



**FINAL DETERMINATION ON
FEES FOR THE ELECTRICITY SECTOR IN THE
BAHAMAS**

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ES 03/2016

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1. Introduction

The Utilities Regulation and Competition Authority (URCA) issues this Final Determination on its *“Preliminary Determination On Fees For The Electricity Sector In The Bahamas – ES 01/2016”* document (“the Preliminary Determination”) in exercise of its powers under section 64 of the Electricity Act, 2015 (EA).

On July 20, 2016 URCA published the Preliminary Determination and established August 19, 2016 as the closing date for the submission of responses. The Preliminary Determination set out the types of fees to be levied by URCA under the EA. As stated in the Preliminary Determination, URCA has regulatory remit for all persons who generate, transmit, distribute or supply electricity within, into, from or through The Bahamas. Its primary role under the EA is to regulate the Electricity Sector (ES) in accordance with the goals, policy objectives and principles underpinning the EA and the national energy and electricity sector policies. In this regard, URCA shall determine and assess fees on licensed entities as necessary to cover the costs allocable to the effective regulation of the ES.

The Preliminary Determination specified the types of fees and charges URCA may levy in relations to the ES, but did not set out the level of fees to be charged or the methodology to be used to calculate such fees. URCA signalled its intent to publish the level of fees to be charged and the methodology used to calculate such fees in the revised URCA Fee Schedule, and will do so as soon as reasonably practicable subsequent to the publication of this Final Determination.

The level of participation in the Preliminary Determination consultation process was significantly below what URCA anticipated as it only received written responses and comments from Bahamas Power and Light Company Ltd. (BPL). URCA therefore thanks BPL for its comments and observations in response to the Preliminary Determination.

The types of fees to be levied by URCA in accordance with the EA will remain in force until they are repealed and replaced by a subsequent Final Determination issued by URCA or pursuant to the EA. URCA emphasizes that this Final Determination should be read in conjunction with the EA and URCA’s Fee Schedule as published from time to time (also available on the URCA website).

This Final Determination now sets out URCA’s reasons and reasoning for its decision on the types of fees to be levied by URCA in relation to the ES.

2. Purpose of this Final Determination

- (i) This Final Determination summarises and responds to the written submissions received

- (ii) to the Preliminary Determination from all persons having interest in the subject matter therein;
- (iii) It sets out URCA's reasoning behind the Final Determination in detail to enable it to be understood and the reasons for URCA's determination to be known; and
- (iv) It sets out the types of fees to be levied by URCA in relation to the ES.

3. Overview and General Comments

The consultation process was initiated with the publication of the Preliminary Determination, which allowed members of the public and interested parties an opportunity to make written submissions on the subject matter contained therein. The full text of the responses to the Preliminary Determination can be found on the URCA website at www.urcabahamas.bs under the 'Publication' tab.

URCA understands the importance of an open and transparent consultation process, and is therefore satisfied that it complied with its statutory duty under the EA by allowing all persons having interest in the subject matter of the Preliminary Determination an opportunity to make submissions.

URCA's high level overview of BPL's response, as the sole respondent, is that the comments were generally constructive. Below, URCA has set out the full scope of the BPL response. URCA has carefully considered the response to the Preliminary Determination and where it has decided to pursue its original intent expressed under the Preliminary Determination, is because it is not persuaded by the respondent's submissions and believes that its Final Determination is best for the ES as a whole.

While this Determination is final, URCA encourages feedback from stakeholders, licensees and the public which may be used to inform URCA's decisions on future consultations and regulatory measures.

4. BPL's Comments and URCA's Response

BPL's Comments

BPL referenced page 8, section 1 of the Preliminary Determination document and requested that bullet (i) be deleted since it is a summary version of bullet (iv). BPL observed that bullet (i) states that URCA may charge for its services to perform its duties and that bullet (iv) states that

URCA may charge an annual fee to perform its duties that is based on the licensee's turnover. BPL said that for the avoidance of doubt regarding whether URCA may in effect charge the licensee twice to perform regulatory services under both bullet (i) and bullet (iv), URCA should delete bullet (i).

