



Generation Licence

Consultation Document

ES 07/2023

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Annex A: Generation Licence

Annex B - Questions on this Consultation Document

1. Introduction

The Utilities Regulation and Competition Authority (URCA) is the independent regulator and competition authority for the Electricity Sector (ES) in The Bahamas, pursuant to The Electricity Act, 2015 (EA). The EA establishes that the main goal of the electricity sector policy is the creation of a regime for the supply of safe, least-cost, reliable, and environmentally sustainable electricity throughout The Bahamas. URCA considers a clear and transparent licensing system, including exemptions where appropriate, is a necessary precondition for the attainment of this goal.

URCA's powers and functions are set out in the EA and includes the power to grant licences with terms and conditions consistent with the EA and national energy and electricity sector policies. URCA has regulatory remit for licensing all persons who generate, transmit, distribute and/or supply electricity within, into, from or through The Bahamas.

Section 46 of the EA empowers URCA to grant various types of licences to specific categories of persons and entities in the ES. There are certain exemptions (i.e. statutory exemptions) that are set out in section 23 of the EA. In addition to statutory exemptions, Section 50 of the EA empowers URCA to, by determination, exempt persons from requiring a licence and to grant an exemption to a person generally, unconditionally, or subject to conditions as URCA may specify in the determination.

In August of 2017, URCA consulted with stakeholders on the Types of Licences and Exemptions for the Electricity Sector in The Bahamas (ES 05/2017). In May of 2018, URCA issued its Statement of Results and Final Decision with respect to the types of licences and exemptions for the Electricity Sector for The Bahamas. (ES 02/2018). Licences were developed for Public Electricity Suppliers, Authorized Public Electricity Suppliers, and Independent Power Producers. This Consultation Document is a continuation of the licensing regime that URCA established in 2018, wherein URCA signaled its intent to develop a Large Self-Supply Licence and a Transmission and Distribution Licence. However, rather than use the name of Large Self Supply Licence, URCA has chosen the wording Generation Licence. While this consultation document only considers the establishment of a Generation Licence, URCA also hereby confirms its intent, in the future, to develop a Transmission and Distribution Licence and to consult on that process.

A Generation Licence is an authorization granted by URCA to the entity to produce electrical energy for its own use. It is applicable to those whose generating capacity exceeds that exempted by Section 23(3)(a) of the Electricity Act 2015 and therefore warrants special consideration by URCA in accordance with Section 44 of the EA.

1.1 How to Respond

URCA now invites and welcomes written submissions and comments from interested parties with sufficient interest in the subject matter. The written submissions and comments must be received by URCA within thirty (30) calendar days from the publication of this Consultation Document.

The deadline for receiving written submissions and comments is 5:00 p.m. on 6 November 2023. 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;
- (ii) by email to info@urcabahamas.bs;
- (iii) by mail to P.O. Box N-4860, Nassau, Bahamas or
- (iv) by facsimile to (242) 393-0237.

As soon as reasonably practicable after the close of the response date for this consultation, URCA intends to publish all responses on the URCA website at www.urbahamas.bs.

1.2 Confidentiality

URCA may treat as confidential responses that are clearly marked (in part or full) as being confidential. An explanation should be provided to justify any information that is submitted on a confidential basis. URCA has the sole discretion to determine whether to publish any submission marked as confidential.

1.3 Structure of the Remainder of this Document

The remainder of this document is set out as follows:

Section 2: Background – sets out the background to the issuance of this Consultation Document;

Section 3: Regulatory Framework – sets out the regulatory framework under which URCA has exercised its powers to issue this Consultation Document and grant the proposed ES licences and

exemption determinations;

Section 4: Types of Licences – sets out the types of licences previously established by URCA and the additional licence it proposes to grant in accordance with the EA;

Section 5: Licence Terms and Conditions – references the high-level terms and conditions that may be included in the types of licences URCA proposes to grant under the EA;

Section 6: Statutory Exemptions – sets out the statutory exemptions under the EA for the types of electricity generation that are not required to be licenced by URCA;

Section 7: Next Steps – sets out the “next steps” in the consultation process by URCA to the end of establishing the Generation Licence;

In the annex to this Consultation Document, URCA provides the draft of the proposed Generation Licence.

2. Background

In this section, URCA sets out the background to the issuance of this Consultation Document.

On 28 January 2016, the EA came into operation pursuant to Statutory Instrument No. 7 of 2016 and thereby established URCA as the regulator for the ES in The Bahamas.

The licensing regime established by the EA, gives URCA the responsibility for licensing persons who generate, transmit, distribute and/or supply electricity (GTDS) within, into, from or through The Bahamas. The EA has established statutory exemptions by which persons are not required to obtain a licence for entry into the electricity sector. URCA may also establish an exemption by determination in accordance with Section 50 of the EA. In this regard, any person that meets the criteria of an exemption will not require a licence for the activities set out in the exemption determination.

