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GRENADA

ACT NO. 33 OF 2017**I assent,**

CÉCILE E. F. LA GRENADE

*Governor-General.**22nd December, 2017.*

AN ACT to amend the Electricity Supply Act No. 19 of 2016.

[29th December, 2017].

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Senate and the House of Representatives and by the authority of the same as follows—

1. This Act may be cited as the—

Short title.

ELECTRICITY SUPPLY (AMENDMENT) ACT, 2017,

and shall be read as one with the Electricity Supply Act No. 19 of 2016, hereinafter referred to as the “principal Act”.

2. From the coming into operation of this Act, the Electricity Supply Act, 2016 shall be known and cited as the Electricity Act, 2016 and any reference in any enactment to the Electricity Supply Act shall be read and construed as a reference to the Electricity Act.

Amendment of citation of principal Act.

Amendment
of section 2 of
principal Act.

3. Section 2 of the principal Act is amended as follows—

(a) by inserting the following new definitions in alphabetical order—

“distribution” means the transport of electricity through the distribution system, and the term “distribute” shall be construed accordingly;

“distribution system” means medium and low voltage networks and associated equipment as prescribed;

“generation” means the production of electricity from renewable or non renewable energy sources, and the term “generate” shall be construed accordingly;

“transmission” means the transport of electricity through the transmission system, and the term “transmit” shall be construed accordingly;

“transmission system” means the transport of electricity through high voltage electricity systems, and the transport of electricity for interconnecting the island of Grenada with another island or country as prescribed;

“person” means—

(a) any natural person; or

(b) any public body, company or association or any person corporate or unincorporated;

“prescribed” means prescribed by regulations;”;

- (b) by deleting the definition of the word “licensee” where it appears and substituting therefor the following—

“ “licensee” means any person authorised by a licence to generate, transmit, distribute and supply electricity;”;

- (c) by deleting the definition of the word “Minister” where it appears and substituting therefor the following—

“ “Minister” means except as otherwise specified herein, the Minister for the time being with responsibility for the electricity sector in Grenada;”;

- (d) by deleting the definition of the word “network licence” where it appears and substituting therefor the following—

“ “network licence” includes licences granted pursuant to section 14 which allows its holder to transmit electricity, or to transmit, distribute and supply electricity to consumers;”;

- (e) by deleting the definition of the word “supply” where it appears and substituting therefor the following—

“ “supply” means the sale and resale of electricity;” and

(f) by deleting the definition of the word “undertaking” where it appears and substituting therefor the following—

“ “undertaking” means all the activities in electricity in which a licensee is permitted by its licence to engage in the supply of electricity and its property pertaining thereto.”.

Amendment
of section 3 of
principal Act.

4. Section 3 of the principal Act is amended in subsection (1) by repealing paragraph (c) where it appears.

Repeal and
substitution
of section 4 of
principal Act.

5. Section 4 of the principal Act is repealed and the following substituted therefor—

“Functions
of the
Commission.

4. The Commission shall—

(a) set and review rates chargeable by licensees and in particular—

- (i) set and review the rates that are chargeable by network licensees to consumers;
- (ii) set and review the rates that are payable by a network licensee to a self-generator for the purchase of excess electricity generated from its generation facilities;
- (iii) approve the rate provisions contained in any power purchase agreement;
- (iv) set and review the rates that are chargeable by a person who holds a network licence and a generation licence; and

- (v) adopt a social tariff in accordance with the policy established by the Minister;
- (b) monitor through efficient and timely enforcement proceedings compliance by all licensees and permit holders of their respective obligations under this Act, the Public Utilities Regulatory Commission Act, 2016, any licence, any permit, any quality of service standards, any regulations, and any decision or Order of the Minister and the Commission;
- (c) without prejudice to the Minister's powers for the award, modification, extension, suspension and revocation of licences and any other function, duty or power assigned to the Minister under this Act or regulations made thereunder, and in accordance with section 23 of this Act, commence enforcement proceedings against licensees and permit holders under this Act, the Public Utilities Regulatory Commission Act, 2016, any licence, any permit, any quality of service standards, any regulations, and any decision or Order of the Minister;
- (d) hear and settle any dispute related to access and use of transmission of distribution systems, and any other dispute in accordance with section 59;

