



Regulatory Fees for the Electricity Sector in The Bahamas

Statement of Results and Final Decision

ES 01/2017

Issue Date: April 7, 2017

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1 Introduction

The Utilities Regulation and Competition Authority (“URCA”) issues this Statement of Results and Final Decision on its “Consultation on: Regulatory Fees for The Electricity Sector in The Bahamas – ES 05/2016” document (“the Consultation Document”) in exercise of its powers under section 38(3)(c) of the Electricity Act, 2015 (“EA”). URCA also has published its finalized text of the Regulatory Fees for the Electricity Sector (“ES”) in The Bahamas (ES 03/2017) as a separate document concurrently with the publication of this Statement of Results and Final Decision (ES 03/2017 is also attached as **Error! Reference source not found.** to this document).

On December 23, 2016 URCA published the Consultation Document and established January 27, 2017 as the closing date for the submission of responses. As stated in the Consultation Document, the EA grants URCA the powers to issue regulatory and other measures to regulate the ES. URCA has the regulatory remit to determine and assess fees on licensed entities to cover the costs of regulating of the ES.

The Consultation Document was specific to the fees URCA will impose on licensed entities to cover the costs allocable to the regulation of the ES. URCA did not pose any specific questions under this Consultation Document. URCA, however, invited general submissions and comments to its approach to determining fees for the ES. URCA particularly encouraged submissions and comments on the terms and conditions contained in the Consultation Document.

URCA received two written responses from Bahamas Power and Light Limited (BPL) and Mr. Vincent Wallace Whitfield. URCA thanks the two submitters for their comments and observations in response to the Consultation Document.

This Statement of Results and Final Decision now sets out URCA’s reasons and reasoning for its determination of fees it will impose on licensed entities in the ES.

2 Purpose of this Statement of Results and Final Decision

The purpose of this Statement of Results and Final Decision is to:

1. Summarise the written submissions received in response to the Consultation Document;
2. Provide URCA's analysis of and comments on the submissions received in response to the Consultation Document;
3. Set out URCA's reasons and reasoning for its decisions to the responses to the Consultation Document; and
4. Set out the fees for the ES.

3 Overview and General Comments

URCA initiated the consultation process with the publication of the Consultation Document, which provided members of the public and interested parties the formal means to make written submissions on the subject matter of the Consultation Document. URCA is now pleased to publish a summary of such responses to the Consultation Document, its analysis of and comments on the responses, and its Statement of Results and Final Decision in relation thereto. The full text of the responses received to the Consultation Document can be found on the URCA website at www.urbahamas.bs under the 'Publication' tab.

URCA understands the importance of an open and transparent consultation process and is therefore satisfied that it has complied with its statutory duty under the EA by affording all persons having interest in the subject matter of the Consultation Document a reasonable opportunity to make submissions.

URCA's high-level overview of the submissions by BPL and Mr. Vincent Wallace Whitfield, as the sole respondents, is that they were generally constructive, insightful, and useful. URCA has set out below (in tabular form) the full scope of the submitters' response and provided URCA's comments.

4 Stakeholder Comments and URCA’s Responses

In the table below, URCA has summarized and provided URCA’s position on each of the comments received in response to the Consultation Document.

Table 4.1: Stakeholder Comments and URCA’s Responses

Page	Section	Comment	URCA response
3	3.1	BPL requested that to the extent possible, the fees that URCA charges should be based on actual out-of-pocket costs, be transparent and verifiable and be prudent, both in terms of the scope of work driving the amount of the fee and the overall cost of the fee	URCA agrees with BPL’s request for the fees to reflect actual out-of-pocket costs, and be transparent, verifiable, and prudent. This is already required by Section 54 of the EA.
7	¶1	BPL suggested that URCA’s annual fee should be based on BPL’s revenue net of fuel, as BPL’s fuel revenues are offset in whole by its fuel costs. If URCA is unable to base the annual fee on our revenue net of fuel, we request that permission be granted for the annual fee and any non-penalty related to be recoverable through the fuel rates to the consumers	<p>URCA is unable to base the Annual Fee on BPL’s revenue net of fuel. This is because URCA’s Annual Fee is based on the licensee’s relevant turnover as is required by Section 54 (2) and defined by the EA. Relevant turnover is defined in the EA as “gross receipts in money or money’s worth of the licensee”, which includes fuel charges.</p> <p>URCA allows for the Annual Fee to be included in BPL’s overall cost base, and therefore it can be passed on to customers as part of the electricity service tariff. However, URCA’s decision is that this cost shall not be included in the fuel rate charge to customers, nor as a separate “pass-through” line item.</p>
7	¶13	BPL requested clarification on instances in which URCA would require charging a fee for ‘services rendered by URCA in the performance and exercise of its functions and powers’, since it is BPL’s understanding that per the first paragraph on page 7, the	URCA agrees with BPL’s request for clarification. URCA has modified this section to state that URCA may charge a fee only for services rendered that impose non-budgeted costs.