The EA further requires URCA to issue various types of licences for specific categories of persons and entities in the ES. On 06 July 2016, URCA published its Consultation Document: Public Electricity Supplier Licence ES 02/2016. On 05 August 2016 URCA published its Statement of Results and Final Determination on Public Electricity Supplier Licences 03/2016, which related specifically to the regulation of GTDS functions of Bahamas Power and Light (BPL) and the Grand Bahamas Power Company Limited (GBPC).

On 01 May 2018 URCA published its Statement of Results and Final Determination on Licence Types and Exemptions in the Electricity Sector ES 02/2018 and signaled its intent to consult with respect to a Large Self-Supply Generation Licence.

This consultation process now provides interested parties and the public the opportunity to make submissions and comments on the Generation Licence that URCA proposes to issue. Once this process is completed, all existing electricity providers meeting the criteria established herein will be required to obtain either the appropriate licence or an exemption from URCA.

This Consultation Document is intended to invite submissions and comments from interested parties, prior to making a Final Decision regarding the Generation Licence, (GL). URCA particularly encourages submissions and comments from interested parties on the terms and conditions contained in the proposed licence.

3. Regulatory Framework

This section sets out the regulatory framework under which URCA has exercised its powers to issue this Consultation Document.

3.1 Policy Considerations

One of the goals of The Bahamas National Energy Policy is that The Bahamas will have a modern energy infrastructure that enhances energy generation capacity and ensures that energy supplies are safely, reliably, and affordably transmitted to homes and communities. The Strategic Framework of the Energy Policy provides for inter alia “Development of a comprehensive governance/regulatory framework to effectively support the advancement of the energy sector...”¹

3.2 The Electricity Act 2015

Section 6 of the EA establishes that the main goal of the electricity sector policy is the creation of a regime for the supply of safe, least cost, reliable and environmentally sustainable electricity throughout The Bahamas. URCA considers that the establishment of a clear and transparent licensing system is necessary to achieve this goal.

Section 23(1) of the EA requires all persons seeking to enter the electricity sector to generate, transmit, distribute or supply electricity within, into, from or through The Bahamas to first obtain a licence from URCA.

Section 23(3)(a) of the EA provides a statutory exemption for those persons who operate a generating plant for standby purposes with a capacity of less than one thousand kilowatts.

Section 41 of the EA provides that URCA shall allow persons with sufficient interest a reasonable opportunity to comment on proposed regulatory measures which, in URCA’s opinion, are of public significance. Persons having sufficient interest are persons whose rights or interests may be materially adversely affected or prejudiced by the proposed regulatory and other measures. URCA must also give due consideration to the comments of persons having sufficient interest prior to introducing the regulatory or other measures concerned.

¹ The Bahamas National Energy Policy 2013-2033

Section 42 of the EA provides that a regulatory measure is likely to be of public significance where it can lead to one or more of the following –

- a) a major change in the activities carried on by URCA;
- b) a significant impact on persons carrying on activities in areas regulated by URCA; and
- c) a significant impact on the general public in The Bahamas.

Section 44 of the EA provides that no person shall, unless authorised to do so by a licence granted by Section 45 or exempt under Section 50 –

- a) engage in the generation of electricity;
- b) engage in the transmission and distribution of electricity;
- c) except in the capacity of an employee or independent contractor of a Licensee, transmit electricity for or on behalf of such Licensee;
- d) engage in the retail of electricity;
- e) import or export electricity; or
- f) trade in any wholesale electricity market.

Per section 54 of the EA, URCA may impose fees or charges on a licensee. Such fees shall be determined on an objective, non-discriminatory, transparent, and proportional basis.

URCA considers that the cumulative effect of these provisions, in relation to the grant of types of licences or exemptions, on regulatory measures are likely to have a significant impact on persons carrying on activities in the ES. Therefore, URCA is required to consult persons with sufficient interest in such regulatory measures.

4 Regulatory Impact Statement

4.1 Statement of the Problem

The EA requires URCA to issue various types of licences for specific categories of persons and entities engaged in Generation, Transmission Distribution and Supply of Electricity within The Bahamas. While The EA has established statutory exemptions, there remains a significant class of persons and entities who require a Licence from URCA to enter the electricity sector.

In carrying out its regulatory remit, URCA is required to ensure that all persons comply with the requirements of the legislation and, to ensure that all such entities performing any of the GTDS functions do so in

accordance with established regulations.

Apart from the statutory requirement for a license, allowing an entity to operate within the sector without regulatory oversight, including clear guidelines, is likely to be detrimental to the achievement of the broader policy objectives of a safe, reliable, affordable, and environmentally friendly production of electricity.

4.2 Objectives of this Regulation

The objectives of this regulation are two-fold.

1. Create a licensing framework, including licence conditions, that satisfies the statutory requirement for a person to hold a licence, issued by URCA, if they wish to operate generation with a capacity exceeding one megawatt (1 MW).
2. Develop a license that (i) establishes URCA's regulatory oversight of the licensee's generation and (ii) the obligations of the licensee operating that generation within the sector. URCA's oversight is intended to ensure the activities of the licensee are in keeping with the policy objectives of safe, reliable, affordable, and environmentally friendly electricity.

