

Independent Connection Providers

Legal Process and Statutory Consents

Contents

1. Land and Rights Over Land

- 1.1. Basic Principles
- 1.2. Landowner Negotiations / Legal Completion
- 1.3. No third party landowners
- 1.4. Third party landowners involved
- 1.5. Legal Plans
- 1.6. NGED Standard Legal Template Documents

2. Statutory Consents and Permissions

- 2.1. Basic Principles
- 2.2. s.37 Consent
- 2.3. Line Surveys

3. Legal Costs

4. Finding More Information

1. Land and Rights Over Land

1.1 Basic Principles

- During the construction / installation stage, i.e. prior to adoption, the equipment is owned by the ICP/customer. The ICP should negotiate its own legal rights with landowners for this period. The ICP will be liable for landowner claims relating to any reinstatement and damage which may occur. Prior to adoption NGED has no liability to the landowner for the works or assets. ICPs are responsible for acquiring both *on-site consents* (i.e. on the customer's land) and *off-site consents* (i.e. on land owned by a third party) in this respect.
- Our standard terms and template legal documents should always be used for the purchase of land and rights over land for the assets which we will adopt. We will require these legal rights to be acquired in NGED's name prior to adoption of the equipment. In other words, all legal rights must be in place when ownership of the asset transfers to NGED.
- We provide an information leaflet for landowners summarising the principles of CiC. This can be given to landowners at an early stage in the process for guidance:
https://www.westernpower.co.uk/getattachment/Connections/Competition-in-Connections/Legal-Permissions-and-Consents/EXTERNAL_INFO-LEAFLET-FOR-LAND-OWNERS_ICPs.pdf.aspx
- Additional information about NGED's land rights purchase process is available on its Technical Information website in Standard Technique EW1C/5.
- Additional information about NGED's land purchase process is available on its Technical Information website in Standard Technique EW1D/2
- It is important from the outset that we understand the intentions of the ICP/customer in relation to land / land rights purchase and other consents. We need to agree what we will be doing relative to the ICP. These details are relevant at the application stage to ensure that our cost estimate is accurate. The ICP should provide information about its intentions on the connection application Form. It will also need to provide landowner and other information to us at the appropriate stage (usually once agreement with landowners and third parties has been reached in principle) to allow us to complete the necessary NGED documentation and instruct solicitors where required. This is covered in more detail below.
- There are two scenarios for negotiating third party or 'off site' consents;
 - The most common is that the ICP determines the site requirements (sub station site, cable routes etc) and then negotiates appropriate rights with affected landowners. The ICP submits its design to us for approval, and thereafter we arrange for completion of the land and land rights purchases in NGED's name, using our solicitors.
 - IN EXCEPTIONAL CIRCUMSTANCES the alternative is for us to negotiate initial consents/routes with landowners and the ICP then agrees separate terms for the installation of the equipment. This scenario is not covered in this guidance as it would not be the norm and NGED would initially proceed with negotiations for consents/routes in the normal way. Where this scenario occurs, we will need to explain to landowners who does what at an early stage and provide them with the Information Leaflet summarising liabilities and CiC principles.

1.2 Landowner Negotiations / Legal Completion
<ul style="list-style-type: none"> • Once the position/route for any equipment to be installed by an ICP are agreed in principle and approved by us, we will proceed to finalise the NGED agreements.
<ul style="list-style-type: none"> • In summary, the mechanism for acquiring land / land rights for NGED is as follows: <ul style="list-style-type: none"> ○ The ICP and NGED agree what is needed. ○ The ICP negotiates and reaches agreement with landowners. The ICP negotiates land / rights which are in accordance with our standard terms. ○ Where a wayleave is appropriate, the ICP arranges for our standard wayleave to be completed. ○ Guidance on whether a wayleave or easement is required is available on NGED's Technical Information website in Standard Technique EW1C/5. ○ In relation to leases, transfers and easements, the ICP provides us with details of what has been agreed in the form of a standard, pro-forma legal instruction. Thereafter we approve the terms of the instruction and pass it to our lawyers, Geldards LLP. Geldards complete the transaction and acquire the land / rights in NGED's name.
1.3 No third party landowners (i.e. only on-site consents needed)
<ul style="list-style-type: none"> • Design submitted to us by ICP together with landowner Information for the legal paperwork. • The design approved by our Planner
<ul style="list-style-type: none"> • Legal plans: <ul style="list-style-type: none"> ○ Prepared by ICP and submitted to us (unless otherwise agreed) ○ Approved by NGED Planner (or Wayleave Specialist where relevant)
<ul style="list-style-type: none"> • Work pack issued to our construction team (<i>including pre-construction information/requirements e.g. outstanding legal agreements</i>)
<ul style="list-style-type: none"> • Legal instruction prepared by ICP and passed to Geldards by us. • NGED Planner confirms to ICP legal instruction has been sent to Geldards • Geldards issues draft documentation to developer's landowner's solicitor
1.4 Third party landowners involved (i.e. off-site rights needed)
(After ICP has carried out and completed third party landowner negotiations)
<ul style="list-style-type: none"> • Design submitted to us by ICP together with landowner Information for the legal paperwork. • Design Approved by our Planner
<ul style="list-style-type: none"> • Legal Plans: <ul style="list-style-type: none"> ○ Prepared by ICP and submitted to us (unless agreed otherwise) ○ Approved by NGED Planner (or Wayleave Specialist where relevant)
<ul style="list-style-type: none"> • Work pack issued to our construction team (<i>to include pre-construction information/requirements e.g. outstanding consents</i>)
<ul style="list-style-type: none"> • Legal instruction prepared by ICP and passed to Geldards by us. • Our Wayleave Specialist or Planner (to be decided locally within team) makes contact with third party landowners (where required) to confirm ICP details submitted (ahead of instructing solicitors) or to make arrangements to complete our Wayleave (where applicable)
<ul style="list-style-type: none"> • Our Planner confirms to ICP work pack and legal instruction have been undertaken/completed and details of construction engineer/technician.
<ul style="list-style-type: none"> • In order to avoid delays it is important for the pro-forma instruction to Geldards to contain the following information: <ul style="list-style-type: none"> ○ Name/address of land owner/occupier (note – it is the landowner's details not the ICP's details that are needed)

