

SCHEDULES

SCHEDULE 9

PROTECTIVE PROVISIONS

PART 5

FOR THE PROTECTION OF WESTERN POWER DISTRIBUTION LIMITED (WEST MIDLANDS) PLC AS ELECTRICITY UNDERTAKER

Expenses and costs

58.—(1) Subject to sub-paragraph (2), if by reason or in consequence of the construction of any specified work or any subsidence resulting from any of those works any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of WPD the undertaker is to—

- (a) bear and pay the cost reasonably incurred by WPD in making good such damage or restoring the supply; and
- (b) reimburse WPD for any other expenses, loss, damages, penalty or costs reasonably and properly incurred by WPD, by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of WPD, its officers, servants, contractors or agents.

(3) WPD must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, is to have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) WPD's liability to the undertaker for negligence or breach of contract, in respect of each diversion, shall be limited to the value of that diversion and WPD shall not otherwise be liable to the undertaker for any losses or costs incurred by the undertaker resulting from delays to the authorised development as a result of its failure to undertake works to deliver any alternative apparatus.