



Public Electricity Supply Licensees Reporting Obligations Procedures and Guidelines

STATEMENT OF RESULTS AND FINAL DECISION

ES: 09/2020

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1 INTRODUCTION

The Utilities Regulation and Competition Authority (“URCA”) issues this Statement of Results and Final Decision (SoR) to its **“Consultation on Public Electricity Supply Licensees Reporting Obligations Procedures and Guidelines” (ES 02/2020)**. The primary role of URCA is the regulation of the sector in accordance with the goals, objectives and principles underpinning the national energy and electricity sector policies.¹ Accordingly, it is important that URCA effectively monitor and evaluate Licensee’s performance.

URCA is issuing this SoR pursuant to section 38(1)(k) of the Electricity Act, 2015 (“EA”); Part C – Reporting Obligations, Condition 24 of the Public Electricity Supplier Licence (PESL) and Condition 23 of the Authorized Public Electricity Supplier Licence (APESL). The procedures and guidelines establish the scope, format and the frequency in which specified licensees in the electricity sector are obligated to submit information requirements to URCA. The term “specified licensees” refers to holders of either a Public Electricity Supplier Licence (PESL) or an Authorised Public Electricity Supplier Licence (APESL.).

1.1 CONSULTATION PROCESS

On 28 February 2020, URCA issued a Public Consultation Document (ES 02/2020) in respect of the Public Electricity Supplier Licensees Reporting Obligations Procedures and Guidelines (“the Consultation Document”) inviting Licensees to provide responses by 30 March 2020. Consequent on the Covid-19 Pandemic, the delayed response from the PESL and the subsequent exigency Order waiver enacted by the Government of The Bahamas, URCA extended the submission date for responses to the Consultation Document to 15 July 2020. The Consultation Document sought respondents’ views on each section of the reporting obligations, procedures and guidelines through a series of questions.

1.2 RESPONSES TO THE CONSULTATION

The period for submission of written responses and comments to the consultation document was closed on 15 July 2020. During the consultation period, URCA received written responses from:

- The Bahamas Power and Light Company Limited (BPL)

URCA thank the respondents for participation in this public consultation process. URCA has summarised the comments submitted by the respondents in this Statement of Results and issued its Final Position. Interested parties can obtain the full text of the respondents’ submission from URCA’s website at www.urbahamas.bs.

In this document, URCA has sought to provide a summary of the responses considered and discussion of URCA’s position on those responses. However, URCA may not have reproduced all matters considered. The lack of response to a comment or any issue raised by a respondent does not signify URCA’s agreement in whole or in part with the comment, nor should it be taken to mean that URCA has not considered the comment or that the comment was considered to be unimportant or without merit. Additionally, URCA took note of the absence of any response from any of the APESLs and has taken the position that the scope of this SoR at this time applies to the PESL and APESLs. However, URCA reserve the right to waive certain reporting obligations, which would allow us to address any requirements that may not reflect the proportionality of their operations and demonstrated to be too onerous for an APESL. URCA will monitor all PES performance..

¹ Electricity Act 2015, section 37(1)

1.3 PURPOSE OF THIS STATEMENT OF RESULTS AND FINAL DECISION

In this Statement of Result and Final Decision, URCA:

- (i) outlines the Regulatory Framework
- (ii) summarizes the written submissions received to the Public Consultation Document (ES 02/2020) in respect of the Public Electricity Supply Licensees Reporting Obligations Procedures and Guidelines;
- (iii) provides URCA's analysis of the submissions made by key stakeholders; and
- (iv) sets forth URCA's Final Decision.

URCA's final decision on the Guidelines for Collection and Reporting Performance of Operational data is contained in a separate document accompanying these SoRFD.

2 REGULATORY FRAMEWORK

2.1 GENERAL

The specified licensees Reporting Obligations Procedures and Guidelines (“the Procedures and Guidelines”) set out the manner and form in which licensees must submit information and data to URCA relating to their performance under the Electricity Act, 2015 (“EA”) and their respective licences, including the dates by which it must be submitted².

Licensees are required to submit information and data to URCA in the manner set out in these Statement of Results and Final Decision on PESL Reporting Obligations³.

Each licensed entity must submit information and data relating to its individual compliance with the EA, and individual licences to URCA in the manner and form (including by the date or dates) set out in these Statement of Results and Final Decision on PESL Reporting Obligations

In general, the reporting indicators will serve as a tool for:

- establishing baseline indicators of specified licensees’ performance;
- monitoring specified licensees’ performance over time;
- assessing specified licensees’ performance against other electric utilities in The Bahamas and overseas; and
- provides the framework for specified licensees to report to URCA in respect of their performance.

The baseline indicators will be informed by a benchmarking exercise to ensure that they are fit for purpose, reflective of industry best practice and not out of step with mainstream thinking and the uniqueness of The Bahamas environment. Furthermore, it is anticipated that URCA will have ongoing engagement with specified licensees on the established KPIs and baseline indicators and their related obligations whilst these reporting requirements are finally implemented.

