

ELECTRICITY SUPPLY BILL, 2015

EXPLANATORY MEMORANDUM

The Electricity Supply Bill, 2015 repeals and replaces the 1994 Electricity Supply Act and effects a comprehensive reform of Grenada’s electricity sector. It opens the sector to domestic and foreign investment in new projects and facilities for the generation of electricity from renewable energy resources (e.g., solar, wind, geothermal, biomass, wave and tidal sources), while preserving the activities of current market participants. By establishing the framework for Grenada’s commitment to reducing its current reliance on fossil fuels and achieving greater energy efficiency, the Bill is expected to result in lower electricity prices for consumers, greater efficiencies in the production and use of electricity, and greater public participation in the process of developing and regulating the sector.

The Bill, along with the enactment of a new Public Utilities Regulatory Commission Act (PURCA), simultaneously introduced with the Bill, and regulations expected to be issued under the new Electricity Supply Act, 2015, on the commencement date or shortly thereafter, creates a clear, harmonized framework and diversification for the sector that is lacking in the current Electricity Supply Act. The Bill consists of seven major Parts and three Schedules, most of which are innovations for the Grenada electricity sector, as follows:

Part I sets out the short title and defines terms used in the Bill.

Part II delineates the roles of the Minister and the new Public Utilities Regulatory Commission (“Commission”), to be established upon enactment of the Bill and the PURCA, in the regulation of the electricity sector. While the PURCA establishes the Commission as the independent regulator of all public utilities, the Bill endows it with additional powers and functions specific to the electricity sector. In addition to serving as the economic regulator of the sector, responsible for all rate-setting, the Commission is tasked with the enforcement of the terms of all licences for the supply of electricity, the resolution of consumer and self-generator complaints, the receipt and processing of all licence applications, and the provision of advice, recommendations and assistance to the Minister in the performance of his functions under the Bill. For his or her part, the Minister, after consultation with the Commission and the public, is responsible for final decisions on granting, modifying, extending, suspending and terminating licences; issuing regulations governing the electricity sector; approving network licensees’ sustainability programmes; the institution of penalty proceedings; and policy planning for the sector. To the extent that the Minister makes a decision or otherwise acts in a manner materially contrary to the advice or recommendation of the Commission, he or she must give written reasons for doing so to the Commission and in the decision. Finally, Part II empowers the Minister to establish a National Electricity Advisory Committee, that if established, would serve as a consultative and advisory body to the Minister in, among other matters, the formulation and implementation of national policy for the electricity sector.

Part III of the Bill establishes two fundamental national policies for the electricity sector: First, acceleration of the development of renewable resources and efficient generation capacity, supported by a commitment to give priority to the issuance of generation licences for new projects using renewable resources or that otherwise reduce electricity costs and Grenada's reliance on imported fossil fuels, while reducing Grenada's CO2 footprint; and second, the enhancement of energy efficiency training for electricity providers and the public alike. To create one possible focal point for achieving those goals, Part III empowers the Minister in his discretion to, after wide-ranging consultations, periodically formulate and update a National Electricity Strategy. Part III also establishes the fundamental requirement that, taking safety and compatibility of systems into account, independent power producer and self-generators will be able to interconnect, without impediment, with the national grid.

Part IV creates a modernised regulatory structure for the licensing of the supply of electricity by both transmission and distribution "network" licensees and independent power producers to which generation-only licences may be issued. Part IV ensures that, unless terminated in accordance with its terms or revoked in accordance with its provisions, a licence will remain in effect for the full term for which it is granted. Part IV also contains standards and procedures for monitoring compliance with the terms of licences for the supply of electricity; and for modifying, extending, suspending or revoking them. Finally, the Part clarifies that, while self-generators must comply with all regulations for the safe and technically-correct installation, operation and maintenance of their self-generation facilities, they will only be required to obtain a permit (also required in order to ensure safety and technical suitability) if they connect to a network licensee's grid and supply electricity to it.

Part V of the Bill continues with provisions governing the principles upon which licensees are empowered and are required to operate. In provisions that modernize and give greater structure than that in the current Electricity Supply Act, Part V empowers licensees in areas such as the erection and maintenance of their lines and other installations and, in combination with the Government's exercise of eminent domain powers, the acquisition of land for use in supplying electricity to the public. Part V, as supplemented by existing supply and technical standards now appended as the First, Second and Third Schedules to the Bill, defines the relationship between network licensees and consumers in such comprehensive areas as the formation of contracts to supply electricity, the use and certification of electricity meters, and dispute resolution between network licensees and consumers. Part V also defines the broad principles governing the rates that can be charged to consumers by network licensees, to be supplemented by detailed regulations to be issued on the commencement date of the new electricity sector legal regime or shortly thereafter. The Part also establishes that, in instances in which a self-generator supplies excess electricity to, and takes electricity from, a network licensee, the latter shall pay to and charge the self-generator only for the net amount of the electricity actually taken or supplied, respectively, by the network licensee. Part V also contains provisions that require network licensees, and licensees that hold both a generation licence and a network licence, to maintain annual and rolling five-year sustainability programmes, intended to ensure the sustainable development and operation of electrical systems in Grenada. The concluding sections of Part V set forth the types of books, records, accounts and performance statistics

that must be maintained by licensees and submitted to the Government and the Commission and made available to the public on an annual basis, and provides the Minister and the Commission with the right to inspect a licensee's electrical systems upon reasonable notice.

Part VI sets forth the penalties for violations of the Act and establishes the liability and immunities of licensees in their supply of electricity. It also provides that disputes between network licensees and consumers are to be resolved by the Commission, under procedures established in the PURCA and the regulations.

Part VII repeals the existing Electricity Supply Act, which itself functioned as an exclusive licence for GRENLEC to generate, transmit and distribute electricity in Grenada until 2073. Accordingly, Part VII also provides for the granting of a new licence to supply electricity to GRENLEC, which will be a non-exclusive licence to generate electricity and, to maintain economies of scale and recognise the reliability of supply that GRENLEC has achieved, a non-exclusive licence to transmit and distribute electricity with limited carve-outs, but without prejudice to the right of self-generators to supply electricity to themselves and to grid operators. Part VII also ensures the preservation of existing way-leaves, rights-of-way and easements necessary for a network licensee to carry out its licensed activities. Part VII specifies the Minister's regulatory powers in areas that are appropriate for governmental regulation, *e.g.*, public safety, the definition of technical standards and the procedure for licensing the supply of electricity, and matters affecting national electricity policy, but with the exception of regulations made on the commencement date, it requires the Minister to consult widely prior to making any of those regulations. Part VII also requires that, before taking any action authorised or required by the Act, the Minister apply a test that balances the consumers' interest, public safety, the financial health of electricity suppliers, investor interest in achieving a reasonable rate of return on capital invested, and the national interest in enforcing the Bill, protecting the environment and carrying out national energy policy.

ELECTRICITY SUPPLY BILL, 2015

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ELECTRICITY SUPPLY BILL, 2015

GRENADA

ACT NO. OF 2015

AN ACT to provide for the regular, efficient, co-ordinated and economical supply of electricity and to establish a framework for the accelerated development of the supply of electricity from renewable energy resources, and for connected purposes.

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 the authority of the same as follows:

PART I

PRELIMINARY

Short title and commencement

1. This Act may be cited as the

ELECTRICITY SUPPLY ACT, 2015,

and shall come into force on such date as the Minister shall by notice published in the *Gazette* appoint.

Interpretation

2. In this Act –

“authorised area” means the geographical area within which a network licensee is authorised to supply electricity as set forth in a network licence granted under section 14 to that network licensee;

“commencement date” means the date on which this Act is brought into force under section 1;

“Commission” has the same meaning as in section ___ of the Public Utilities Regulatory Commission Act, 2015;

“Committee” means any National Electricity Advisory Committee established by the Minister by order under sections 6 and 7;

“consumer” means any person or public body supplied, or requesting to be supplied, with electricity by a network licensee;

“electric line” means any wire or conductor erected or fixed on, under or over any land and used or to be used for the purpose of conveying, transmitting or distributing electricity together with any casing, coating, covering, tube, post, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, and any transformer, switchgear or other works or apparatus connected therewith for the purpose of conveying, transmitting or distributing electricity or transforming its voltage and together also with any building, structure or box required to accommodate any such transformer, switchgear or other works or apparatus;

“electric plant” means any electric generation equipment and other works or apparatus used in connection therewith for the purpose of generating electricity, and any handling, storage or processing equipment and any other works or apparatus used in connection therewith for the delivery of fuel, including but not limited to petroleum products, natural gas, biogas, water, steam, and/or renewable energy resources, together also with any building or structure required to accommodate any such equipment, fuel, or other works or apparatus and any electric lines required to deliver the generated electricity to a network licensee;

“electrical system” means electric plant, electric lines and all other equipment, works or apparatus utilised by a licensee to supply electricity;

“electricity” includes electric voltage, electric current, electric energy and any like agency;

“generation licence” means a licence for the generation and/or storage of electricity and/or the sale of such electricity to a network licensee, granted to an independent power producer or a network licensee pursuant to section 14(a);

“generation licensee” means any person to whom a generation licence has been granted;

“governing body” means the board of directors in the case of a corporate body, the responsible Minister in the case of a Ministry or a Government department, or the person or persons having the ultimate authority in the case of any other public body or entity;

“hybrid system” means any electricity generation facility or electric plant which makes use of more than one fuel source, one of which may include fossil fuel, with a minimum of ten percent of the annual energy output provided by renewable energy sources;

“independent power producer” means a person to whom a generation licence has been granted and who is not a network licensee;

“licence” means a licence granted by the Minister under section 14;

“licensee” means any person authorised by a licence to supply electricity;

“Minister,” except as otherwise specified herein, means the Minister for the time being responsible for the supply of electricity in Grenada;

“network licence” means a licence for the transmission, distribution and/or sale of electricity to consumers granted pursuant to section 14(b);

“network licensee” means any person to whom a network licence has been granted;

“permit” means a permit issued to a self-generator under this Act;

“power purchase agreement” means an agreement between an independent power producer and a network licensee for the supply of electricity by the independent power producer to the network licensee for transmission, distribution and/or sale to consumers;

“premises” means any land or any building or other erection wherever situated;

“rate” means every rate, fare, toll, charge or other compensation or payment whatsoever charged or paid by a licensee for the purchase or sale of electricity, and shall be deemed to have the same meaning as provided in section ___ of the Public Utilities Regulatory Commission Act, 2015;

“regulations” means the regulations made under this Act;

“renewable energy resources” means non-fossil sources of energy capable of use for the generation of electricity such as wind, solar, hydropower, biomass, geothermal, wave and tidal sources;

“self-generator” means a person who generates electricity only for his own use and, as the case may be, for the provision of excess electricity to a network licensee, and the term “self-generate” shall be construed accordingly;

“supply” includes the generation, storage, transmission, transformation, distribution, furnishing, sale and/or resale of electricity;

“sustainability programme” means both an annual and a rolling five-year plan of a network licensee, or a person who holds both a generation licence and a network licence, which sets out, in the detail required under section 36(2), the manner in which the licensee is to achieve and sustain the customer service, engineering, financial and technical standards necessary for a regular, efficient, co-ordinated and economical supply of electricity under its licence;

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

PART II

FUNCTIONS OF THE MINISTER AND THE COMMISSION

Functions of the Minister

3. (1) The Minister shall –
- (a) after consultation with the Commission, licensees and the public, establish and communicate national electricity sector policy consistent with this Act and the regulations;
 - (b) grant, modify, extend, suspend and revoke licences and permits;
 - (c) act as the technical regulator of the electricity sector;
 - (d) be responsible for making the regulations and giving directions under this Act;
 - (e) seek the advice of the Commission on the performance of his or her functions, duties and powers as required by this Act, the regulations and any licence or permit and on such other matters as he or she may request; and
 - (f) carry out the other functions, duties and powers assigned to him or her in this Act, the regulations and any licence or permit.
- (2) Where any determination, decision, or direction of the Minister is materially contrary to the advice or recommendation of the Commission on a matter for which this Act, the regulations, a licence or a permit provide for consultation with or the advice or recommendation of the Commission or the Minister has otherwise requested such advice or recommendation, the Minister shall give his reasons therefor in writing to the Commission and in such determination, decision or direction.

