3. ARBITRATION TRIBUNAL RULES

The Electricity Arbitration Tribunal Rules, 1948

1948 No. 2476

Made - - - - 11th November, 1948
Coming into Operation 22nd November, 1948

ARRANGEMENT OF RULES

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Whereas we, the undersigned, Sir William James Fitzgerald, Edgar Charles Ellen and Sir Frederick John Alban, are the three persons appointed by the Lord Chancellor in exercise of the power conferred on him by the Electricity Act, 1947, to be members of the Electricity Arbitration Tribunal;

10 & 11 Geo. 6. c. 54.

And Whereas by section 32 (5) of the said Act it is provided that, subject to the provisions of that section, the procedure in or in connection with any proceedings before the Tribunal shall be such as may be determined by rules to be made by the Tribunal with the approval of the Lord Chancellor;

Now, therefore, we, with the approval thereof of the Lord Chancellor, do hereby make the following Rules:—

PART I

Introductory

1. These Rules may be cited as the Electricity Arbitration Tribunal Rules, 1948, and shall come into operation on the twenty-second day of November, nineteen hundred and forty-eight.

2.—(1) In these Rules the following expressions shall (if not inconsistent with the context or subject matter) have the respective meanings hereinafter assigned to them, that is to say:—

" the Act " shall mean the Electricity Act, 1947;

" the Tribunal " shall mean the Electricity Arbitration Tribunal established under section 31 of the Act;

" the Clerk " shall mean the person for the time being performing the functions of clerk to the Tribunal;

" the Office " shall mean the office of the Tribunal at the Royal Courts of Justice, Strand, London, W.C.2;

" the Minister " shall mean the Minister of Fuel and Power.

52 & 53 Vict. c. 63.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

3. These Rules shall not apply to proceedings which under section 31 (5) of the Act are required to be held in Scotland.

PART II

Proceedings before the Tribunal

4.—(1) All proceedings before the Tribunal for the determination of any question or dispute shall be commenced by filing at the Office an originating application in writing to the Tribunal signed by the applicant or by the solicitors or (in the case of a company or corporation) the secretary or other proper officer of the applicant on behalf of the applicant.

(2) Every such application shall name as a respondent every party to the question or dispute, or other person appearing to be directly interested in the subject of the application, and shall also contain a certificate that the application does not relate to proceedings which under section 31 (5) of the Act are required to be held in Scotland.

(3) Every applicant shall state in his originating application an address at which any notice, order, or other document in the proceedings may be served upon him.

5. An originating application shall be in the form of Form No. 1 in the Appendix to these Rules or as near thereto as circumstances will admit.

6.—(1) The applicant shall at the time of filing such originating application leave at the Office five additional copies thereof, and shall as soon as may be thereafter serve upon each respondent named therein a copy of the originating application having endorsed thereon a notice in the following terms:—

" To the respondent (*naming the respondent served*).

You will in due course be served with a statement setting out the facts alleged by and contentions of the applicant, and you are requested not to take any step in these proceedings until after service of such statement upon you."

(2) Every such endorsement shall be sealed with the seal of the Tribunal.

(3) One copy of the originating application shall forthwith be served by the Clerk upon the Minister, except in a case where the Minister is a respondent.

7.—(1) The Tribunal may at any time upon the application of any person, whether an applicant or respondent or not, or of its own motion, direct that any person appearing to the Tribunal to be directly interested in the subject of the application be added as a respondent, and thereupon the applicant shall forthwith serve upon such person a copy of the originating application having endorsed thereon a notice in the terms set out in the preceding Rule and sealed with the seal of the Tribunal.

(2) The Tribunal may likewise, upon any such application as aforesaid, or of its own motion, order that any respondent named in the originating application or subsequently added, who shall appear to the Tribunal not to have been or to have ceased to be directly interested in the subject matter of the application, be dismissed from the proceedings upon such terms as the Tribunal may think fit.