- (e) hear and resolve complaints of consumers against a network licensee through efficient and timely proceedings;
- (f) protect the interests of consumers, permit holders and licensees against any possible abuse of dominant position by a network licensee;
- (g) advise the Minister in the performance of his or her functions and duties and in the exercise of his or her powers pursuant to this Act, regulations made thereunder, and any licence or any permit and when requested provide any advice to the Minister;
- (h) regulate self-generating under this Act, including—
 - (i) setting the rates that the network licensee shall pay to a self-generator for excess of electricity supplied by a self-generator to a network licensee;
 - (ii) setting the fees or charges payable by self-generators to network licensees in order to contribute to the operation and maintenance of the network licensee's electrical system, if necessary to ensure proper operation and maintenance of the network licensee's electrical system, as may be determined by the Commission;

- (iii) setting the criteria for grant of permits to self-generators;
- (iv) establishing the maximum cumulative generating capacity to be installed by self-generators in Grenada;
- (v) specifying the maximum generation capacity in respect of each self-generator;
- (vi) determining the procedure by which self-generators would be remunerated for excess electricity supplied to network licensees;
- (vii) establishing procedures and guidelines with which network licensees must comply to facilitate self-generating;
- (i) approve model connection and inter-connection agreements that network licensees offer to consumers, self-generators and independent power producers;
- (j) develop and implement on a national level consumer education programmes with the aim of fostering and developing public awareness and education in the use of renewable energy sources, energy efficiency and energy conservation;
- (k) advise and make recommendations to the Minister in all matters related

to the promotion of renewable energy sources, conduct studies and propose the programmes related to the promotion of renewable energy sources and energy efficiency;

- (l) give instructions to network licensees regarding the preparation and submission of expansion studies and renewable energy projects in accordance with section 37; and
- (m) carry out any other function that may be assigned to it under this Act and the Public Utilities Regulatory Commission Act, 2016.”.

Amendment of section 12 of principal Act.

6. Section 12 of the principal Act is amended as follows—

- (a) in subsection (2) by inserting after paragraph (e) the following paragraphs—

“(f) grant non-discriminatory access to its transmission and distribution systems as prescribed by this Act and any regulations made thereunder; and shall not deny access and use to its electricity transmission and distribution systems unless it can be justifiably shown that there is insufficient capacity in the electrical system;

- (g) offer to self-generators and independent power producers the interconnection agreements approved by the Commission.”;

(b) by inserting after subsection (2) the following subsection—

“(3) Every network licensee shall periodically assess in accordance with instructions given to it by the Commission the expansion of its transmission and distribution systems that would be necessary to—

- (a) increase transport capacity as necessary to meet new demand of electricity;
- (b) develop new projects of electricity generation from renewable energy sources and for the interconnection of generation facilities and electric plants; or
- (c) supply electricity to consumers in new areas.”.

7. Section 13 of the principal Act is amended as follows—

Amendment of
section 13 of
principal Act.

(a) by repealing subsection (1) and substituting therefor the following—

“(1) Subject to subsection (2), no person shall generate, transmit, distribute or supply electricity except in accordance with a licence granted under section 14.”;

(b) by repealing paragraph (b) of subsection (2) and substituting therefor the following—

“(b) generating electricity from renewable resources for his or her own consumption.”.

Repeal and substitution of section 14 of principal Act.

8. Section 14 of the principal Act is hereby repealed and the following substituted therefor—

“Grant of licence.

14. (1) The Minister may grant a licence, for a period not exceeding twenty five years, upon such terms and conditions as may be specified in the licence authorising any person to—

- (a) generate and store electricity and sell it to a network licensee;
- (b) transmit electricity; or
- (c) transmit, distribute and supply electricity to consumers.