From a regulatory standpoint, URCA’s goal is to incentivize each licensee to improve its performance relative to the following⁴:

- Operational Efficiency – where specified licensees deliver the quality of the service that consumers wish them to produce at the lowest reasonable cost while providing acceptable reliability and other aspects of performance.
- Dynamic Efficiency – where specified licensees make efficient investment in innovation so that they are able to meet future demands at the lowest reasonable cost.
- Consumption Efficiency – where customers bear the incremental cost that their decisions impose and be given appropriate incentives to consume the service only when its value to them is at least as great as the incremental cost of producing and delivering it. Prices should be set at the lowest level consistent with system cost recovery and investment incentives with “cost” understood to include a fair rate of return on capital to investors or compensation for public capital for public sector utilities.

² Requirements in accordance with Condition 24 of the PESL or Condition 23 of the APESL

³ section 38(1)(k) of the EA, states that the function and powers of URCA are to – “require public electricity suppliers and other licensees to submit periodic reports, as determined by URCA, on their operations.....”

⁴ Based on http://mitei.mit.edu/system/files/Electric_Grid_8_UTILITY_Regulation.pdf

- Other Policy Objectives – where specified licensees are expected to support other policy goals, they should do so in a cost-reflective, minimally distortive manner.

Accordingly, it is important that URCA effectively monitor and evaluate Licensee’s performance. Additionally, it is also important that URCA is able to effectively monitor and evaluate its own performance and the performance of the regulatory system generally. This will also have a significant impact on the electricity sector outcomes and the achievement of policy objectives.

2.2 LEGAL FRAMEWORK

URCA is tasked under the EA to carry out various duties and functions as the regulator of the electricity sector in The Bahamas. Pursuant to section 74 of the EA and Condition 24 of the PESL and Condition 23 of the standard APESL, URCA may specify the framework as it relates to the procedures and guidelines for a PES to furnish such information and to submit such returns in relations to their operations and at such intervals as URCA may require.

The Government of The Bahamas (GoB) National Energy Policy (NEP) sets out the strategic aims for meeting the electricity sector policy objectives. The strategic aims include but are not limited to:

The priorities for diversification, competition and sector regulation consistent with the aims and goals of the NEP, shall be, among others, the -

- a) Provision of safe, least cost electricity supplies to all consumers;
- b) Advancement to the Bahamian economic growth and development and international competitiveness;
- c) Enhancement of the energy security of the Bahamas;
- d) Encouragement of competition in the generation of renewable electricity; and
- e) Introduction of a structure for the sector that is overseen by an independent regulator.

Section 38 of the EA states that the functions and powers of URCA are to, inter alia -

Subsection (1)(k) “require public electricity suppliers and other licensees to submit periodic reports, as determined by URCA, on their operations.”

Subsection (3) states that URCA may issue regulatory and other measures, including without limitations, as follows: –

“

- (i) requiring any licensee to furnish such information and submit such returns in relations to the operations at such intervals as it may require;
- (j) conducting market investigations and market reviews and publishing regular information and reports.”

2.2.1 Consumer Protection

Section 40 (9) states that a licensee shall –

“

- (a) Monitor its performance against such key performance indicators as may be set out in its licence or in any regulatory measures issued by URCA; and

- (b) Pursuant to a written request made by URCA, publish and provide in a manner required by URCA its performance results against the relevant key performance indicators.”

2.2.2 Determination by URCA

Section 64 of the EA gives URCA the remit to make determinations where URCA sees it necessary relating to the terms and conditions of a licence, including obligations in licence conditions, regulatory and other measures, standards or technical rules.

2.2.3 Power to request information

Section 74 of the EA gives the URCA the power to request information. Subsection (2) states that when requesting information URCA shall inter alia –

- (a) state the legal basis and purpose of the request;
- (b) specify what information is required;
- (c) fix the time limit within which information is to be provided; and
- (d) state that a person who fails to provide information as and when lawfully requested to do so, or supplies incorrect or misleading information, commits an offence.

2.3 Licence Conditions

2.3.1 General Conditions

The general conditions of the Public Electricity Supplier Licence (PESL)⁵ states that the licensee shall comply with the EA and any other Act of the Commonwealth of The Bahamas that has application to it in the discharge of its performance under their Licence.

The general conditions further states that *“the Licensees shall comply with regulatory and other measures including any directive, order, rule, decision or approval issued, made or granted by URCA in accordance with their duties and functions under the Act or their Licence”*.

Condition 5.1 of the PESL and APESL outline the role and duties of URCA. It states that the Licensee shall be subjected to the regulatory supervision of URCA. URCA shall perform its functions and carry out its duties pursuant to the URCA Act, the EA and any other relevant laws, the licence and have regard to relevant Government policy.

