STATUTORY INSTRUMENTS

1967 No. 1769

TRIBUNALS AND INQUIRIES

The Pipe-Lines (Inquiries Procedure) Rules 1967

Made - - - -	*27th November* 1967
Laid before Parliament	*5th December* 1967
Coming into Operation	*1st January* 1968

I, Gerald, Baron Gardiner, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by section 7A of the Tribunals and Inquiries Act 1958(a) (inserted in that Act by section 33 of the Town and Country Planning Act 1959(b)) and after consultation with the Council on Tribunals, hereby make the following Rules:—

Citation and Commencement

1. These Rules may be cited as the Pipe-lines (Inquiries Procedure) Rules 1967 and shall come into operation on 1st January 1968.

Application of the Rules

2. These Rules shall apply to public inquiries, and (to the extent stated in rule 12 hereof) to hearings before a person appointed by the Minister, held in England and Wales under the provisions of Schedule 1 to the Pipe-lines Act 1962(c) for the purpose of applications for the grant of pipe-line construction authorisations or pipe-line diversion authorisations, or under the provisions of Schedule 2 to that Act for the purpose of applications for the grant of compulsory purchase orders or compulsory rights orders:

Provided that these Rules shall not apply to a public inquiry held at the discretion of the Minister under paragraph 4(2) of the said Schedule 1.

Interpretation

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

"the Act" means the Pipe-lines Act 1962;

"application" means any application for the grant of an authorisation or an order and "applicant" means the person who makes an application;

"appointed person" means the person appointed by the Minister to hold a public inquiry to which these Rules apply; and "inquiry" means such an inquiry;

"authorisation" means a pipe-line construction authorisation for which an application has been made to the Minister under section 1 of the Act or a pipe-line diversion authorisation for which an application has been made to the Minister under section 3 of the Act;

"Minister" means the Minister of Power;

"order" means a compulsory purchase order for which an application has been made to the Minister under section 11 of the Act or a compulsory rights order for which an application has been made to the Minister under section 12 of the Act;

(a) 1958 c. 66. (b) 1959 c. 53. (c) 1962 c. 58.

"stage" means a part of an inquiry for which a separate date, time or place has been fixed by the Minister;

"statutory objector" means, in the case of an application for an authorisation, any person who has duly made an objection to the application and whose objection has not been withdrawn, or, in the case of an application for an order, any owner, lessee or occupier (except a tenant for a month or any period less than a month) of any land proposed to be comprised in the order who has duly made an objection to the application, and whose objection has not been withdrawn or disregarded under paragraph 4(3) of Schedule 2 to the Act.

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

Procedure before Inquiry

4.—(1) The Minister shall as soon as may be notify the applicant of the substance of each objection received by him from a statutory objector and, so far as practicable, shall also notify the applicant of the substance of other objections.

(2) The Minister shall fix, and may vary, the date, time and place for the holding of the inquiry and, if it appears to him that it is expedient for the inquiry to be held in stages at different dates, times or places, shall fix and may vary the date, time or place for each of such stages.

(3) The Minister shall give or cause to be given, not less than forty-two days prior to the date fixed for the inquiry or the first stage thereof, notice in writing of the date, time and place at which the inquiry or any stage thereof is to be held to the applicant and to every statutory objector at the address furnished to the Minister:

Provided that—

(i) with the consent in writing of the statutory objectors and of the applicant, the Minister may give such lesser period of notice as shall be agreed with the statutory objectors and the applicant and in that event he may specify a date for service of the statement referred to in paragraph (6) of this rule 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 or for any stage thereof, the Minister shall give such notice of the variation as may appear to him to be reasonable in the circumstances.

(4) A notice given under the last preceding paragraph of this rule shall, in the case of an inquiry under Schedule 1 to the Act with respect to an objection to an application for the grant of an authorisation, state, if such be the case, that the inquiry will be combined with an inquiry under Schedule 2 to the Act with respect to an objection to an application for an order.

(5) The applicant shall publish, if and in such manner as the Minister directs, such notices of the inquiry as may appear to the Minister to be desirable for informing persons inhabiting land in the vicinity of the route proposed to be taken by the pipe-line or length thereof in respect of which the application is made.

