

Sarah Harrison  
Managing Director – Corporate Affairs  
Office of Gas and Electricity Markets  
9 Millbank  
London SW1P 3GE

7 May 2008



Dear Sarah

### CONSENT UNDER SLC 15 OF THE ELECTRICITY GENERATION LICENCE

I refer to your letter of 23 April 2008, which invites comments on the process that the Authority proposes to establish for dealing with requests for consent under SLC 15 (4) of the electricity generation licence.

Section 10(1)(b) of the Act states that a generation licence holder is to have the powers available under Schedules 3 and 4 “to the extent that his licence so provides”. Paragraph 10(1) of Schedule 4 authorises a generation licence holder to enter upon and survey any land for the purpose of ascertaining whether the land would be suitable for use “for any purpose connected with” the carrying on of the activities authorised by his licence.

I can see (I think) a justification for restricting the use of the paragraph 10(1) power, under SLC 15(4), to only one purpose connected with the carrying on of the generation licence holder’s authorised activities, i.e. the purpose of establishing whether or not the land is suitable for the construction or extension of a generating station. However, I can see no justification for the requirement on the licence holder to obtain the Authority’s consent before exercising those rights. There is no such requirement on electricity distributors or transmitters, and the differences between those activities and the activity of generation do not of themselves seem sufficient to justify the retention of a consent requirement for generation and all the rigmarole of an associated procedure for dealing with requests.

Against that background, I urge Ofgem to do the following:

- Amalgamate SLC 14 and SLC 15 of the generation licence into a single new SLC 14 (Application of statutory powers), in line with the approach adopted within the modifications currently proposed for the distribution licence (SLC 28): please see the illustrative draft attached.
- In carrying out that amalgamation, dispense with the consent requirement, as suggested above: see paragraph 5 of the illustrative draft attached.
- Use this exercise as a springboard for a project to review, restructure, and where necessary redraft the standard conditions of the generation licence (which would be an easier and less lengthy task than the recent distribution project).

I hope that this response is helpful.

Yours sincerely

**Roger Barnard**

Head of Regulatory Law

EDF Energy  
40 Grosvenor Place  
Victoria London SW1X 7EN

Tel +44 (0) 20 77522199  
Fax +44 (0) 20 77522128

energy.com

## **Condition 14. Application of statutory powers**

1. In accordance with section 10 of the Act as it relates to electricity generators, the powers and rights available under the provisions of:
  - (a) Schedule 3 to the Act (which provides for the compulsory acquisition of land); and
  - (b) Schedule 4 to the Act (which confers other powers and makes other provision, particularly in relation to street works),have effect in relation to the licensee to the extent set out in this condition.

### **Schedule 3 to the Act**

2. The Schedule 3 powers and rights have effect for the purpose of enabling the licensee to carry on its authorised activities:
  - (a) in relation to the construction or extension of a generating station;
  - (b) in relation to activities connected with the construction, operation, or extension of a generating station; and
  - (c) in relation to the installation, maintenance, removal, or replacement of electric lines, and of electrical plant associated with them, that connect a generating station with:
    - (i) the GB transmission system, or
    - (ii) any distribution system.

### **Schedule 4 to the Act**

3. The Schedule 4 powers and rights have effect (subject to paragraphs 4 and 5) for the purpose of enabling the licensee to carry on its authorised activities:
  - (a) in relation to the installation, inspection, maintenance, adjustment, repair, alteration, replacement, and removal of:
    - (i) electric lines specified in paragraph 4,
    - (ii) electrical plant associated with such lines, and
    - (iii) any structures for housing or covering such lines or plant;
  - (b) in relation to the installation of electrical plant to be used in connection with a generating station or the operation of that station; and
  - (c) in relation to electric lines or electrical plant as if the references to them in Schedule 4 to the Act included:
    - (i) pipes for conveying directly to consumers' premises heat produced in association with electricity and steam produced from air and water heated by such heat, and
    - (ii) associated works in relation to such pipes.

4. Electric lines are specified for the purposes of paragraph 3(a) if:
  - (a) they connect, or will connect when installed, a generating station with the GB transmission system or any distribution system; or
  - (b) where “electric lines” has the extended meaning given by paragraph 3(c), they connect a generating station with any premises.
5. Paragraph 10 of Schedule 4 to the Act applies to the licensee if (but only if) it wishes to exercise its rights of entry on land for the purpose of establishing whether or not the land is suitable for the construction or extension of a generating station.

### **Interpretation**

6. In this condition:

“associated works”	has the meaning given in section 10(3) of the Act
“authorised activities”	means the activities which the licensee is authorised by this licence to carry on, and includes any purpose connected with the supply to any premises of heat produced in association with electricity and of steam produced from air and water heated by such heat.
“extension”	in relation to a generating station includes the use by the person operating the station of any land (wherever situated) for a purpose directly related to the generation of electricity by that station.
“generating station”	means an electricity generating station which: <ol style="list-style-type: none"> <li>(a) has, or will have when its construction or extension is completed, a capacity of not less than 50 megawatts or such other capacity as the Secretary of State may by order specify under section 36(3) of the Act; and</li> <li>(b) is, or will be when its extension or construction is completed, operated by or for the licensee.</li> </ol>