Condition 24 of the PESL and Condition 23 of the APESL outlines their respective reporting obligations.

Through this document, URCA now sets out the Reporting Obligation Procedures and Guidelines for PES.

⁵ Includes Authorised Public Electricity Suppliers Licensees

3 URCA’S SUMMARY OF RESPONSES TO COMMENTS RECEIVED ON THE CONSULTATION

3.1 GENERAL COMMENTS ON THE CONSULTATION AND URCA’S RESPONSES

In this section, URCA summarizes and responds to the general comments received on the consultation. URCA notes that BPL is the only PES that submitted responses to the consultation document (ES:05/2020). This despite the submission date extended to 15 July 2020 on account of the exigency cause by the Pandemic Covid-19.

URCA notes that any comments raised and not answered does not signify agreement in whole or part with said comments, or that URCA has not considered the comment or that the comment is without merit.

BPL’s Comments

BPL views the requirements of URCA’s proposed reporting obligations outlined in the consultation document as onerous and posited that it will likely require BPL to employ additional human and other resources to ensure timely compliance. Additionally, BPL posited that some of the information required by URCA is not pertinent to The Bahamas at this time given the environment in which BPL actually operates. BPL is of the view that many of the requirements proposed by URCA do not factor in the external oversight and control applicable to BPL, given that BPL is a wholly owned subsidiary of the Bahamas Electricity Corporation which in turn is wholly-owned by the Government of The Bahamas. Notwithstanding the foregoing, BPL has posited its reaffirmation that much of the data required in the proposed reporting obligations contained in the consultation document can be provided by BPL. BPL further posited that it would be ideal if BPL is required to provide URCA with the raw data that BPL has available, thereby allowing URCA to calculate its own needed information.

Further, BPL posited that the company is being unduly tasked with providing calculated data using URCA’s template which, if not changed as suggested by BPL, will require BPL to effectively create a new report using current resources. This process BPL argued would take BPL many man-hours every period to produce. In this regard, BPL posited that reports be provided to URCA quarterly, forty-five (45) days after the end of each quarter. Additionally, BPL posited that additional data collection systems at additional cost to the company will be required in a number of Family Islands where personnel are not present to provide the information required by URCA.

In addressing the legal framework underpinning the Consultation Document, BPL posited that URCA relied upon section 74 of the Electricity Act (EA) and Condition 24 of BPL’s Public Electricity Supplier Licence (PESL) to construct the legal framework for the proposed procedures and guidelines. BPL posited the view that section 74 of the EA gives URCA the power to request information as required to carry out its duties and does not specifically refer to or permit for the creation of a regulatory or reporting framework. BPL posited its agreement that while there are certain reporting obligations contained in Condition 24 of its PESL, Condition 24 does not speak to URCA’s ability to specify a reporting framework relative to those set out in the proposed guidelines of the consultation document. BPL does however posit its agreement that URCA is empowered under section 38(1)(k) and (3)(i) and (j) of the EA as set out in the Consultation Document to issue regulatory and other measures, including without limitation, regulatory and other measures: –

- “(i) requiring any licensee to furnish such information and submit such returns in relations to the operations at such intervals as it may require;
- (k) conducting market investigations and market reviews and publishing regular information and reports.”

BPL posited that its not satisfied that URCA has complied fully with all of its statutory duties and responsibilities in issuing the Consultation Document, as follows:

- 1) URCA is obliged to comply with the provisions of the Electricity Act. Section 38(1)(k) of the Act permits URCA to “... require public electricity suppliers and other licensees to submit periodic reports, as determined by URCA, on their operations”. Having regard to the wording of the paragraph in the Act that URCA is relying upon as its authority to issue the Consultation Document, BPL further asserted that URCA has not explained whether the Consultation requires a determination procedure under section 64 of the Act, and if not, why URCA is able to adopt the particular consultation procedure that it has adopted in this matter.
- 2) BPL further posited that URCA also relies on Condition 24 of the Supplier Licence as the basis for issuing the Consultation on proposed Reporting Obligations Procedures and Guidelines without stating which, if any of the specific provisions in Condition 24 it is relying upon. BPL further posited that Condition 24 covers a wide range of reporting obligations but BPL does not consider that URCA intended for all of the provisions in Condition 24 to apply to the proposed Reporting Obligations Procedures and Guidelines and if URCA did so intend, this is not made apparent to BPL in Sections 1 through 5 of the Consultation Document.
- 3) BPL contends that URCA’s functions and powers to require periodic reports from licensees under section 38(1)(k) is different from and not the same as URCA powers to request information under section 74 for the purposes of Conditions 24.3 and 24.4. BPL contends that URCA’s periodic report submission powers arise where intends to exercise its powers to require licensees to submit periodic operational reports that first necessitate URCA undertaking a public consultation of persons whose rights or interests might be adversely affected or prejudiced by the outcome, while URCA’s power to request information arises when carrying out its duties under the Act and it is required to comply with the requirements in section 74(2).

