

1967 No. 450

TRIBUNALS AND INQUIRIES
**The Electricity (Compulsory Wayleaves) (Hearings Procedure)
Rules 1967**

<i>Made</i> - - - - -	21st March 1967
<i>Laid before Parliament</i>	3rd April 1967
<i>Coming into Operation</i>	17th April 1967

I, Gerald, Baron Gardiner, Lord High Chancellor of Great Britain, in exercise of the powers conferred on 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 Electricity (Compulsory Wayleaves) (Hearings Procedure) Rules 1967, and shall come into operation on the 17th April 1967.

Application of Rules

2. These Rules apply to hearings held under the provisions of section 22(1) of the Electricity (Supply) Act 1919(c) for the purpose of considering whether consent should be given to the placing by an electricity authority of an electric line across land.

Interpretation

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

“the Act of 1919” means the Electricity (Supply) Act 1919;

“the Minister” means the Minister of Power;

“appointed person” means the person appointed by the Minister to hold a hearing to which these Rules apply;

“electricity authority” means the Central Electricity Generating Board or, as the case may be, any Area Board established by the Electricity Act 1947(d);

“the land” means the land across which consent to place an electric line is sought;

“objector” means an owner or occupier of the land or any part thereof who has failed to give his consent to the placing of the electric line or who has attached to his consent any terms, conditions or stipulations to which the electricity authority objects.

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

(a) 1958 c. 66.
(c) 1919 c. 100.

(b) 1959 c. 53.
(d) 1947 c. 54.

(e) 1889 c. 63.

Procedure before Hearing

4.—(1) On receipt by the Minister of an application for his consent under section 22(1) of the Act to the placing of an electric line across land a date, time and place for the hearing shall be fixed and may be varied by the Minister, who shall give not less than 21 days notice in writing of such date, time and place to every objector and to the electricity authority:

Provided that—

- (i) with the consent in writing of the objectors and of the electricity authority the Minister may give such lesser period of notice as may be agreed and in that event he may specify a date for service of the statement referred to in the next following paragraph later than the date prescribed in that paragraph;
 - (ii) where it becomes necessary or desirable to vary the time or place fixed for the hearing, the Minister shall give such notice of the variation as may appear to him to be reasonable in the circumstances.
- (2) Not later than 14 days before the date of the hearing (except where the Minister specifies a later date under proviso (i) to the last foregoing paragraph) the electricity authority shall, unless it has already done so, serve on each objector a written statement of its reasons for the proposed placing of the electric line and shall supply a copy of the statement to the Minister.

(3) Where a government department has expressed in writing to the electricity authority a view in support of the proposed placing of the electric line and the electricity authority proposes to rely on such expression of view in its submissions at the hearing, the authority shall include it in the statement referred to in the last foregoing paragraph and shall send a copy of its statement to the government department concerned.

(4) Where the electricity authority intends to refer to or put in evidence at the hearing documents (including maps, photographs and plans), the authority's statement shall, unless the authority has already furnished each objector with copies of such documents, 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 objector; and the electricity authority shall afford every objector a reasonable opportunity to inspect and, where practicable, to take copies of the documents.

Appearances at Hearing

5.—(1) The electricity authority may appear at the hearing by any of its officers appointed by it for the purpose or by counsel or solicitor, and an objector may appear on his own behalf or be represented by counsel, solicitor or any other person.

(2) Where there are two or more objectors 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 of the objectors so interested.

Representation of Government Departments at Hearing

6.—(1) Where a government department has expressed in writing to the electricity authority a view in support of the proposed placing of the electric line and the electricity authority has set out such view in the statement referred to in rule 4(2), any objector may, not later than 7 days before the date of the hearing, apply in writing to the Minister for a representative of the government department concerned to be made available at the hearing.

(2) The Minister shall transmit any application made to him under the last foregoing paragraph to the government department concerned, who shall make a representative of the department available to attend the hearing.

(3) Such representative shall at the hearing state the reasons for the view expressed by his department and shall give evidence and be subject to cross-examination to the same extent as other witnesses, so, however, that the appointed person shall disallow any questions which in his opinion are directed to the merits of government policy.

Procedure at Hearing

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

(2) The hearing shall take place in public unless the electricity authority or any objector requests the appointed person to hold it in private.

(3) Unless in any particular case the appointed person with the consent of the electricity authority otherwise determines the electricity authority shall begin and have the right of final reply; and the objectors shall be heard in such order as the appointed person may determine.

(4) The electricity authority and the objectors shall be entitled to call evidence and cross-examine persons giving evidence.

(5) 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 to appear at the hearing and that facilities be afforded him to take or obtain copies thereof.

(6) The appointed person may allow the electricity authority to alter or add to the reasons contained in the statement served under rule 4(2) or any list of documents which accompanied it 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 hearing) give every objector an adequate opportunity of considering any such alterations or additions.

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

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

Site Inspections

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

(2) The appointed person shall, if so requested by the electricity authority or any objector before or during the hearing, inspect the land after the close of the hearing and shall, when such a request is made, announce during the hearing the date and time at which he proposes to make such an inspection.

(3) The electricity authority and the objectors shall be entitled to accompany the appointed person on any inspection held as a result of a request made under paragraph (2) of this rule, 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 Hearing

9.—(1) The appointed person shall after the close of the hearing 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 hearing receives any new evidence (including expert opinion on a matter of fact) or takes into consideration any new issue of fact (not being a matter of government policy) which was not raised at the hearing,

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 electricity authority and any objector who appeared at the hearing of his disagreement and the reasons for it and affording them an opportunity of making representations in writing within 21 days or (if the Minister has received new evidence or taken into consideration any new issue of fact not being a matter of government policy) of asking within 21 days for the re-opening of the hearing.

(3) The Minister may, in any case if he thinks fit, cause the hearing 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 hearing is re-opened rule 4(1) shall apply as it applies to the original hearing.

Notification of Decision

10.—(1) The Minister shall notify his decision, and his reasons therefor, in writing to the electricity authority and the objectors; 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.

(3) For the purposes of this rule "report" does not include documents, maps, 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, maps, photographs and plans.

Service of Notices by Post

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

Dated 21st March 1967.

Gardiner, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules prescribe the procedure to be followed at hearings of proposals by Electricity Boards for the placing of electric lines across land under section 22 of the Electricity (Supply) Act 1919.

Rule 4 prescribes the procedure before the hearing. Not less than 21 days' notice of the hearing must be given by the Minister of Power, unless the parties agree to shorter notice. The electricity authority must, if they have not already done so, serve on each objector a statement of their reasons for making the proposal and the statement must include any views expressed in writing by a government department to the electricity authority in support of the proposal on which the authority propose to rely.

Rule 5 entitles the electricity authority and any objectors to appear at the hearing while rule 6 provides for the representation, at the request of any objector, of any government department which has expressed a view in support of the proposal.

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

Rule 9 provides for the appointed person's making a report to the Minister, which must include his findings of fact and his recommendations, if any, or reasons for not making any recommendations. Where the Minister differs from the appointed person on a finding of fact or after the close of the hearing receives new evidence (including expert opinion on a matter of fact) or takes into consideration any new issue of fact (not being a matter of Government policy) and is in consequence disposed to disagree with any recommendation made by the appointed person, the Minister must not come to a decision at variance with the recommendation without first giving the electricity authority and any objector who appeared at the hearing an opportunity of making representations or (if the Minister has received new evidence or taken a new issue of fact into consideration) of having the inquiry re-opened.

Rule 10 requires the Minister to notify his decision and reasons to the electricity authority and the objectors.