



**CONSULTATION DOCUMENT ON  
Regulatory Fees For The Electricity  
Sector In The Bahamas**

**ES 05/2016**

**Issue Date: 23 December, 2016**

**Response Date: 27 January, 2017**

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## **1 Introduction**

The Utilities Regulation and Competition Authority (URCA) was appointed under the Electricity Act, 2015 (EA) as the independent regulator for the Electricity Sector (ES) in The Bahamas. URCA is responsible for licensing persons who generate, transmit, distribute or supply electricity within, into, from or through The Bahamas. URCA's powers and functions are set out in the EA, which includes the power to issue regulatory and other measures to regulate the sector. URCA shall determine and assess fees on licensed entities as necessary to cover the costs allocable to the regulation of the ES. This document explains URCA's methodology for setting fees and states what fees will be for 2017.

URCA issues this Consultation Document "Regulatory Fees for the Electricity Sector in The Bahamas" (ES 05/2016) to comply with Sections 41, 42 and 43 of the EA, which require URCA to consult the public on measures of public significance. Given that the setting of fees has a significant impact on persons generating, transmitting, distributing, or supplying electricity, it can be considered a measure of public significance.

This document follows URCA's "Final Determination on Fees in the Electricity Sector in The Bahamas" (ES 03/2016) issued on September 29<sup>th</sup>, 2016. That document set out the types of fees that URCA would levy under the EA, but did not specify the methodology used to set the fees or state what the fees would be. Those matters are dealt with in this document.

URCA has not posed any specific questions under this Consultation Document. URCA, however, invites general submissions and comments to its approach for setting regulatory fees from interested parties.

### **1.1 How to Respond**

URCA invites and welcomes written submissions and comments from interested parties with sufficient interest in matters set out in this Consultation Document. The written submissions and comments must be submitted to URCA by 27 January, 2017.

The written submissions and comments should be submitted to URCA either:

- (i) by hand to the Chief Executive Officer, Utilities Regulation and Competition Authority, Frederick House, Frederick Street, Nassau, Bahamas; or
- (ii) by email to [info@urcabahamas.bs](mailto:info@urcabahamas.bs); or
- (iii) by mail to P.O. Box N-4860, Nassau, Bahamas; or
- (iv) by facsimile to (242) 393-0237.

URCA will carefully consider all submissions and comments received before the deadline. URCA intends to publish all responses on the URCA website ([www.urbahamas.bs](http://www.urbahamas.bs)) as soon as possible after the deadline.

URCA shall issue a Statement of Results and Decision. The Statement of Results and Decision will be published within thirty calendar days from the deadline for submissions.

## **1.2 Confidentiality**

URCA may treat responses that are clearly marked “confidential” (in part or full) as being confidential. The submitter shall justify why the information submitted is considered confidential. URCA has the sole discretion to determine whether to publish any submission marked as confidential.

## **1.3 Structure of the Document**

The remainder of this Consultation Document consists of the following parts:

- Section 2 describes the legal framework that allows URCA to issue this Consultation Document.
- Section 3 describes the legal framework that allows URCA to charge regulatory fees.
- Section 4 explains the methodology used to calculate the URCA Annual Fees and lists the fees for 2017.
- Section 5 lists all the other fees URCA will charge.
- Section 6 discusses the next steps following this consultation.

## 2 Regulatory Framework for Consultations

This section sets out the regulatory framework under which URCA has exercised its powers to issue this Consultation Document. URCA considers that the sections listed below require URCA to consult persons with sufficient interest in regulatory fees.

- Section 22 of the EA establishes URCA as the independent regulator of the ES and empowers it to exercise and perform its functions and power in accordance with the provisions of the EA and the URCA Act.
- Section 37 of the EA provides that the primary role of URCA is the regulation of the electricity sector in accordance with the goals, objectives and principles underpinning the national energy and electricity sector policies. This section also provides that URCA, in the regulation of the sector, shall determine and assess fees on licensed entities as necessary to cover the costs allocable to the regulation of the electricity sector.
- Section 38(3)(a) of the EA provides that URCA may, for the purpose of carrying into effect the sector policy objectives, issue regulatory and other measures, including making determinations in accordance with Section 64 of the EA.
- Section 54 of the EA allows URCA to charge fees and impose charges upon Licensees to fund its operations.
- Section 41 of the EA establishes URCA shall allow a person with sufficient interest an opportunity to comment on measures that are of public significance. URCA will consider the comments received prior to introducing the regulatory measures and other measures. This document, as required in Section 41(3), details the standard procedures for seeking and receiving comments.
- Section 42 of the EA provides that a regulatory measure is likely to be of public significance where it relates to electricity supply systems or services and can lead to one or more of the following:
  - a) A major change in the activities carried out by URCA.
  - b) A significant impact on persons carrying out activities in areas regulated by URCA.
  - c) A significant impact on the public in The Bahamas.

