STATUTORY INSTRUMENTS

1987 No. 2182

TRIBUNALS AND INQUIRIES

The Electricity Generating Stations and Overhead Lines (Inquiries Procedure) Rules 1987

Made - - -	*16th December 1987*
Laid before Parliament	*18th December 1987*
Coming into force	*14th January 1988*

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. These Rules may be cited as the Electricity Generating Stations and Overhead Lines (Inquiries Procedure) Rules 1987 and shall come into force on 14th January 1988.

Interpretation

2. 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);

"assessor" means a person appointed by the Secretary of State to sit with an inspector at an inquiry or reopened inquiry to advise the inspector on such matters as the Secretary of State may specify;

"document" includes a photograph, map or plan;

"electric line" has the same meaning as in section 32 of the Electric Lighting Act 1882(c);

"generating station" has the same meaning as in section 36 of the Electricity (Supply) Act 1919(d);

"inquiry" means any inquiry to which these Rules apply;

"inspector" means a person appointed by the Secretary of State to hold an inquiry or a re-opened inquiry;

"the land" means the land (including trees or buildings) to which an inquiry relates;

"local planning authority" has the meaning assigned to it by section 34 (1A) of the Electricity Act 1957(e);

"outline statement" means a written statement of the principal submissions which a person proposes to put forward at an inquiry;

(a) 1971 c.62. (b) 1947 c.54. (c) 1882 c.56. (d) 1919 c.100. (e) 1957 c.48.

"pre-inquiry meeting" means a meeting held before an inquiry to consider what may be done with a view to securing that it is conducted efficiently and expeditiously;

"relevant date" means the date of the Secretary of State's written notice to the applicant and the local planning authority of his intention to cause an inquiry to be held, and "relevant notice" means that notice;

"section 34 party" means a party who has objected to the application in accordance with the provisions of –

(i) section 2 of the Electric Lighting Act 1909(**a**);

(ii) section 21 of the Electricity (Supply) Act 1919; or

(iii) regulations made under section 34(2) of the Electricity Act 1957;

and whose objections have not been withdrawn;

"service line" has the same meaning as in section 1 of the Schedule to the Electric Lighting (Clauses) Act 1899(**b**);

"statement of case" means a written statement which contains full particulars of the case which a person proposes to put forward at an inquiry and a list of any documents which that person intends to refer to or put in evidence.

Application of Rules

3. These Rules apply in relation to any public inquiry caused by the Secretary of State to be held under section 34 of the Electricity Act 1957 in connection with –

(a) applications under section 2 of the Electric Lighting Act 1909 for consent to construct or extend a generating station on any land;

(b) applications under section 10(b) of the Schedule to the Electric Lighting (Clauses) Act 1899 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.

Preliminary information

4. The Secretary of State shall as soon as practicable after the issue of a relevant notice inform the applicant and the local planning authority in writing of the name and address of any section 34 party who has made representations to him.

Procedure where Secretary of State causes pre-inquiry meeting to be held

5.—(1) The Secretary of State may cause a pre-inquiry meeting to be held if it appears to him desirable and where he does so the following provisions apply.

(2) The Secretary of State shall serve with the relevant notice a notification of his intention to cause a pre-inquiry meeting to be held and a statement of the matters which appear to him to be likely to be relevant to his consideration of the application in question; and where another government department has expressed in writing to the Secretary of State a 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 set this out in his statement and shall supply a copy of the statement to the government department concerned.

(3) The applicant shall cause to be published in a newspaper circulating in the locality in which the land is situated such notice of the Secretary of State's intention to cause a pre-inquiry meeting to be held and of the statement served in accordance with paragraph (2) as the Secretary of State may specify.

(4) The local planning authority and the applicant shall, not later than 8 weeks after the relevant date, each serve an outline statement on the others of them and on the Secretary of State.

(**a**) 1909 c.34. (**b**) 1899 c.19 (as incorporated with the Electricity Act 1947).

(5) The Secretary of State may in writing require any other person who has notified him of an intention or a wish to appear at the inquiry to serve, within 4 weeks of being so required, an outline statement on the Secretary of State, the applicant and the local planning authority.