(2) In granting a licence under subsection (1) the following principles shall apply—

- (a) the Minister shall consult with the Commission and shall take its views into account in determining whether to grant the licence;
- (b) every generation licence shall be a non-exclusive licence, and a network licence may be an exclusive licence;
- (c) the Minister shall give priority to granting licences for generating electricity from renewable energy sources or to persons whose electric plant would otherwise significantly reduce the cost of electricity to consumers, reduce Grenada’s carbon footprint and its dependence on imported fossil fuel;

- (d) prior to granting a generation licence or a network licence, the procurement requirements and procedures set out in sections 16 and 17 shall be complied with;
- (e) prior to granting a generation licence, the Minister must be satisfied that the terms and conditions of the power purchase agreement which have been approved by the Commission—
 - (i) contain the rates upon which electricity will be sold and purchased;
 - (ii) are in accordance with this Act and any regulations made thereunder;
 - (iii) the rates mentioned in paragraph (i) comply with the requirements of section 21 of the Public Utilities Regulatory Commission Act, 2016 and with any regulations made thereunder; and
 - (iv) are compatible with the national electricity policy;
- (f) an evaluation must be carried out to determine whether the applicant has the necessary legal and financial capacity, technical expertise and management

competence to carry out the activities, transmission, distribution, supply or generation under the terms and conditions of the licence;

- (g) the term for which a licence is granted shall reasonably relate to the financial implications, pricing, and other relevant considerations for the proposed activities and electrical system of a licensee; and
- (h) except in the cases provided for in sections 16 and 17, promote competitive selection process to allow consumers to pay the best price for the electricity generation, transmission, distribution and supply by selecting the licensee through a transparent, non-discriminatory and competitive procurement process in line with this Act and with regulations made thereunder.”.

Amendment of section 15 of principal Act.

9. Section 15 of the principal Act is amended by repealing paragraph (a) and substituting therefor the following—

“(a) the activities for the transmission, distribution, supply or generation of electricity in which the licensee is permitted to engage, the nature and capacity of the service to be supplied, and the technical capabilities of the licensee’s electrical system;”.

10. Section 16 of the principal Act is hereby repealed and the following substituted therefor—

Repeal and substitution of section 16 of principal Act.

“Requirements for procuring new transmission and distribution systems and for granting network licences.

16. (1) An award of a network licence allowing a person to transmit or to transmit, distribute and supply electricity shall be subject to a competitive procurement process in accordance with regulations made under this section.

(2) The Commission shall be responsible for managing and administering the process of procuring all new transmission and distribution systems in accordance with this Act, by means of competitive bidding or any other competitive procurement process authorised by Regulations.

(3) Any unsolicited proposals relating to the grant of network licences and to the construction and operation of new transmission and distribution systems shall be subject to procurement requirements prescribed by regulations.

(4) The Commission shall comply with the obligations and requirements prescribed in regulations relating to notices due, contents of procurement documents, prequalification of bidders, selection of bids, preparation of agreements and contracts related to the project, and any other aspect of procurement.

(5) The Commission shall make a recommendation to the Minister and the Minister shall adopt a final decision regarding the result of the procurement process and the winning bid, and shall grant a network licence accordingly.

(6) Subsections (1), (2), (3) and (4) shall not apply—

- (a) in cases of emergencies; or
- (b) in an event of force majeure.

(7) The procurement requirements and the procedure applicable to the situations described in paragraphs (a) and (b) of subsection (6) shall be prescribed by regulations of the Minister.

(8) In accordance with regulations, the Commission may decide that the authorisation for the construction of new transmission and distribution systems proposed by a network licensee in its sustainability programmes shall be subject to a previous competitive procurement.

(9) The Minister in consultation with the Commission shall make regulations to give effect to this section.”.

Repeal and substitution of section 17 of principal Act.

11. Section 17 of the principal Act is repealed and the following section substituted therefor—

“Require-
ments for
procuring
new genera-
tion and for
granting
generation
licences.

17. (1) The award of a generation licence to generate electricity and to construct and to operate new generation electrical systems shall be subject to a competitive bidding process in accordance with regulations issued by the Minister.

(2) The Commission shall be responsible for managing and administering the process for procuring all new generation capacity in accordance with this Act and regulations made thereunder.

(3) Any unsolicited proposal relating to the grant of a generation licence and for the construction and operation of new generation capacities and electrical systems shall be subject to the procurement requirements prescribed by Regulations.