Because regulatory fees have a significant impact on the persons generating, transmitting, distributing, or supplying electricity, the setting of regulatory fees is considered of public significance. This is the reason why URCA offers the opportunity to interested parties to comment on this Consultation Document.

### **3 Regulatory Framework for Setting Fees in the Electricity Sector**

This section describes the legal framework that allows URCA to charge regulatory fees. Section 3.1 summarizes the types of fees that URCA is permitted to charge, per the EA. It identifies two types of fees and charges URCA will charge: the URCA Annual Fees and fees for specific services. Section 3.2 describes the principles to be followed for setting these fees.

#### **3.1 The Fees and Charges Established in the Electricity Act**

Section 54(2) of the EA sets out the fees and charges that URCA may levy:

- a) Charges for services rendered by URCA in the performance and exercise of its functions and power under the Act;
- b) Fees for the processing of any application to URCA required under the Act;
- c) Fees for providing copies of documents;
- d) Annual URCA fees, based on the Licensee's relevant turnover for the year in question;
- e) Fees for the processing of merger applications under Section 57 and related adjudications and orders under Section 65;
- f) Fees and charges for administration services rendered by URCA in the performance and exercise of URCA functions and powers under the Act.

Based on Section 54(2) of the EA, URCA issued a Final Determination on "Fees for the Electricity Sector in The Bahamas" on September 26<sup>th</sup>, 2016, where it determined URCA will charge the following fees:

- Fees for the processing of any application to URCA required under the EA, pursuant to Section 54(2)(b) of the EA;
- Fees for providing copies of documents, pursuant to Section 54(2)(c) of the EA;
- Annual URCA fees, based on the Licensee's relevant turnover for the year in question, pursuant to Section 54(2)(d) of the EA;
- Fees for the processing of merger applications under the EA, pursuant to Section 54(2)(e) of the EA;
- The Tribunal Fee, pursuant to the Third Schedule of the Utilities Appeal Tribunal Act, 2009.

URCA separated the fees it will charge into two categories:

- Annual fees, which are recurring fees that fund general URCA operations. These are referred to as URCA Annual Fees;

- Fees for specific services that fall within that URCA’s regular activities, but entail extra costs for URCA.

The URCA Annual Fee is a revenue-based fee imposed on Licensees to cover URCA’s budgeted regular costs. Sections 54(2)(a) and 54(2)(d) allow URCA to charge fees to cover day-to-day costs that can be anticipated and budgeted. These Annual Fees are calculated based on the Licensee’s relevant turnover, which is defined in the EA as gross receipts.

The second group is composed of fees and charges URCA may charge as it undertakes actions that entail extra costs. These are mainly one-off fees. The EA states that URCA may charge for processing general applications, pursuant to Section 54(2)(b), and merger applications, pursuant to Section 54(2)(e). URCA is also allowed to charge for providing copies, pursuant to Section 54(2)(c).

In the Final Determination, URCA stated it **may** also levy charges for the following:

- Charges for services rendered by URCA in the performance and exercise of its functions and powers, pursuant to Section 54(2)(a) of the EA;
- Fees for adjudications and orders under Section 65 of the EA;
- 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 EA.

### **3.2 Principles Established in the Electricity Act for the Fees and Charges to be Imposed by URCA**

Section 54(3) of the EA states the principles and characteristics the fees should follow. The principles are:

- a) Be set on an objective, non-discriminatory, transparent and proportionate basis;
- b) Be published by URCA on its website and in any other form as URCA considers appropriate;
- c) Seek only to cover a proportionate share of the relevant operating costs of URCA for the performance of its regulatory functions under the Act;
- d) In respect of the issuance or renewal of a licence, be proportionate and published in an appropriate and sufficiently detailed manner so as to be readily accessible;
- e) Be set so as to:
  - i. Cover the annual budgeted costs of performing and exercising its functions and powers under the Act and the URCA Act;
  - ii. Exclude costs attributable to the performance of its functions under any legislation not pertaining to the regulation of the electricity sector;

- iii. Recover any deficit from previous years;
- f) Take account of any surplus in URCA's accounts carried over from the previous accounting year.