(6) The meeting or, where there is more than one, the first meeting shall be held not later than 16 weeks after the relevant date.

(7) The Secretary of State shall give written notice of the pre-inquiry meeting to the local planning authority, the applicant, any person known at the date of the notice to be entitled to appear at the inquiry and any other person whose presence at the pre-inquiry meeting seems to him to be desirable; and he may require the applicant to take, in relation to notification of the pre-inquiry meeting, one or more steps which he may under rule 10 require him to take in relation to notification of the inquiry.

(8) The inspector shall preside at the pre-inquiry meeting and shall determine the matters to be discussed and the procedure to be followed, and he may require any person present at the meeting who, in his opinion, is behaving in a disruptive manner to leave it and may refuse to permit that person to return or to attend any further pre-inquiry meeting, or may permit him to return or to attend only on such conditions as he may specify.

Service of statement of case etc.

6.—(1) Subject to paragraphs (5), (7) and (8) of this rule each of –

(a) the applicant,

(b) the local planning authority, and

(c) any person who, having notified the Secretary of State of his intention or wish to appear at the inquiry, has been required in writing by the Secretary of State to comply with the requirements of this paragraph,

shall serve a statement of case on each of the others of them, on the Secretary of State and on all (or all other) section 34 parties.

(2) A statement of case required to be served by the applicant or the local planning authority shall be served not later than –

(a) 6 weeks after the relevant date, or

(b) in any case where the Secretary of State causes a pre-inquiry meeting to be held pursuant to rule 5(1), 4 weeks after the conclusion of that meeting (or the last such meeting).

(3) Any other statement of case shall be served not later than 4 weeks after the date of the Secretary of State's notice requiring it to be served.

(4) The Secretary of State shall inform any person from whom he requires a statement of case in accordance with paragraph (1)(c) of the name and address of every person on whom the statement of case is required to be served.

(5) The Secretary of State or the inspector may require any person who has served a statement of case in accordance with this rule to provide such further information about the matters contained in the statement as he may specify.

(6) Any person serving a statement of case on the Secretary of State shall serve with it a copy of any document, or of the relevant part of any document, referred to in it.

(7) Where, having regard to the number of section 34 parties and the length of a statement of case the Secretary of State considers it expedient, he may authorise any person serving a statement of case under paragraph (1) of this rule to give notice to section 34 parties stating the times and places at which the statement of case may be examined by them instead of complying with the requirements of paragraph (1) of this rule.

(8) A person authorised to give notice to section 34 parties under paragraph (7) shall give to those parties a reasonable opportunity to inspect and, where practicable, take copies of, the statement of case.

(9) Where, in the case of an application under section 2 of the Electric Lighting Act 1909, the Secretary of State has not given notice under rule 5(2) of his intention to cause a pre-inquiry meeting to be held, he shall not later than 12 weeks after the relevant date serve a written statement of the matters referred to in that paragraph on the applicant, the local planning authority and any person from whom he has required a statement of case under paragraph (1) of this rule.

Inspector's power to hold pre-inquiry meetings

7. An inspector may hold a pre-inquiry meeting where he considers it desirable (whether or not one was held pursuant to rule 5(1)), and shall arrange for written notice of it to be given to the applicant, the local planning authority, any person known at the date of the notice to be entitled to appear at the inquiry and any other person whose presence at the meeting appears to him to be desirable; and rule 5(8) shall apply to a pre-inquiry meeting held in accordance with this rule.

Inquiry time-table

8. Where a pre-inquiry meeting is held pursuant to rule 5(1) an inspector shall, and, in any other case may, arrange a time-table for the proceedings at, or at any part of, an inquiry and may at any time vary the time-table.

Notification of appointment of assessor

9. Where the Secretary of State appoints an assessor to sit at an inquiry, he shall notify every person entitled to appear at the inquiry of the name of the assessor and of the matters on which he is to advise the inspector.