8.—(1) Within 14 days from the filing of an originating application the applicant shall serve upon each respondent a statement in writing, signed by or on behalf of the applicant, of the facts alleged by the applicant and of such other matters as may appear to the applicant to be relevant to the application and of the contentions of the applicant, and the applicant shall at the same time deliver at the Office six copies of such statement, whereof one copy shall forthwith be served by the Clerk upon the Minister, except in a case where the Minister is a respondent.

(2) Every such statement served upon a respondent shall have endorsed thereon a notice in the following terms:—

" To the respondent (*naming the respondent served*).

If you do not admit or wish to deny any of the facts alleged or do not agree with any of the contentions put forward in this statement, or if you wish to allege any additional or other facts or to put forward any other contentions, you should within 14 days after service of this statement upon you, or within such extended period as the Tribunal may allow, serve upon the applicant at the applicant's address for service an answer to this statement and also deliver to the Tribunal at its Office at the Royal Courts of Justice, Strand, London, W.C.2, six copies of your answer. Your answer should conform to the provisions of the Electricity Arbitration Tribunal Rules, 1948, and should state an address at which any further notices, orders or other documents in these proceedings may be served upon you."

(3) Every such endorsement shall be sealed with the seal of the Tribunal.

9.—(1) Every respondent may within 14 days after service upon him of the statement of the applicant so endorsed serve upon the applicant an answer to the statement of the applicant. Such answer shall be in writing signed by or on behalf of the respondent.

(2) In such answer the respondent shall state which (if any) of the facts alleged in the statement of the applicant are denied or are not admitted by the respondent, and such answer shall include a statement of any additional or other facts alleged by the respondent and of such other matters as may appear to the respondent to be relevant to the proceedings and of the contentions of the respondent.

(3) Any fact alleged in the statement of an applicant, and not expressly denied or not admitted in an answer served by a respondent, shall as against such respondent be taken to be admitted, but without prejudice to the power of the Tribunal to require proof thereof.

(4) The respondent shall at the time of serving such answer deliver at the Office six copies thereof, whereof one copy shall be served by the Clerk upon the Minister, except where the Minister is the respondent.

(5) Every respondent shall state in his answer an address at which any notice, order or other document in the proceedings may be served upon him.

PART III

General

10. The Clerk shall allot to every originating application to the Tribunal a distinctive serial number which shall be written in the top right hand corner of and also endorsed upon such statement or application, and every subsequent notice, statement, answer order or other document relating to the same proceedings shall likewise have the same distinctive serial number written in the top right hand corner thereof and also endorsed thereon, and shall also bear the same heading as such statement or originating application.

11. The Clerk shall make and keep a list or lists of all applications to the Tribunal with the distinctive numbers thereof and the dates thereof and such list or lists may be inspected at the Office upon application being made to the Clerk.

12.—(1) Every application, notice, statement, answer, order or other document relating to any matter shall be filed by the Clerk under the distinctive serial number thereof, and the file relating to any such matter may be inspected at the Office upon application being made to the Clerk by the Minister or by any person appearing to the Clerk to have an interest in the matter or by their respective agents thereto authorized. If any dispute or question arises as to whether any person ought to be permitted to inspect any such file, such dispute or question shall be determined by the Tribunal on the application of the person seeking such inspection.

(2) Every order or other document in a file recording a decision of the Tribunal, or a copy of such order or document purporting to be certified by the Clerk to be a true copy thereof, shall be evidence of the terms of that order or document.

13. Except by special leave of the Tribunal and subject to the provisions of these Rules, no further step in any proceedings before the Tribunal shall be taken until after the expiration of the time limited for service of an answer by every respondent or of such extension of such time as the Tribunal may allow.

14.—(1) Any party to any proceedings before the Tribunal may at any time, subject to the provisions of Rule 13 hereof, apply to the Tribunal for directions of an interlocutory nature, including directions for delivery of further and better particulars of any allegation, for leave to serve any reply or rejoinder or to amend any statement, answer, or other pleading, for discovery of documents and interrogatories, for the extension or abridgement of the time for taking any step in the proceedings, for fixing the day of the hearing, or for any other purpose.