Page	Section	Comment	URCA response
		Annual Fee to URCA would cover URCA's budgeted regular costs. In BPL's view, budgeted regular costs would comprise those services rendered by URCA in the performance and exercise of its functions and powers	
7	¶13	BPL requested clarification on instances in which URCA would require charging a fee for administration services, since it is BPL's understanding that per the first paragraph on page 7, the Annual Fee to URCA would cover URCA's budgeted regular costs. It is BPL's view that Administration service would comprise a component of URCA's budgeted regular costs	URCA agrees with BPL's request for clarification. URCA has modified this section to state that URCA may charge a fee for services rendered that impose non-budgeted costs.
7	3.2	Mr. Wallace Whitfield asserts that URCA must, pursuant to section 54(3) of the EA, demonstrate to the parties involved the objective, non-discriminatory, transparent and proportionate basis upon which it has arrived at its proposed regulatory action, and that URCA has not done so in the Consultation Document.	URCA does not agree. URCA has complied with the requirements in the EA. In particular, the fees proposed are in fact objective and non-discriminatory by virtue of the fact, as stated by URCA, that 'the fees should also be the same if they apply to the same condition, regardless of the involved party'. URCA has also complied with the transparency requirement by the publication of the fees, their easy accessibility to the relevant parties. Finally, URCA addressed the proportionality requirement by mandating that the fee 'should be commensurate to the service offered'.
9	4	Mr. Wallace Whitfield questioned the analysis contained in this Section. Mr. Wallace Whitfield noted the information regarding the position of BPL and Grand Bahama Power Company (GBPC) but sought clarification on the licence fee status of GTDS licensees in the Family Islands	URCA disagrees with the comments made, for the following reasons: <ul style="list-style-type: none"> Regarding the licensees who are required to pay the fee, URCA used an equation that takes into account <u>all</u> Public Electricity Suppliers. Public Electricity Suppliers are authorized to generate, transmit, distribute, and

Page	Section	Comment	URCA response
		<p>other than BPL and GBPC who are also subject under the EA to pay annual fees based on relevant turnover.</p> <p>Mr. Wallace Whitfield also sought clarification on the portion of URCA's annual budget that had been applied to electricity regulation and how the 0.3790% figure of relevant turnover is arrived at.</p>	<p>supply electricity (GTDS functions). This means that <u>all</u> licensees who carry out these functions are required to pay the Annual Fee.</p> <p>For 2017, the fee is only based on BPL and GBPC because those are the only two authorized Public Electricity Suppliers. The calculation of the Annual Fee will include other Public Electricity Suppliers when these are authorized by URCA to carry out GTDS functions.</p> <ul style="list-style-type: none"> ▪ Regarding the calculation of the URCA Fee, it is Government policy not to release financial or operational information for BPL. URCA has respected this policy by not publishing this information in the Consultation Document.
10	4.3	BPL requested clarity on what measures URCA will use to ensure that its costs are efficiently managed over time.	URCA continues to strive to achieve and engage industry best practices. Additionally, the annual budgeting process includes an industry consultative component which encourages cost containment and efficient management of resources.
11	5	<p>Mr. Wallace Whitfield again questioned whether the appropriate analysis had been demonstrated in this section, to show how URCA arrived at the preliminary decisions stated therein, and the calculation of other URCA fees payable by licensees in the electricity sector.</p> <p>Mr. Wallace Whitfield considered that this is most clearly demonstrated in relation to the Adjudication Fee chargeable under Section 5.3.</p>	<p>URCA considers that adequate analysis has been provided in this section. The fees stated in section 5 are calculated as to be commensurate to the service offered. URCA has determined this fee based on its similar work in the electronic communications sector.</p> <p>URCA has modified paragraph 5.3 for clarity. These fees will only apply to adjudications of merger applications related to Section 65 of the EA.</p>

5 URCA's Final Decision

Having regard to the Electricity Act, 2015, the main objectives of the national energy and electricity sector policies in The Bahamas;

Having regard to the consultation on Regulatory Fees for the electricity sector in The Bahamas (ES 05/2016) issued by the Utilities Regulation and Competition Authority on December 23, 2016, and the comments submitted in response by interested parties;

The Utilities Regulation and Competition Authority in exercise of its powers pursuant to section 38(3)(c) of the Electricity Act, 2015, hereby makes the following final decision:

For the reasons set out in the foregoing Statement of Results and Final Decision, the Utilities Regulation and Competition Authority (URCA) determines that:

1. Fees and charges imposed on Licensees contained in **Error! Reference source not found.** to this Final Decision are final and shall take effect from the date of publication on the URCA website;
2. This Final Decision will be reviewed when conditions, as determined by URCA, warrant it;
3. This Final Decision 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;
4. This Final Decision shall come into effect from the date of its issuance; and
5. Except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in the Electricity Act, 2015.