Date and notification of inquiry

10.—(1) The date fixed by the Secretary of State for the holding of an inquiry shall be, unless he considers such a date impracticable, not later than –

(a) 22 weeks after the relevant date; or

(b) in a case where the Secretary of State causes a pre-inquiry meeting to be held pursuant to rule 5(1), 8 weeks after the conclusion of that meeting (or the last such meeting).

(2) Where the Secretary of State considers that the date referred to in paragraph (1) is impracticable the date fixed shall be the earliest date after the end of the relevant period mentioned in sub-paragraph (a) or (b) of that paragraph which he considers to be practicable.

(3) Unless the Secretary of State agrees a lesser period of notice with the applicant and the local planning authority, he shall give not less than 28 days written notice of the date, time and place fixed by him for the holding of an inquiry to every person entitled to appear at the inquiry.

(4) The Secretary of State may vary the date fixed for the holding of an inquiry, whether or not the date so varied is within the relevant period mentioned in paragraph (1), and paragraph (3) shall apply to a date so varied as it applied to the date originally fixed.

(5) The Secretary of State may also vary the time or place for the holding of an inquiry and shall give such notice of any such variation as appears to him to be reasonable.

(6) The Secretary of State may require the applicant to take one or more of the following steps –

(a) to publish not less than 14 days before the date fixed for the holding of the inquiry in one or more newspapers circulating in the locality in which the land is situated such notice of an inquiry as he may direct;

(b) to serve within such period as he may specify notice of an inquiry in such form and on such persons or classes of persons as he may specify;

(c) to post within such period as he may specify such notice of an inquiry as he may direct in a conspicuous place near to the land.

(7) Where the land is under the control of the applicant he shall, if so required by the Secretary of State, affix firmly to the land or to some object on or near the land, in such manner as to be readily visible to and legible by members of the public, such notice of an inquiry as the Secretary of State may specify and he shall not remove the notice, or cause or permit it to be removed, for such period before the inquiry as the Secretary of State may specify.

Appearances at inquiry

11.—(1) The persons entitled to appear at an inquiry are –

(a) the applicant;

(b) the local planning authority;

(c) any of the following bodies if the land is situated in their area and they are not the local planning authority –

(i) a county or district council (including the council of the Isles of Scilly);

(ii) a National Park Committee within the meaning of paragraph 5 of Schedule 17 to the Local Government Act 1972(**a**);

(iii) a joint planning board constituted under section 1(2) of the Town and Country Planning Act 1971(**b**) or a joint planning board or special planning board reconstituted under Part I of Schedule 17 to the Local Government Act 1972;

(d) where the land is in an area designated as a new town, the development corporation for the new town or the Commission for the New Towns as its successor;

(e) a section 34 party;

(f) 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;

(g) any other person who has served a statement of case in accordance with rule 6(1)(c) or who has served an outline statement in accordance with rule 5(5).

(2) Any other person may appear at an inquiry at the discretion of the inspector.

(3) Any person entitled or permitted to appear may do so on his own behalf or be represented by counsel, solicitor or any other person.

(4) An inspector may allow one or more persons to appear for the benefit of some or all of any persons having a similar interest in the matter under inquiry.

Representatives of government departments at inquiry

12.—(1) Where any government department has expressed a view such as is mentioned in rule 5(2) and the Secretary of State has included its terms in a statement served in accordance with that rule or rule 6(9), a representative of the government department concerned shall be made available to attend the inquiry.

(2) A person attending an inquiry as a representative in pursuance of this rule shall state the reasons for the expression of view in question and shall give evidence and be subject to cross-examination to the same extent as any other witness.

(3) Nothing in paragraph (2) shall require a representative of a government department to answer any question which in the opinion of the inspector is directed to the merits of government policy.

(**a**) 1972 c.70. (**b**) 1971 c.78.

Statements of evidence

13.—(1) A person entitled to appear at an inquiry who proposes to give, or to call another person to give, evidence at the inquiry by reading a written statement shall send a copy of the statement to the inspector and shall, if so required by the inspector, supply a written summary of that evidence.

(2) Whenever a statement or summary is sent to the inspector in accordance with paragraph (1) the person sending it shall send a copy to the applicant and the local planning authority, if that is not himself.