(4) The Commission shall comply with the requirements prescribed by regulations relating to notices, request for proposals, contents of procurement documents, prequalification of bidders, selection of bids, approval of rates and content of draft power purchase agreements, preparation of other draft agreements relating to the project, and any other aspect of procurement.

(5) The Commission shall make a recommendation to the Minister and the Minister shall adopt a final decision regarding the result of the procurement process and the winning participant, and shall grant a generation licence.

(6) Subsections (1), (2), (3) and (4) of this section shall not apply—

- (a) in cases of emergencies; or
- (b) in an event of force majeure.

(7) The procurement requirements and procedure applicable to circumstances set out in paragraphs (a) and (b) of subsection (6) shall be prescribed in regulations made by the Minister.

(8) In accordance with regulations, the Commission may decide that the authorisation of the construction of new generation facilities and electric system proposed by a generation licensee in its sustainability programme shall be subject to a competitive procurement process.

(9) The Minister in consultation with the Commission shall make regulations to give effect to this section.”.

12. Section 23 of the principal Act is repealed and the following substituted therefor—

Repeal and substitution of section 23 of principal Act.

“Enforcement of obligations under legislation, licences and permits.

23. (1) Where the Commission determines that a licensee or a permit holder has contravened or is likely to contravene an obligation, condition or term of its licence or permit or the provisions of this Act, the Public Utilities Regulatory Commission Act, 2016, quality of service standards or regulations made thereunder, the Commission shall commence enforcement proceedings against the licensee or the permit holder by serving notice on the licensee or the permit holder in the prescribed form.

(2) A notice under subsection (1) shall state the relevant condition, act or omission which, in the opinion of the Commission, constitute or are likely to constitute a contravention of that condition, and such notice shall be effective upon service on the licensee or permit holder.

(3) The Commission may require a licensee or permit holder, within the period specified in the notice, to take such steps as the Commission

considers necessary to comply with, or to avoid the likely contravention of, that condition, and to make good any direct loss or damage in consequence of the contravention of that condition.

(4) Where a licensee or permit holder fails to take the steps as required by the Commission under subsection (3), the Commission shall—

- (a) prepare and transmit to the Minister a detailed report of the enforcement proceedings with the relevant supporting documents; and
- (b) in the circumstances make an appropriate recommendation to the Minister.

(5) The Commission shall carry out enforcement proceedings under this section in a fair, timely and efficient manner.”.

13. Section 26 of the principal Act is amended by repealing the section heading “General powers and duties of licenses and permit holders” and substituting therefor the following—

Amendment of section 26 of principal Act.

“General rights and obligations of licensees and permit holders”.

14. Section 37 of the principal Act is amended as follows—

Amendment of section 37 of principal Act.

- (a) by repealing the section heading “Sustainability programmes” and substituting therefor the following—

“Sustainability programmes and expansion studies”;

(b) by inserting after subsection (5) the following subsections—

“(6) The operation, maintenance and expansion costs and investments related to the plans and projections included in sustainability programmes may be recovered by licensees through—

(a) the tariffs approved by the Commission;
or

(b) a fund or another mechanism in accordance with this Act, the Public Utilities Regulatory Commission Act, 2016, and regulations made thereunder,

subject to the approval of the Minister.

(7) In addition to preparing sustainability programmes, network licensees shall periodically prepare and submit in accordance with regulations the following expansion studies—

(a) to assess demand growth in the country in the short, mid and long-term;

(b) to recommend new generation that will be necessary to meet increased demand for electricity;

(c) relating to new electricity generation capacities necessary, to meet increased demand or to replace existing power

generation from fossil fuels by more efficient electric plants or by electricity generated from renewable energy resources;

- (d) to assess the transport capacity of the transmission and distribution system to connect new generation capacities;
- (e) to assess the investments necessary to increase the transport capacity in transmission and distribution systems in areas already supplied by a network licensee in order to meet new demand for electricity in those areas or to connect new generation capacities; and
- (f) to assess the investments necessary to expand transmission and distribution to new areas in order to connect new consumers with electricity or to interconnect new generation capacities.”.

15. Section 45 of the principal Act is repealed and the following substituted therefor—

“Books, accounts and records of a licensee.

