

# Scottish and Southern Energy and Their Subsidiary companies, Interests Within the National Park

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# 1 Introduction

## 1.1 Background to Paper

The purpose of this paper is to:

- summarise the existing electricity infrastructure owned by Scottish Hydro Electric Transmission Limited (SHETL) and Scottish Hydro Electric Power Distribution plc (SHEPD) and located within the Cairngorms National Park (CNP);
- summarise and explain the relevant statutory obligations and principal Licence duties and responsibilities which rest upon SHETL as holder of a transmission licence and SHEPD as holder of a distribution licence; and
- explain the interests of other SSE Group Companies with regard to the Cairngorms National Park Local Plan.

## 1.2 Electricity Infrastructure Within the Park

The attached diagram (Appendix 1) shows the existing transmission and distribution network within the CNP. Those lines coloured blue are 132kV transmission overhead lines and those coloured green and red are, respectively, 33kV and 11 kV distribution overhead lines. As outlined below, SHETL and SHEPD are obliged to both develop and maintain their respective electricity networks.

## 2 SHETL and SHEPD Statutory and Licence Obligations

### 2.1 The Electricity Act 1989

The primary legislation governing the electricity industry in Great Britain is the Electricity Act 1989 (the 1989 Act) which places statutory obligations on both SHETL and SHEPD.

### 2.2 Transmission and Distribution Licence

Section 4 of the 1989 Act makes it an offence to transmit or distribute electricity for the purpose of supplying or enabling the supply of electricity unless there is authorisation for that activity by means of a licence or exemption. Provision is then made, under section 6 of the 1989 Act, for the Gas and Electricity Markets Authority (the "Authority") to grant transmission and distribution licences. As explained above, SHETL is the holder of a transmission licence and SHEPD the holder of a distribution licence.

### 2.3 Statutory Obligations

The principal relevant statutory obligations (see Appendix 2) arising from the 1989 Act, with which SHETL are obliged to comply and which are relevant to the development of an electricity line are:

Section 9 (1) and (2) provides that:

It shall be the duty of an electricity distributor and the duty of the holder of a licence authorising him to transmit electricity:-

- to develop and maintain an efficient, co-ordinated and economical system of electricity distribution and transmission respectively; and
- to facilitate competition in the supply and generation of electricity.

#### 2.3.1 Section 16 – Duty to connect on request

Section 16(1) of the Act states:

*"An electricity distributor is under a duty –*

*(a) to make a connection between a distribution system of his and any premises, when required to do so by –*

*(i) the owner or occupier of the premises; or*

*(ii) an authorised supplier acting with the consent of the owner or occupier of the premises,*

*for the purpose of enabling electricity to be conveyed to or from the premises;...."*

#### 2.3.2 Section 38 and Schedule 9 – Preservation of amenity and fisheries

Section 38 of the 1989 Act provides that Schedule 9 shall have effect. The following paragraphs of Schedule 9 are relevant:

Paragraph 3(1) to Schedule 9

*“In formulating any relevant proposals, a licence holder or a person authorised by an exemption to generate, distribute, supply or participate in the transmission of electricity –*

- (a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and*
- (b) (b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.”*

Paragraph 3(2) to Schedule 9

*“In considering any relevant proposals for which his consent is required under section 36 or 37 of this Act, the Secretary of State [the Scottish Ministers in Scotland] shall have regard to-*

- (a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and*
- (b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of that sub-paragraph.”*

## **2.4 Licence Obligations**

In the exercising of powers under the 1989 Act, the Secretary of State has determined standard and special licence conditions. These conditions, with which the licensees are obliged to comply, are included in the transmission licence of SHETL and the distribution licence of SHEPD.

### **2.4.1 Conditions relevant to SHETL (see Appendix 3)**

### **2.4.2 The Requirement to Offer Terms for Connection**

NGET, as GB System Operator (GBSO) has an obligation<sup>1</sup> to offer terms for connection to and use of the GB transmission system, and is prohibited<sup>2</sup> from discriminating between parties seeking to connect to or use the GB transmission system. Accordingly, offers are made to generation developers seeking to connect to the transmission system in Scotland.

### **2.4.3 Transmission System Security Standard and Quality of Service**

NGET is obliged<sup>3</sup> to plan, develop and operate its transmission system and co-ordinate and direct the flow of electricity onto and over the GB transmission system in accordance with the GB Security and Quality of Supply Standard (GB SQSS).

Similarly, SHETL has an obligation<sup>4</sup> to plan and develop its transmission system in accordance with the GB SQSS, taking into account the GBSO's obligations to co-ordinate and direct the flow of electricity onto and over the GB transmission system.

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<sup>1</sup> Licence Condition C8

<sup>2</sup> Licence Condition C7

<sup>3</sup> Licence Condition C17

<sup>4</sup> Licence Condition D3

#### **2.4.4 Obligation to Provide Transmission Services**

There is an obligation<sup>5</sup> upon SHETL to make available its transmission system to NGET for the purpose of transporting electricity, and to ensure that the system is fit for that purpose. Compliance with this obligation by SHETL enables NGET, in turn, to comply with its own licence obligation to operate the full GB transmission system.

#### **2.4.5 The Grid Code**

NGET is required<sup>6</sup> to implement and comply with the Grid Code. The Grid Code includes codes relating to technical operation of the GB transmission system, including Connection Conditions, Operating Code and Planning Code. By virtue of the fact that SHETL is, along with NGET, parties to the SO-TO Code (see para. 3.4.1.6 below), SHETL has an obligation to comply with those parts of the Grid Code which are relevant to it.