BPL further posited that it considers that, in proposing a regulatory measure for Reporting Obligations Procedures and Guidelines applicable to Public Electricity Suppliers, the Consultation Document fails to comply with the mandatory requirements in section 7 of the Electricity Act. BPL highlighted Section 7 of the Act which states that URCA’s proposed regulatory measure “**shall** be ... made with a view to implementing the main goal and governing principles and objectives of the sector policy [in section 6 of the Act] and electricity supply regime”. The section goes on to state that the proposed regulatory measure “...**shall** comply with the following guidelines”. Those guidelines are that “market forces **shall** be relied on as much as possible as the means of achieving the main goals and objectives of the sector policy [in section 6 of the Act] and electricity supply regime”. Also, “regulatory and other measures **shall** be introduced (i) where, in the view of URCA, market forces are unlikely to achieve the main goal and objectives of the sector policy [in section 6 of the Act] and electricity supply regime within a reasonable time-frame”; as well as (ii) “by URCA carrying out a regulatory impact assessment having regard to the costs and implications of such regulatory and other measures on affected parties”. Further, “regulatory and other measures **shall** be efficient and proportionate to their purpose and introduced in a manner that is transparent, fair and non-discriminatory”. [Emphasis added]. By section 2(3) of the Interpretation and General Clauses Act as amended in 2011, “In every written law, ... the word “shall” or “must” is to be construed as being mandatory or imperative”. BPL notes that none of this analysis or justification by URCA is present in the Consultation Document.

Further, the Consultation Document on occasion refers to the proposed Reporting Obligations Procedures and Guidelines as attempting to achieve international best practice or being based on international best practice without specifying what those international best practices are. The New Hampshire Public Utilities Commission has stated that “There is no manual or reference that provides a list of best practices for the electric or telecommunications industries. The best practice for any process is developed on a case by case basis by a utility or group of utilities”.

Further, BPL refers URCA to section 37(1) of the Act whereby URCA’s primary role in electricity “... is the regulation of the electricity sector in accordance with the goals, objectives and principles underpinning the national energy and

electricity sector policies” in sections 5 and 6 of the Act as BPL is unable to find any reference to either of these sections in the Consultation Document as underpinning any of the reasons for proposing the draft Reporting Obligations Procedures and Guidelines or justifying the provisions therein. BPL also posited that URCA has not complied with section 37(2) of the Act where, in regulating the sector, URCA “shall ... (b) demonstrate reasoned consistency and stability in its decision” and “... (g) tailor regulatory and other measures so that regulatory burdens are proportional to the nature of they are designed to address”. However, BPL acknowledged URCA’s mandate to assess, monitor and evaluate the performance of the Public Electricity Suppliers (PES) towards achieving the overall energy policy goals of the Government of The Bahamas (GoB) as stated in the Consultation Document. BPL contended that if this is the case, the data required under the proposed reporting obligations should be limited to that data which can actually demonstrate performance against stated goals in the energy policy. Moreover, BPL submits that while these goals are to be measured, URCA should not have unfettered access to all of a licensee’s operational data. BPL also posited that URCA has failed to show how having the proposed indicators outlined in the consultation document factor into URCA discharging its duties under the energy sector policy.

BPL further asserted that URCA will benchmark BPL against utilities of URCA’s choosing without regard to BPL’s operational and sector conditions as they exist in The Bahamas (for example, operational challenges in providing services in an archipelagic nation, and government mandates). BPL prejudged that comparisons as intended by URCA will be difficult to achieve as there are few entities regionally or in other national markets that operate multi-island utilities as BPL does and so BPL has doubt that any data is available to URCA for comparison purpose. BPL further asserted that resources for collection and presentation of data for the Family Island electricity utilities are nonexistent and are limited in New Providence.

As it relates to URCA’s goal to incentivize each licensee to improve its performance as outlined in Section 3.2 of the consultation document, BPL posited that URCA should provide the basis of its stated goals as its substratum is not supported by any examples from other regional or national electricity suppliers or regulators, any academic research or any other source. Further, BPL questions whether such basis will be agreed upon in the Bahamian context or how it will be selected by and enforced by URCA. Regarding dynamic efficiency, BPL noted that the ability of BPL to invest in innovation is affected by any number of factors including profitability which is out of the entity’s control. Regarding consumption efficiency, BPL asserted that this concept in the Bahamian context is likely to be affected by government policy and in any event is not easily controllable by the utility despite URCA’s assertion that it is. Regarding, other policy objectives, BPL reiterates that it experience has been directives given usually affect the ability of the utility to successfully support other policy objectives. For instance, the utility may be required (as for example, the Family Islands Electrification Policy) to operate in an area that would not be otherwise viable.