(3) The statement shall be sent to the inspector not later than 3 weeks before the date on which the person is due to give evidence in accordance with the time-table arranged pursuant to rule 8 or, if there is no such time-table, 3 weeks before the date fixed for the inquiry, and the summary shall be sent within such period as may be specified by the inspector.

(4) Where the inspector has required a written summary of evidence in accordance with paragraph (1), the person giving that evidence at the inquiry shall do so by reading the written summary alone, unless permitted by the inspector to do otherwise.

(5) Any person required by this rule to send a statement of evidence to any other person shall send with the statement copies of all documents or parts of documents referred to therein and not previously supplied under rule 6(6).

Procedure at inquiry

14.—(1) Except as otherwise provided in these Rules, the inspector shall determine the procedure at the inquiry.

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

(3) A person entitled to appear at an inquiry shall be entitled to call evidence and the applicant and the local planning authority shall be entitled to cross-examine persons giving evidence, but, subject to the foregoing and paragraphs (4) to (6), the calling of evidence and the cross-examination of persons giving evidence shall otherwise be at the inspector's discretion.

(4) The inspector may refuse to permit –

(a) the giving or production of evidence,

(b) the cross-examination of persons giving evidence, or

(c) the presentation of any other matter,

which he considers to be irrelevant or repetitious; but where he so refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit to him any evidence or other matter in writing before the close of the inquiry.

(5) Where a person gives evidence at an inquiry by reading a summary of his evidence in accordance with rule 13(4), the statement of evidence referred to in rule 13(1) may be tendered in evidence, and the person whose evidence the statement contains shall then be subject to cross-examination on it to the same extent as if it were evidence he had given orally.

(6) The inspector shall not require or permit the giving or production of any evidence, whether written or oral, which he considers would be contrary to the public interest; but, save as aforesaid, the inspector may direct that documents tendered in evidence may be inspected by any person entitled or permitted to appear at the inquiry.

(7) The inspector may direct that facilities shall be afforded to any person appearing at an inquiry to take or obtain copies of documentary evidence open to public inspection.

(8) The inspector may require any person appearing or present at an inquiry who, in his opinion, is behaving in a disruptive manner to leave it and may refuse to permit that person to return, or may permit him to return only on such conditions as he may specify, but any such person may submit to him any evidence or other matter in writing before the close of the inquiry.

(9) The inspector may allow any person to alter or add to a statement of case served under rule 6 so far as may be necessary for the purposes of the inquiry; but he shall (if necessary by adjourning the inquiry) give every other person entitled to appear who is appearing at the inquiry an adequate opportunity of considering any fresh matter or document.

(10) The inspector may proceed with an inquiry in the absence of any person entitled to appear at it.

(11) The inspector may take into account any written representation or evidence or any other document received by him from any person before an inquiry opens or during the inquiry provided he discloses it at the inquiry.

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

Site inspections

15.—(1) The inspector may make an unaccompanied inspection of the land before or during an inquiry without giving notice of his intention to the persons entitled to appear at the inquiry.

(2) The inspector may, during an inquiry or after its close, inspect the land in the company of the applicant, the local planning authority and, subject to paragraph (3), any section 34 party; and he shall make such an inspection if so requested by the applicant or the local planning authority before or during an inquiry.

(3) Where the inspector inspects the land after the close of an inquiry, a section 34 party shall only be entitled to accompany him on that inspection if the party appeared at the inquiry.

(4) In all cases where the inspector intends to make an inspection of the kind referred to in paragraph (2) he shall announce during the inquiry the date and time at which he proposes to make it.

(5) The inspector shall not be bound to defer an inspection of the kind referred to in paragraph (2) where any person mentioned in that paragraph is not present at the time appointed.

Procedure after inquiry

16.—(1) After the close of an inquiry, the inspector shall make a report in writing to the Secretary of State which shall include his conclusions and recommendations or his reasons for not making any recommendations.

(2) Where an assessor has been appointed, he may, after the close of the inquiry, make a report in writing to the inspector in respect of the matters on which he was appointed to advise.