The EA stipulates that the fees should be transparent and proportionate. This entails the fees being published and easily accessible to the parties involved, pursuant to Sections 54(3)(a), 54(3)(b) and 54(3)(d). The fees should also be the same if they apply to the same condition, regardless of the involved party, and should be commensurate to the service offered.

The EA also highlights the principle of cost recovery. The fees and charges should provide sufficient funds to cover URCA's total costs from regulating the electricity sector, pursuant to Section 54(3)(e). They should also contribute to URCA's general operations, which are general costs that are incurred by URCA regardless of the regulated sector. The fee set to cover general costs should be commensurate to the amount of work and resources URCA will allocate to regulating the electricity sector.



## 4 URCA Annual Fees

This section describes how URCA calculates URCA Annual Fees. Section 4.1 identifies the entities subject to the Annual Fees. Section 4.2 describes the methodology used to calculate the Annual Fees. Section 4.3 presents the URCA Annual Fee Rate for 2017.

URCA incorporates the principles and legal requirements outlined in Section 0 to the methodology used to calculate the Annual Fees. URCA uses a simple and objective equation to calculate these fees.

### 4.1 Entities Subject to Paying the URCA Annual Fees

URCA will collect the Annual Fees from all Licensees connected to the grid. These could be Public Electricity Suppliers or IPPs, but **does not include** persons with small grid-ties systems operating under a Certificate from URCA or a Public Electricity Supplier. The Annual Fees imposed on Licensees will vary depending on the type of Licensee. Collecting the Annual Fees from all grid-tied Licensees has the following advantages:

- Fairness—Licensees pay according to their size, type, and revenue. These distinctions reflect the costs URCA incurs. Public Electricity Suppliers impose most of the regulatory burden, and therefore pay most of the Annual Fee. IPPs are comparatively simple to regulate, since URCA must only determine if the IPP meets the terms established in its Power Purchasing Agreement with a Public Electricity Supplier.
- Transparency—URCA will consult on and publish the regulatory fees. This ensures the fees are easily accessible to all Licensees that are connected or wish to connect to the grid.
- Non-discriminatory—all Licensees share the burden of regulation by paying a rate that is commensurate to the regulatory burden imposed on URCA.
- Simplicity—Licensees of the same type pay the same rate.

### 4.2 Calculating the URCA Annual Fees

URCA will collect the Annual Fees from all Licensees connected to the grid. These could be Public Electricity Suppliers and IPPs. These entities will be charged the following rates:

- IPPs will be charged a flat Annual Fee of 0.03 percent of their relevant turnovers. This is commensurate to the amount of work URCA will dedicate to regulating these entities.
- Public Electricity Suppliers will be charged a variable Annual Fee. This rate will be calculated to cover URCA's electricity-related costs that are not covered by annual fees from IPPs. The rate measures URCA's electricity-related costs against Public Electricity Suppliers' relevant turnovers. This calculation will yield a much higher Annual Fee than for IPPs. This is because most of the cost of

electricity regulation comes from regulating Public Electricity Suppliers. Therefore, Public Electricity Suppliers pay most of the cost of regulation.

To calculate the rate applied to Public Electricity Suppliers, we first subtract the fees charged to IPPs from URCA’s electricity-related costs. The rate that Public Electricity Suppliers pay is calculated to cover URCA’s remaining electricity-related costs. The following equation determines the rate used to calculate the URCA Annual Fee for Public Electricity Suppliers:

$$\text{Rate used to calculate the URCA Annual Fee} = \frac{\text{URCA's electricity-related costs} - 0.03\% \text{ of IPPs' relevant turnovers}}{\text{Public Electricity Suppliers' relevant turnovers}}$$

Public Electricity Suppliers multiply their relevant turnovers by the rate that results from the equation above. The resulting dollar amount is paid to URCA each year.

#### 4.3 The URCA Annual Fee Rate for 2017

For 2017, we do not consider IPPs’ relevant turnovers because there are no existing IPPs. The appropriate URCA Annual Fee for 2017 is calculated using the following formula:

$$\text{Rate used to calculate Annual Fee}_{2017} = \frac{\text{URCA's electricity-related costs}}{\text{GBPC's and BPL's relevant turnovers}}$$

Applying this equation, the URCA Annual Fee rate for 2017 is 0.38 percent of BPL’s and GBPC’s relevant turnovers. The resulting dollar amount will be paid to URCA.

**Table 4.1: Proposed 2017 URCA Annual Fee Rate**

Proposed URCA Annual Fee Rate	0.3790%
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## **5 Other Fees and Charges**

This section lists the fees and charges URCA may charge for specific services and actions that entail extra costs. These are mainly one-off fees. The different fee categories are:

- Application fees.
- Publication fees.
- Adjudication fee.
- Tribunal fee.