The above measures shall be efficient and proportionate to their purpose.

4.3 Conclusion

In evaluating this proposed licence requirement against the requirements of section 7 of the EA, URCA considers that the proposed action is made with a view to implementing the main goal and governing principles and objectives of the sector policy and the electricity supply regime. Specifically, URCA considers that the conditions set out in section 23(1) and 23(2) and 44(1) of the EA are advanced by providing a framework for the licensing of persons who own and operate large standby generation facilities (greater than 1 megawatt) for the purpose of self-supply and who do not meet the requirements for statutory exemption.

More particularly, URCA considers that benefits would accrue to GTDS operators if an avenue for licensure is provided to permit them to comply with the legislation.

5. Types of Licences

This section sets out the types of licences previously established by URCA and discusses the additional licence URCA proposes to grant in accordance with Section 46 of the EA.

On 05 August 2016, URCA published its Statement of Results and Final Determination on Public Electricity Supplier Licences (PESL) relating specifically to licences for BPL and GBPC. On 01 May 2018, URCA published its Statement of Results and Final Determination on Licence Types and Exemptions in the Electricity Sector ES 02/2018 and signaled in that document its intent to consult with respect to a Large Generation Self-Supply Licence. The following licences were established by URCA under the May 2018 Consultation document:

- a) Public Electricity Supplier Licence (PESL),
- b) Authorised Public Supplier Licence (APESL); and
- c) Independent Power Producer Licence (IPPL).

Following is a description of the licences already established by URCA and the other types of licence URCA intends to develop:

5.1 Public Electricity Supplier Licence (PESL)

Under Section 46(3) of the EA, URCA was required within ninety (90) days of the coming into operation of the EA to grant a Public Electricity Supplier Licence (PESL) to the Bahamas Power and Light Company Limited (BPL), or any successor company approved by the Minister to perform electricity generation, transmission, distribution and/or supply (GTDS) in The Bahamas, as well as to the Grand Bahama Power and Light Company Limited, or any successor company approved by the Grand Bahama Port Authority to perform GTDS in the Port Area.

5.2 Authorised Public Supplier Licence (APESL)

Under section 46(1)(a)(ii) of the EA, URCA may grant an APESL to a person who has been granted an approval in writing by BPL to construct and operate an electricity supply system and perform GTDS functions in the whole or part of a designated Family Island. Also, under Section 46(1)(a)(i) of the EA, URCA may grant an APESL to a person who has been granted an approval in writing by the Grand Bahama Port Authority to construct and operate an electricity supply system and perform GTDS functions in the Port Area.

5.3 Independent Power Producer (IPP) Licence

Under Section 46(1)(b) of the EA, URCA may grant an electricity generation licence to an Independent Power Producer (IPP) approved by an approving authority and/or a public electricity supplier. IPPs generally have systems over 100kW that feed electricity to the grid. An IPP is defined in section 2 of the EA.

5.4 Other proposed licences

Under Section 46 of the EA, URCA may also grant other types of licences. With the publication of this consultation document, URCA proposes to establish a Generation Licence (GL). URCA further signals its intent to develop a transmission and distribution Licence, which allows a person to transmit and distribute electricity.

6. Licence Terms and Conditions

This section references the high-level terms and conditions that may be included in the type of licences URCA proposes to grant under the EA.

Section 48(1) of the EA provides that URCA may make the grant of a licence subject to such terms, conditions and restrictions specified in the licence as URCA determines to be appropriate under the electricity sector policy objectives. Where conditions of licences relate to the same or similar electricity services such conditions must not unfairly discriminate between Licensees. A licence may include a restriction or condition, whether or not relating to activities authorised by the licence which appears to URCA to be required or necessary, having regard to URCA's functions and duties under the EA.

URCA has included the key terms and conditions as stated in Section 48 of the EA in the proposed draft of the Generation Licences (Annex A) of this Consultation Document.

6. Statutory Exemptions

This section sets out the statutory exemptions under the EA for the types of electricity generation that are not required to be Licenced by URCA.

Under the EA, the following types of electricity generation do not require licensing by URCA:

- (a) a standby generating plant,
- (b) renewable energy sources by a property owner for the purpose of supplying energy for residential use; and
- (c) renewable energy self-generation projects advanced by the Government or a small-scale business or commercial enterprise approved in writing by URCA.

6.1 Standby Plant

A Licence is not required under section 23(3)(a) of the EA, for a standby generating plant that is approved by the Ministry of Works, with a generating capacity not exceeding one thousand kilowatts (1,000 kW) and is used solely for the supply of electricity in case of the failure of supply by BPL or another public electricity supplier or in case of other emergency. These back-up electrical systems are typically used by consumers in the event of an outage and may not be used at other times without a licence.

6.2 Residential Renewable Resources

A Licence is not required under section 23(3)(b) of the EA, for a property owner who utilizes renewable energy resources for the purpose of supplying energy for residential use in accordance with the requirements of section 27 of the EA.