Functions of the Commission

4. The Commission shall –
- (a) act as the economic regulator of the electricity sector and in particular the setting of all rates charged by licensees for the supply of electricity and other services and payable to self-generators for excess electricity generated from their electricity generation facilities sold to network licensees, and the approval of the rate provisions of power purchase agreements proposed to be concluded between network licensees and independent power producers;
 - (b) without prejudice to the Minister's powers for the granting, modification, extension, suspension and revocation of licences and any other function, duty or power assigned to the Minister under this Act or the regulations, the enforcement of every licensee's compliance with the terms and conditions of its licence, its sustainability programme, and with the requirements for quality of service to consumers, and the rates that a licensee is authorised to charge;

- (c) hear and resolve complaints by consumers and/or self-generators against network licensees and complaints against licensees by the Minister under the Public Utilities Regulatory Commission Act, this Act and/or the regulations;
- (d) advise the Minister in the performance of his or her functions, duties and powers as provided for in this Act, the regulations, and any licence or permit and as otherwise requested by the Minister; and
- (e) carry out the other functions assigned to it with regard to the electricity sector in this Act, the regulations, the Public Utilities Regulatory Commission Act and any licence or permit.

Priority of provisions of this Act

5. The provisions of this Act and the regulations with regard to the Commission and its powers or functions and duties, to the extent they may conflict with any power or function of the Commission under the Public Utilities Regulatory Commission Act, shall govern the powers and functions of the Commission with regard to licensees and any other matter concerning the electricity sector.

Minister's authority to establish a National Electricity Advisory Committee

6. The Minister may, by order, establish a National Electricity Advisory Committee and designate its composition and terms of appointment.

Functions of the Committee

7. (1) Any order issued by the Minister under section 6 shall designate the functions of the Committee, including without limitation the provision of advice to the Minister on the establishment of national policy for the electricity sector and the strategy for its development.

(2) Any Committee established by order under section 6 and this section may, by subsequent order of the Minister, be transitioned to or replaced by a committee or other body to provide advice and/or any other assistance to the Government on the energy sector as a whole.

Cooperation with regional electricity bodies

8. In the performance of their functions under this Act, the regulations, and the Public Utilities Regulatory Commission Act, the Minister and the Commission shall cooperate with and, as may be required under the international obligations of Grenada, utilise the advisory, training and other services of any regional electricity and/or energy sector body.

PART III

**FRAMEWORK FOR ACCELERATED DEVELOPMENT OF THE SUPPLY OF
ELECTRICITY FROM RENEWABLE ENERGY RESOURCES AND
FOR THE EFFICIENT GENERATION AND USE OF ELECTRICITY**

Principles for the Minister's performance of functions

9. (1) In carrying out his functions, the Minister shall –
- (a) promote the accelerated development of the supply of electricity from renewable energy resources and the efficient generation and use of electricity in Grenada, in order to transition Grenada to an efficient, affordable, low-carbon, energy independent electricity generation, interconnection, transmission and distribution network; and
 - (b) with the exception of any licence to be issued under section 66, give priority to the issuance of generation licences to persons who will generate electricity from renewable energy resources or whose electric plant would otherwise significantly reduce the cost of electricity to consumers, the carbon footprint of Grenada, and/or Grenada's dependence upon imported fossil fuel.
- (2) The principles through which the Minister shall carry out the functions set forth in subsection (1) shall include to –
- (a) reduce national reliance on imported fossil fuels and Grenada's carbon footprint, lower the cost of electricity, and transition Grenada to a sustainable energy model through the supply of electricity from renewable energy resources;
 - (b) cooperate in the establishment of the Commission as an efficient, cost-effective regulator of the electricity sector in the manner set forth in this Act, the regulations and the Public Utilities Regulatory Commission Act;
 - (c) provide for diversity in the generation of electricity, to accelerate energy independence, the affordability of electricity, the universal supply of electricity, and other policy objectives;
 - (d) explore the provision of appropriate fiscal incentives and financial and other support for the establishment of electric plants and self-generation facilities for the introduction of the generation of electricity from renewable energy resources;
 - (e) engage in collaboration with geothermal and other renewable energy resource development activities in the Caribbean region and beyond, to secure the required technical assistance and financing for such projects;

- (f) effectively and economically integrate self-generators from renewable energy resources into the national electricity system, or grid;
- (g) explore the economic feasibility of the conversion of existing fossil fuel generation facilities to hybrid systems;
- (h) promote the achievement of significant energy conservation in the production and end-use of electricity;
- (i) promote specialised professional education programmes to increase the capacity of public officers and staff to participate in the effective regulation of the electricity sector and the development, implementation and monitoring of national electricity policy;
- (j) recommend updates to the legislative and regulatory framework in a manner that will support achieving the generation of electricity from the entire range of renewable energy resources;
- (k) obtain from licensees the data and other information necessary to set national electricity policy and sustainably develop electricity generation from renewable energy resources;
- (l) continue to engage in discussions for the development of the sharing of advisory, training and other services in the Caribbean region; and
- (m) strengthen the Government's participation in other regional and international organisations whose agenda includes the production of electricity from renewable energy resources, lower electricity costs, and other mechanisms to reduce the national carbon footprint.

Strategy for electricity sector development

10. (1) The Minister may, after consultation with the Commission, licensees, the public, and any Committee established under section 6 or referred to in section 7(2), initiate the development of a National Electricity Strategy, to be updated on such periodic basis as shall be designated by the Minister.

(2) A National Electricity Strategy may include short-, middle-, and long-term steps necessary to implement the policy and achieve the objectives set forth in section 9, including such steps necessary to --

- (a) provide a reliable, high quality supply of electricity to consumers and a universal supply of electricity;
- (b) attract new domestic and foreign investment in the development, construction and operation of electric plants utilising renewable energy resources;

- (c) identify targets for the electric plants in subparagraph (a), including by geographical location, diversity of renewable energy resources, technology, generation capacity and unit size, and with regard to the universal supply of electricity;
- (d) reduce exposure to fossil fuel price volatility;
- (e) finalize and promulgate the regulations provided for in section 61, and in particular the regulations for the interconnection of the electrical systems of independent power producers and the electricity generation facilities of self-generators with the electrical system of network licensees;
- (f) draft and present to Parliament a bill for the development of Grenada's geothermal resources;
- (g) identify and enact any additional fiscal incentives necessary for the accelerated development of electricity generation from renewable energy resources;
- (h) explore the feasibility of introducing hybrid systems in existing fossil fuel generation electric plants;
- (i) carry out an impact and feasibility assessment for the use of biomass for electricity generation purposes;
- (j) institute a streamlined permitting process for self-generators under section 24;
- (k) encourage the development, installation and operation of self-generation capacity that will provide excess energy to the national grid;
- (l) formulate and schedule professional education programs to train relevant public officers in the financial, operational and other parameters of fossil fuel and renewable energy resources and in the effective and efficient regulation of the electricity sector and participation in the implementation of national electricity policy;
- (m) formulate and schedule programs to educate the public in a range of steps for implementing the efficiency use of electricity and the use of renewable energy resources for self-generation and for the provision of excess electricity to network licensees;
- (n) identify and plan additional programs for the promotion of energy efficiency by licensees, self-generators, and the general public;

- (o) increase public participation in, and understanding of, the regulation of the electricity sector; and
- (p) carry out such other projects, programmes and initiatives as may be necessary to implement national electricity policy.

Public availability of strategy

11. Any National Electricity Strategy shall –
- (a) report on progress toward, and any impediments to achieving, the steps identified in any previous National Electricity Strategy; and
 - (b) be made available to the public free of charge by posting on the website of the Ministry and otherwise as the Minister may deem fit.

Interconnection of independent power producers and self-generators with the national grid

12. (1) A network licensee shall, in addition to its other obligations under this Act, the regulations, the Public Utilities Regulatory Commission Act, and its licence –
- (a) on a rolling basis, determine and ensure the safety and technical capability of its electrical system to interconnect with the electrical systems of independent power producers and the electricity generation facilities of self-generators;
 - (b) facilitate the interconnection of such independent power producers and self-generators;
 - (c) provide the Minister and the Commission with a written report by February 1 of each year on the following matters with respect to the previous calendar year:
 - (i) the number and identity of the independent power producers and self-generators that have applied to the network licensee for interconnection to its electrical system;
 - (ii) the number and identity of the independent power producers and self-generators that have been interconnected with and/or supplied electricity to the network licensee's electrical system; their available capacity; and a comparison of such capacity and energy supplied with the overall available capacity and electricity supplied through the network licensee's electrical system; and

- (iii) any additional data that the Minister or the Commission may request regarding the quantity of electricity provided to the network licensee's electrical system by independent power producers and self-generators and the rate that the network licensee paid for it.
 - (d) conclude power purchase agreements with independent power producers that have been approved by the Commission, and purchase, transmit and distribute to consumers electricity generated by, independent power producers; and
 - (e) purchase, transmit and distribute to consumers excess energy generated by self-generators whose generating facilities have been issued a permit to interconnect with and provide electricity to the network licensee's electrical system.
- (2) Every independent power producer, and every self-generator that generates excess electricity and sells it to a network licensee, shall, in exchange for compensation from a network licensee as provided for in this Act and the regulations –
- (a) on a rolling basis, determine and ensure the safety and technical capability of its electric plant and electricity generation capacity, as the case may be, to interconnect with the electrical system of the network licensee;
 - (b) facilitate the interconnection of such network licensee with its electric plant or electricity generation capacity, as the case may be;
 - (c) provide the network licensee with such information as it may reasonably request to allow it to meet its reporting obligations to the Minister and the Commission under this section and the other provisions of this Act;
 - (d) in the case of independent power producers, conclude with the network licensee power purchase agreements that have been approved by the Commission, and sell electricity generated at its electric plant under the terms and conditions of such agreement; and
 - (e) in the case of self-generators, sell excess electricity generated from its electricity generation capacity to the network licensee in accordance with the rates approved by the Commission.

PART IV

LICENSING

Requirement for a licence

13. (1) Subject to subsection (2), a person shall not supply electricity to himself or to any other person, or to any premises or geographical area, except under and in accordance with a licence granted under section 14.

(2) A person shall not be required to obtain a licence under section 14 if such person –

- (a) is a self-generator that possesses electricity generation capacity and equipment for the generation and use of electricity from any source for its or his own use during periods when the network licensee in whose authorised area the self-generator is located is prevented by weather or other emergent circumstances from supplying electricity to such self-generator;
- (b) generating electricity from renewable energy resources for his own consumption and use on any premises used for residential purposes or for any other purposes prescribed in the regulations;
- (c) generating electricity exclusively for his own consumption and use and located in an area not supplied with electricity by a network licensee:

Provided that any such self-generator shall comply with all regulations applicable to the safety and technical suitability of the design, installation, operation and maintenance of self-generation equipment and otherwise applicable to self-generators, and may supply excess electricity to a network licensee only in accordance with a permit or, pending the Minister's publication of the guidelines, regulations or other requirements for obtaining a permit provided for in section 24, temporarily under such other authorisation provided for in section 24.

Authority to grant licences for the supply of electricity

14. The Minister may grant a licence, for a period not to exceed twenty-five years, authorising any person to –

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

upon such terms and conditions as may be specified in the licence, and subject to the following principles –

- (t) prior to granting any licence, the Minister shall consult with the Commission and shall take its views into account in determining whether to grant the licence;

- (u) every generation licence shall be a non-exclusive licence, and any network licence may be an exclusive licence;
- (v) the Minister shall give priority to the grant of generation licences for the generation of electricity from renewable energy resources or to persons whose electric plant would otherwise significantly reduce the cost of electricity to consumers, the carbon footprint of Grenada and/or Grenada's dependence upon imported fossil fuel;
- (w) prior to granting a generation license to an independent power producer, the Minister shall be satisfied that the terms and conditions of any power purchase agreement between the independent power producer and the relevant network supplier –
 - (i) are satisfactory as to the rates upon which electricity will be sold and purchased and that such rates have been approved by the Commission;
 - (ii) are commercially prudent and viable, and will not adversely affect or will enhance the system-wide capacity, reliability and efficiency of the network licensee;
 - (iii) are not contrary to law; and
 - (iv) are compatible with national electricity policy;
- (x) in determining whether to grant a licence, the Minister shall evaluate, among other relevant criteria, whether the applicant has the necessary legal and financial capacity and standing, technical expertise and management competence to carry out the activities for the supply of electricity under the terms and conditions of the licence;
- (y) the term for which a licence should be granted shall reasonably relate to the financial, pricing, and other relevant parameters of the licensee's proposed activities and electrical system; and
- (z) the Minister may determine the instances in which a competitive selection process for a licence should be utilised, including but not limited to requests for proposals, tenders, auctions, stated criteria, or fixed prices, and any such competitive selection process shall include a requirement that the winning participant submit an application for the relevant licence, which application shall be processed and determined by the Minister in accordance with the provisions of this Act and the regulations governing licence applications.

