

Our Ref: PS383/02

Alex Thorne
Social and Environmental Affairs
Ofgem
9 Millbank
London
SW1P 3GE

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alex.thorne@ofgem.gov.uk

Dear Mr Thorne

ELECTRICITY ACT SCHEDULE 9 CONSULTATION

Scottish Natural Heritage welcomes the opportunity to respond to this consultation. SNH is a non-departmental public body, sponsored by the Scottish Executive, responsible for promoting the conservation, enhancement, enjoyment, understanding and sustainable use of Scotland's natural heritage. The natural heritage embraces landscapes, wildlife and habitats, both terrestrial and marine.

SNH has engaged in discussion over the preparation of Schedule 9 statements with the three major electricity companies in Scotland and has attended Amenity Panel meetings, which are on an annual basis for at least one company.

The system has been useful in facilitating dialogue over a number of areas of company activity which sit outwith the specific issues raised by new generation projects: for example, over tree felling and compensatory planting in relation to transmission corridors, over river flow regimes for canoeists, or over the conduct of transmission line maintenance work in sensitive areas.

However, the content of Schedule 9 statements is very general. The most critical natural heritage issues tend to be those relating to new generation or transmission proposals, addressed through planning or licence consent conditions. At present companies do not produce a specific Schedule 9 statement or addendum in relation to each new generator or transmission line, and they should be encouraged to do so.

With the emergence of a wider base of electricity generators, it is unlikely that SNH could attend Amenity Panel meetings with all electricity companies on an annual basis. Regular and appropriate liaison between SNH and the major electricity companies can be achieved outwith the framework of Schedule 9.



A proportional approach

The draft guidance is useful for those preparing Schedule 9 statements. The 'scope of statement' paragraph should more faithfully convey the range of interests covered by the legislation (see the next section). As currently drafted it omits reference, for example, to buildings of architectural interest.

We support the use of a model statement along the lines of that contained in Appendix 3, but with the second paragraph adapted for use in Scotland. We suggest that companies should offer a further undertaking to facilitate public access to the land they own and manage, except where there are reasons of public safety or land or water management which necessitate otherwise. This would be in line with the promotion of a general right of access by the Scottish Parliament.

We do not consider that there is a need for those electricity companies which operate solely as electricity suppliers to prepare Schedule 9 statements; however all companies which generate, transmit or distribute electricity should be included.

Scope of Schedule 9 statements

We agree that Schedule 9 statements should not duplicate those aspects of management of amenity which are conditioned through a separate regulatory process. However there are many aspects of the ongoing management of generation and transmission facilities which are not fully addressed in the planning or consents process. Therefore we recommend that following the commissioning of any new generation or transmission facility, a specific site-based addendum to each Schedule 9 statement should be prepared which includes any specific commitments in relation to the management of the amenity around that facility. This addendum – which should be prepared, as anticipated by the legislation, within 12 months of the introduction of any new facility – would provide the basis for dialogue on aspects of ongoing management of facilities not already covered by the regulatory processes. Where no specific provision is to be made for management or protection of amenity, other than as covered in general terms elsewhere in the Schedule 9 statement, or through planning conditions, this should be made clear.

We note that there is a range of interpretation on the scope of Schedule 9 statements by different companies and we think it valuable for Ofgem to provide guidance to promote a consistent approach across the UK. This is particularly important in view of the differences in remits in public agencies in England, Wales and Scotland. The guidance statement in para 4.14 of the consultation is however deficient as it omits 'natural beauty'. We suggest that guidance should firstly rehearse the full list as set out in the legislation ('to have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest'). It should then explain



that this embraces both natural heritage - landscapes, scenery, wildlife and habitats, and the opportunities it provides for people to enjoy it - and cultural heritage.

We agree that Schedule 9 statements need not address air or water pollution interests, as these are regulated through other means, except in so far as these affect local amenity.

Monitoring, reporting and review

We agree that a standing review period of up to 5 years is appropriate, but, as indicated above, we recommend that a Schedule 9 statement should be updated by a specific addendum in respect of each new generation or transmission facility, within 12 months of its commissioning.

We agree it would be helpful for companies to produce a brief annual report against their Schedule 9 statements. It should be for the companies to decide whether this is made available to consultees and the public through their annual report, an environmental report, or through a separate document.

We do not consider that an annual 'Amenity Panel' meeting to discuss such a schedule 9 report is necessary; however it is important that SNH and other statutory consultees maintain good liaison over environmental management issues with the major electricity companies and hence an 'Amenity Panel' may be regarded as one option providing a basis for such liaison. Usually, however, there will be a need for such liaison to extend to issues beyond the scope of the Schedule 9 statement.

We note that there is no reference in the consultation to the role of Schedule 9 statements and associated reports in enabling Ofgem to achieve its environmental objectives. We believe it is important to make this link and for Ofgem to make use of the Schedule 9 statements in assessing environmental performance of the industry as a whole.

Coordination

We believe it is useful for Ofgem to distribute information packs as proposed about Schedule 9 responsibilities.


We are doubtful that an annual workshop on Schedule 9 issues is required, but it may be that a one-off workshop will be helpful once guidance has been issued on a consistent and updated regime.

We agree that it will be helpful for Ofgem to keep a central record of Schedule 9 statements, and associated recent annual reports. These should be published on the Web.

Abolition of Scottish bodies

Notwithstanding the day-to-day contact between Historic Scotland and the electricity companies in Scotland, it is important that they be regarded as the statutory consultee in respect of the historic environment, and hence the abolition of the Ancient Monuments Board for Scotland and the Historic Buildings Council for Scotland should be followed by instatement of Historic Scotland as statutory consultee. In many respects the situation is comparable with relationships over natural heritage between electricity companies and SNH, where again most day-to-day issues and regular strategic liaison with electricity companies is fulfilled outwith the framework of Schedule 9, but nonetheless we have a statutory link with the Schedule 9 process.

If you would find it helpful to discuss or for us to clarify our response, please contact Bill Band at our Battleby office (Tel: 01738 444177, email: bill.band@snh.gov.uk) in the first instance. We are content that this response be made publicly available, and we are copying it to the Scottish Executive (Environment and Rural Affairs Division, and Energy Division) and to Historic Scotland.

Yours sincerely


Iain Rennick
Head of Secretariat

cc Andrew Dickson, SEERAD
 Robin Naysmith, SEED
 Noel Fajut, Historic Scotland