6.3 Renewable Energy Resources Advanced by the Government

A Licence is not required under section 23(3)(c) of the EA, where URCA approves in writing renewable self-

generation project advanced by the Government or a small-scale business or commercial enterprise in accordance with section 28 of the EA.

The foregoing are statutory exemptions and persons who meet these criteria do not require a licence by URCA. URCA has established a regulatory framework for the issuance of a permit in lieu of a Licence for renewable energy systems.

7. Fees and Payments to URCA

The following fees shall be applicable to a Generation Licensee;

- *Licence application fee*², the charges of which are expected to defray the administrative cost in processing an application for a Generation License. This excludes the cost of any site visits (if necessary) to verify details of the application.
- *Annual licence fee*³, the charges of which are expected to defray the costs of URCA in exercising its functions under the EA, including administrative costs. URCA’s activities may be directly related to the licensee (such as site inspections), and/or sector regulations that indirectly impact the licensee (such as incentivizing the use of renewable energy).
- *Tribunal fee*, the charges of which will be applied to the cost of the Utilities Appeal Tribunal in accordance with schedule 3 of the Utilities Appeal Tribunal Act. The Tribunal has exclusive jurisdiction to hear appeals made against certain decisions by URCA or a public electricity supplier (such as Bahamas Power and Light).⁴

The fees and charges levied by URCA shall be, inter alia, (i) “objective, non-discriminatory, and transparent”, and (ii) “seek to cover a proportionate share of the relevant operating cost of URCA for the performance of its regulatory functions”. URCA considers (at this time) the following fees are consistent with the requirements of section 54 of the EA.

Fee	Amount, B\$	Frequency
Licence application	2,000.00	One time, per application

² See the EA s54(2)(b)

³ See the EA s54(2)(a, c, and f)

⁴ See the EA s67

Annual licence	3,000.00	Annually, invoiced in December
Tribunal	360.00	Annually, invoiced in December

The aforementioned fees will be reviewed annually and the *URCA fee schedule* updated accordingly.

8. Next Steps

This section sets out the next steps to be taken in this consultation process by URCA to the end of granting the proposed types of ES licences and exemptions.

After the period for submissions closes, URCA will carefully consider all submissions and shall, within thirty (30) calendar days from that date, issue its Statement of Results and Final Determination setting out the finalized text of the Generation License.

After the issuance of the Statement of Results and Final Determination, URCA will issue a public notice inviting persons, pursuant to Section 45 of the EA, to submit a completed ES licence application to URCA. Applications will be processed in accordance with URCA's licensing guidelines.

URCA also takes this opportunity to signal its intent to update its Licensing Guidelines for the ES ⁵to set out the processes to be followed by persons applying for a licence, renewing a licence, payment of fees and how licences may be amended or revoked. URCA intends to complete this work following the conclusion of this consultation process.

Pursuant to Section 52 of the EA, where URCA grants a licence, it shall keep a register in electronic or paper form of all the names of Licensees under the EA and publish a register in accordance with the procedure set out in Section 43 of the EA.

⁵ URCA Bahamas- ES 03/2018



Annex A: PROPOSED GENERATION LICENCE (GL)

NAME OF LICENSEE:

ADDRESS OF LICENSEE:

Generation Licence

Commencement Date: _____, 20_____

Licence Number: GL – _____

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PART A

1. GRANT OF THE LICENCE

1.1 The Utilities Regulation and Competition Authority (URCA):

- (a) having reviewed the approval issued by [name of the relevant Approving Authority] in accordance with section 45(1) of the Electricity Act, 2015, and other relevant information for the purpose of granting this Licence;
- (b) after consultation with [name of the relevant Approving Authority] in accordance with section 46(2) of the Electricity Act, 2015; and
- (c) in exercise of its powers conferred by Section 46(1) of the Electricity Act, 2015,

HEREBY GRANTS to [name, description and registered address of Generation Licence applicant] and [name, description, and registered address of any Subsidiary Undertaking] (hereinafter called the Licensee) a Generation Licence authorizing the Licensee to generate electricity to [state relevant geographical area or private facility to which electricity is to be supplied] on the terms and conditions set out in this Licence.

1.2 This Licence shall be cited as the Generation Licence.

1.3 This Licence shall come into effect on the [DD/MM/, 20__] (the Commencement Date) and shall continue in full force and effect until termination or expiry unless amended, revoked or terminated pursuant to the terms and conditions set out herein.

1.4 The Conditions of this Licence are subject to amendment or modification in accordance with their terms or in accordance with the Electricity Act, 2015.

1.5 This Licence shall be governed by and construed, enforced and performed in accordance with the laws of the Commonwealth of The Bahamas.

Executed and sealed for and on behalf of the Utilities Regulation and Competition Authority on the day of [DD/MM, 20__]

Chief Executive Officer

2. ACCEPTANCE OF TERMS AND CONDITIONS OF LICENCE

2.1 We, _____, the named Licensee hereby accept the terms and conditions of this Licence.

SIGNED this _____ day of _____ 20_____

Signature _____

[Name of Authorised Officer]

[Title of Authorised Officer]

3. ENDORSEMENT OF AUTHORISED SUBSIDIARIES

3.1 URCA grants this Licence jointly to the following Subsidiary Undertakings of the Licensee named in paragraph 1.1 that have been notified to URCA in accordance with section 47 of the EA: [name and description of Subsidiary Undertakings].