Terms and conditions of licences

- 15. A licence granted under section 14 shall include –

- (a) the activities for the supply of electricity in which the licensee is permitted to engage, the nature and capacity of the service to be supplied, and the technical parameters of the licensee's electrical system;
- (b) such limits within which, and conditions under which, electricity is to be supplied;
- (c) in the case of a network licence, the authorised area within which, or the persons or premises to which, the network licensee must supply electricity;
- (d) in the case of a generation licence, the location of the electric plant, its equipment, and the operational and maintenance requirements for such electric plant;
- (e) in the case of an electric plant or electrical system that is to be developed and become operational after the grant of the licence, a deadline by which the licensee must commence operations or forfeit its right to the licence;
- (e) the term of the licence; and
- (f) generally such other provisions, terms and conditions as required by this Act or as the Minister may think fit, consistent with this Act, the regulations and other written law.

Procedures for licence applications

16. (1) An application for a licence shall be made to the Commission, in the manner and shall be accompanied by such evidence and such fee, as the Minister may by regulation prescribe.

- (2) On the submission of an application for a licence –
 - (a) the Commission shall cause a notice of such application to be published in the *Gazette*;
 - (b) the applicant, at its own expense, shall publish notice of such application in a newspaper of general circulation in Grenada, in the manner and including the particulars that the Commission may prescribe, for the purpose of providing interested persons the opportunity to comment in writing for a period being not less than forty days from the date of the submission of the application to the Commission; and
 - (c) the Commission shall transmit a copy of the application to the Minister within three business days of the Commission's receipt of such application.

(3) The Commission shall consider any representations, objections and views which are duly made and not withdrawn during the comment period provided for in subsection (2), and within fourteen days after the close of such comment period shall provide the Minister with its views, in writing, on whether the licence should be granted.

(4) Within thirty days after his or her receipt of the Commission's views provided for in subsection (3), the Minister, taking such views into consideration and bearing in mind the considerations specified in section 63, shall make a determination whether to grant or refuse the licence, and shall promptly notify the applicant and the Commission of his determination in writing.

Effectiveness and notice of granting of licence

17. (1) A licence shall be in writing and, unless suspended or revoked in accordance with section 23, shall continue in force and effect in accordance with its terms and conditions for such period as may be specified in the licence.

(2) As soon as practicable after granting a licence, the Minister shall publish a notice of such grant in the *Gazette* and shall send a copy of the licence to the licensee and –

- (a) to the Commission; and
- (b) in the case of a generation licence granted to an independent power producer, to the network licensee to whom the independent power producer is authorised by its licence to sell electricity.

Prohibition on cessation of licensed operations

18. Except where a licence expires or is revoked, suspended, cancelled or terminated in accordance with its terms and conditions and this Act, no licensee shall cease its licensed operations or any part thereof without first obtaining the permission of the Minister, after consultation with the Commission.

Activities requiring prior consent of the Minister

19. The following conditions shall be included in every licence granted and shall be deemed to have been agreed upon by the licensee –

- (a) a licensee shall not, without the prior consent in writing of the Minister, acquire, by purchase or otherwise, the licence or the business of, or for the purpose of supplying electricity associate itself with, any person supplying or intending to supply, electricity under any other licence;
- (b) a licensee shall not assign or encumber its licence or transfer, or divest itself of, its rights or obligations under a licence, or any part thereof, without the prior written consent of the Minister, which consent shall not be unreasonably withheld;

- (c) a licensee shall not, without the prior written consent of the Minister, lend funds or give credit to any of its officers or directors, or to any company by –
 - (i) becoming surety, guarantor or endorser upon any obligations, contingent or otherwise, of such officer, director or company;
 - (ii) loaning funds, securities or other like assets to such officer, director or company; or
 - (iii) purchasing any obligation upon which the officer, director or company may be liable solely or jointly with others;
- (d) any agreement relating to any transaction of the nature described in this section, unless made with and subject to the consent of the Minister, shall be void; and
- (e) unless otherwise provided by the Minister in writing, this section shall extend to the renewal or extension of any agreements existing on the commencement date.

Modifications of licences

20. (1) Either a licensee or the Minister may propose, in writing, the modification of the terms and conditions of the licensee's licence, and the Minister, after seeking the views of the Commission, may make any such modifications to which the licensee consents in writing.

(2) A licensee wishing to propose a modification of its licence shall submit such proposal to the Commission, in such manner as the Minister may by regulation prescribe or, in the absence of regulations, as the Commission shall direct, and the Commission shall transmit a copy of such proposal to the Minister within three business days of its receipt of the proposal.

(3) Before the conclusion of any modification to which the Minister and the licensee have agreed, the Minister shall give notice in a newspaper of general circulation in Grenada –

- (a) stating that he proposes to make such modifications, their effect and the reasons therefor; and
- (b) specifying the period, not being less than thirty days from the date of publication of the notice, within which representations or objections with respect to the proposed modifications may be made in writing,

and shall consider any representations or objections which are duly made and the views of the Commission.

Extension of licences

21. (1) The Minister, upon the application of any licensee and after consultation with the Commission, may grant an extension of the licence, on terms and conditions that are the same as or different than the terms and conditions of the licence for which extension is requested, for a period not exceeding twenty-five years, at any time within one year prior to the expiry of the licence or any extension thereof or in accordance with the terms of the licence governing extensions, as the case may be.

(2) Section 20 shall apply *mutatis mutandis* to proceedings for extensions under this section.

(34) Subject to subsection (2) and within three months of receiving an application for an extension of a licence, the Minister shall determine whether to extend the licence and, within the same three month period, shall serve a written notice of his determination on the licensee and provide a copy of such notice to the Commission.

Securing compliance with licence

22. (1) Where the Minister concludes that a licensee has contravened or is likely to contravene a condition of its licence that, if continued, may result in the termination of the licence, he may, after consultation with the Commission and by notice in writing served on the licensee, require the licensee, within such period as shall be specified in the notice, to take such steps as the Minister considers necessary to secure compliance 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.

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

(3) Concurrently with serving a notice on a licensee under this section, the Minister shall transmit a copy of such notice to the Commission.

(4) The provisions of this section 22 are without prejudice to the Commission's powers to enforce the terms and conditions of a licence in accordance with this Act, the regulations, and the Public Utilities Regulatory Commission Act.

Suspension and revocation of licences

23. (1) Subject to subsections (2) and (3), the Minister may, by notice in writing served on a licensee, suspend or revoke the licence on any of the following grounds:

- (a) in the case of a network licence, that the network licensee is not providing consumers in its authorised area with a regular and efficient supply of electricity or is not providing interconnection to

independent power producers or self-generators, in accordance with this Act or its licence;

- (b) in the case of a generation licence, that the independent power producer or other licensee is using its electric plant in a manner not authorised by the terms and conditions of its licence or is failing to provide electricity to a network licensee as required by the terms and conditions of its licence and the relevant power purchase agreement;
- (c) that the licensee has materially contravened, or materially failed to carry out within a reasonable time or discontinued the performance of, the terms or conditions of its licence, or has materially contravened the provisions of this Act or the regulations, or is supplying electricity in a manner not authorised by its licence;
- (d) that the licensee has failed to pay any sum due and payable under the licence to any public body and, after written notice, for a period of thirty days has not cured such failure;
- (e) that the licensee has become bankrupt or has compounded with its creditors or, in the opinion of the Minister, the licensee's financial position causes it to be unable fully and efficiently to discharge the duties and obligations imposed on it by its licence;
- (f) that the licensee has failed to comply with a notice under section 22(1) or any order of the Minister or the Commission for securing compliance with any condition of the licence;
- (g) that the licence was obtained by fraud; or
- (h) any other ground specified in the licence.

(2) Before serving a licensee with a final notice of suspension or revocation under subsection (1) the Minister shall seek the views of the Commission and, after taking such views into account, may serve on the licensee an initial notice in writing and publish the initial notice in a daily newspaper of general circulation in Grenada, stating –

- (a) that he is considering serving a final notice of suspension or revocation on the licensee on a ground specified in subsection (1); and
- (b) that the licensee and any person likely to be affected by a suspension or revocation may, within a period of thirty days from the date of the publication, make written and, if the licensee or affected person so desires, oral representations to the Minister.

(3) The Minister shall consider any representations made by a licensee and any person likely to be affected by a suspension or revocation in response to an initial notice

under subsection (2) before serving a final notice of suspension or revocation of the licence.

(4) After serving a final notice of suspension or revocation in respect of a licence, the Minister shall publish notice of it in a daily newspaper of general circulation in Grenada and in such other manner as appears to him expedient for notifying consumers in the authorised area to which the licence relates.

(5) A final notice of suspension or revocation shall be effective on the expiration of thirty days from the date of service of such notice.

Permits

24. (1) The Minister shall have authority and powers over the granting, modification, extension, suspension and revocation of permits in the same manner and to the same extent as he exercises over licences pursuant to this Act and the regulations.

(2) Except as provided in subsection (4), a self-generator shall not connect his electricity generating facility to the electrical system of a network licensee prior to obtaining a permit for such connection, and any such connection shall be made in accordance with such permit, this Act and the regulations.

(3) On the commencement date or as soon as practicable thereafter, the Minister shall publish guidelines, regulations or other requirements that shall provide for the manner in which applications for a permit shall be made and processed, with an emphasis on streamlining such process without compromising the safety and technical suitability of the design, installation, operation and maintenance of a self-generator's electricity generating facility and, where applicable, a self-generator's supply of excess electricity generated by him to a network licensee.

(4) Any authorisation issued prior to the commencement date to any person to supply self-generated electricity to a person who operates an electrical system shall remain valid only in accordance with the guidelines, regulations or other requirements published by the Minister under subsection (3), and after the commencement date, every self-generator that supplies electricity to a network licensee shall, without delay and subject to the penalties provided for in this Act, take whatever steps are required by the Minister to apply for and obtain a permit pursuant to such guidelines, regulations or other requirements.

PART V

SUPPLY OF ELECTRICITY

General powers and duties of licensees

25. (1) Every licensee shall –

- (a) develop and maintain a regular, efficient, coordinated and economical system of electricity supply;
- (b) facilitate the use of renewable energy resources for the generation of electricity;
- (c) facilitate competition in the generation of electricity;
- (d) observe and comply with the terms and conditions of its licence, this Act, the regulations, the Public Utilities Regulatory Commission Act, and any other applicable written law including the laws of Grenada for the protection of the environment;
- (e) pay the fees to the Minister and the Commission specified by this Act, the Public Utilities Regulatory Commission Act, its licence and the regulations;
- (f) upon written request made by the Minister and subject to any written law, cooperate with the Minister and any other public officer in matters of national security and public order;
- (g) submit to the Minister and the Commission information with respect to the development, operation and maintenance of its electrical systems and its supply of electricity, as may be required by the Minister and the Commission in the performance of their functions;
- (h) cooperate with the Minister in the establishment and implementation of any National Electricity Strategy and national electricity policy;
- (i) cooperate with the Minister and the Commission in their rights to inspect the electrical systems of licensees; and
- (j) meet technical and operational standards and quality of service performance indicators in accordance with its licence, this Act, the Public Utilities Regulatory Commission Act, and the regulations.

(2) A licensee shall be a company incorporated under the Companies Act or other body corporate of Grenada nationality, shall have its headquarters in Grenada, and shall maintain its books, accounts and records in Grenada.

Supply of electricity by network licensees

26. (1) Except as provided in section 13(2), consumers shall be supplied with electricity by the network licensee in whose authorised area their premises are located.

(2) Subject to the provisions of this Act and the regulations, a network licensee shall, upon being request to do so by a consumer within the authorised area of such network licensee:

- (a) provide a new or increased supply of electricity to the consumer's premises;
- (b) furnish and lay any electric lines, meters and other apparatus as are necessary to supply electricity at the maximum power with which the consumer is entitled to be supplied under this Act and the regulations, to the point of entry of such premises.