(2) Any such application shall be heard and determined by the Clerk: provided always that the Clerk may, and shall at the request of any party to the application, made either at the hearing of the application or within such time (not being less than four days) as the Clerk may fix at the hearing of the application, adjourn the application to be heard and determined by the Tribunal or by a single member thereof.

(3) Any application so adjourned to be heard by a single member of the Tribunal may likewise, and shall at the request of any party to the application, made either at the hearing of the application or within such time (not being less than four days) as such member may fix at the hearing of the application, be adjourned to be heard and determined by the Tribunal.

(4) Any order made by the Clerk or a single member of the Tribunal under this Rule shall be deemed to be the order of the Tribunal.

15.—(1) The party making an application of an interlocutory nature shall obtain from the Clerk an appointment for the hearing thereof and shall give to every other party not less than seven days' notice of the appointment. Such notice shall be in the form of Form No. 2 in the Appendix to these Rules.

(2) Before making any such application, the party seeking the order shall, if it is reasonably possible so to do, endeavour to obtain the consent thereto of every other party. Where such consent is obtained, the application may be made by letter addressed to the Clerk and enclosing the consent in writing signed by or on behalf of the other parties, and the Tribunal may thereupon make the order and notify the parties thereof: provided that if the Tribunal desires to hear the parties the Clerk shall inform the parties in writing accordingly, and give not less than seven days' notice of an appointment for the hearing.

16. The Tribunal may of its own motion at any stage of any proceedings before it give any directions of an interlocutory nature after hearing the parties at a meeting of the Tribunal, whereof not less than seven days' notice in writing shall be given to the parties by the Clerk, or may communicate with the parties in writing and may require answers to such inquiries as the Tribunal may think fit to make.

17.—(1) Every notice or other document which in pursuance of these Rules is required to be given or served shall, unless otherwise directed by the Tribunal, be served:—

(*a*) in the case of the British Electricity Authority or an Area Board or of a local authority or corporate body or company, by delivering the same to their clerk or secretary, or leaving the same at his office with some person employed there, or by sending the same by post addressed to such clerk or secretary at his office; or

(*b*) in the case of the Minister, by leaving the same at or sending the same by post to the office of the Ministry of Fuel and Power at 7, Millbank, London, S.W.1; or

(*c*) in any other case by delivering the same personally to the person required to be served or to any agent of such person authorized to accept service thereof, or by leaving the same at the usual or last known place of abode of such person as aforesaid, or by sending the same by post addressed to the usual or last known place of abode of such person:

Provided always that where any party to any proceeding has specified an address for service under the provisions of these Rules, service of any such notice or document shall be made by leaving the same at or sending the same by post addressed to the address for service so specified.

(2) The filing (by any person other than the Clerk) or delivery of any document required by these Rules to be filed or delivered at the Office may be effected by leaving the same at the Office or by sending the same by post as a registered letter addressed to the Clerk at the Office.

(3) It shall not be necessary, unless the Tribunal otherwise directs, to serve upon the Minister, except in a case where he is a respondent, notice of any application for, or meeting held by the Tribunal for the purpose of giving, directions of an interlocutory nature, in any proceedings unless the Minister shall previously have filed at the Office, and shall not have withdrawn, notice of his desire to be heard in such proceedings.

18. If it shall appear to the Tribunal that any respondent or other person interested in the subject of any application cannot be found, or has died and has no personal representative, or is out of the United Kingdom, or that for any other reason service upon any respondent or other such person cannot readily be effected in accordance with the foregoing Rules, the Tribunal may dispense with service upon any such respondent or other person, or make an order for substituted service upon any other person, or appoint any other person to represent such respondent or person or his estate, or direct that an advertisement in such form and in such newspaper as the Tribunal shall think proper shall be deemed to be good service upon such respondent or other person.

19. Any party to any proceedings may at any time by notice in writing served upon the Tribunal and every other party to that proceeding change his address for service under the provisions of these Rules.

20. The sittings of the Tribunal for the hearing of all matters which are to be determined by the Tribunal shall be held at dates, times and places to be from time to time determined by the Tribunal and announced by them.