3.2 Notwithstanding the inclusion of its name on this Licence, such Subsidiary Undertaking shall cease to be Licenced for the purposes of paragraph 1.1 in the following circumstances:

- (a) fourteen days after URCA receives notice in writing from the named Licensee or the relevant Subsidiary Undertaking excluding the Subsidiary Undertaking from the Licence; or
- (b) immediately subsequent to a determination by URCA excluding the Subsidiary Undertaking from the Licence.

PART B – GENERAL CONDITIONS

4. DEFINITIONS AND INTERPRETATION

4.1 In this Licence, except in so far as the context otherwise requires:

“Act” means the Electricity Act, 2015;

“Affiliate” or **“affiliated company”** includes, in relation to another company, a company that directly or indirectly controls, is control by, or is under common control with, such other company and is considered to be a member of the same group of companies;

“Approving Authority” means BPL or the Grand Bahama Port Authority, Limited as the context requires;

“Authorised Generating Facilities” means the Licensee’s generating facilities as set out in the Appendix to this Licence;

“Authorised Supplier” means the holder of Public Electricity Supplier Licence other than BPL and GBPC;

“Capacity” means the electric power (measured in megawatts) supplied or available to be supplied from the Licensee’s Generating Facility to the Grid;

“Catastrophic Failure” means a sudden and unexpected failure of any part of the Electricity Supply System which renders the Electricity Supply System in whole or in part economically or technically unfit to operate;

“Commencement Date” means the prescribed date in the Licence for which the actions and conditions pertaining to the Licence become effective;

“Company” means [NAME OF LICENSEE];

“Companies Act” means the Companies Act, Chapter 308 and any amendments thereto;

“Electricity Supply System” means the property or premises of the Licensee including any cables, wires, poles raceways or other electrical appurtenance necessary for the supply of electricity under the exclusive operational control of the Licensee.

“Financial Year” means the twelve-month period at the end of which the Licensee’s annual accounts are closed;

“Force Majeure” means an event or circumstance which prevents the Licensee from performing its obligations under this Licence, which event or circumstance is not within the reasonable control of, or the result of the negligence of, the Licensee, and which the Licensee is unable to overcome or avoid or cause to be avoided through the exercise of due diligence. Events of Force Majeure may include, but are not limited to, acts of God; pandemic, fire including fire resulting from an earthquake; flood including flood caused by an earthquake; volcanic eruption; earthquake; hurricane; cyclone; tornado; windstorm; overflow of the sea caused by the elements listed above; war; riots; acts of terrorism; strikes; walkouts; lockouts and other labour disputes; requirements, actions or failure to act on the part of governmental authorities; adoption or change in any law, regulation, statute, rule or regulation imposed by governmental bodies, including, without limitation, a change in the interpretation thereof; or any lawful order by any court or

administrative agency (so long as the Licensee has not applied for or assisted in the application for such court or governmental action);

"Fuel Costs" means the actual cost of fuel, lubricants, and additives used by the Licensee in the generation of electricity;

"Generating Facility/Facilities" means any power plant(s) and associated equipment owned, controlled, or rented by the Licensee and used for the production of electricity pursuant to a Licence issued by URCA;

"Generation Licence" means a Licence granted under the Act authorizing a Licensee to carry out the generation of electricity for supply to the Electricity Supply System;

"Generation Licensee" means the holder of a Generation Licence granted by URCA under the Act;

"Generation Set" means any plant or apparatus used for the production of electricity;

"Government" means the Government of the Commonwealth of The Bahamas;

"Grid" means

- (a) any BPL power system, inclusive of transmission and distribution, wherever located in The Bahamas;
- (b) the power system, inclusive of transmission and distribution, of any public electricity supplier within The Bahamas other than BPL;

"Grid Code" means the technical specification for the connection and use of the Grid;

"Licenced Business" means the business of the Licensee utilizing the electricity Generating Facilities;

"Licensee" means [Name of Company] and includes any entity exercising step-in rights on a named Licensee;

"Person" includes

- (d) the Government or any public body;
- (e) a natural person, corporation, company, trust, partnership;
- (f) an unincorporated association or body;

"Regulatory Accounts" means the reports on the financial and operating performance of the Licensee in such detail and format as designated by URCA;

“Step-in-Event” has the meaning specified in Condition 14;

"Subsidiary" shall have the meaning specified in the Companies Act.

“Subsidiary Undertaking” shall the meaning specified under the Act.