(3) The maximum demand of any consumer which a network licensee shall be required to supply shall be the maximum consumption which is reasonably anticipated in view of the premises owned or occupied by such consumer and the legally permitted consumption of electricity on such premises.

Notice of requirement of a supply of electricity

27. Where any consumer requires a new supply of electricity to his premises, or a supply of electricity that differs from the one with which his premises is being supplied, he shall give to the network licensee in whose authorised area his premises are located a notice in writing, in such form as the regulations or, in the absence of regulations, the network licensee shall prescribe, specifying at a minimum:

- (a) the premises for which the supply is required;
- (b) the day on which the supply is required to commence;
- (c) the maximum power which may be required at any time;
- (d) any increase or decrease in the maximum power demand for electricity already being supplied to the premises;
- (e) the minimum period for which the supply is required to be given.

Contract for the supply of electricity by a network licensee

28. Where a network licensee receives a notice from a consumer under section 27, the network licensee shall give to that consumer a notice that –

- (a) states the extent to which the requirements specified in the consumer's notice can be met by the network licensee and specifying any counterproposal for meeting those requirements;
- (b) states where the rates to be charged by the network licensee are proposed to be in accordance with section 31 and the regulations, or are proposed to be by a special agreement between the network licensee and the consumer

under section 32 and specifies the rate to be charged or the proposed terms of the special agreement;

- (c) specifies any payment which, in accordance with any applicable regulations or ruling of the Commission, that consumer will be required to make for the network licensee's provision of electric lines, meters or other apparatus;
- (d) specifies any security deposit which the consumer will be required to give under the First Schedule or in regulations;
- (e) specifies any other terms which that consumer will be required to accept in accordance with this Act and the regulations, including any restrictions that must be imposed for the purposes of enabling the network licensee to comply with this Act, the regulations and the terms and conditions of its licence; and
- (f) states that the resolution of any disputes between the network licensee and the consumer will be resolved by the Commission as provided in this Act and the Public Utilities Regulatory Commission Act,

and the final written terms of the consumer's acceptance of a supply of electricity, whether in accordance with the notice provided by the network licensee under this section or otherwise, and the network licensee's supply of such electricity pursuant thereto shall constitute a contract between such consumer and the network licensee for the supply of electricity in accordance with this Act and the regulations.

Regulations for the supply of electricity to consumers. First Schedule

29. The provisions of this Act, inclusive of the First Schedule or any regulations eliminating and/or replacing the First Schedule, shall govern the terms and conditions of every supply of electricity to consumers by a network licensee.

Exceptions to the requirement to supply electricity to consumers

30. Nothing in this Act shall require a network licensee to supply electricity to the premises of a consumer if and to the extent that –

- (a) the network licensee is prevented from doing so due to an act of God or to any other cause beyond its control which the network licensee took reasonable precautions and exercised due diligence to avoid;
- (b) the network licensee would be in breach of this Act, the regulations, its licence, or other applicable written law, and it has taken all reasonable steps to prevent such breach or violation, such that it could supply electricity as requested by the consumer;

- (c) it is necessary to prevent damage to its electrical system or to the property of any consumer or to avoid a risk of injury to any person or to the public generally;
- (d) it is necessary to ensure the continuous supply of electricity to consumers generally or to restore the supply of electricity to consumers generally or in particular;
- (e) occurs during any maintenance, repair, removal or other activity authorised by this Act, the regulations, or the network licensee's licence with respect to its electrical system; or
- (f) is otherwise expressly permitted or required under this Act or the regulations.

Rates for the supply of electricity, the purchase of excess electricity from self-generators, and other services

31. (1) Every rate charged for the supply of electricity and any other service associated therewith shall –

- (a) be fair and reasonable;
- (b) ensure that licensees operate and incur operating and capital expenditure efficiently;
- (c) provide licensees with a reasonable rate of return on their capital investment in their electrical system and other authorised activities;
- (d) reflect reasonable and enforceable standards for the quality of the supply of electricity;
- (e) subject to section 32, shall not show undue preference for, or discriminate unduly among, similarly-situated persons:

Provided that, as to the rates charged by a network licensee to consumers, different rates may be prescribed for different classes of consumers, whether by reference to the different purposes for which electricity is supplied, the different times of day at which electricity is supplied, the different areas of supply or different parts of such areas the extent to which the supply is taken up or to any other relevant circumstance.

- (2) (a) The rates to be charged by a licensee for the supply of electricity and any other service associated therewith, and the rates payable by a network licensee to self-generators who provide excess electricity from their electricity generation capacity to such network licensee, shall be in accordance with such rates as may be fixed from time to

time by the Commission in accordance with this Act, regulations made hereunder, and the Public Utilities Regulatory Commission Act.

- (b) A network licensee that purchases excess electricity from a self-generator and supplies electricity to such self-generator shall, respectively, pay to and charge the self-generator only for the net amount of electricity actually taken or supplied, respectively, by such network licensee.

(3) On the commencement date, or within the six months thereafter, the Minister shall make regulations governing the rates for the supply of electricity, network licensee's purchase of electricity from self-generators, and any other service associated therewith, which regulations may include the standards, mechanisms and procedures for the determination by the Commission of the rates for –

- (a) the supply of electricity to consumers by a network licensee;
- (b) the supply of electricity by an independent power producers to a network licensee;
- (c) the provision of excess electricity by self-generators to a network licensee from their electricity generation capacity; and
- (d) any other matter related to the supply of electricity and any other service associated therewith.

(4) The rates being charged by any person authorised to supply electricity under the Electricity Supply Act, 1994 on the commencement date for the supply of electricity and any other service by any of them, and the rates payable by any such person to self-generators for their provision of excess electricity from their electricity generation capacity, shall not be changed after that date except in accordance with the Act and the regulations made under subsection (3) and section 61:

Provided, however, that until such time as regulations are made under subsection (3) and section 61 but without prejudice to the operation of those regulations to the settling of any rate once effective, the Commission and any person authorised to supply electricity under this Act may agree upon the rate payable for any service by any such person, or the rate payable by such person to self-generators for their provision of excess electricity to such person.

- (5) (a) At least once in every calendar year, the Commission shall hold a public education and consultation meeting, at which it shall --
 - (i) provide information on the instances in which it has established rates during the preceding year pursuant to this section and the regulations, including the conduct or

circumstances that warranted each such rate and the mechanisms and calculations used to establish such rates;

- (ii) invite licensees to make presentations, for the purpose of educating the public about the costs involved in their supplying electricity; and
 - (iii) afford an opportunity to members of the public to ask questions related to the regulation of rates for the supply of electricity and other matters by the Commission.
- (b) The public consultation provided for in subparagraph (5)(a) shall not operate to delay the Commission's establishment of rates in accordance with this Act, the regulations or the Public Utilities Regulatory Commission Act.

Special agreements

32. (1) Notwithstanding anything in section 31 or the regulations, a consumer who requires a supply of electricity may enter into a special agreement with a network licensee for the supply on such terms as may be specified in the agreement, and upon approval by the Commission of such special agreement, the network licensee may demand and receive money from such consumer in accordance with the terms of the special agreement.

(2) So long as any special agreement concluded and approved in accordance with subsection (1) is effective, the rights and liabilities of the parties to the special agreement shall be those arising under the agreement and, to the extent that any provision of section 31 or the regulations conflict with the terms of the special agreement, the special agreement shall prevail.

(3) Any consumer who is a party to a special agreement with a network licensee under this section may give the network licensee a written notice requesting that, on the day on which the special agreement ceases to be effective, the network licensee commence providing such consumer with a supply of electricity in accordance with section 31 and the regulations, and the network licensee shall comply with such notice.

Technical standards applicable to licensees

33. The technical standards governing the installation, operation, maintenance, safety, and performance of the electrical systems of licensees shall be as provided for in the regulations.

Type of supply. Second Schedule

34. The electrical system availability of a network licensee and the frequency and voltage for the supply of electricity shall be as provided for in the Second Schedule or in any regulations eliminating and/or replacing the Second Schedule.

Metering. Third Schedule

35. (1) Except where prescribed in regulations or where otherwise agreed between a consumer and a network licensee, the consumption by a consumer of electricity supplied to him by a network licensee shall be determined by means of a meter.

(2) The metering of electricity by a network licensee and related matters shall be governed by the provisions of the Third Schedule or by any regulations eliminating and/or replacing the Third Schedule.

Sustainability programmes

36. (1) Every network licensee, including but not limited to any network licensee that holds both a generation licence and a network licence, shall develop and maintain –

- (a) an annual sustainability programme; and
- (b) a five-year sustainability programme that is revised on an annual basis,

containing the information required by subsection (2).

(2) As applicable to the electrical system of a network licensee, including a network licensee that holds both a generation licence and a network licence, the sustainability programme developed and maintained by such licensee shall contain detailed descriptions and data on –

- (a) the plans and projections through which the licensee will achieve and sustain the customer service, engineering, financial and technical standards necessary for its regular, efficient, co-ordinated and economical supply of electricity under the terms of its licence, this Act, the regulations and any power purchase agreement to which it is a party;
- (b) the licensee's use of, plans to use, and/or facilitation of the use of renewable energy sources and/or hybrid systems and other efficiencies, and the commercial impact thereof;
- (c) benefits to be accrued to consumers, and the engineering and technical standards to be achieved and maintained, by the licensee as a result of the implementation of the programme and the rationale therefor;
- (d) the plans and projections through which the licensee will develop and expand its electrical system and/or services to be provided to consumers and/or network licensees;

- (e) the operating costs and capital expenditures of the programme;
 - (f) the sources and amounts of revenues necessary to finance the programme, including the proposed or actual costs, terms and sources of any debt or equity financing commitments necessary to carry out the programme and any bids actually, or anticipated to be, received by the licensee;
 - (g) the debt to equity ratio tolerances to be maintained by the licensee in implementing the programme;
 - (h) the timing, amounts and terms of any issuance of securities contemplated by the licensee for the financing of the programme and the persons to whom they will or are anticipated to, be offered or issued;
 - (i) the impact that the programme is expected to have upon the natural and social environment;
 - (j) any other aspect of a programme that the Minister may direct.
- (3) (a) Any licence issued under section 66 to a licensee that is subject to this section shall include the initial annual and five-year sustainability programme prepared by the licensee and approved by its governing body and the Minister.
- (b) After the commencement date, the initial annual and five-year sustainability programme of a prospective licensee that is subject to this section shall be submitted by the prospective licensee to the Minister for approval, and once approved by the Minister shall be included in its licence.
- (c) Every licensee subject to this section shall, no later than sixty days prior to the end of each of its financial years, submit seven copies of its annual sustainability programme and a current version of its five-year sustainability programme, as approved by its governing body, to the Minister for approval.
- (d) Concurrently with submission of its sustainability programme to the Minister under subsection (3)(c), a licensee shall provide copies of such programme to the Commission.
- (4) (a) A sustainability programme submitted pursuant to subsection 3(b) or (c) shall be considered by the Minister, after receiving the views of the Commission, if any, in the Minister's determination of whether to approve, reject or require modifications in the programme submitted.

- (b) The Minister shall take into account prudent engineering standards and a reasonable assessment of costs in making his or her decision whether to approve, reject or require modifications in the sustainability programme of the licensee.

(5) During the course of its implementation of its approved sustainability programme, a licensee may amend the programme to the extent that such amendment is required to –

- (a) address operational emergencies or causes which are outside the control of the licensee and cannot be avoided by the exercise of due care;
- (b) implement the programme or otherwise to supply electricity under the terms of its licence, in a commercially prudent manner; and
- (c) maintain the balance between the licensee's growth and/or maintenance plans, its operating and service standards, and the need to preserve its financial integrity, in accordance with commercially reasonable practices of North America or European electric utilities:

Provided that, prior to making any such amendment, the licensee shall notify the Commission and the Minister of the amendment and the reason therefor and shall obtain the Minister's approval, which approval shall not be unreasonably withheld and, in the case of an amendment under paragraph (a), shall be granted or denied within twenty-four hours of notification:

Provided further that the licensee shall include an explanation of, and relevant information and data on, such amendment in the sustainability programme that the licensee next submits to the Minister for approval.