(6) As soon as may be after receiving notification of the substance of the objections of statutory objectors and in any event (except where the Minister

(a) 1889 c. 63.

specifies a later date under proviso (i) to paragraph (3) of this rule) not later than twenty-eight days before the date of the inquiry or, as the case may be, the first stage thereof, the applicant shall, unless he has already done so, serve on each statutory objector a written statement of the submissions that the applicant proposes to make at the inquiry and shall supply a copy of the statement to the Minister.

(7) Where a government department has expressed in writing to the applicant a view in support of the application and the applicant proposes to rely on such expression of view in his submissions at the inquiry, he shall include it in the statement referred to in the last foregoing paragraph and shall send a copy of his statement to the government department concerned.

(8) Where the applicant intends to refer to or put in evidence at the inquiry documents (including maps and plans), the applicant's statement shall be accompanied by a list of such documents, together with a notice stating the times and place at which the documents may be inspected by any statutory objector; and the applicant shall afford every statutory objector a reasonable opportunity to inspect and, where practicable, to take copies of the documents.

(9) The applicant shall afford any other person interested a reasonable opportunity to inspect and, where practicable, to take copies of the applicant's statement and the other documents referred to in the last foregoing paragraph.

Appearances at Inquiry

5.—(1) The applicant and any statutory objector shall be entitled to appear at the inquiry, and any other person may appear at the discretion of the appointed person.

(2) A body corporate may appear by its clerk or secretary or by any other officer appointed for the purpose by that body or may appear by counsel or solicitor and any other person may appear on his own behalf or be represented by counsel, solicitor or any other person.

(3) 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.

Government Departments at Inquiry

6.—(1) Where a government department has expressed in writing to the applicant a view in support of the application and the applicant has set out such view in the statement referred to in rule 4(6), any statutory objector may, not later than fourteen days before the date of the inquiry, apply in writing to the Minister for a representative of the government department concerned to be made available at the inquiry.

(2) In a case where the government department specified in a request made under the last foregoing paragraph is that of the Minister, he shall make a representative of his department available to attend the inquiry, and in any other case the Minister shall transmit the request so made to the government department concerned, who shall make a representative of that department available as aforesaid.

(3) The said representative shall at the inquiry state the reason for the view expressed by his department and shall give evidence and be subject to cross-examination to the same extent as other witnesses, provided that the appointed person shall disallow any questions which in his opinion are directed to the merits of Government policy.

Procedure at Inquiry

7.—(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 statutory objectors 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 rule 6(3), 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 to alter or add to the reasons contained in the statement served under rule 4(6) or any list of documents which accompanied such statement so far as may be necessary for the purpose of determining the questions in controversy between the parties, but shall (if necessary by adjourning the inquiry) give every statutory objector an adequate opportunity of considering any fresh reason or document and may make in his report a recommendation as to the payment of any additional costs occasioned by such an adjournment.

(6) If any statutory objector does not appear at the inquiry, the appointed person may at his discretion proceed with the inquiry and, if he does so, shall (subject to disclosure thereof at the inquiry) take into account any previous written representations of such objector insofar as the same appear to him to be proper and relevant to the matters in issue.

(7) The appointed person may from time to time adjourn the inquiry, or, if the inquiry is held by stages, any stage thereof, and, if the date, time and place of the adjourned inquiry or stage are announced before the adjournment, no further notice shall be required except such notices if any as the Minister or the appointed person may direct to be given by the applicant:

Provided that, in considering the adjournment of any stage, the appointed person shall have regard to the date, time and place fixed for the holding of any further stage.

Site Inspections

8.—(1) The appointed person may make one or more unaccompanied inspections of land proposed to be comprised in an order, or of land in the vicinity of the route proposed to be taken by the pipe-line or length thereof in respect of which the application is made, or in the vicinity of any proposed modified route, without giving notice to any person entitled to appear at the inquiry.

(2) The appointed person may at his discretion announce during the inquiry that he intends to inspect land proposed to be comprised in an order or land in the vicinity of the route proposed to be taken by the pipe-line or length thereof in respect of which the application is made, or in the vicinity of any proposed modified route, and if he does so shall announce a date and time in respect of

each part of that land which he proposes so to inspect, and any such time may be during any adjournment of or at the close of the inquiry.