“System” means the network and equipment necessary to provide electricity for self-consumption

4.2 For the purpose of interpreting the Conditions in this Licence:

4.2.1 except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in:

- (a) the Licence, and otherwise;
- (b) the Electricity Act, 2015, and otherwise;
- (c) the URCA Act, and otherwise;
- (d) the UAT Act;

4.2.2 for ease of reference, terms defined in the Electricity Act and in this Licence have been capitalized;

4.2.3 subject to Condition 2.2.1 above, where there is any conflict between the provisions of this Licence and the Electricity Act, 2015, the provisions of the Electricity Act, 2015 shall prevail;

4.2.4 references to Conditions, paragraphs, subparagraphs and appendices are to Conditions, paragraphs, subparagraphs of and to the appendices to the Licence, as modified from time to time in accordance with this Licence and the Electricity Act, 2015;

4.2.5 a Document will be incorporated into and form part of the Licence if it is referred to in this Licence and a reference to a Document is to a Document as modified from time to time;

4.2.6 headings and titles used in this Licence are for reference only and shall not affect its interpretation or construction;

4.2.7 references to any law or statutory instrument include any modification re-enactment or legislative provisions substituted for the same;

4.2.8 use of the word “include” or “including” is to be construed as being without limitation;

4.2.9 expressions cognate with those referred to in this Licence shall be construed accordingly;

4.2.10 words importing: (i) the singular only shall include the plural and vice versa; (ii) the whole shall be treated as including a reference to any part; and (iii) any gender shall include all other genders.

5. ROLE AND DUTIES OF URCA

5.1 The Licensee shall be subject to the regulatory supervision of URCA. URCA shall perform its functions and carry out its duties pursuant to the URCA Act, the Electricity Act and any other relevant laws, this Licence and with regard to relevant Government policy.

5.2 In carrying out its functions URCA shall act proportionately and non-discriminately.

6. NATURE AND SCOPE OF THE LICENCE

6.1 This Licence authorizes and gives the Licensee the right to generate electricity solely for his own private use and self-supply in the event of a temporary failure of the electrical grid, subject to the Licence conditions, the Act and any other relevant law for the time being in force.

6.2 The Licensee shall not, unless through an exemption or other Licence granted by URCA:

- (a) sell electricity or supply electricity to any person outside of the geographical extent of his premises;
- (b) purchase or otherwise acquire electricity in The Bahamas for the purpose of sale or other disposition to third parties;
- (c) transmit electricity or otherwise convey electricity by any other means, except to the extent necessary to deliver electricity to its own System within the geographical area described in the Licence; and
- (d) engage in the distribution or supply of electricity to any premises except its own within the geographical area described in the Licence.

7. DURATION AND RENEWAL OF LICENCE

7.1 Subject to the provisions herein contained, the duration of this Licence shall be for a period not exceeding Fifteen (15) years from the Commencement Date.

7.2 The Licensee may at any time apply for an extension of the duration of this Licence having regard to any approved investment programme established by the Licensee for a period which extends beyond the remaining life of the Licence.

7.3 This Licence shall be renewed by URCA in accordance with the procedure prescribed under section 45 of the Act.

8. CHANGE IN CONTROL

8.1 The Licensee shall inform URCA's of any proposed change in control of the Named Licensee or any Notified Licensee prior to the change in control occurring.

9. ASSIGNMENT OR TRANSFER OF LICENCE

9.1 The Licensee shall not, without the prior written consent of URCA, transfer, sub-Licence, assign or grant any right, interest or entitlement in the Licence to any person or transfer or dispose of any of its assets that are necessary to provide the Licenced Business that the Licensee is obliged to provide under this Licence. Such consent shall not be unreasonably withheld.

9.2 URCA shall consent to an application for the assignment or transfer of the Licence where URCA is satisfied that the proposed assignee or transferee satisfies the criteria set out under section 45(2)

of the Act and any other criteria established by URCA pursuant to the electricity sector policy and objectives under the Act.

- 9.3 Should the Licensee wish to assign or transfer the Licence, it shall request, in writing, the consent of URCA and URCA shall reply in writing within sixty (60) calendar days of the receipt of such request informing of its decision on the application.
- 9.4 URCA shall publish its decision regarding a request to assign or transfer the Licence and its decision on its website and in the public media.
- 9.5 Where URCA refuses to give its consent, it shall give reasons in writing for such refusal to the Licensee.
- 9.6 The Licensee may apply to URCA for a reconsideration of its decision not to assign or transfer its Licence and may appeal any decision made by URCA to the UAT following any such reconsideration in accordance with Condition 19 herein.

10. AMENDMENT, MODIFICATION AND REVOCATION OF LICENCE

- 10.1 URCA may revoke or modify this Licence in accordance with the procedures set out in Section 49 of the Act.

11. COMMUNICATION NOTICES

- 11.1.1 Notices, orders and other documents under this Licence may be in writing or in print or in electronic format (permitting confirmation of receipt) and shall, if served on:
 - (a) URCA be addressed to:
 - the Chief Executive Officer; and
 - (b) the Licensee, be addressed to:
 - the Chief Executive Officer.
- 11.2 Any notice, order or document required or authorized to be served upon a body or person under this Licence may be served by the same being addressed to such body or person and being left at or transmitted by electronic mail or facsimile or by registered post to the address of such body or to the usual or last known place of abode of such person. If served by post it shall be deemed to have been served at the time when the containing letter would be delivered in the ordinary course of post and in proving such service it shall be sufficient to prove that such letter was properly addressed, registered and put into the post. If served by electronic mail or facsimile it shall be deemed to have been served when the electronic mail or facsimile shall have been transmitted by the sender.
- 11.3 Notwithstanding the above, the Licensee shall designate a person that will act as a primary contact with URCA on matters related to this Licence and shall notify URCA promptly should the contact details change.
- 11.4 URCA may designate the Director of Utilities and Energy as the primary contact on matters related to this Licence.

