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The Rt Hon Peter Rees QC MP
Chief Secretary
HM Treasury
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LONDON
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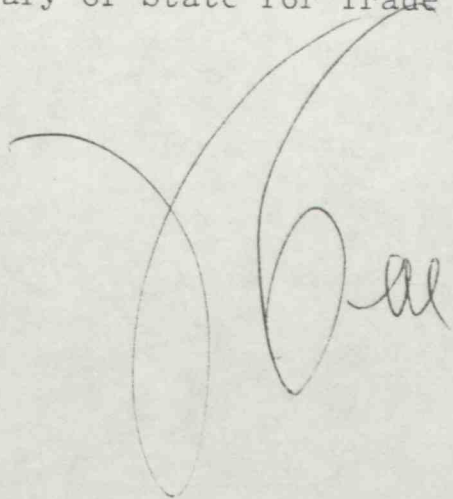
N39m
9 April 1985

R. Bee
I enclose a copy of a letter I have received from John Lyons which gives the power workers' detailed comments upon the Nationalised Industry Bill.

I should also bring to your attention that at their conference last week they unanimously passed a resolution in which they would campaign against some of the provisions in the Bill should they continue to be in existence after the consultations have been completed.

I will send a polite reply to John Lyons, as I think on examination you will find it is a courteous letter and they have dealt with the proposals in an objective way.

I am copying this letter to the Prime Minister, the Lord President and the Secretary of State for Trade and Industry.



PETER WALKER

ELECTRICITY SUPPLY TRADE UNION COUNCIL

Station House, Fox Lane North, Chertsey, Surrey KT16 9HW

Tel: Chertsey (09328) 64131

Chairman: F. FRANKS

Vice-Chairman: M. JERAM

Secretary: J. LYONS

Amalgamated Union of Engineering Workers · Association of Managerial Electrical Executives · Association of Professional Executive Clerical and Computer Staff · Electrical Electronic Telecommunications and Plumbing Union · Electrical Power Engineers' Association · General, Municipal, Boilermakers and Allied Trades Union · National and Local Government Officers' Association · Transport and General Workers' Union · Union of Construction Allied Trades and Technicians

BY HAND

28th March, 1985.

Rt. Hon. Peter Walker, M.P.,
Secretary of State for Energy,
Department of Energy,
Thames House South,
Millbank,
London, S.W.1.

Dear Secretary of State,

Treasury' Proposals for Nationalised Industries

I enclose a copy of the views of the Electricity Supply Trade Union Council on the Treasury' proposals for altering the Statutes of Nationalised Industries which were placed in the House of Commons Library on the 18th December last.

We would be very pleased to expand on these with you personally, if you would like us to do so.

I am making these available to the Press for immediate publication.



Yours sincerely,

J. Lyons

SECRETARY OF STATE'S OFFICE

TO MR J PRICE

Copies to

FOR ADVICE (AND

PS/PUS

DRAFT REPLY IF

MR COOK

APPROPRIATE)

MR MANLEY

PLEASE BY:

MR BUCKLEY

1/4

DR HEATHCOTE

MR FULLERTON

400pm MR WHALEY

ELECTRICITY SUPPLY TRADE UNION COUNCIL

Station House, Fox Lane North, Chertsey, Surrey. KT16 9HW.

TREASURY CONSULTATIVE DOCUMENT
ON NATIONALISED INDUSTRIES' LEGISLATION

COMMENTS BY

THE ELECTRICITY SUPPLY TRADE UNIONS COUNCIL

INTRODUCTION

1. The Electricity Supply Trade Unions Council (ESTUC) comprises representatives of all the trade unions* recognised in the electricity supply industry, representing virtually the entire workforce of approximately 151,000.
2. ESTUC has consistently been concerned that the structural and financial organisation of the electricity supply industry should be shaped to ensure that the appropriate balance can be struck between the interests of the industry's consumers, the Government, representing the tax-payers, and the wider public sector of which the industry is an important part.

*ESTUC comprises:

- Amalgamated Union of Engineering Workers
- Association of Managerial and Electrical Executives
- Association of Professional, Executive, Clerical and Computer Staffs
- Electrical, Electronic, Telecommunications and Plumbing Union
- Electrical Power Engineers' Association
- General Municipal Boilermakers and Allied Trades Union
- National and Local Government Officers
- Transport and General Workers Union
- Union of Construction Allied Trades and Technicians

3. Our views on this subject have been expressed in our individual and collective submissions to the Plowden Committee of Inquiry in 1976, to a number of investigations by the Parliamentary Select Committees on Energy and the Nationalised Industries and to the Monopolies and Mergers Commission in connection with their investigations into a number of Electricity Boards.