URCA’s responses to general Comments

URCA acknowledges and welcome BPL’s reaffirmed position that much of the data required in the proposed reporting obligations contained in the consultation document can be provided by BPL. However, URCA rejects BPL’s assertion that it would be ideal if BPL is required to provide URCA with the raw data that BPL has available, thereby allowing URCA to calculate its own needed information. URCA believes that BPL proposition is tantamount to an abdication of its responsibility to observe policies, systems and procedures to enable it to efficiently and effectively conduct its operations. URCA believes that BPL is obligated to have the policies, systems and procedures to enable it to efficiently and effectively conduct its operations and so by implication ought to be collecting, assessing and analysing all operational data to improve efficiency and to effectively conduct its operations. Additionally, URCA does not accept BPL’s assertion that BPL is being unduly tasked with providing calculated data using URCA’s template. The EA requires licensees to establish and observe policies, systems and procedures in accordance with licences. These policies,

systems and procedures must enable a regulated entity to efficiently and effectively monitor and report accurately on its compliance and in the manner and form required by their respective licences⁶.

As it relates to BPL's assertion that additional data collection systems at additional cost will be required in a number of Family Islands where personnel are not present to provide the information required by URCA, URCA notes BPL has not provided any evidentiary data to corroborate the assertion. In any case, URCA believes that BPL has an obligation to have policies, systems and procedures to enable it to efficiently and effectively conduct its operations.

In reference to BPL's assertions regarding the legal framework underpinning the Consultation Document URCA does not accept BPL's assertion that it has not satisfactorily complied fully with all of its statutory duties and responsibilities in issuing the Consultation Document. URCA maintains its position as outlined in Section 2 of the Consultation Document (ES: 02/2020). URCA provides further comments as follows:

- 1) URCA believes that the Reporting obligations Procedures and Guidelines for PESL is of paramount interest to the public. As regulator for the electricity sector the public has an expectation for URCA to monitor PESL operations to ensure efficiency and effectiveness in accordance with license Conditions and the EA. URCA therefore upon its own motion, has reason to believe that a determination is necessary and is making its determination in relation to ;-
 - (a) Obligations in licence Conditions, regulatory and other, such as guidelines and procedures as it relates to regulatory matters; and
 - (b) Any matter in respect of which the EA provides for URCA to make determination.
- 2) URCA also relies on Part VII and Part VIII of the EA and Conditions 23 and 24 of the APESL and PESL Supplier Licence respectively, as the basis for issuing the Consultation on proposed Reporting Obligations Procedures and Guidelines. . Conditions 23 and 24 respectively covers a wide range of reporting obligations and URCA intended for all of the provisions in these licence Conditions to apply to the proposed Reporting Obligations Procedures and Guidelines. However, URCA has highlighted those in the consultation document that are more relevant and proportional to the regulatory process at this time. Sections 1 through 5 of the Consultation Document contained those reporting obligations that URCA believes are relevant and proportionate to the regulatory process.
- 3) URCA intended for the proposed Reporting Obligations Procedures and Guidelines to apply not only to Public Electricity Suppliers like BPL, but also to Authorised Public Electricity Suppliers. The Consultant Document was sent to all the PESL including the APESL inviting responses.
- 4) URCA's functions and powers to require periodic reports from licensees under section 38(1)(k) is different from and not the same as URCA powers to request information under section 74 for the purposes of Conditions 24.3 and 24.4 as BPL has asserted. URCA believes that it within its remit to exercise its powers to require licensees to submit periodic operational reports that first necessitate URCA undertaking a public consultation of persons whose rights or interests might be adversely affected or prejudiced by the outcome. Additionally, URCA's power to request information arises when carrying out its duties under the Act and it is required to comply with the requirements in section 74(2).
- 5) URCA is of the view that market forces are unlikely to achieve the main goal and objectives of the sector policy [in section 6 of the Act] and electricity supply regime within a reasonable time-frame"; as well as (ii) "by URCA carrying out a regulatory impact assessment (RIA) having regard to the costs and implications of such regulatory

⁶ Section 48 of EA: Conditions of licences

and other measures on affected parties”. Further, “regulatory and other measures shall be efficient and proportionate to their purpose and introduced in a manner that is transparent, fair and non-discriminatory”.

URCA believes that for market forces to have any significant impact on the goal and objectives of the sector policy, there will have to be further deregulation/reform in the sector. As this scenario is not apparent for the immediate future there is the obvious need for regulatory intervention. Furthermore, Regulatory impact assessment (RIA) encompasses a range of methods aimed at systematically assessing the negative and positive impacts of proposed and existing regulations. Full integration of RIA into decision processes is a long-term task requiring sustained political and administrative support. URCA believes in this particular case regulation has to be in existence to carry out a regulatory impact assessment (RIA) having regard to the costs and implications of such regulatory and other measures on affected parties”.

