

## **Environmental Information Regulations 2004**

### **Background**

- In 1998 the UN ECE established the Aarhus Convention which placed obligations on public authorities to provide the public with environmental information about their activities.
- In 2003 the provisions of this Convention were introduced into European law via Directive 2003/4/EC. These were incorporated into UK domestic law in 2004 and came into effect on 1<sup>st</sup> January 2005 as the Environmental Information Regulations (EIRs).
- EIRs give members of the public power to request environmental information from any public and other authority without having to justify the request for information in any way.

### **What is it? How does it work?**

- The EIRs apply to all public authorities. However, as part of UK implementation Defra are developing Code of Practice and Guidance documents which explicitly identify the utilities involved in the supply of essential public services, such as electricity, as covered by the regulations. However, the Guidance notes that in the case of dispute, it is for the Information Commissioner and ultimately the courts to decide on the applicability to any organisation.
- The Regulations state that requests for information may be made in writing, orally by phone, by e-mail or in person. Any person or organisation may make such a request. The onus is then on the recipient to supply the information, electronically if possible, within 20 working days, or justify a 40 working day extension. Failure to do so could eventually lead to financial penalties.
- The definition of environmental information is wide ranging. It covers: the state of the environment, such as diversity; effects on the environment, such as emissions discharges and waste; policies, plans and programmes affecting the environment; and cost benefit analysis associated with environmental activities.
- There are clearly stated exclusions to the Regulations, defining cases where information may be refused. These concern information that is not held or is manifestly unreasonable, requests that are too general, requests that involve disclosure of internal communications, confidential or commercial information, and other exclusions.
- The Regulations also specify that public bodies should actively disseminate environmental information.
- Requests for information may concern historic data and may involve the organisation retrieving this from archives. The supplier may recover reasonable copying and dearchiving costs associated with the request, but cannot make a profit from it.

### **British Energy's position**

- British Energy is open in the way it publishes and promotes environmental information, and has done so for well over a decade through its Safety, Health and Environment Report. In 2004 the Company published its first annual Corporate Social Responsibility Report, which includes a description of our environmental management arrangements and our environmental performance.
- In addition to the above, British Energy is already obliged to provide a very great amount of detailed environmental information to its regulators. It operates to established limits on environmental discharges to ensure the environmental impact of its operations is acceptably low. The information provided to the regulators has been open to public access and inspection for some time.
- The Company is not covered by the Freedom of Information Act 2000 (FOIA) and we do not consider British Energy is a public authority for the purposes of the EIRs.
- However, in general we are open to providing information, except where we could be unfairly prejudiced or commercially damaged by doing so, and subject to statutory legal bars such as those contained within anti-terrorism, crime and security legislation.