4. In our evidence to these bodies we have indicated criticisms of our own in a number of areas covered by this Consultative Document. In particular we have criticised the increasing frequency of short-term ad hoc changes in the financial parameters within which the industry is required to work, which have not been conducive to sensible medium term financial planning.

THE CURRENT SITUATION

5. We are aware that inconsistency between the various statutes governing the nationalised industries exists within the electricity supply industry itself. For example the Scottish Boards have the facility to raise loans (subject to Treasury consent) in any currency from any source. The Electricity Boards in England and Wales, under their older statutes, may only raise loans in sterling from certain limited sources.

6. We have no inherent objection to reducing these anomalies within the electricity supply industry. As our detailed comments on the proposals below indicate, however, we are deeply concerned that the main beneficiary of the changes proposed in the Treasury paper will be the Treasury itself, and that the best interests of the industry's customers have been at best ignored and at worst sacrificed. We cannot reconcile the detailed proposals substantially to extend the powers of the Treasury over the management of the industry with the Treasury's stated objective to produce "legislation that would ... provide clear guidelines within which those industries remaining in the public sector would have freedom to operate as successful, commercial businesses."

7. Successful, commercial businesses are those which are consumer-responsive, which ensure "that goods and services preferred by the consumer are delivered at the lowest economic cost" (John Moore, Financial Secretary to the Treasury, November 1983). It is against this touch-stone that we have examined all the proposals in the Consultative Document and our conclusions are presented below.

BORROWING AND GUARANTEES

8. We consider it advantageous to the industry for its facility to borrow money to be extended to any source in any currency. Indeed, the recent venture by the South of Scotland Electricity Board into the American money market illustrates the possibilities which are potentially available from the lifting of this restriction. However, generally speaking, this freedom will be much more apparent than real whilst borrowings continue to count against the Public Sector Borrowing Requirement. Not until this overbearing restriction is lifted will a nationalised industry be commercially free to raise capital where and when it is most advantageous.

9. We fail to appreciate why the Secretary of State is considered to need powers to restrict or prevent an industry lending to its wholly or partly owned subsidiaries. If the Secretary of State and/or the Treasury do not believe that an industry's management is capable of allocating resources effectively between competing demands in the wider interests of the industry, then the remedy is to improve the calibre of management which is appointed, not to redesign and strengthen the strait-jacket within which they have to operate. The potential for interference in the detailed organisation of an industry's affairs which this proposal creates is entirely inimical to stable financial planning and contrary to that industry's interests.

ACCOUNTS, REPORTS AND AUDITS

10. Whilst at first-sight the proposals to secure consistency between the accounts of nationalised industries seem to be just a tidying up operation, further reflection suggests that much more is intended. Otherwise there would be no need to give Secretaries of State the wide powers of direction over detailed issues of presentation that are proposed. There is no explanation of the purpose of these powers, nor indeed of what the alleged deficiencies of the accounts actually are.

11. We agree that fully acceptable accounting methods and conventions must be used, and that nationalised industry accounts have to be audited in accordance with the highest standards. We believe that these requirements are already fulfilled.

12. A major issue on which the proposals are curiously silent is whether "greater consistency in presentation" to assist those outside the industries would affect the use of Current Cost Accounting which the Treasury has encouraged Nationalised Industries to adopt in recent years?

13. As experienced by the Electricity Council, when it switched from HCA to CCA in 1979/80, the use of CCA can turn a profit into a loss and can appear to the public at large significantly to reduce the return on net assets achieved by the industry. The Prime Minister herself referred disparagingly to the rate of return achieved by the industry compared with the private sector, while overlooking the different convention which had been adopted. (Hansard 15th Nov. '83. Col. 722). We have no intrinsic objections to the principle of Current Cost Accounting, but we are aware that it has not been widely adopted in the private sector. The public sector appears therefore less efficient than the private sector by virtue of a difference simply in accountancy procedure which neither its shareholders nor its customers can be expected to appreciate.

14. It is because the proposals appear not even to consider this central problem of nationalised industries' accounts that we remain sceptical about the real intention behind an apparently sensible 'tidying up' proposal.

15. With regard to the appointment of auditors, this proposal represents a further extension of Treasury powers over the electricity supply industry and the Secretary of State for Energy for which no justification is offered. The need for a Treasury involvement in the appointment of auditors when to date the Secretary of State has been considered competent to make such appointments is not apparent. If consistency between industries is the sole justification, then present minor inconsistencies are preferable to a further enhancement of Treasury powers of detailed interference.

16. On the question of the nature of the audit itself, we do not share the criticism implicit in the requirement to meet "the highest standards comparable to those found in the private sector" that the electricity supply industry accounts are not subject to a sufficiently rigorous audit. Again, the proposals on audit practices might command greater assent if the detailed changes envisaged had been set out, together with the arguments for them.