URCA disagrees with BPL.’s assertions that data required under the proposed reporting obligations should be limited to that data which can actually demonstrate performance against stated goals in the energy policy and that URCA should not have unfettered access to all of a licensee’s operational data.

URCA hereby reiterates its rationale as outlined in the Consultation Document that Licensees are required to submit information and data to URCA in the manner prescribed by these Procedures and Guidelines.

In order to inform its preliminary view on this matter, URCA has given utmost consideration to:

- the statutory framework for regulation of the electricity sector in The Bahamas as prescribed by the Electricity Act, 2015 (“EA”);
- Government Electricity Sector Policy;
- Relevant conditions of the PESL and APESL licences); and
- International best practices.

The EA requires licensees to establish and observe policies, systems and procedures in accordance with licences.

These policies, systems and procedures must enable a regulated entity to efficiently and effectively monitor and report accurately on its compliance and in the manner and form required by their respective licences⁷.

URCA does not accept BPL’s assertion that URCA will benchmark BPL against utilities of URCA’s choosing without regard to BPL’s operational and sector conditions as they exist in The Bahamas (for example, operational challenges in providing services in an archipelagic nation, and government mandates). The following will elucidate URCA position:-

- BPL’s reported KPI data will form the baseline data on which BPL will be benchmarked with the expectation that there will be improvements in BPL operations reflected in the reporting of such data overtime.
- URCA will, overtime, compare and benchmark those reported data against utilities of comparable status when appropriate and justifiable

URCA maintains that its goal is to incentivize each licensee to improve its performance relative to its Operational efficiency, Dynamic Efficiency, Consumption Efficiency and other policy objectives as outlined in the Consultation Document.

⁷ Section 48 of EA: Conditions of licences

URCA'S final decision

URCA is not persuaded by BPL's general comments that the requirements of URCA's proposed reporting obligations are onerous, neither does URCA is persuaded that these requirements will be the reasons for BPL to employ additional human and other resources.

Additionally, URCA rejects BPL's assertion that it is not satisfied that URCA has complied fully with all of its statutory duties and responsibilities in issuing the Consultation Document and reiterate that URCA is empowered under the EA and as set out in the Consultation Document to issue regulatory and other measures, including without limitation, regulatory and other measures.

4 SUMMARY OF RESPONSES TO CONSULTATION QUESTIONS

In this Section, URCA summarises and responds to the comments received from the respondents to the specific questions posed by URCA in the consultation document. URCA notes that BPL is the only PES that submitted responses to the consultation document (ES:05/2020). This despite the submission date being extended to 15 July 2020 on account of the exigency cause by the Pandemic Covid-19.

Question 1: Do you agree with URCA’s rationale for the Reporting and Monitoring Framework? If not, please state why.

BPL comments

BPL While concurring that it is important to identify a framework and develop indicators that lend toward the identification of performance and that drive performance toward some end, has also posited that it is apparent to BPL that URCA wishes to use ‘canned’ KPI’s and adopt practices that do not necessarily take into account the particular challenges faced by the entity in The Bahamas. BPL also acknowledged that URCA has apparently given a great deal of thought toward linking the stated goals of the Energy Sector Policies to reporting and performance. However, BPL accused URCA of providing very little assistance in freeing the organization to meet those objectives. BPL posited that URCA is well aware that the utility’s functioning is often impacted by socioeconomic or political goals not in line with business planning or industry best practice but its proposed reporting obligations appear to be ignoring this fact. BPL further asserted that URCA should be aware of the organization’s financial position and its limited ability to invest in modern facilities to make international best practice a reality throughout its service territories. BPL is of the view that URCA’s Consultation Document fails to address and acknowledge a number of existing policies or protocols which limit the release of data from the organization. URCA would note, for instance, that BPL’s annual reporting which lists much of the data presumably to be reviewed, must, under paragraph 9(7) of the First Schedule of the Electricity Act, be first tabled in Parliament. BPL invites URCA to consider the effect of publishing this data on this process. BPL is also of the view that it should not be in URCA’s “sole discretion” to select which set of information to publish but these criteria should have been set out in the Consultation Document for all parties to know and agree or oppose. BPL is concerned that the broad publishing of BPL data by URCA to suit some other purpose can be detrimental to BPL and expose it to ill effect. The purpose of this type of public consultation is for all affected parties and other stakeholders to know with precision what information BPL wishes to collect and, having been supplied with that information, what in it is going to be published

URCA’s response to Comments received

URCA welcome BPL’s position and notes that BPL agrees with URCA’s rationale for the Reporting and Monitoring Framework by BPL asserting that it is important to identify a framework and develop indicators that lend toward the identification of performance and that drive performance toward some end. As BPL also acknowledged that URCA has apparently given a great deal of thought toward linking the stated goals of the Energy Sector Policies to reporting and performance, the KPIs are not “canned” but reflect the requirements and obligations of stakeholders to achieve those goals.