Powers of network licensees

37. (1) A network licensee may, subject to any planning or other permission required by the Minister or any other public body —

- (a) erect or fix in, on, under or over any land, any pipe, electric line or other works or apparatus used or to be used in the installation or working of its undertaking:

Provided that the network licensee shall first give notice in writing of its intention to the owner or occupier of any land, including any public body, if the owner or occupier can be ascertained, or (if he or she cannot be so ascertained) post up such a notice conspicuously on the land in question for a period of at least seven days prior to commencing any erection or fixing any work or apparatus in, on, under or over such land; and if the owner or

occupier shall, within seven days from the service or posting up of such a notice, give notice in writing to the network licensee of his or her objection thereto, the matter shall be referred by the network licensee to the Minister; the network licensee shall not enter upon the land in question if the Minister shall, within thirty days of being notified by the network licensee of any such objection as aforesaid and making such enquiry as he or she may deem necessary, so direct; provided that the network licensee shall not be required to supply electricity to any consumer if as a result of such inability to enter upon the land in question, it is not feasible for the network licensee to supply such consumer with electricity;

- (b) subject to the proviso to subsection (a), alter, substitute, repair or remove any such pipe, electric line, works or other apparatus when so erected or fixed as aforesaid at all times when, in the opinion of the network licensee, the same may be necessary or desirable.
- (2) Subject to the proviso to subsection (1)(a), a network licensee, for the purpose of erecting, fixing, altering, substituting, repairing or removing any such pipe, electric line or other apparatus, may enter upon any land and may —
- (a) clear such land;
 - (b) dig the soil and remove the surface of such land; and
 - (c) temporarily close or obstruct such land.

Network licensee may take steps to prevent interference, etc.

38. (1) In the course of construction or for the more effective working of its undertaking, a network licensee may enter upon and remove from any public or private land, any tree or any branch, bough or other part of a tree growing on such land within one hundred feet of any electric line and which may tend to interfere with, endanger or otherwise prejudicially affect the working of the undertaking; but the network licensee shall not, except with the consent of the owner or occupier of such land, enter upon any land under the provisions of this section until after the expiration of seven days' notice in writing given to the owner or occupier thereof or posted up conspicuously thereon. If such owner or occupier shall, within seven days from the service or posting up of such a notice, give written notice of his or her objection thereto, the matter shall be referred by the network licensee to the Minister. The network licensee shall not enter upon the land in question if the Minister shall, within thirty days of being notified by the network supplier of any such objection as aforesaid, so direct:

Provided that where any condition exists which poses an imminent threat of damage to the network licensee's electrical system or any part thereof or to the property of any person or is dangerous in that it poses a threat to the safety of any person or the public generally or is interrupting or imminently threatening to interrupt, the supply of electricity in Grenada or

any part thereof, the network licensee may immediately enter upon any private or public land without the consent of the owner or occupier thereof and take whatever action is necessary to establish safe conditions or to ensure the continuity of the supply of electricity and in addition, may discontinue any supply of electricity to the owner or occupier until the condition is resolved. Whenever the network licensee takes action under the terms of this proviso, it shall within three days inform the owner or occupier of the land in question (either by service of a written notice on him or her or by posting up conspicuously a notice on such land) of the action taken. Non-compliance with applicable standards promulgated under section 34 shall be *prima facie* evidence of a condition authorising the entry of the network licensee upon the premises owned or occupied by any person for the purposes specified in this subsection (1).

(2) Except with the prior written consent of the relevant network licensee, no person shall erect any building or structure in such a position or manner as may interfere with the supply of electricity through any overhead or underground electric line which belongs to the network licensee. If after any such overhead or underground line has been constructed, any person erects any building or structure which interferes with or which may interfere with the proper working of such line, the network licensee may request the owner or occupier of the building or structure in question to remove or adjust the same as may be necessary. If such owner or occupier fails to comply with such request, the network licensee may apply to the Minister for the removal or adjustment of the building or structure in question and, after making any such enquiry as he or she may deem necessary, the Minister may make such order as he or she deems fit; provided that the network licensee shall not be required to supply electricity to any consumer if the network licensee's request shall not be enforced by the Minister, and as a result, it is not feasible for the network licensee to supply such consumer with electricity. Every such order may, by leave of the High Court, be enforced in the same manner as an injunction granted by the High Court.

(3) In exercising its powers under this section and sections 37 and any powers under the regulations, a network licensee shall take all reasonable steps to avoid damage to any land, building, tree, other vegetation, or other property situate on the land, and shall compensate the owner or occupier of such land, building, tree, other vegetation, or other property for any damage caused by the network licensee.

Network licensee to run lines, etc., on roads

39. (1) It shall be lawful for a network licensee, subject to its making good to the reasonable satisfaction of the Chief Technical Officer (Works) or successor all damage occasioned thereby, to erect, place or replace pipes and electric lines along or under or over any road, street or bridge in Grenada, to remove or repair any such pipe or electric line and, for the purpose of erecting, placing, replacing, removing or repairing the same

within such road, street or bridge to break up and excavate any such road, street or bridge, subject to the following conditions:

- (a) the network licensee shall give to the Chief Technical Officer (Works) or successor written notice of its intention, specifying the time at which it will begin to do so and the portion of the road, street or bridge proposed to be broken up and/or excavated, the notice to be given at least seven days before the commencement of the work, unless the work is to remedy a dangerous situation or a situation that has interrupted or imminently threatens to interrupt the supply of electricity, in which case notice may be dispensed with;
- (b) the network licensee shall not break up and/or excavate the soil, pavement or other structure of any road, street or bridge except under the superintendence, and to the reasonable satisfaction, of the Chief Technical Officer (Works) or successor, or the representative of either of them, unless he or she refuses or neglects to give superintendence at the time specified in the notice, or discontinues it during the work, or unless the work is to remedy a dangerous situation or a situation that has interrupted or imminently threatens to interrupt the supply of electricity, in which case superintendence may be dispensed with;
- (c) the network licensee shall not erect any pipes or electric line in a position to which the Chief Technical Officer (Works) or successor reasonably objects;
- (d) the network licensee shall pay all reasonable expenses to which the Chief Technical Officer (Works) or successor is put on account of superintendence;
- (e) the network licensee shall not, without the consent of the Chief Technical Officer (Works) or successor, break up and/or excavate any road, street or bridge without providing reasonable facilities for the passage of ordinary traffic on that road, street or bridge, to the satisfaction of the Chief Technical Officer (Works) or successor.

(2) When a network licensee has broken up and/or excavated any portion of a road, street or bridge, it shall be under the following further obligations –

- (a) it shall with all deliberate speed, and in all cases within four weeks at the most (unless the Chief Technical Officer (Works) or successor consents in writing), complete the work on account of which it broke up and/or excavated the road, street or bridge (subject to the construction, maintenance or removal of electric lines), and fill in the ground and make good the surface and structure, and to the reasonable satisfaction of the Chief Technical Officer (Works) or

successor, restore the portion of the road, street or bridge to as good condition as that in which it was before it had been broken up and/or excavated, and clear away all surplus paving and other material and rubbish occasioned thereby;

- (b) it shall in the meantime cause the place where the road, street or bridge is broken up and/or excavated to be protected twenty-four hours a day.

(3) If a network licensee fails to comply in any material respect with this section, it shall for each offence (without prejudice to the enforcement of specific performance of the requirements of this Act or to any other remedy against it) be liable to a fine of [amount], and to a further fine of [amount] for each day during which the failure to comply continues after the first day on which notice to comply therewith has been served on the network licensee.

Payment of compensation by network licensees for damage to property

40. (1) A network licensee shall pay compensation (except as otherwise provided in this Act) in respect of all damage to property suffered by any person in consequence of the exercise by the network licensee of any of the powers conferred upon it by this Act.

(2) If by reason of the presence of any post or electric line belonging to a network licensee which is alongside or under or over any road any person shall be injured or suffer damage to property, the network licensee shall save harmless and keep indemnified, in respect of such damage or injury, the person or local or other authority by whom such road is repairable and any other person.

Acquisition of lands

41. (1) The Government may, in accordance with the Land Acquisition Act, Chapter 159, or any other act amending or replacing it, compulsorily acquire land for and on behalf of a network licensee for the purpose of the proper and effectual exercise of a network licence granted to such network licensee.

(2) In order for the Government to proceed under subsection (1), the network licensee shall expressly request in writing for the Government to acquire the land, satisfying it from documentary evidence, including plans and studies, that the land is required so that the network licensee can adequately fulfill the conditions of its network licence.

(3) The Government shall not proceed to acquire the land under this section unless it is satisfied that the network licensee is able to make prompt payment to any person entitled to compensation for the land in consequence of such compulsory acquisition, of a sum which represents the fair market value of the land, whereupon the land being vested in the State the land is transferred by deed to the network licensee.

(4) The Government shall not acquire land under this section if that land belongs to another licensee and is being used for the purpose of such other licensee's authorised activities under its licence, or it appears to the Government that the land will be so used by such other licensee and that the use will commence within the period of five years beginning with the proposed date of the commencement of the acquisition.

(5) Where land is acquired under this section and that land is no longer required for the purpose for which it was acquired, the Government shall have the authority to re-vest by deed of transfer the land in the proprietor from whom it was compulsorily acquired subject to the refund of the compensation and subsection (6) shall *mutatis mutandis* apply in relation to the re-vesting of the land as it applies to the transfer to the network licensee.

(6) Where land is transferred to a network licensee under subsection (3), the land shall vest in the network licensee from the date of such transfer and –

- (a) a notice to that effect shall be published in the *Gazette*;
- (b) the deed of transfer shall be treated for all purposes as if it were a deed or other document effecting the conveyance of immovable property, and the [deed registration authority] shall take due notice therefore and shall make such annotations on the records as may be necessary, including an annotation that the network licensee shall not dispose of such land or any interest or right in or over it, except with the written consent of the Minister.

Restriction on network licensee selling land obtained under section 41

42. A network licensee who has acquired any land by virtue of section 41 shall not dispose of that land or of any interest in or right over it except with the written consent of the Minister, taking the public interest into account.

Government electricity inspector

43. (1) The Government electricity inspector shall be appointed by the Commission with the approval of the Minister, shall be qualified to perform his or her duties and shall perform such duties in a competent and impartial manner as further provided in this section.

(2) The Government electricity inspector shall possess an electrical engineering degree from a qualified program of an accredited institution of higher education or have passed such tests of a professional society as shall be the equivalent of such degree, and shall be experienced in regard to electrical systems with the same or similar characteristics of the electrical systems installed and operated by licensees in Grenada.

(3) The Government electricity inspector shall determine matters referred to him or her under this Act based solely on the standards set forth in this Act, the regulations and such additional electrical standards as shall be consistent therewith.

- (4) The duties of the Government electricity inspector shall be —
- (a) to inspect and test, periodically and in special cases, electric lines and electrical plant belonging to licensees authorised to generate, transmit and/or distribute electricity, and the electricity generation facilities, equipment, electric lines, and related apparatus belonging to self-generators;
 - (b) to examine, periodically and in special cases, the generation, transmission and/or distribution of electricity by such persons;
 - (c) to inspect and test, if and when required by any consumer, any electric line or electric plant located on such consumer's premises, for the purpose of determining whether any requirement imposed by this Act in respect of such electric lines or electric plant or the supply of electricity through or by them has been complied with; and
 - (d) such other duties as may be imposed by regulations or otherwise under this Act.

(5) The Government electricity inspector shall have the right to direct any licensee and any self-generator not to supply electricity to any installation, premises, apparatus or works which he or she deems unsafe or which, in his or her opinion, fails to comply in any respect with this Act, the regulations or would interfere with the efficient supply of electricity by such licensee or self-generator.

(6) Upon the request of a licensee or a self-generator, the Government electricity inspector shall inspect and test within three days of such request any electric line, equipment, installation, apparatus or works which the licensee or self-generator has reason to believe, is unsafe or fails to comply with this Act or the regulations or would interfere with the efficient supply of electricity by such licensee or self-generator.

(7) The Government electricity inspector may at any time, after consultation with the Minister and the Commission, retain the services of independent consultants and other professional persons with the relevant expertise and experience necessary to advise or assist the Government electricity inspector in the performance of his duties, including the testing and inspection of electric lines, equipment, installations, apparatus and other works.

Books, accounts and records of a licensee

44. (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, transmission and distribution of electricity, and 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 a statement of accounts in such form as shall conform to International Financial Reporting Standards as published by the International Accounting Standards Board.