FINANCIAL TARGETS

17. The ESTUC welcomes the recognition of the desirability of nationalised industries making a profit if this can reasonably be achieved. The proposed repeal of the existing "break-even" requirements would be no more than legislative recognition of the financial framework introduced by Government for the nationalised industries many years ago. However, the practice of successive Government's, under Treasury guidance, of setting financial targets which have been inconsistent with external financing limits has concerned and angered the electricity supply industry and its trade unions on numerous occasions. Moreover, some or all of these financial parameters have been changed at short notice for short-term reasons of political or macro-economic expediency. There is nothing in the proposals which would prevent these practices continuing in the future and they do nothing therefore to assist the electricity supply industry in managing its own affairs within a consistent pre-determined framework.

18. We recognise that the Treasury proposals in this area are not wrong in themselves. Their weakness is that they do not address themselves to the real problem.

19. On the subject of the financial target itself, in our opinion this should not exceed, for the electricity supply industry, the rate of return that would be required of a low-risk private sector investment, and that this principle should be embodied in any proposed legislation. Furthermore, the rate of return should be set following not only consultation, but also specific agreement with the industry.

20. In addition, we are strongly of the view that any return earned by the electricity supply industry in excess of the financial target, however expressed, should be retained by the industry to build up reserves for future investment. Such reserves could, of course, be loaned to the Government on mutually agreed terms, but they should not be reconstructed as debt to be repaid or serviced by the industry. (See also paragraph 22).

21. As far as the ESI is concerned in England and Wales, the current practice is for the financial target to be set following consultation with the Electricity Council. The individual Boards comprising the Council then agree on their own contributions and the Electricity Council advises the Secretary of State accordingly. The ESTUC is firmly committed to the continuation of an integrated electricity supply industry. Hence, we are strongly opposed to the possibility that the various statutory independent Boards comprising the industry could, under the Treasury's proposal, be treated separately and differently with regard to the level, frequency and changes of statutory financial targets, by-passing the Electricity Council. This proposal paves the way for detailed interference in the running of the industry by the Secretary of State for Energy and the Treasury - interference which would necessarily be ill-informed and done for reasons outside the interests of the industry. It is a proposal which, if ever put into effect, can do nothing but damage to the industry's economic and structural stability. Furthermore, in our opinion it could lead to industrial relations problems which in some circumstances could be serious.

BALANCE SHEETS

22. The proposal in this section of the Treasury paper to reconstruct all or part of an industry's reserves as debt serves - for industries which are, or are about to be, debt-free - to recreate the debt they have already paid off. It is a proposal which is entirely unacceptable. The industry which has either cleared its debt or, like electricity supply, is well on the way to doing so, will then have to pay not only the interest on the debt but the capital as well. It would be a completely artificial exercise which will, a) create debt that has not been incurred, b) remove control over its reserves that the electricity supply industry would otherwise have, and c) inevitably raise electricity tariffs artificially and unnecessarily. Furthermore, the suggestion that such control is required to restore tighter financial discipline to the management of nationalised industries is not only untrue - there are other and better mechanisms - but an undeserved criticism of the ability of those managements to work within the financial framework currently determined by the Treasury.

TERMS OF APPOINTMENT OF BOARD MEMBERS

23. This section again brings out the strong contradiction between the Treasury's stated and actual objectives. We do not agree that Board members can be "free" to run "a successful commercial business" when the Secretary of State (whose political approach is subject to change between and even within Governments) can dismiss them without reason, as is now proposed. A successful nationalised industry, like electricity supply, being run in the national interest, needs stability and continuity at senior management levels if it is to be able to develop and implement effective medium and long term corporate plans. Top management without any real security of tenure will be unable to sustain the respect and motivation among their employees which is essential in a successful organisation. If they come to be seen, as they could under the proposals mooted, as 'political place-men', their credibility would be entirely undermined with consequences which could again impact on the field of industrial relations among others.

24. There is a brief and entirely unsatisfactory reference to the remuneration of Nationalised Industry Board Members. The determination of the appropriate levels of remuneration for these important appointments has been a source of concern to all levels of staff in the electricity supply industry for many years and under several Governments. The hopes that were raised in 1981 when the Boyle Committee's responsibilities in this area were transferred to the Secretary of State for Energy (with the approval of the Minister for the Civil Service) have been extinguished. At that time it appeared that the Government was prepared to recognise that a number of factors beyond political expediency had to be taken into account if Board members of the appropriate calibre were to be attracted and retained. However, the record since 1981 gives us no confidence that anything other than political expediency will continue to be the determining factor even if the Treasury's approval is now required in lieu of that of the Minister for the Civil Service.