(3) Where an assessor makes a report in accordance with paragraph (2), the inspector shall append it to his own report and shall state in his own report how far he agrees or disagrees with the assessor's report and, where he disagrees with the assessor, his reasons for that disagreement.

(4) If, after the close of an inquiry, the Secretary of State –

(a) differs from the inspector on any matter of fact mentioned in, or appearing to him to be material to, a conclusion reached by the inspector, or

(b) takes into consideration any new evidence or new matter of fact (not being a matter of government policy),

and is by reason thereof disposed to disagree with a recommendation made by the inspector, he shall not come to a decision which is at variance with that recommendation without first notifying the persons entitled to appear at the inquiry who appeared at it of his disagreement and the reasons for it; and affording to them an opportunity of making written representations to him within 21 days of the date of notification, or (if the Secretary of State has taken into consideration any new evidence or new matter of fact, not being a matter of government policy) of asking within that period for the re-opening of the inquiry.

(5) The Secretary of State may, as he thinks fit, cause an inquiry to be re-opened to afford an opportunity for persons to be heard on such matters relating to an application as he may specify, and he shall do so if asked by the applicant or the local planning authority in the circumstances and within the period mentioned in paragraph (4); and where an inquiry is re-opened (whether by the same or a different inspector) –

(a) the Secretary of State shall send to the persons entitled to appear at the inquiry who appeared at it a written statement of the specified matters; and

(b) paragraphs (3) to (7) of rule 10 shall apply as if the references to an inquiry were references to a re-opened inquiry.

Notification of decision

17.—(1) The Secretary of State shall notify his decision on an application, and his reasons for it, in writing to all persons entitled to appear at the inquiry who did appear, and to any other person who, having appeared at the inquiry, has asked to be notified of the decision.

(2) Where a copy of the inspector's report is not sent with the notification of the decision, the notification shall be accompanied by a statement of his conclusions and of any recommendations made by him; and if a person entitled to be notified of the decision has not received a copy of that report, he shall be supplied with a copy of it on written application made to the Secretary of State within 4 weeks from the date of the decision.

(3) In this rule "report" includes any assessor's report appended to the inspector's report but does not include any other documents so appended; but any person who has received a copy of the report may apply to the Secretary of State in writing, within 6 weeks of the date of the Secretary of State's decision, for an opportunity of inspecting any such documents and the Secretary of State shall afford him that opportunity.

Procedure following quashing of decision

18.—(1) Where a decision of the Secretary of State on an application in respect of which an inquiry has been held is quashed in proceedings before any court, the Secretary of State –

(a) shall send to the persons entitled to appear at the inquiry who appeared at it a written statement of the matters which appear to him to be relevant to his further consideration of the application; and

(b) shall afford to those persons the opportunity, within 21 days of the date of the written statement, of making written representations to him in respect of those matters or of asking for the re-opening of the inquiry; and

(c) may, as he thinks fit, cause the inquiry to be re-opened (whether by the same or a different inspector), and, if he does so, paragraphs (3) to (7) of rule 10 shall apply as if the references to an inquiry were references to a re-opened inquiry.

Allowing further time

19. The Secretary of State may at any time in any particular case allow further time for the taking of any step which is required or enabled to be done by virtue of these Rules, and references in these Rules to a day by which or a period within which any step is required or enabled to be taken shall be construed accordingly.

Service of notices by post

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

Revocation, transitional and savings

21.—(1) Subject to the following paragraph, the Electricity Generating Stations and Overhead Lines (Inquiries Procedure) Rules 1981(a) ("the 1981 Rules") are hereby revoked.

(2) The 1981 Rules shall continue to apply to any inquiry which commenced before the date on which these Rules come into force, and for the purposes of this rule an inquiry shall be taken to have commenced on the day on which the Secretary of State first gave notice under rule 4(1) of the 1981 Rules fixing the date, time and place for the holding of the inquiry.

16th December 1987 *Mackay of Clashfern, 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.

The Electricity Generating Stations and Overhead Lines (Inquiries Procedure) Rules 1981 are revoked, but are to continue to apply to any inquiry which commenced before these Rules have come into force.

(a) S.I. 1981/1841.