Not less than 48 hours before the hearing of any application the applicant, or in the case of an interlocutory application the party or person making such application, shall lodge with the Clerk at the Office such number of copies of any relevant documents as the Clerk shall reasonably require.

21. Upon the hearing of any application or other matter at any stage of any proceedings the Tribunal may determine the order in which the parties thereto shall be heard, and may allow any amendment of any notice, statement, answer or other document, and, subject to the provisions of the Act, may dispense with the observance of any of the provisions of these Rules, or extend or abridge the time for taking any step in the proceedings, on such terms as may seem just.

22. In any proceedings before the Tribunal any of the following persons may address the Tribunal, namely:—

(*a*) Any applicant, respondent, or other party to the proceedings, not being a company or corporate body;

(*b*) A barrister retained by or on behalf of any party;

(*c*) A solicitor acting generally in the proceedings for a party thereto, but not a solicitor retained as an advocate by a solicitor so acting;

(*d*) Any other person allowed by leave of the Tribunal to appear instead of any party:

Provided that in proceedings before the Clerk, a managing clerk in the employ of a solicitor acting generally in the proceedings for any party may appear and address the Clerk.

23. Evidence before the Tribunal may be given orally, or, if the parties to the proceedings consent or the Tribunal so orders, by affidavit, but the Tribunal may at any stage of the proceedings make an order requiring the personal attendance of any deponent for examination and cross-examination.

24. In dealing with the costs of any proceedings, or of any application in any proceedings, the Tribunal may:—

(*a*) take into account any failure or refusal on the part of any person to consent to any proposed interlocutory direction, and to admit any document or fact specified in any notice to admit documents or facts served upon that person;

(*b*) direct that such costs shall be taxed by the Clerk.

25.—(1) Non-compliance with any of these Rules shall not render any proceeding in any matter referred to the Tribunal void, unless the Tribunal shall so direct, but such proceeding may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with in such manner and upon such terms as the Tribunal shall think fit.

(2) The Tribunal may itself, or on application being made by any party for that purpose, dismiss any proceedings with costs for want of prosecution.

26. All orders of the Tribunal shall be sealed with the seal of the Tribunal.

27. Subject to the provisions of the Act and of these Rules, the Tribunal may regulate its own procedure.

Dated this eleventh day of November, 1948.

W. J. Fitzgerald,
Fredk. J. Alban,
E. C. Ellen.

Approved,
Jowitt. C.

APPENDIX

Form No. 1

THE ELECTRICITY ARBITRATION TRIBUNAL

No.....

IN THE MATTER OF THE ELECTRICITY ACT, 1947,
AND IN THE MATTER of a question
BETWEEN (*Name of applicant*) Applicant.

and

(*Name(s) of respondent(s)*) Respondent(s).

The above-named applicant of hereby applies to the Electricity Arbitration Tribunal pursuant to the provisions of the Electricity Act, 1947, for the determination of the following question(s) arising under section of the said Act:—

(*or as the case may require*).

The applicant hereby certifies that this application does not relate to proceedings which under section 31 (5) of the said Act are required to be held in Scotland.

It is intended to serve this application upon the above-named respondent(s) of who is (are) interested in the subject of this application and upon the Minister of Fuel and Power.

The address for service of the applicant is

Dated etc.

(Signed)

Form No. 2

(Heading as in originating application.)

Notice is hereby given to all parties concerned to attend before the Clerk of the Electricity Arbitration Tribunal at the Office of the Tribunal at the Royal Courts of Justice, Strand, London, W.C.2 (*or other place appointed for the hearing*), on the 19 , at o'clock in the noon on the hearing of an application on the part of for an order that

Dated etc.

(Signed)

To

EXPLANATORY NOTE

(*This Note is not part of these Rules, but is intended to indicate their general purport.*)

These Rules regulate the procedure in or in connection with any proceedings before the Arbitration Tribunal established under the Electricity Act, 1947, other than proceedings which are required to be held in Scotland.