25. We would have hoped that in suggesting legislative changes affecting the remuneration of Board members, the Treasury would have taken the opportunity to determine a clear and acceptable framework for fixing Board members' pay and - once the legislation were approved - thus remove the issue from the political arena. Nothing of this kind, however, appears to be forthcoming.

FORMATION OF COMPANIES AND PRIVATISATION

26. The ESTUC recognises, but does not accept, that it is Government policy to denationalise as much of the public sector as possible. Given, however, that the Treasury properly acknowledges that there are wide divergences between the nature and needs of the different public sector industries, it would seem desirable that the denationalisation of any part of any industry should be considered separately, widely and after full public debate. The procedure proposed (enabling legislation to be followed by the negative Statutory Instrument procedure) is relevant only to the first of these criteria. We acknowledge, of course, that denationalisation of an industry in its corporate entirety would require additional primary legislation, but it is apparent that effective use of the enabling legislation would render such a requirement largely unnecessary.

27. As already stated (paragraph 21) the ESTUC is firmly committed - in the interests of consumers, taxpayers and employees - to a well structured, integrated, publicly-owned electricity supply industry. We see scope for improvement in the current structure, which we have commented on previously to the Select Committee on Nationalised Industries (1978) and on which we would be pleased to enlarge.

28. We must however make clear our total opposition to any piecemeal dismembering of the electricity supply industry. We urge that the proposals to introduce enabling legislation should be dropped. If not dropped in their entirety, they should be dropped so far as the electricity supply industry is concerned. Nor will we accept any assurances, publicly or privately given, that such legislation would not be enacted in regard to electricity supply. Doubtless any such assurances would be given in good faith but the nature and the history of British democracy requires us to assume that from time-to-time the complexion and intentions of Government change in unpredictable ways, and no Government can be expected necessarily to respect the assurances of its predecessor.

29. If the Government believes it is politically and economically desirable - and politically and economically acceptable - that the electricity supply industry as a whole should be denationalised, it should be prepared to argue its case by proposing primary legislation.

30. If, on the other hand, it no longer believes that an integrated electricity supply industry is effectively serving its customers and shareholders and wishes to introduce changes in structure or ownership of parts of it, then it should be prepared to argue this publicly and at length. The 40 days during which the annulment of a proposed Statutory Instrument may be sought is an entirely unacceptable means of achieving this. This is a procedure which is very rarely challenged in Parliament, and used mainly for routine matters. It is no substitute in our opinion for primary legislation for any measure aimed at the denationalisation of the electricity supply industry, or any part of it.

CONCLUSION AND SUMMARY

31. The ESTUC's overall view of the legislative proposals in the Treasury's paper is that, if fully implemented, they would result in an improper, unjustified and arbitrary extension of Treasury powers to interfere in the detailed management of the electricity supply industry. They will undermine the stability of policy so essential to an efficient nationalised industry. They will undermine the competence with which the industry is managed, for the reason that the Treasury does not and cannot have either the knowledge or the skill to substitute itself for the industry's own management. They will reduce the effective accountability of the industry's Boards both to their customers and to Parliament. The resulting confusion and induced inefficiencies will raise costs and therefore tariffs, and will deal a crippling blow to staff morale and commitment.

32. We find merit in those proposals which seek to reduce the anomalies and inconsistencies between the various statutes governing the activities of the different geographical components of the electricity supply industry. In particular we welcome in principle the proposed extension to England and Wales of the facility - already enjoyed by the Scottish Boards - to borrow money from any source in any currency, but while such borrowing continues to be counted, wrongly in our opinion, against the PSBR, we believe it will have little practical effect.

33. However, we find the other proposals in the document exact far too high a price for this limited advantage. Both the content of the proposals, and the suggested means for their limited consideration by Parliament, (ie via at best the negative procedure), will not serve the interests of the industry's customers, but damage them. The balance between the interests of the Treasury and the industry's customers is being significantly altered to the clear advantage of the Treasury.

34. The ESTUC remains committed to the concept of an efficiently-run publicly owned electricity supply industry which is able to respond flexibly to the changing needs and demands of its customers and the wider public interest. The Treasury paper is, in theory, supportive of this view through its desire to "free" the industry among others, to be "successful commercial businesses". In reality, however, its proposals if enacted as legislation would constrain and shackle the industry's management even more than at present, penalise its efficiency by the reconstruction of its reserves as debt, scare off high calibre managers from the most senior posts, and bequeath to any future administration - of whatever political complexion - the means to manipulate this economically vital industry to meet its own short term political objectives.

35. For these critical reasons, the ESTUC will oppose any legislation which embodies these proposals in every way open to it.

NAT IND: Pol: P&D