(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 45, “financial year” means the period of twelve months for which the accounts of a licensee are normally prepared.

Information reporting requirements

45. (1) Within four months after the end of its financial year, a licensee shall deliver to the Minister and to the Commission copies of its audited financial statements, auditor’s report, and to the extent not otherwise set forth in such statements and reports, a report –

- (a) projecting, in terms of indicators as to financial, investment, customer service and engineering and other technical performance, the performance of the licensee and its subsidiaries, if any, for the current financial year;
- (b) in terms of such indicators, comparing the performance that had been projected in the previous report for the financial year just ended with the actual performance of the licensee and its subsidiaries, in any, for the financial year just ended; and
- (c) containing any other information that the Minister may by regulation prescribe.

(2) With regard to the reports, statements, information and documents submitted to the Minister and the Commission under this Act and the regulations, the Minister and the Commission shall have a duty to maintain in confidence any information contained in such submissions that constitutes a trade secret or confidential information of the licensee or a third party, or information that may aid a competitor of the licensee, and the Minister and the Commission shall cooperate with a licensee in that regard.

(3) A licensee shall make available, and shall sell to any applicant for a price not exceeding the actual cost of printing, copies of the reports, statements, information and documents submitted under subsection (1), but may omit from such copies any information that constitutes a trade secret or confidential information of the licensee or a third party, or information that may aid a competitor of the licensee.

(4) It shall be the duty of the Minister and the Commission to require licensees to provide, and a licensee shall have a duty to provide, such additional information as the Minister or the Commission finds necessary to –

- (a) provide consumers and other members of the public with adequate information on the licensee as such information affects their interest;
- (b) provide either of them with proof of the operational and other technical parameters of their electrical systems;
- (c) perform his or its duties and discharge his or its functions under this Act; and
- (d) otherwise assist in the formulation and carrying out of the national electricity policy of Grenada in matters involving electricity and energy.

(5) A self-generator shall provide the Minister with such information and reports, in such form, as the Minister may determine or may by regulations prescribe.

Inspection of electrical systems

46. Personnel authorised by the Minister or the Commission may, at all reasonable times and upon twenty-four hours' written notice, enter any land, place, premises, or facility comprising the electrical system of a licensee for the purpose of inspecting any component of such electrical system and verifying the licensee's and its electrical systems' compliance with this Act, the regulations and the terms and conditions of the licensee's licence.

PART VI

LIABILITIES, IMMUNITIES, PENALTIES AND DISPUTE RESOLUTION BETWEEN NETWORK LICENSEES AND CONSUMERS

Liabilities and immunities of licensees

47. Except as otherwise provided in this Act or the regulations, a licensee shall in the exercise of its powers pursuant to this Act or a licence, cause as little detriment and inconvenience and do as little damage as may be possible and shall make full compensation to any person for direct damage, loss or injury caused by the willful or negligent act or default of the licensee in the exercise of those powers, and in the case of a network licensee, for any direct damage, loss or injury suffered by any consumer.

Penalty for unauthorised supply of electricity

48. (1) A person who generates, stores, transmits, transforms, distributes, furnishes, sells, resells or otherwise supplies electricity to any other person, premises or area shall be guilty of an offense unless he is authorised to do so by a licence or any exemption provided for in section 14.

(2) A person guilty of an offence under this section shall be liable upon summary conviction to a fine of **[amount]** dollars and to imprisonment for a term of **[length]**, and if the offence of which he is convicted is continued after conviction, he shall be guilty of a further offence and liable to a fine of **[amount]** dollars for every day on which the offence is continued, and the Minister shall take such steps and employ such persons as may be necessary to forcibly or otherwise enter upon, seize, take possession and cease the operations of any premises, equipment, apparatus or other works utilised by such person for the unauthorised generation, storage, transmission, transformation, distribution, furnishing, sale, resale or other supply of electricity.

Penalty for unauthorised electric lines or other apparatus or installations

49. Any person who lays down any electric line or apparatus or constructs any electrical installation outside the area or premises in or on which it is authorised to supply electricity by a licence or an exemption granted pursuant to this Act shall be guilty of an offence and shall be liable upon summary conviction to a fine of **[amount]** dollars; and if the offence of which he is convicted is continued after conviction, he shall be guilty of a further offence and liable to a fine of **[amount]** dollars for every day on which the offence is continued.

Penalty for obstruction of licensees' activities, for theft of electricity and for other unauthorised activities

50. (1) Except as otherwise provided in this Act or the regulations, any person who without due cause obstructs or attempts to obstruct a licensee in the performance of any of the powers or obligations conferred or imposed upon it by this Act or any regulations made hereunder or a licence shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[amount]** dollars and to imprisonment for a period not exceeding **[length]** months.

(2) Any person who, without legal right, abstracts or causes to be abstracted, or diverts or causes to be diverted, any electricity, or consumes or uses any such electricity, knowing the same to have been wrongfully or unlawfully abstracted, diverted, consumed or used, shall be guilty of an offence and shall be liable upon summary conviction for a first offence to a fine of **[amount]** and to imprisonment for a term of **[length]** and upon summary conviction for any subsequent offence to a fine of **[amount]** and to imprisonment for a term of **[length]**.

(3) Any person who, without legal right, willfully disconnects, damages or removes or suffers to be disconnected damaged or removed any electric line, meter, switch, fuse or other works or apparatus belonging to a licensee, or alters the index of any meter belonging to a licensee or otherwise prevents any such meter from correctly registering any quantity of electricity supplied by a licensee, shall be guilty of an offence and shall be liable upon summary conviction to a fine of **[amount]** for the first offence and **[amount]** for each subsequent offence.

Penalty for unauthorised cessation of operations

51. Any licensee who ceases its operations or any part thereof in violation of section 18 shall be guilty of an offence and liable upon summary conviction to a fine of **[amount]** dollars.

Penalty for unauthorised transactions

52. Any licensee who violates, or any director, treasurer or other office or agent of a licensee who makes or votes to authorise a transaction in violation of, section 19 shall be guilty of an offence and upon summary conviction shall be subject to a fine not exceeding **[amount]** dollars.

Penalty for failing to maintain or submit sustainability programmes

53. Any network licensee, or any person who holds both a generation licence and a network licence, who fails to maintain or submit a sustainability programme in the manner prescribed under section 36 shall be guilty of an offence and upon summary conviction shall be subject to a fine not exceeding **[amount]** dollars.

Penalty for failure to maintain or provide documents, reports and other information

54. A licensee who fails to maintain, file or otherwise provide any documents, reports or other information required under this Act shall be guilty of an offence and shall be liable to a fine not exceeding **[amount]** dollars, and if the offence of which it is convicted is continued after conviction, it shall be guilty of a further offence and liable to a fine of **[amount]** for every day on which the offence is continued.

Penalty for failure of self-generator to file report or obtain a permit

55. Any self-generator who fails to file a report or apply for a permit under section 24 and any applicable regulations shall be guilty of an offence and shall be liable to a fine not exceeding **[amount]** dollars, and if the offence of which he is convicted is continued after conviction, it shall be guilty of a further offence and liable to a fine of **[amount]** for every day on which the offence is continued.

Power to institute proceedings

56. Except as otherwise provided in this Act or the regulations, no proceeding shall be instituted in respect of an offence except by or on behalf of the Minister.

General Penalty

57. Any person found guilty of an offence under this Act for which no penalty is specified herein shall be liable on summary conviction to a fine of **[amount]** or to imprisonment for **[six]** months.

Disputes between network licensees and consumers

58. Except as otherwise provided in this Act, the regulations or the Public Utilities Regulatory Commission Act, all disputes between a consumer and a network licensee concerning the supply of electricity shall be determined by the Commission.

Procedures for dispute resolution

59. The procedures and other matters for the resolution of disputes provided for in section 58 shall be established in the Public Utilities Regulatory Commission Act and the regulations issued thereunder.

Appeal of Commission determinations

60. Awards and other determinations by the Commission under sections 58 and 59 shall be subject to section 18 of the Public Utilities Regulatory Commission Act.

PART VII

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Authority to make regulations

61. (1) After the consultations provided for in subsection (2), the Minister may make regulations with regard to –
- (a) the development and use of renewable energy resources for the generation of electricity;
 - (b) the promotion of efficiency and economy on the part of licensees in the supply of electricity and by consumers in the use of electricity;
 - (c) the protection of consumers and the terms and conditions for the supply of electricity to them by network licensees;
 - (d) the quality, engineering, operational and other technical standards and conditions applicable to network licensees and independent power producers in connection with supplying electricity by any of them; ensuring that the supply of electricity is regular and efficient and that interconnection between independent power producers and network licensees is made without impediment; and reporting and investigating failures to supply electricity;
 - (e) the standards and conditions for --
 - (i) the design, construction and operation of the electricity generation facilities and related equipment installed and

- utilised by persons who self-generate electricity for their own use and for provision of excess electricity to a network licensee;
- (ii) the interconnection of the electricity generation facilities of self-generators who provide excess electricity to a network licensee with the network licensee's electrical system;
- (f) the protection of the public and property from dangers arising from the supply of electricity, including –
- (i) the safety of the public from personal injury, fire and otherwise;
 - (ii) the protection of persons and property by reason of contact with or the proximity of, or by reason of the defective or dangerous condition of, any electric line or other element of an electrical system used in the supply of electricity or any appliance or other electrical installation in a premises;
 - (iii) the reporting and investigation of electricity-related accidents, damage, and other matters concerning the safety of electrical systems and any part thereof and for failures to supply electricity;
 - (iv) the methods and procedures for the wiring of premises and its certification;
 - (v) the types of electrical apparatuses and installations that may be used;
 - (vi) the qualifications, examination, licensing and registration to be required of electricians, electrical engineers, technicians and inspectors;
 - (vii) the inspection, testing and maintenance of electrical systems, self-generation facilities and equipment, and any element of any of them constructed or place on any land or in any premises;
 - (viii) the prevention of any telecommunications or other line, or the current or other signals in such line, from being injuriously affected by any electricity utilised in the supply of electricity;
 - (ix) the units and standards for the measurement of electricity and the limited of error;

- (x) the frequency, type of current and voltage of electricity to be generated and supplied;
- (g) the rates charged for the supply of electricity and any other service associated therewith by any licensee and the rates payable by a network licensee to self-generators who provide excess electricity from their electricity generation capacity to such network licensee;
- (h) any matter regarding the metering of the electricity supplied by a network licensee to consumers, or by an independent power producer to a network licensee;
- (i) the environmental standards to be observed by licensees and self-generators;
- (j) the information that licensees and self-generators must provide to the Minister and the Commission under this Act, and by network licensees to consumers;
- (k) any matter concerning application for and the granting, modification, extension, suspension and revocation of licences and permits, and the fees chargeable therefor;
- (l) the keeping by licensees and, as applicable, self-generators of maps, plans and other drawings, diagrams and schematics and their production for inspection or copying;
- (m) the appropriate and effective weather-proofing of wind, solar and other electricity generation equipment, and the electric systems of any licensee;
- (n) the mitigation of any natural disaster or other civil emergency that disrupts or is likely to disrupt the supply of electricity;
- (o) the reform of the electricity sector;
- (p) the fees chargeable for the performance by the Minister and the Commission of their respective functions under this Act;
- (q) the penalties for the contravention of any regulation made under this section; and
- (r) any other matter necessary to establish and carry out national policy on matters involving electricity or for the administration of this Act.

(2) Prior to making, amending or revoking regulations under subsection (1), the Minister shall send a draft of the proposed regulations or amendment, or notice of the proposed revocation, to the Commission and to every licensee affected thereby, and publish

a notice describing such proposed regulations, amendment, or revocation in a daily newspaper of general circulation in Grenada, in each case specifying the period within which written representations may be provided to the Minister, and prior to making, amending or revoking such regulations, he or she shall consider the views of the Commission and any other written representations as may be duly received:

Provided, however, that this subsection shall not apply to such regulations as may be made under this Act on the commencement date.