PART C - GENERAL OBLIGATION

12. OBLIGATIONS TO COMPLY WITH LAWS, REGULATION AND LICENCE CONDITIONS

- 12.1 The Licensee shall comply with the Act and any other Act of the Commonwealth of The Bahamas that has application to it in the discharge of its performance under this Licence.
- 12.2 The Licensee shall comply with regulatory and other measures including any directive, order, rule, decision or approval issued, made or granted by URCA in accordance with its duties and functions under the Act or this Licence.

13. BREACH OF OBLIGATION TO COMPLY WITH LAWS, REGULATIONS AND LICENCE CONDITIONS

- 13.1 Where URCA has reason to believe that the Licensee has failed to comply with any relevant law, regulation or condition of this Licence, URCA may exercise all such powers and duties as are afforded to or required of it under the Act or any other relevant law and may take all such action as is permitted to it thereunder against either the Licensee or its Subsidiary Undertaking.
- 13.2 The Licensee shall be liable for all the acts and omissions of each of its Subsidiary Undertakings in respect of its obligations under this Licence.
- 13.3 Without prejudice to the Licensee's other obligations under this Licence, where its Subsidiary Undertaking has done something which would if done by the Licensee:
- (a) be prohibited or not authorised by any relevant law, regulation and condition of this Licence; or
 - (b) require the Licensee to take or refrain from taking a particular action under any relevant law, regulation and condition of this Licence and that no Licensee, including the Licensee, has met that further requirement,

then, where URCA is not satisfied that the Licensee has taken all reasonable steps to prevent its Subsidiary Undertaking from acting in that manner, URCA may direct the Licensee to take such steps as URCA deems appropriate for the purpose of remedying the matter, including restraining the defaulting Subsidiary Undertaking from carrying on with such activities connected with the Licenced Business as URCA may determine.

14. FORCE MAJEURE

- 14.1 The Licensee shall give notice and details of Force Majeure events to URCA as soon as reasonably practicable. URCA may issue a notice excusing the Licensee from its performance obligations during the period of Force Majeure.

15. EARLY RETIREMENT OF ASSETS

- 15.1 The Licensee shall notify URCA of its intent to retire Authorized Generating Facilities prior to doing so.

16. CATASTROPHIC FAILURE

- 16.1 In the event of Catastrophic failure, the Licensee may replace the failing installation or facility with written approval from URCA. Such approval shall not be unreasonably withheld.

17. INSURANCE

- 17.1 The Licensee shall obtain and maintain insurance for:
- (a) physical damage to the Electricity Supply System; and,
 - (b) third-party liabilities.
- 17.2 The Licensee must ensure that the insurance policy guarantees the insurer will notify URCA of lapses, cancellation, or changes to the policy 30 days prior to the changes taking effect.
- 17.3 URCA shall notify the Licensee of required modifications to the insurance policy and the Licensee should ensure that such modifications are made no later than 60 days from the notice date, or any date agreed with URCA.
- 17.4 The Licensee may have reduced obligations to maintain insurance policies, if the following alternatives are approved by URCA:
- (a) self-insurance, where the Licensee has the financial capacity to meet any liabilities to a third party; and

18. APPEALS TO UAT

- 18.1 Appeals of regulatory or other measures taken by URCA in relation to this Licence shall be made to the Utilities Appeal Tribunal as provided for in the Act and the URCA Act.

19. PAYMENT OF FEES AND CONTRIBUTIONS

- 19.1 The Licensee shall pay to URCA the following fees and contributions as notified by URCA from time to time in accordance with the Act:
- (a) annual URCA Fee pursuant to section 54(2)(d) of the Act;
 - (b) the Tribunal Fee payable pursuant to Schedule 3 of the Utilities Appeal Tribunal Act, 2009;
 - (c) Licensing Processing Fee as determined by URCA pursuant to section 54(2)(b) of the Act, and;
 - (d) any other applicable fees and charges.

- 19.2 Without prejudice to Condition 13 herein, in the event of a default by the Licensee in the payment of any fees when due under this Licence:
- (a) the Licensee shall pay to URCA interest under section 54(5) of the Act; and
 - (b) URCA may revoke this Licence in accordance with Condition 10 herein.
- 19.3 Interest on outstanding fees due to URCA under section 54 of the Act is not recoverable in tariffs to customers.