<ul style="list-style-type: none"> ○ Details of the landowner's solicitor (including case references if available). ○ Plans and details of the land or rights to be acquired). The ICP will normally provide this with the Design Approval information.
<ul style="list-style-type: none"> • Geldards must complete a number of checks and investigations of the landowner's title. The following may be relevant in this respect: <ul style="list-style-type: none"> ○ Other rights affecting the land (eg gas, oil or telecoms easements with obligations to enter into indemnities or Deeds with third parties) which will take time to resolve or agree. ○ Restrictions, land title issues or encumbrances on the land preventing the landowner entering into a Deed with NGED. ○ Restrictive covenants affecting the land. ○ Legal Charges affecting the land (such as a mortgage). <p>To assist us in completing land / rights purchases in a timely manner, thereby enabling early adoption of the equipment, ICPs are advised to provide us with information on any of these issues.</p> • Prior to starting works, we strongly recommend that ICPs should await completion of our land / rights acquisition. A decision by an ICP to start works ahead of completion of our transaction should be made with extreme caution. The point is that if we are unable to complete the land / rights transaction we will be unable to adopt the equipment.
<h3>1.5 Legal Plans</h3>
<ul style="list-style-type: none"> • ICPs should agree with us who will produce legal plans relating to the acquisition of NGED's legal rights. It is usually the case that the ICP produces all legal plans. • Plans should conform with our standard format in terms of specification and colouring. This is to ensure alignment between plan coloring and the wording of our standard legal documents and also compliance with Land Registry protocols for plan quality. • Details of our standard plan format is available on our <i>Technical Information</i> website (see below)
<h3>1.6 NGED Standard Legal Template Documents</h3>
<ul style="list-style-type: none"> • Specimen examples of our template legal documents (easements, leases, transfers and wayleaves) are available from us on request and samples are also available for download from our <i>Technical Information</i> website (see below). ICPs can refer to these agreements for clarity on the terms for purchase.

2. Statutory Consents and Permissions

2.1 Basic Principles

- Statutory consents or other permissions (e.g. substation planning permission or consent to work in the vicinity of a protected site) are often required. Unless otherwise agreed with us it is the ICP's responsibility to secure these consents and permissions.
- In certain instances the application must be made in NGED's name (e.g. s.37 consent – see below). We will support the ICP in making the application these is the cases.
- Prior to the adoption of any assets we must be satisfied that the correct consents and permissions have been obtained as this may affect the future operation and maintenance of our assets. Prior to adoption we must be provided with copies of all relevant consents and permissions which relate to the equipment to be adopted.
- Guidance on the process relating to statutory consents and permissions is available on our *Technical Information* website (see below)

2.2 s.37 Consent

- Many schemes in rural areas require short sections of new overhead line even when the main connection is to be made via underground cable. New overhead lines usually require s.37 (planning) consent.
- s.37 applications have to be submitted by NGED, but it is for an ICP to undertake all necessary consultations and provide us with the information to enable an application to be submitted to the Secretary of State.
- The s.37 process can incur significant delays and it is important for this to be factored into an ICP's development programme. Land rights for the route must be in place before a s.37 application can be submitted to the Secretary of State (DBEIS), but a temporary wayleave (on our standard terms) can be used for this purpose if a delay in completing an easement is likely. This should be discussed and agreed with us before it is progressed by an ICP.
- Detailed advice on the s.37 process is available on NGED's Technical Information website in Standard Technique E1A/1

3. Line Surveys (construction by ICP for adoption by NGED)

- An ICP should undertake its own survey and profiling in preparation for the construction of an overhead line to be adopted.
- The design and construction must comply with our policies, standards, materials, specifications and rules. Details of this are available on our *Technical Information* website.

4. Legal Costs

- The Connection Charge provided in our Connection Offer is inclusive of the costs incurred by our staff in dealing with wayleaves, easements, transfers or leases.
- A separate charge is made by our lawyers Geldards for land or rights purchases which they facilitate. These costs are charged direct to the ICP/customer by Geldards via its legal representative.

5. Finding More Information

Please visit our website:

https://www.westernpower.co.uk/getattachment/Connections/Competition-in-Connections/Legal-Permissions-and-Consents/EXTERNAL_INFO-LEAFLET-FOR-LAND-OWNERS_ICPs.pdf.aspx

NGED's Techinfo website (password access):

<https://www.nationalgrid.co.uk/tech-info>