(3) Within the six months following the commencement date, the Minister shall commence the preparation of, or on the commencement date shall make, regulations governing –

- (a) the matters set forth in subsections (1)(d), (e), (f) and (h), and, thereby, to establish internationally recognised safety, technical, operational, metering, efficiency and reliability standards and conditions, related reporting and investigation requirements, and the other matters provided for in those subsections for the electricity sector as a whole, taking into consideration the technical and other related standards according to which the existing electrical system of any existing network licensee has been constructed and is being operated;
- (b) the terms and conditions for the supply of electricity to consumers by network licensees, taking into consideration the existing terms and conditions of supply as applied by any existing network licensee;
- (c) any other regulations whose preparation is required to be commenced after the commencement date under this Act or is deemed to be appropriate by the Minister.

Minister may give directions

62. (1) Without limitation of the powers of the Minister or any other public officer under any other written law, the Minister may give to any person such directions of a general or specific character as appear to the Minister to be requisite or expedient for the purpose of—

- (a) preserving the security or operation of buildings, installations or electrical systems used for, or for purposes connected with, the generation, transmission or distribution of electricity; or
- (b) mitigating the effects of any civil emergency, or addressing any matter of national security or public order, which may occur.

(2) If it appears to the Minister to be requisite or expedient to do so for any such purpose as is mentioned in subsection (1) above, he or she may, after consultation with a person to whom this section applies, give to that person a direction requiring him or her

(according to the circumstances of the case) to do, or not to do, a particular thing specified in the direction.

(3) A person to whom this section applies shall give effect to any direction given to him or her by the Minister under this section notwithstanding any other duty imposed on him or her by or under this Act.

(4) The Minister shall lay before the legislature a copy of every direction given under this section unless he or she is of the opinion that disclosure of that direction is against the interests of national security or the commercial interests of any person.

(5) A person shall not disclose, or be required by virtue of any enactment or otherwise to disclose, anything done by virtue of this section if the Minister has notified him or her that the Minister is of the opinion that disclosure of that thing is against the interests of national security or the commercial interests of some other person.

(6) This section applies to every licensee and any person authorised under section 13(2) to generate electricity without a licence therefor.

(7) In this section, “civil emergency” means any natural disaster or other emergency which, in the opinion of the Minister, is disrupting, or may be likely to disrupt, any supply of electricity.

Duty of the Minister

63. In carrying out the provisions of this Act, the Minister shall have the duty to act in a manner best calculated to –

- (a) carry out national electricity policy, and in particular the achievement of the generation and supply of electricity from renewable energy resources;
- (b) secure a regular, efficient, co-ordinated and economical supply of electricity, and to ensure that all reasonable demands for electricity are satisfied;
- (c) achieve lower rates for electricity, to protect consumers and the sustainable development of Grenada;
- (d) ensure that licensees are able to finance the activities that they are authorised and required to carry out by their licences and this Act, and to obtain a reasonable rate of return on capital invested;
- (e) promote electricity efficiency and economy on the part of licensees and the public;
- (f) protect the environment from activities associated with the supply of electricity;
- (g) protect the public from dangers arising from the supply of electricity; and

- (h) to enforce the provisions of this Act and any licence granted under it.

Establishment and maintenance of registry

64. (1) The Minister shall, at such premises and in such form as he may determine, maintain a register of –

- (a) every licence and permit granted to any person;
- (b) every modification, suspension, or revocation of a licence and a permit;
- (c) every direction and consent given or determination made by the Minister under this Act;
- (d) every notice and order, and every revocation of such notices and orders, made by the Minister under this Act;
- (e) every report filed by a self-generator under the first proviso to section 3(2); and
- (f) such other matters concerning licences, permits, reports and other matters arising under this Act as the Minister may deem fit,

and such register shall be open for inspection, and copies of any part of the register shall be available upon payment to the Minister of the cost of such copying, by any person during normal working hours.

(2) In making an entry in the register, the Minister shall have regard to the need to protect confidential and commercially sensitive information and shall, where necessary, restrict disclosure of such information.

Amendment of Schedules

65. Subject to section 61(2), the Minister may by regulations amend, replace, or eliminate any of the Schedules.

Issuance of licences and permits on the commencement date

66. On the commencement date, the Minister may issue a licence or a permit, as the case may be in accordance with the terms of this Act, to any person who, prior to the commencement date, was authorised to supply electricity under the Electricity Supply Act, 1994, without the need of any application therefor under this Act from any such person, and such licences and permits shall be subject to this Act in all respects.

No violation or change in contractual or other rights

67. In addition to the provisions of section 17(3) of the Interpretation and General Provisions Act, nothing effected or authorised by this Act shall –

- (a) be regarded as placing any person authorised to supply electricity under the Electricity Supply Act, 1994, or this Act in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong;
- (b) release, invalidate or discharge any contract, security or surety in whole or in part from any obligation; or
- (c) abrogate or otherwise affect the full force and effect of any easement, way-leave, or right of way across lands owned by any public body or any other person previously granted to or otherwise obtained by any person authorised to supply electricity under the Electricity Supply Act, 1994, as of the commencement date in accordance with any written law or by agreement between such person and the public body or other person:

Provided that, notwithstanding anything in any written law or agreement, nothing in subsection (c) shall prevent any public body or any other person from imposing, after the commencement date, a reasonable charge for the use, by any licensee under this Act, of any easement, way-leave or right of way across lands owned by any of them, and no imposition of such reasonable charge shall be construed as a violation of law or breach of contract.

Repeal

68. The Electricity Supply Act, 1994, and except as provided in section 67, all rights, privileges, obligations and liabilities, including all licences and permits to supply electricity granted by Grenada or any other person, acquired, accrued or incurred thereunder, are hereby repealed.

Passed in the House of Representatives this _____ day of _____, 2015.

**Clerk to the House of
Representatives**

Passed in the Senate this _____ day of _____, 2015.

Clerk to the Senate

FIRST SCHEDULE

REGULATIONS FOR THE SUPPLY OF ELECTRICITY BY NETWORK LICENSEES TO CONSUMERS

[Note: The following text moves provisions of the existing Electricity Supply Act to this Schedule, which – pursuant to the draft new Electricity Supply Act – the Minister may eliminate or amend by regulations.]

1. Type of supply

(1) A network licensee may refuse to supply electricity to any person unless such person or, if different, the owner or occupier of the relevant premises furnishes the security required by paragraph 2 for the supply of such electricity and unless such person pays to the network licensee, and/or furnishes any security required by the network licensee pursuant to paragraph 2, for the following costs—

- (a) in the case of premises served or to be served by an underground line, the costs and expenses of laying that line and in the case of premises served by an overhead electric line and located more than [_____] feet distant from the nearest distributing main for the time being owned by the network licensee, the costs and expenses of laying that part of the line extending beyond such [_____] foot point;
- (b) in the case of any reconnection of electricity service following any disconnection permitted under this Act, the cost and expenses of establishing such reconnection; and
- (c) in the case of an increase in the maximum anticipated demand pursuant, the costs and expenses incurred by the network licensee in altering any of its electric lines or other facilities serving such consumer.

(2) A network licensee shall deliver electricity to a point on the exterior of any premises or such other point where the network licensee's meter shall be located, and the consumer shall be responsible for all wiring and any other installation, works or apparatus beyond such point which are necessary for the consumer's utilisation of such electricity. The network licensee may at its cost relocate any electric line, including relocating meters to the exterior of any premises, in which event the consumer shall be responsible for any wiring or re-wiring from the consumer's terminals to the network licensee's meter except that in the case of a consumer whose average monthly consumption for the prior three months is less than two hundred fifty units, the network licensee shall be responsible for any such wiring or re-wiring:

Provided, the network licensee shall not be liable for damages for such wiring or re-wiring unless performed by it in a negligent manner or otherwise in contravention of any provision of the Act.

(3) Where the owner or occupier of any premises supplied with electricity by a network licensee uses any electrical installation, works or apparatus; uses electricity supplied to the premises for any purpose; or deals with the electricity supplied to the premises and any of the foregoing actions interferes with the efficient supply of electricity by the network licensee or the use of electricity by the network licensee or any other person, the network licensee may discontinue the supply of electricity to those premises for so long as it has reasonable cause to believe that the electrical installation, works or apparatus is or will be so used or dealt with.

(4) A network licensee may refuse to supply electricity to a consumer or discontinue the supply of electricity to a consumer if the network licensee is not reasonably satisfied that any installation, apparatus or works in or serving the consumer's premises (other than those of the network licensee) is in good working order and condition, is safe, complies with applicable standards and regulations and otherwise will not interfere with the efficient supply of electricity.

(5) Upon the filing of a complaint by any consumer with the Commission, any dispute arising under paragraph (3) or (4) with respect to the existence of a condition or activity permitting the network licensee to discontinue the supply of electricity may be referred by the Commission within three days of receipt thereof to the Government electricity inspector for determination, and the network licensee shall supply electricity to such consumer if the Government electricity inspector shall determine that the alleged condition or activity permitting such disconnection does not exist or no longer exists.

(6) A network licensee may extend its electric lines so as to supply electricity to any person(s) whose premises are located in an area not presently supplied with electricity by the network licensee upon the request of such person, provided that in the event of any such extension, all of the costs and expenses incurred by the network licensee to lay such additional electric lines (including without limitation allocated administrative overhead and the costs of financing or leasing such electric lines) shall have been paid to the network licensee by such person(s) or such person(s) shall have furnished the security required by paragraph 2 for such costs and expenses:

Provided, that after any such extension of service, the network licensee may require that as a condition to being supplied with electricity by it, any person subsequently requesting to be supplied with electricity over such additional electric lines contribute to the network licensee a portion of the costs and expenses of such lines and/or furnish any security required by the network licensee under paragraph 2 for such costs and expenses and in such event the network licensee shall credit such payment to the account of any consumer(s) which have previously paid for such lines or refund to any such person upon demand the appropriate amount of any such contribution.

(7) A network licensee shall extend its electric lines so as to supply electricity to an area not at the time supplied with electricity by it upon the request of the Government or a local authority made through the Minister, provided that in the event of any such extension, fifty per cent of the costs and expenses incurred by the network licensee to lay

such additional electric lines (including without limitation allocated administrative overhead and the costs of financing or leasing such electric lines) shall have been paid to the network licensee by the Government or such local authority.

2. Network licensee may require deposit from consumer

(1) A network licensee may require any consumer to deposit with it by way of security for the payment of all monies from time to time due by such consumer to the network licensee a reasonable sum of money (including, in the case of monthly charges, a sum of money equivalent to the total amount of the reasonably anticipated maximum monthly charges for electricity supplied to such consumer over a two-month period (or such longer period as may be approved by the Commission) or (subject to subparagraph (5)) such other security for the payment of any such monies as is reasonably acceptable to the network licensee, within fourteen days of a notice served by the network licensee on the consumer respecting such security. Any sum of money deposited with a network licensee under this section shall be placed to the credit of a deposit account in such consumer's name in the books of the network licensee. The amount for the time being standing to the credit of such account shall bear interest at the rate of **[four]** per cent per annum, such interest to accrue de die in diem. The interest for the time being so accrued shall be credited to such consumer's account within thirty days of the first day of February of each year.

(2) A network license shall be entitled to draw upon such security (including any accrued interest) for the payment of any monies due it which are from time to time outstanding and unpaid after the date for payment specified in any invoice by the network licensee to the consumer (including without limitation as provided in paragraph 5), and the consumer shall thereupon be required to replace such security to the same extent as previously required by the network license or in such greater amount as the network licensee, in view of any delinquency in payment of the invoice, may reasonably require by notice to the consumer.

(3) If any consumer fails to comply with a notice served on him or her by a network licensee under subparagraph (1) or to replace the security as required by subparagraph (2), or such security otherwise becomes invalid or insufficient, the network licensee may discontinue the supply of electricity to the consumer for so long as it is not furnished with sufficient security by such consumer.

(4) Where a network licensee has discontinued the supply of electricity to a consumer under the Act, any reasonable expenses incurred by the network licensee consequent to the disconnection of such supply or the reconnection of such supply, shall be payable by the consumer to the network licensee upon demand.

(5) Where any security is required under this section, the security may be by way of a deposit or otherwise and of such amount as shall be required by a network licensee, unless the Commission finds in response to a complaint by the person required to provide such security that such security is unreasonable, in which event the Commission shall stipulate reasonable substitute terms for such security.