(3) The applicant and the statutory objectors shall be entitled to accompany the appointed person on any inspection to which the last preceding paragraph relates, 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

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

(2) Where the Minister—

(*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 and any statutory objector who appeared at the inquiry of his disagreement and the reasons for it and affording them an opportunity of making representations in writing within twenty-one days or (if the Minister has taken into consideration any new evidence or any new issue of fact not being a matter of government policy) of asking within twenty-one days for the re-opening of the inquiry.

(3) For the purposes of the last foregoing paragraph of this rule, evidence taken into consideration by the Minister for the purposes of his decision that an application was to be allowed to proceed shall be deemed to be new evidence, notwithstanding that he received it before the holding of the inquiry, if such evidence is relevant to the particular recommendation of the appointed person with which the Minister is disposed to disagree and was not disclosed at the inquiry in such a way as to afford any person affected by the recommendation an opportunity of dealing with it by way of cross-examination or otherwise.

(4) The Minister 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 paragraph (2) of this rule; and, if the inquiry is re-opened, paragraphs (3), (4) and (5) of rule 4 shall apply as they applied to the original inquiry, with the substitution in paragraph (3) of the words "twenty-eight" for the words "forty-two".

Notification of Decision

10.—(1) The Minister shall notify his decision, and his reasons therefor, or cause notification to be sent in writing to the applicant and the statutory objectors and to any other person who, having appeared at the inquiry, has asked to be notified of the decision; and, 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.

(2) If any person entitled to be notified of the Minister'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 Minister within one month from the date on which he is notified of the Minister's decision or, when the inquiry was for the purpose of an application for an order, from the date of the first publication of notice of the making of the order, whichever is the later.

(3) For the purposes of this rule "report" does not include documents, photographs or plans appended to the report, but the Minister shall afford any person entitled to be supplied with a copy of the report an opportunity, if he wishes, of inspecting such documents, photographs or plans.

Service of Notices by Post

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

Hearings

12. These Rules, except rule 4(5), shall apply to any such hearing as is mentioned in rule 2 hereof and for that purpose references in these Rules to a public inquiry or an inquiry shall be construed as references to such a hearing.

Dated 27th November 1967. *Gardiner, C.*

EXPLANATORY NOTE

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

These Rules provide for the procedure to be followed at public inquiries or hearings held in respect of applications for the grant of pipe-line construction or diversion authorisations, or compulsory purchase or rights orders, under the Pipe-Lines Act 1962.

Rule 4 prescribes the procedure before the inquiry. It requires the Minister of Power to notify the applicant of the substance of any objections he has received and to give not less than 42 days' notice of the inquiry, unless the parties agree to shorter notice. The applicant is required to publish notices of the inquiry for the purposes of informing people living near the proposed route of the pipe-line and, unless he has already done so, to serve on each statutory objector not later than 28 days before the inquiry a statement of the submissions he proposes to make at the inquiry, a copy of which he must also supply to the Minister. This statement must include any view expressed in writing by a Government department in support of the application on which the applicant proposes to rely. Any persons interested must be given a reasonable opportunity of inspecting and taking copies of the statement.

Rule 5 entitles the applicant, any statutory objector and, at the discretion of the person appointed to hold the inquiry, any other person to appear at the inquiry, while rule 6 provides for the representation, at the request of any statutory objector, of any Government department which has expressed a view in support of the application.

Rule 7 prescribes the procedure at the inquiry and rule 8 makes provision for the inspection of the land concerned by the person appointed to hold the inquiry.

Rule 9 provides for the appointed person making a report to the Minister, which must include his findings of fact and his recommendations, if any, or his reasons for not making any recommendation. Where the Minister differs from the appointed person on a finding of fact, or after the close of the inquiry takes into consideration new evidence (including expert opinion on a matter of fact), or any new issue of fact (not being a matter of Government policy), and is in

consequence disposed to disagree with the recommendation made by the appointed person, he may not come to a decision at variance with that recommendation without first giving the applicant and any statutory objector who appeared at the inquiry an opportunity of making representations or (if the Minister has taken into consideration new evidence or any new issue of fact) of having the inquiry reopened.

Rule 10 requires the Minister to notify his decision and his reasons for it to the applicant, any statutory objector and anyone else who appeared at the inquiry and has asked to be notified of the decision.

Rule 11 provides for the service of notices or documents by post.

Rule 12 applies the Rules, with the exception of rule 4(5), to hearings before a person appointed by the Minister as they apply to public inquiries.