URCA maintains that each licenced entity must submit information and data relating to its individual compliance with the EA, and individual licences to URCA in the manner and form (including by the date or dates) proposed by these Procedures and Guidelines

In general, the KPI indicators will serve as a tool for:

- establishing baseline indicators of specified licensees’ performance;
- monitoring specified licensees’ performance over time;

- assessing specified licensees' performance against other electric utilities in The Bahamas and overseas; and
- Providing the framework for specified licensees to report to URCA in respect of its performance.

URCA is well aware that the utility's functioning is often impacted by socioeconomic or political goals not in line with business planning or industry best practice but this does not prevent BPL from discharging its obligations in the public interest. URCA is aware of the importance of the organization need to take the necessary actions to address its financial position by being more data driven in its decision deliberations. As such it is incumbent upon BPL to put systems and procedures in place to create this enabling environment.

URCA'S Final Decision

URCA's reaffirms its rationale for the Reporting and Monitoring Framework as specified in the Consultation Document as appropriate and reasonable.

The baseline indicators to be developed under this framework will be informed by a benchmarking exercise and this is to ensure that they are fit for purpose, reflective of industry best practice and not out of step with the requirements of the PESL.

Question 2: Do you agree with URCA's justification for the identification of KPIs? If not, please state why.

BPL's comments

BPL has affirmed its agreements with the justification for the KPIs but is of the view that URCA is either under-estimating or ignoring the depth of what is endogenous versus what is exogenous. BPL also submitted that the development of the systems to monitor and report on these issues with any level of acceptable reliability and consistency must be addressed, in particular, the financial means to develop the systems required.

URCA's response to Comments received

URCA welcome BPL's agreement with the justification for the KPI and is mindful of BPL's position that the development of the systems to monitor and report on the KPIs with any level of acceptable reliability and consistency must be addressed, in particular, the commitment to monitoring and improving efficiency and to develop the systems required.

The EA requires licensees to establish and observe policies, systems and procedures in accordance with licences. These policies, systems and procedures must enable a regulated entity to efficiently and effectively monitor and report accurately on its compliance and in the manner and form required by their respective licences⁸. To this end it is incumbent upon BPL to have systems to monitor and report on the KPIs as a matter of normal course of business.

URCA'S Final decision

URCA's reaffirms its justification for the identification of KPIs as specified in the Consultation Document as appropriate and reasonable.

The EA requires licensees to establish and observe policies, systems and procedures in accordance with licences. These policies, systems and procedures must enable a regulated entity to efficiently and effectively monitor and

⁸ Section 48 of EA: Conditions of licences

report accurately on its compliance and in the manner and form required by their respective licences⁹. To this end it is incumbent upon BPL to have systems to monitor and report on the KPIs as a matter of normal course of business.

Question 3: Do you agree with URCA's new reporting format for the collection of market data? If not, please state why.

BPL's comments

This is addressed in BPL's general comments above

URCA's response/Decision

The reporting format outlined in the consultation document is one which define the parameters making up the KPI and explained the formulas where necessary. The form of template for data is a simple spreadsheet construct where a licensee is to fill in the required KPI data. URCA believes that this is within the incumbent licensee's scope to undertake as a normal course of carrying out their business operation.

Question 4: Do you agree with URCA's proposal to submit performance data monthly, quarterly and annually? If not, please state why.

BPL's comments

BPL posited that the company does not agree with monthly reporting as reporting of this same information to the BPL Board is quarterly. Forty-five (45) days should be provided for the submission of Quarterly Reports to allow the BPL Board the opportunity to review and sanction the release of such information.

URCA's response to comments received

URCA notes BPL's disagreement with the submission of monthly performance data and its proposal to make such submission 45 days after it is the reviewed by the BPL'S board. Whilst URCA is inclined to accept BPL's proposition of submitting quarterly data, URCA cannot accept a 45 days delayed submission after initial board review. URCA believes 20 working days after the end of the quarter in the standard annual calendar is sufficient and reasonable.

URCA'S final decision

URCA accept BPL's proposition of submitting quarterly data rather than monthly, however, the quarterly data submissions should reflect the monthly breakout where necessary. Furthermore, URCA cannot accept a 45 days delayed submission after initial board review. URCA believes 20 working days after the end of the quarter in the standard annual calendar is sufficient and reasonable.

Question 5: Do you agree with URCA's proposal on the manner and form in which information and data must be submitted? If not, please state why.

BPL's comments

BPL posited that the stated manner and form in which information and data must be submitted and the process involved in providing calculated data using URCA's template will require BPL to effectively create a new report using

⁹ Section 48 of EA: Conditions of licences

current resources. This process will take many man-hours every period to produce. BPL is proposing that its raw data should be submitted to URCA.