Stephen Breaux

Chief Executive Officer

Utilities

Regulation

and

Competition

Authority

Appendix A

Regulatory Fees for the Electricity Sector in The Bahamas

ES 03/2017

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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.

The remainder of this Document consists of the following parts:

- Section 2 **Error! Reference source not found.** describes the legal framework that allows URCA to charge regulatory fees
- Section 3 explains the methodology used to calculate the URCA Annual Fees and lists the fees for 2017
- Section 4 lists all the other fees URCA will charge.

2 Regulatory Framework for Setting Fees in the Electricity Sector

This section describes the legal framework that allows URCA to charge regulatory fees. Section 2.1 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 2.2 describes the principles to be followed for setting these fees.

2.1 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 EA;
- b) Fees for the processing of any application to URCA required under the EA;
- 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 of the EA; and
- f) Fees and charges for administration services rendered by URCA in the performance and exercise of URCA functions and powers under the EA.

Based on Section 54(2) of the EA, URCA issued a Final Determination on "Fees for the Electricity Sector in The Bahamas" on September 26th, 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 categorizes 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 are revenue-based fees imposed on Licensees to cover URCA's budgeted regular costs. Sections 54(2)(a) and 54(2)(d) of the EA 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. URCA will only charge these fees for services that are not budgeted and are therefore not covered by the URCA Annual Fee;
- 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. URCA will only charge these fees for services that are not budgeted and are therefore not covered by the URCA Annual Fee.

2.2 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 EA 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) of the EA. 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 ES, 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 ES.

3 URCA Annual Fees

This section describes how URCA calculates URCA Annual Fees. Section 3.1 identifies the entities subject to the Annual Fees. Section 3.2 describes the methodology used to calculate the Annual Fees. Section 3.3 presents the URCA Annual Fee Rate for 2017.

URCA incorporates the principles and legal requirements outlined in Section 2 to the methodology used to calculate the Annual Fees. URCA uses a simple and objective equation to calculate these fees.

3.1 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.

3.2 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:

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

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

3.3 The URCA Annual Fee Rate for 2017

The appropriate URCA Annual Fee for 2017 is calculated using the following formula:

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

For 2017, only GBPC's and BPL's relevant turnovers are considered for the calculation because there are no IPPs currently operating in The Bahamas.

Applying this equation, the URCA Annual Fee rate for 2017 is 0.42 percent of BPL’s and GBPC’s relevant turnovers. The resulting dollar amount will be paid to URCA.

Table 3.1: 2017 URCA Annual Fee Rate

URCA Annual Fee Rate	0.4238%
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4 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.

4.1 Application Fees

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

4.1.1 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 licences, including:
 - Large Self-Generation 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 4.1 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 4.1: 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-Generation Licence (more than 25kW)	B\$3,000
Independent Power Producer Licence (more than 25kW)	B\$2,000
Temporary Generation Licence	B\$1,000

4.1.2 Renewal application fees

Fees for licence renewals are lower than that for the original application, since the licence has already been thoroughly vetted. Table 4.2 lists the fees for renewing licences.

Table 4.2: 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-Generation Licence	B\$1,000
Independent Power Producer Licence	B\$670
Temporary Generation Licence	B\$330

4.1.3 Changes in control of licences fees

Section 58 of the EA states that a change in control of a licence happens 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 4.3: Fees for Review of Change in Control

Combined relevant turnover of acquiring parties and target Licensee	Fee
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 ES;
- Especially when a change in control of a licence involves two entities with licences in the ES, detailed study may be required to determine if the change would negatively affect consumers.

4.2 Fees for URCA Publications

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

Table 4.4: URCA Publications

Service	Fee
Copy of URCA Publications	B\$5

4.3 The Adjudication and Merger Fee

Under Section 54 of the EA, URCA **may** require the payment of a fee for processing merger applications under Section 57 and adjudications and orders under Section 65. The fee is intended to cover the costs of its investigations related to mergers, enforcement, or determination of 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 control rules, enforcement, or determinations. The cost incurred by URCA will be covered by entities found guilty of contraventions, through any fines levied. The regulated entity or person will not be charged in advance for investigations into breaches.

4.4 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 authority of the Utility Appeals Tribunal.