### **5.1 Application Fees**

Licence application fees are to be paid by the applicant when applying for a licence or to renew a licence.

#### **5.1.1 Licence application fees**

URCA will charge for applications for the all the types of licences that it grants, namely:

- Public Electricity Supplier Licence.
- Transmission and Distribution Licence.
- Electricity generation Licence.
  - Self-Supply Licence.
  - Independent Power Producer Licence.
  - Temporary Licence.
- Subsidiary Licence.

URCA has adopted a differentiated approach. The amount for each type is based on URCA's costs to process an application. Table 5.1 lists the fees for licence applications. The highest fee is to be charged to the Public Electricity Supplier Licence applicants, as this licence allows the applicant to participate in all stages of the electricity supply chain (GTDS).

**Table 5.1: Application Fees**

Type of electricity service for which form is submitted	Application fee
Public Electricity Supplier Licence	B\$5,000
Transmission and Distribution Licence	B\$3,500
Subsidiary Licence	B\$3,500
Large Self-Supply Licence (more than 100kW)	B\$3,000
Independent Power Producer Licence (more than 100kW)	B\$2,000
Temporary Licence	B\$1,000

**5.1.2 Renewal application fees**

Fees for licence renewals are lower than for the original application, since the licence has already been thoroughly vetted. Table 5.2 lists the fees for renewing licences.

**Table 5.2: Renewal Application Fees**

Type of electricity service for which form is submitted	Renewal application fee
Public Electricity Supplier Licence	B\$1,670
Transmission and Distribution Licence	B\$1,170
Subsidiary Licence	B\$1,170
Large Self-Supply Licence	B\$1,000
Independent Power Producer Licence	B\$ 670
Temporary Generation Licence	B\$ 330

**5.1.3 Changes in control of licences fees**

Section 58 of the EA states that changes in control of licences happen in three cases:

- A person or an affiliated company acquires control (including voting shares) by memo or regulation, and that person pursues strategic decisions that follow its wishes.

- A person or an affiliated company becomes beneficial owner or controls more than 30 percent of voting shares.
- A person or an affiliated company becomes beneficial owner or controls between 15 percent and 30 percent, with exceptions.

For changes in control of licences, the following fees will be charged:

**Table 5.3: Fees for Review of Change in Control**

<b>Combined relevant turnover of acquiring parties and target Licensee</b>	<b>Fee</b>
Less than or equal to \$5 million	B\$ 5,000
Greater than \$5 million and less than or equal to \$10 million	B\$10,000
Greater than \$10 million and less than or equal to \$50 million	B\$15,000
Greater than \$50 million and less than or equal to \$100 million	B\$25,000
Greater than \$100 million	B\$35,000

Fees for changes in control are much higher than the fees for licence applications. This is for two main reasons:

- Licensing providers, while it imposes an additional cost on URCA, is an expected part of electricity regulation. URCA must issue some licences to allow electricity supply in The Bahamas, and to encourage the competition envisioned in the EA. Changes in control of licences, however, are an additional cost beyond normal operations in the electricity sector.
- Especially when a change in control of a licence involves two entities with licences in the electricity sector, detailed study may be required to determine if the change would negatively affect consumers.

## **5.2 Fees for URCA Publications**

URCA requires that the solicitant pay a fee to URCA to obtain hard copies of publications. The fee is listed in the following table:

**Table 5.4: URCA Publications**

Service	Fee
Copy of URCA Publications*	B\$5

### **5.3 The Adjudication Fee**

Under Section 54 of the EA, URCA may require the payment of a fee for making adjudications. The fee is intended to cover the costs of its investigations related to mergers, enforcement or determination contraventions.

URCA reserves the right to charge a fee for investigations. However, until further notice, URCA will not charge a fee to cover the cost of investigating breaches of merger, enforcement, or determinations. The cost will be covered by entities found guilty of contraventions. The regulated entity or person will not be charged in advance for investigations into breaches.

### **5.4 The Tribunal Fee**

URCA shall levy, demand and collect a Tribunal Fee pursuant to the provisions of the Utilities Appeal Tribunal Act. URCA has no authority to determine this fee because the determination of the Tribunal Fee falls under the jurisdiction of the Utility Appeals Tribunal.

## **6 Next Steps**

After the period for submissions and comments closes, URCA will carefully consider all submissions and comments and shall issue its Statement of Results and Final Determination setting out the regulatory fees it will charge.

The Statement of Results and Final Determination will be issued within \_\_\_\_\_ calendar days from the deadline for submission.