20. REPORTS AND AUDITED STATEMENTS

- 20.1 The Licensee shall furnish to URCA without undue delay such information, documents and details related to the Licenced Business, as URCA may reasonably require in order for it to fulfil its functions and discharge its obligations under the Act.
- 20.2 The Licensee shall submit an annual report at the end of each calendar year, within 30 calendar days following the year end. The report shall include, but limited to, the following:
- (a) A list of the generating and fuel storage assets, their type, capacity, and condition.
 - (b) electricity produced (in kWh) for each month by the Generating Facility;
 - (c) the electricity consumed (in kWh) for each month by the Electricity Supply System.
 - (d) peak demand (in kWh) for each month imposed by the Licensee on the Grid;
 - (e) Dates and durations of interruptions in supply by incident leading to self-supply conditions by the Licensee.
 - (f) spent lubricant (by volume metric units) disposed of or recycled; and
 - (g) safety and environmental incident reports.
 - (h) the volume and type of fuel purchased;
 - (i) the volume and type of lubricant purchased.

21. ENGAGING IN OTHER BUSINESS

- 21.1 The Licensee may engage in other business activities and shall keep separate accounts for its different activities.
- 21.2 At URCA's approval, the Licensee may allow third parties to have access to and use its facilities on an arm's length basis where such access and use allow the Licensee to operate more efficiently.
- 21.3 The Licensee may charge a third party a fee for access and use of its Authorised Generating Facilities.
- 21.4 Subject to prior written agreement between a PES or APES and the Licensee, the Licensee may operate its generation facilities in parallel with those of the PES or APES for the sole purpose of transitioning from self-supply to utility supply and/or vice versa.

22. INFORMATION, AUDIT, INSPECTION AND ACCESS OBLIGATIONS

- 22.1 URCA may require:
- (a) an inspection and/or audit of any aspect of the business of the Licensee

and the Licensee shall assist or shall procure assistance to URCA as it may reasonably require;

- (b) the Licensee or any of its Subsidiary Undertakings to provide URCA with such information, documents, accounts, returns, estimates, reports or other information required by URCA in the manner and at the times specified by URCA. URCA may use this information for, but not limited to, purposes of compiling statistics and publishing periodical reviews of the Electricity Sector, and as required or permitted by the Act or other laws or legal process;
- (c) the Licensee to notify URCA of the details of all Subsidiary Undertakings providing a Licenced Business under this Licence; and
- (d) the Licensee to permit a person authorised by URCA to carry out such inspection and/or audit;

22.2 The Licensee shall maintain the data necessary to measure service and other electricity sector standards regulated by URCA and shall update this information annually or as required by URCA.

22.3 The Licensee shall, at the request of URCA furnish URCA, at the Licensee's expense, with copies (in such format as URCA may specify) of any book, register, record or accounts as URCA may reasonably require.

23. USE OF APPROPRIATE STAFF

23.1 The Licensee shall, in connection with the conduct of its business of generating, transmitting, distributing and supplying electricity under the Licence, ensure that its employees are appropriately trained and qualified.

24. OUTSOURCING

24.1 The Licensee may utilize the services of third parties on an ongoing basis in the provision of Generation and/or Transmission and Distribution (including supply) services. Procurement of such outsourced services shall be subject to URCA approval if they represent core and ongoing Generation and/or Transmission and Distribution (including supply) functions.

24.2 An approval granted by URCA shall be based on the cost effectiveness of the outsourced services, benefits to the economy of The Bahamas overall, to consumers in general and the fitness and propriety of the relevant third parties and shall not be unreasonably withheld.

PART D – TRANSITIONAL CONDITION

26.1 On the Commencement Date, in order to enable a smooth transition to the full force and effect of this Licence, all codes and standards applicable to the Licensee existing and in force prior and up to the grant of this Licence which would normally have effect under the Act shall remain in effect and force until such time as they are logically and practically superseded by the actions taken by URCA under this Licence, the Act or any other relevant law.

Appendix

The Authorised Generating Facilities are as follows:

Unit Name and Number	Technology	Nameplate Capacity (MW)	Net Output Rating (MW)	In-Service Date (DD/MM/YY)	Estimated Retirement Date* (DD/MM/YY)

*Retirement date must be estimated based on the economic life of the unit as of the signing date of this Licence or must be equal to the term of the Licence, whichever is sooner.

The Authorised Fuel Storage Facilities are as follows:

Tank Name and Number	Type of Fuel Stored	Tank Capacity (Gal)	Tank Type (Vertical/horizontal)	In-Service Date (DD/MM/YY)	Estimated Retirement Date* (DD/MM/YY)

Annex B Consultation Questions

Interested persons are invited to provide general comments on any aspect of the Consultation Document or the terms and conditions of the proposed licence. URCA is particularly interested in responses to the following questions.

1. Do you consider the fees as outlined in section 7 of the Consultation Document to be appropriate?
2. Are there any provisions in the Generation Licence which you think ought to be modified? Please list those provisions giving reasons and or justifications for the modifications.
3. Are there any Conditions that should be added that are not currently included?
4. Should the Generation Licensee be required to provide surety to cover the cost of environmental remediation? And, if so, who would be the responsible body to undertake that remediation in the case of insolvency?

Please provide support for your responses including evidence where appropriate.