#### **2.4.6 The Seven Year Statement**

NGET is obliged<sup>7</sup> to produce information about the GB transmission system by preparing a statement showing the succeeding seven years circuit capacity forecast power flows and loading on each part of the GB transmission system. The intention is to provide information to enable any developer seeking to connect to evaluate the opportunities available when connecting to and making use of the transmission system.

#### **2.4.7 The SO-TO Code**

The GB Transmission Licensees are required<sup>8</sup> to have in force a document known as the SO-TO Code (the STC). This Code sets out terms between the transmission licensees whereby the GB transmission system and each licensee's part of the transmission system is to be planned, developed or operated, and transmission services are to be provided.

Under Section C of the STC, SHETL is required to provide transmission services, and to plan, develop, operate and maintain its transmission system in accordance with its transmission licence and the SO-TO Code.

Under Section D of the STC, SHETL is required to maintain a transmission investment plan for the current and six following financial years. In developing this investment plan, SHETL is obliged to ensure that its transmission system complies with the minimum technical requirements set out in the Grid Code. This is, in turn, linked to the licence planning standards under the GB SQSS.

#### **2.4.8 Conditions Relevant to SHEPD (see Appendix 3)**

#### **2.4.9 The Requirement to offer terms for Use of System and Connection**

To facilitate compliance with its statutory duty to connect on request, SHEPD has an obligation<sup>9</sup> to offer terms for connection to and use of its distribution system including, for example, to domestic premises, housing development or distributed generation. SHEPD is also obliged to maintain certain standards<sup>10</sup>, including with regard to turning, in respect of the provision of Connection Services. In addition, SHEPD is not permitted to discriminate<sup>11</sup> in carrying out works for the purposes of connection to its distribution system.

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<sup>5</sup> Licence Condition D2

<sup>6</sup> Licence Condition C14

<sup>7</sup> Licence Condition C11

<sup>8</sup> Licence Condition B12

<sup>9</sup> Distribution Licence Condition 12

<sup>10</sup> Distribution Licence Condition 15

<sup>11</sup> Distribution Licence Condition 19

To enable SHETL and SHEPD to comply with their respective statutory and licence obligations with regard to connection to their systems, section 10 of the 1989 Act provides SHETL and SHEPD with certain powers under Schedule 3 (which provides for the compulsory acquisition of land) and Schedule 4 (which provides, inter alia, for the right to install and keep installed electricity infrastructure) to the Act.

#### **2.4.10 Compliance with Core Industry Documents**

In order to protect the security, quality of supply and safe operation of SHEPD's distribution system (and, in turn, the GB transmission system), SHEPD must comply with core industry documents<sup>12</sup> such as the Grid Code, the Distribution Code and the Distribution Connection and Use of System Agreement (the DCUSA). SHEPD's obligations in respect of the Distribution Code<sup>13</sup> and the DCUSA<sup>14</sup> reiterate again the requirement to:

- (a) develop and maintain an efficient, co-ordinated and economical distribution system; and
- (b) facilitate competition in the generation and supply of electricity.

#### **2.5 Effect of SHETL's and SHEPD's Statutory and Licence Obligations**

The combined effect of the Electricity Act 1989, SHETL's transmission Licence, SHEPD's distribution Licence and Core Industry documents such as the Grid Code, the GB SQSS, the SO-TO Code and DCUSA is to oblige SHETL and SHEPD to provide connections for new generation and demand to their respective transmission and distribution systems and to develop, respectively, efficient and economical systems of transmission and distribution which can accommodate such generation and demand. With regard to the principle of Developer's Contributions, SHETL and SHEPD require to be satisfied that any decision taken which increases the cost of any project must be capable of justification in terms of the statutory framework within which they operate.

In developing their respective systems, SHETL and SHEPD have to take cognisance of the location of new generation and demand and plan their systems accordingly. In addition, environmental considerations must also be taken into account, as set out in Schedule 9 to the 1989 Act. Insofar as overhead transmission lines are concerned, also of relevance is the set of industry standard guidelines known as the "Holford Rules" which seek to avoid, if possible, the major areas of highest amenity value and to protect other environmental interests.

As a direct result of the duties imposed by sections 9 and 38 of the 1989 Act and Schedule 9 to that Act (as reflected in the relevant licence obligations), a balance must therefore be achieved between technical, economic and environmental considerations. In seeking to achieve a specific routeing objective it may be necessary to give consideration to the technology to be employed and the best route for that technology as against available alternatives. In practical terms that means that, as a direct consequence of the statutory and licence obligations outlined in the preceding paragraphs, both SHETL and SHEPD may be required to consider the placement, retention, upgrading and refurbishment of overhead electricity lines within the Cairngorms National Park. An example is the application made under section 37 of the 1989 Act for consent for the Beauly-Denny 400kV overhead transmission line, a section of which passes through the Cairngorms National Park. At distribution voltage an example would be a situation where a generation project or, perhaps, a housing development is sited in or near the Cairngorms National Park.

Other SSE Group Company interests within the Cairngorms National Park SSE Telecommunications Limited have telecommunications apparatus within the CNP, generally in the nature of fibre which may be wrapped or incorporated within the electricity infrastructure. In addition, SSE Generation Limited has an existing hydro

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<sup>12</sup> Distribution Licence Condition 20

<sup>13</sup> Distribution Licence Condition 21

<sup>14</sup> Distribution Licence Condition 22

scheme within the CNP and reviews on a regular basis, taking account of Government policy and targets on renewable generation, the possibility of further renewable generation and indeed is currently considering the feasibility of a small hydro scheme within the boundaries of the CNP.



## Appendix 1 : Transmission and Distribution Interests within CNP

# Appendix 2 : Statutory Obligations

# Appendix 3 : Licence Obligations