report" does not include documents, photographs or plans appended to the report but any person entitled to be supplied with a copy of the report under paragraph (2) of this rule may apply to the Secretary of State in writing within six weeks of the notification to him of the decision or the supply to him of the report, whichever is the later, for an opportunity of inspecting such documents, photographs and plans and the Secretary of State shall afford him an opportunity accordingly.

*Service of notices by post*

**12.** Notices or documents required or authorised to be served or sent under the provisions of any of these Rules may be sent by post.

Dated 21st December 1981.

*Hailsham of St. Marylebone, C.*

## EXPLANATORY NOTE

*(This Note is not part of the Rules.)*

These Rules prescribe the procedure to be followed at public inquiries held under section 34 of the Electricity Act 1957 in connection with—

- (i) applications by the Central Electricity Generating Board or any Area Electricity Boards in England and Wales under section 2 of the Electric Lighting Act 1909 for consent to construct or extend a generating station on any land, and
- (ii) applications by the Central Electricity Generating Board or any Area Electricity Board in England and Wales under section 10(b) of the Schedule to the Electric Lighting (Clauses) Act 1899 for consent to place an overhead electric line, other than a service line to a consumer or a line within premises in the sole occupation or control of an Electricity Board.

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