3. Power of entry for ascertaining quantity of electricity consumed, etc.

A network licensee may at all reasonable times enter upon any land or premises to which electricity is or has been supplied by it for the purpose of inspecting, testing, relocating, repairing, replacing or maintaining the electric lines, meters, accumulators, fittings and other works and apparatus thereon belonging to the network licensee, or of ascertaining the quantity of electricity consumed or supplied in or to such premises or, where a supply of electricity is no longer required or where the network licensee is entitled to take away and cut off the supply of electricity from any such land or premises, for the purpose of removing any electric lines, meters, accumulators, fittings, or other works or apparatus belonging to the network licensee:

Provided that the network licensee shall take all reasonable precautions to avoid causing any damage on the premises and shall repair all damage caused by any such entry, inspection, maintenance or removal; and provided further that should anyone willfully or maliciously place or erect anything which impedes or hinders the easy entry, inspection, maintenance or removal by the network licensee of its property, it shall be at liberty to remove the impediment or hindrance in question at the cost of the owner and/or the occupier of the land or premises in question and the network licensee shall not be responsible for any damage caused thereby and may also (notwithstanding any agreement or contract previously existing) discontinue any supply of electricity to any consumer occupying such land or premises for such period plus one month as such impediment or hindrance continues to exist.

4. Electric line, etc., not distrainable

Where any electric lines, meters, accumulators, fittings, or other works or apparatus belonging to a network licensee are placed for the purpose of supplying or measuring electricity in or upon any land or premises not being in the possession of the network licensee, such electric lines, meters, accumulators, fittings or other works or apparatus shall not be subject to distress or to the landlord's remedy for rent of the land or premises where the same may be, nor shall the same be liable to be taken in execution under any process of a judicial authority, or under any proceeding in bankruptcy or insolvency.

5. Non-payment of electricity charges

(1) If a consumer shall be in arrears with any payment due by him or her to a network licensee, the network licensee shall be at liberty to discontinue the supply of electricity to such consumer until such time as such arrears together with the network licensee's reasonable charges for the reconnection of such consumer's electricity service shall have been paid.

(2) If upon any premises or land there is connected to any electric line or meter any wire or device capable of wrongly abstracting, diverting, consuming or using electricity or of preventing any meter from correctly registering any quantity of electricity supplied by a network licensee, the network licensee may discontinue the supply of

electricity to the occupant of such premises or to any other person who without legal right, the proof of which shall be upon such person, has abstracted or caused to be abstracted, or diverted or caused to be diverted, such electricity, or has consumed or used any such electricity.

(3) If the occupier of any premises quits the premises without paying any amount due to the network licensee in respect of charges for electricity or any other charges, the network licensee may refuse to furnish him or her with a supply of electricity at any other premises until he or she pays the amount due, but the network licensee shall not be entitled to require from the next occupier of the premises the payment of the amount due, unless that occupier has undertaken with the former occupier to pay that amount or exonerate him or her for the payment of that amount.

(4) Where a network licensee has discontinued the supply of electricity to any premises in consequence of any default on the part of any consumer, the network licensee shall be under an obligation to resume the supply of electricity before the end of the period of two working days beginning with the time when the consumer has made good the default and has paid the reasonable expenses of disconnecting and re-connecting the supply, or such longer period as is reasonable under the circumstances.

6. Rates and Other Fees

All rates and other fees of any nature charged by a network licensee to any consumer under this Schedule must be approved by the Commission in accordance with the Act, the regulations, and the Public Utilities Regulatory Commission Act.

SECOND SCHEDULE

ELECTRICAL SYSTEM AVAILABILITY OF NETWORK LICENSEES; VOLTAGE AND FREQUENCY

[This Schedule is the same as the Fourth Schedule to the existing Electricity Supply Act, but made general as to any network licensee and updated to coordinate with the provisions of the Act. The Minister may eliminate or amend this Schedule by regulation.]

(1) The electrical system of a network licensee shall operate at an equivalent availability factor of ninety-nine per cent in each year. The equivalent availability factor (EAF) is defined as follows—

$$\text{EAF} = \frac{8760 - \text{EFOH}}{8760} \times 100\%$$

Where: EFOH = Equivalent Forced Outage Hours
= The equivalent number of hours during the year for which the system was not in service due to forced (unplanned) outages excluding any such outages which are due to force majeure (as defined below).

$$= \sum_i \frac{\text{Expected Demand}_i - \text{Demand Served}_i}{\text{Expected Demand}_i}$$

Where:
i = each hour or part thereof during the year for which there was a forced outage
expected demand = the average of the previous four weeks' system demand for the same hour of the day and the same day of the week of the outage (excluding holidays), in kilowatts
demand served = kilowatts of power on line during the hour of the outage

(2) "force majeure" means any of the following circumstances, to the extent that such circumstance is beyond the reasonable control of the person claiming to be affected by it:

- acts of God, riot or civil commotion;
- strikes, lock-outs and other industrial disturbances;
- wars, blockades, invasions, terrorist actions, civil unrest, or insurrection;
- earthquake, hurricane, flood, fire or explosions;
- outbreak of pestilence or epidemics;
- government rationing of electricity or other wartime or

emergency controls imposed by a government, or other shortage of adequate power or transportation; and

- embargoes, trade restrictions or nationalisation or government sanctions;

(3) In each year, a network licensee shall ensure that it maintains, from its own electric plant operated under a generation licence also issued to such network licensee, which shall be kept in good operating order, and/or from independent power producers under power purchase agreements, excess generating capacity equal to a minimum of twenty per cent of the average daily peak demand for the previous year. The average daily peak demand shall be the average of three hundred sixty-five daily peaks in demand (in kilowatts) in such year. Should the excess generating capacity be projected to fall below twenty per cent in a given year, the network licensee shall take immediate steps to increase such excess generating capacity to a minimum of twenty per cent. The network licensee shall operate its electrical system so as to meet the availability standards specified in this Schedule and calculated in the manner described herein.

(4) The frequency of electricity supplied by a network licensee to consumers for any purpose shall be fifty cycles per second, and such frequency shall be maintained within plus or minus three percent of such frequency.

(5) The voltage of electricity supplied by a network licensee to consumers –

- (a) for domestic purposes shall be two hundred thirty volts; and
- (b) for purposes other than domestic purposes shall be between two hundred thirty volts and four hundred sixty volts, as the network licensee, in consultation with the non-domestic consumer, may determine based upon load conditions and the most economical method of supply,

and such voltage shall be maintained by the network licensee within four percent and minus eight percent of such voltage, measured at the consumer's side of the meter of the network licensee:

Provided that any consumer may, by agreement with the network licensee, be supplied with electricity at a voltage different from the voltage that would otherwise be provided to the consumer under this paragraph (52).

THIRD SCHEDULE

METERING

[The text below is the same as the Fifth Schedule to the existing Electricity Supply Act, but made general as to any “network licensee.” The Minister may eliminate and/or amend this Schedule by regulation.]

1. (1) The supply of electricity to a consumer by a network licensee is to be determined by meters supplied by the network licensee, which meters shall be certified in accordance with paragraph 5. Meters (other than meters in place on the commencement date) shall be fixed on the premises of a consumer on the exterior of any building or structure or other exterior location (such as a pole) designated by the network licensee. Meters in place on the commencement date may be relocated by a network licensee in the manner provided in paragraph 1(2) of the First Schedule.

(2) A network licensee or any person authorised by it may enter upon any land or premises for the purpose of carrying out any of the requirements imposed on the network licensee by paragraph 1(1), subject as provided in paragraph 3 of the First Schedule.

2. (1) A network licensee shall, at its expense, keep all meters supplied by it for the purpose of determining the consumption of electricity by any consumer in proper order for correctly registering such consumption by means of periodic inspections and testing at such intervals as the network licensee shall deem reasonable or as requested by any consumer pursuant to paragraph 6 below.

(2) A network licensee or any person authorised by it may enter upon any land or premises for the purpose of carrying out any of the requirements imposed on the network licensee by paragraph 1(1), subject as provided in paragraph 3 of the First Schedule.

(3) Except as otherwise provided in this this Schedule or the Act or regulations, the expenses of and incidental to the removal, testing, inspection or replacement of a meter incurred by a network licensee in pursuance of this section shall be borne by the network licensee.

(4) Without prejudice to a network licensee’s rights under any other paragraph of this Schedule or the Act, where expenses pursuant to subparagraph 1(3) are incurred by a network licensee by reason of any act or omission of the consumer, the network licensee may recover the reasonable amount of such expenses from the consumer by deducting such amount from the security provided by such consumer under the First Schedule upon ten days’ written notice to the consumer or may at its option include such expenses in its monthly invoice to the consumer provided that if the consumer shall notify the network licensee in writing upon receiving such notice or invoice that it disagrees that it should be liable for such amount, then the network licensee shall be required to obtain a civil judgement upon which to collect such debt by the means provided in this paragraph.

3. (1) A consumer shall ensure that all meters on his or her premises supplied a network licensee are in proper order for correctly registering the consumption of electricity on those premises, and shall, as soon as may reasonably be practicable, notify the network licensee whenever a meter is damaged or appears not to be registering such consumption correctly.

(2) Where a consumer, without reasonable excuse, fails to comply with subparagraph 3(1) above in respect of any meter supplied by a network licensee, the network licensee may discontinue the supply of electricity to the consumer through the meter.

(3) If any difference arises as to the failure of consumer to comply with subparagraph 3(1), the difference shall be referred to the Government electricity inspector for determination.

4. (1) Subject to subparagraph 4(2), in addition to any meter which may be placed on the premises of a consumer to determine the consumption of electricity supplied by a network licensee, the network licensee may place on the premises such meter or other apparatus as it thinks fit for the purpose of ascertaining or regulating—

- (a) the amount of electricity supplied to the consumer;
- (b) the number of hours during which the supply is given;
- (c) the maximum power taken by the consumer; or
- (d) any other quantity or time connected with the supply.

(2) The meter or other apparatus used by a network licensee for any of the purposes mentioned in subparagraph 4(1) in respect of the premises of any consumer shall be supplied and maintained entirely at the expense of the network licensee.

5. (1) A meter shall be deemed to be duly certified under this section if it is certified by the Government electricity inspector to be a meter capable of determining the consumption of electricity within reasonable limits of error as a standard meter approved by the Government electricity inspector pursuant to paragraph 6.

(2) Where any alteration is made in any certified meter, the meter shall cease to be a certified meter unless it is again certified as a certified meter under this section.

(3) A person who uses a meter, other than a certified meter for determining the supply of electricity by the company shall be guilty of an offense unless he or she believes, on reasonable grounds, that the meter was certified.

(4) A person guilty of an offense under subparagraph 4(1) shall be liable, on summary conviction, to a fine of five hundred dollars.

6. Subject to the provisions of this section, a network licensee shall provide and maintain in proper condition such apparatus as may be prescribed or as may be approved by the Government electricity inspector for examining, testing and regulating meters used or intended to be used in connection with the supply of electricity by the network licensee, including sealed and certified standard test meters, and shall afford to the Government electricity inspector all necessary facilities for the use of such apparatus for the purpose of exercise and performance of his or her powers and duties under the Act in relation to such meters.

7. (1) A network licensee shall test the meter registering the electricity supplied to such consumer against a standard meter (which shall have been sealed and approved by the Government electricity inspector pursuant to paragraph 6) and supply the consumer and the Government electricity inspector with a certificate showing the result of the test. The Government electricity inspector shall be notified of, and may (upon notice to the network licensee) supervise any test carried out pursuant to the provisions of this paragraph.

(2) Any test conducted by a network licensee in response to consumer request shall require that the consumer first pay to the network licensee a fee of seventy five dollars.

(3) Subject to subparagraph 7(4), where electricity is supplied through a certified meter, the register of the meter shall be *prima facie* evidence of the quantity of electricity consumed.

(4) Where a meter is found, when tested by a network licensee, to register erroneously by comparison with the standard meter—

- (a) the meter shall be deemed to have registered erroneously to the degree so found since the date which falls midway between the penultimate date on which the register of the

meter was last tested and the date of the test, unless it is proved to have begun to register erroneously on a later date;

- (b) the test result shall be conclusive evidence of the accuracy of the consumer's meter. If the result of the test shows that the meter is registering more than three per cent above or below the registration on the standard test meter, the network licensee shall replace the meter in question, and shall refund to such consumer the amount of any test fee paid by such consumer pursuant to subparagraph 7(2).

7. All rates and other fees of any nature charged by a network licensee to any consumer under this Schedule must be approved by the Commission in accordance with the Act, the regulations, and the Public Utilities Regulatory Commission Act.