URCA's response to comments received

URCA does not accept BPL's proposal. URCA believes that the approach it should take as its standard regulatory practice is to ensure that licensees themselves perform data assessment and measure their performance against those indicators proposed herein. The purpose and objective is to ensure an outcome where licensees are guided by the operational data to improve efficiencies and informed good management decisions.

The reporting template proposed by URCA in the Consultation Document represents an aspect of the procedures and guidelines geared towards ensuring licensees collect and validate the appropriate data set. The template is therefore necessary and URCA believes a template of similar construct will be a sufficient requirement for BPL reporting obligations. The template proposed in the consultation document and which is adopted by URCA represents the initial starting template on which URCA in consultation with licensees will build on as the sector matures and technology allows.

URCA'S final decision

Licensee is required to submit the required KPI data in the manner and form specified in Annex II

4.1 ADDITIONAL COMMENTS FROM BPL

4.1.1 GENERAL PRINCIPLES FOR SELECTING DATA/INDICATORS

BPL's comments

BPL posited that while the company understands the importance of the general principles for selecting data/indicators as outlined in the consultation document, BPL has nevertheless requested URCA should properly consider and addressed how the process of collecting the data will be funded. Additionally, BPL proposed that the Licensee's institutional capacity for using a monitoring and evaluation system and its willingness to do so be taken into account and URCA to properly consider and address how this will be funded.

URCA's response to comments received

URCA notes BPL's proposals and reiterate that in selecting the proposed indicators that the licensees are required to report on, URCA applied three general principles¹⁰:

- *Relevance*

The indicators URCA selected are based on the respective licence obligation and is relevant to the basic electricity sector development objectives and the National Energy Policy as prescribed in Part II of the EA.

- *Selectivity*

URCA believes that the indicators chosen for monitoring purposes are few and meaningful in that they are fit for purpose.

- *Practicality of indicators and Data collection*

¹⁰ This draws heavily on a report of the Performance Monitoring Indicators Handbook, World Bank Technical Paper 334 1996 Roberto; [Sontheimer, Leigh Ellen](#)

URCA believes that the performance indicators established are meaningful and reflect electricity sector development objectives, URCA also believes that the data required to compile the key indicators are generated within BPL and require the commitment from BPL to process and measure so the data becomes useful to BPL and the country. Collecting data and processing data is essential for any business operation and collecting the data will require a special effort, URCA believes this need was identified during consultation and taken into account in the Final Statements of Results and Decision.

4.1.2 HEAT RATE

BPL's comments

BPL asserted that in Annex 3 of the consultation document, URCA indicates that Heat Rate Targets are to be set by URCA without specific reference to URCA's corresponding enabling power under the EA to set such targets. BPL further asserted that the information contained in this section of the Consultation Document also suggests that BPL may derive monetary benefit as a benefit and this however is unlikely as fuel cost is a pass-through to the customer and savings in this regard would not financially benefit BPL.

URCA's response to comments received

URCA is of the view that the heat rate target for the PES generation systems is a prudent and appropriate measure which can be adopted to permit the efficient pass-through of fuel costs incurred by PES to its customers. The target will prove useful for the PES to be mindful of the efficiency use of fuel in the generation of electricity to its customers. On establishing a baseline system heat rate fit for purpose for the specific PES, URCA may review the system heat rate periodically to ensure that PES generating units are utilizing the fuel most efficiently so electricity ratepayers are provided with fair and reasonable fuel rates. The periodic review by URCA will also seek to provide the PES with an incentive to improve the fuel conversion efficiency of their thermal generating system and share the resultant cost savings with their customers.

The periodic heat rate review further seeks to ensure that PES operates the system to minimize the total cost of electricity generation by adhering to the economic dispatch of all available generating units subject to system constraints as required by the Licence and the Generation Code to be developed by licensees as statutory requirement.

5 CONCLUSION AND NEXT STEPS

The document represents URCA's assessment of the responses received and Final Decision on the **Public Electricity Supply Licensees Reporting Obligations Procedures and Guidelines** (ES: 02/2020). Additionally, URCA took note of the absence of any response from any of the APESLs and has taken the position that the scope of this SoR at this time applies to the PESL and APESLs. However, URCA reserve the right to waive certain reporting obligations, which would allow URCA to address any requirements that may not reflect the proportionality of the APESLs operations and would have being demonstrated to be too onerous for an APESL. URCA shall monitor all PES performance.

URCA thanks the respondent (BPL) for their involvement in the proposed Reporting Obligations Procedures and Guidelines for PES. The responses received were valuable to this Statement of Results and Final Decision on the issues presented.

URCA also sets out its KPI's Reporting Requirements for Specified Licensees in the Electricity Sector (ES) which sets out the requirements regarding provision of information to URCA and relevant timelines.

URCA's final decision on the Guidelines for Collection and Reporting Performance of Operational data is contained in a separate document accompanying these SoRFD.