45. (1) A licensee shall keep proper books and accounts and other records in relation to its business, including in the case of a network licensee, separate books, accounts and records respecting the generation, purchase, sale, transmission and distribution of electricity, in the case of a generation licensee, records of fuel efficiency, where applicable, and generation

Repeal and substitution of section 45 of principal Act.

efficiency of each generating unit, and on the other principal activities of the licensee, showing in reasonable detail the operating results of such activity.

(2) A licensee shall prepare in respect of each financial year statement of accounts in such form as shall conform to a system of accounts for electric utilities as published by an appropriate regulatory body, as may be determined by the Commission.

(3) The books, accounts and records of a licensee required to be kept under subsection (2) shall be audited by a firm of Chartered Accountants or Certified Public Accountants.

(4) In this section and section 46, “financial year” means the period of twelve months for which the accounts of a licensee are normally prepared.

(5) Without prejudice to subsections (1), (2), (3) and (4), the Commission may impose on licensees specific requirements for preparing and submitting financial books, records and accounts related to each activity carried out by a licensee or by the person directly controlling or indirectly controlling one or more licensees.

(6) The Commission shall examine or cause to be examined and shall have access to the financial books, accounts and records of network licensees and other licensees as may be necessary to carry out its powers and functions under this Act and regulations made thereunder and may seek the assistance of any person to audit the accounts of network licensees.

(7) Every licensee shall, in accordance with this Act and regulations made thereunder, submit to the Commission all books of accounts and other financial information as required.”.

16. Part VI headed “LIABILITIES, IMMUNITIES, PENALTIES AND DISPUTE RESOLUTION BETWEEN NETWORK LICENSEES AND CONSUMERS” is repealed and the following substituted therefor—

Repeal and substitution of heading of Part VI.

“LIABILITIES, IMMUNITIES, PENALTIES AND DISPUTE RESOLUTION”.

17. Section 59 of the principal Act is repealed and the following substituted therefor—

Repeal and substitution of section 59 of principal Act.

“Dispute resolution.

59. (1) The Commission shall hear and settle any dispute related to access and use of transmission or distribution and any other kind of dispute—

- (a) between consumers and licensees;
- (b) between licensees;
- (c) between a licensee and one or more permit holders; or
- (d) between a licensee and one or more applicants for licences or permits.

(2) The Commission shall hear disputes under subsection (1) within a reasonable time and the procedure for hearing and determining disputes shall be set out in regulations made by the Minister in consultation with the Commission.”.

Amendment of
section 62 of
principal Act.

18. Section 62 of the principal Act is amended in subsection (1) as follows—

- (a) by deleting the word “and” at the end of paragraph (r);
- (b) by deleting the “full stop” at the end of paragraph (s) and replacing it with a “semi-colon”;
- (c) by inserting after paragraph (s) the following new paragraphs—
 - “(t) grid codes and any other matter necessary to implement section 12;
 - (u) establishing technical and commercial quality of service standards including sanctions for breach of those standards;
 - (v) addressing imbalances and management of limited transport capacity in transmission and distribution systems;
 - (w) to implement the Universal Service Fund and the Social Fund;
 - (x) fees; and
 - (y) any matter necessary to give effect to this Act.”.

Amendment of
section 66 of
principal Act.

19. Section 66 of the principal Act is amended by inserting the words “by order” after the words “time to time”.

20. Section 70 of the principal Act is repealed and the following substituted therefor—

Repeal and substitution of section 70 of principal Act.

“Social Fund.

70. (1) There shall be established a Fund to be known as the Social Fund which shall be financed in accordance with subsection (3).

(2) The fund established under subsection (1) shall be managed by a committee appointed by the Minister.

(3) Every network licensee shall contribute five percent of its pre-tax profit every financial year to the Social Fund.

(4) The Minister in consultation with the Commission shall make regulations to give effect to this section.”.

Passed by the House of Representatives this 15th day of November, 2017.

WILLAN A. THOMPSON
Clerk to the House of Representatives.

Passed by the Senate this 24th day of November, 2017.

WILLAN A. THOMPSON
Clerk to the Senate.

GRENADA