URCA's Response

URCA notes BPL's comments and clarifies that the types of fees specified in the Preliminary Determination are the statutory fees as set out under section 54(2) of the Electricity Act, 2015.

URCA particularly notes BPL's concern that URCA may charge the licensee twice to perform regulatory services. URCA considers it important to emphasise that all fees and charges determined and levied by URCA must be set on an objective, non-discriminatory, transparent and proportionate basis. URCA therefore assures BPL and other industry stakeholders that it will not charge licensees twice to perform its regulatory services as this will be untenable under the EA.

With specific reference to the annual URCA fee under bullet (iv), this fee is intended to fund URCA's operation in respect of the forthcoming financial year in accordance with URCA's annual plan, which sets out URCA's work areas and projects for that year. In contrast, the URCA fee, as referenced under bullet (i), contemplates charges for ad hoc services rendered by URCA in the performance of its functions or the exercise of its powers. For example, URCA may be requested to mediate or arbitrate a dispute specific to a licensee for which URCA may charge a fee.

URCA therefore does not accede to BPL's request that bullet (i) be deleted.

5. URCA's Final Determination

HAVING REGARD TO THE ELECTRICITY ACT, 2015, THE MAIN OBJECTIVES OF THE NATIONAL ENERGY AND ELECTRICITY SECTOR POLICIES IN THE BAHAMAS; AND

HAVING REGARD TO THE PRELIMINARY DETERMINATION ON FEES FOR THE ELECTRICITY SECTOR IN THE BAHAMAS – ES 01/2016 ISSUED BY THE UTILITIES REGULATION AND COMPETITION AUTHORITY ON JULY 20, 2016, AND THE COMMENTS SUBMITTED IN RESPONSE THERETO BY INTERESTED PARTIES,

THE UTILITIES REGULATION AND COMPETITION AUTHORITY IN EXERCISE OF ITS POWERS PURSUANT TO SECTION 64 OF THE ELECTRICITY ACT, 2015, HEREBY MAKES THE FOLLOWING FINAL DETERMINATION:

For the reasoning and reasons set out in Section 4 above, the Utilities Regulation and Competition Authority (URCA) determines that:

1. URCA will levy the following fees and charges in relation to the Electricity Sector:
 - (i) fees for the processing of any application to URCA required under the EA pursuant to section 54(2)(b) of the Electricity Act, 2015;
 - (ii) fees for providing copies of documents pursuant to section 54(2)(c) of the Electricity Act, 2015;
 - (iii) annual URCA fees, based on the licensee's relevant turnover for the year in question pursuant to section 54(2)(d) of the Electricity Act, 2015;
 - (iv) fees for the processing of merger applications under section 57 of the EA, pursuant to section 54(2)(e) of the Electricity Act, 2015; and
 - (v) the Tribunal Fee pursuant to the Third Schedule of the Utilities Appeal Tribunal Act, 2009.

2. Additionally, URCA may also levy charges for the following where the services are not covered under paragraph (1) above:
 - (i) charges for services rendered by URCA in the performance and exercise of its functions and powers, pursuant to section 54(2)(a) of the Electricity Act, 2015;
 - (ii) fees for adjudications and orders under section 65 of the EA; and
 - (iii) fees and charges for administration services rendered by URCA in the performance and exercise of URCA functions and powers under the EA, pursuant to section 54(2)(f) of the Electricity Act, 2015.

3. URCA will publish on its website the amount of fees and charges to be levied in its revised Fee Schedule, such fees and charges will be updated from time to time;

4. This Final Determination will be reviewed when conditions, as determined by URCA, warrant it;
5. This Final Determination is without prejudice to URCA's powers under the Electricity Act, 2015, the outcome of any ongoing or future consultation, regulatory or other measures carried out by URCA pursuant to such powers;
6. This Final Determination shall come into effect from the date of its issuance; and
7. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them under the Electricity Act, 2015.

**For the Utilities Regulation and Competition Authority
Stephen Bereaux
Acting Chief Executive Officer
September 26, 2016**