



# **Guidelines for the Inspection of Licencees in the Electricity Sector**

Statement of Results and Final Decision

ES 13/2023

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# 1. Introduction

The Utilities Regulation and Competition Authority (“URCA”) hereby issues this Statement of Results and Final Decision further to its public consultation on Guidelines for the Inspection of Licencees in the Electricity Sector – ES 08/2023 (“the Consultation Document”), published on 16 November 2023.

The primary purpose of regulatory inspections is to independently provide a high level of assurance that activities performed by the authorized party comply with the regulatory requirements and with the conditions specified in the authorizing legislation or licence. Inspections carried out in furtherance of this objective are typically periodically performed by the regulatory body (or someone authorized by the body to do so).

This Statement of Results and Final Decision:

- i. provides a background and high-level summary of URCA’s proposal to establish a regime of regulatory inspection of licencees’ facilities.
- ii. discusses submissions received to the public consultation on the Guidelines for Inspection of Licencees in the Electricity Sector, (ES 08/2023),
- iii. provides URCA’s response to the submissions made, and
- iv. sets out URCA’s Final Decision.

## 1.1 Background

URCA is the independent regulator for the ES in The Bahamas. URCA is responsible for the licensing of all generation, transmission, distribution, and supply of electricity within, into, from or through The Bahamas. URCA regulates the ES through the Electricity Act, 2015 (“EA 2015”), which establishes, inter alia, URCA’s powers and obligations in relation to the regulation of the ES.

The electricity sector policy and objectives, as set out in the EA 2015, mandate that the production of electricity be subject to a regime that ensures the supply of safe, least cost, reliable and environmentally sustainable electricity throughout The Bahamas. URCA’s primary role is the

regulation of the electricity sector in accordance with the goals, objectives and principles underpinning the national energy and electricity sector policies.

To facilitate efficient regulation of the sector in accordance with the statutory requirements, URCA consulted on the establishment of a regime for the inspection of licencees' facilities (see ES 08/2023<sup>1</sup>). The objectives of the consultation were to;

- i. Provide guidelines in relation to the exercise of URCA's powers to inspect licencees' facilities that ensures the licencees are operating in a manner that promotes safety, efficiency and reliability of supply,
- ii. Define in broad terms which areas of the facilities will be inspected,
- iii. Establish who will perform the inspection and frequency of such inspections,
- iv. Provide key stakeholders an opportunity to seek clarity on the way URCA intends to approach the inspection of power stations and other facilities of the licensee,
- v. Promote regulatory confidence by ensuring the inspection guidelines are transparent, fair and, non-discriminatory,
- vi. Establish the regulatory framework regarding the inspection of licencees' facilities necessary to effectively regulate the sector; and,
- vii. Seek feedback from licencees and interested parties on the proposed guidelines.

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<sup>1</sup> <https://www.urbahamas.bs/wp-content/uploads/2023/11/URCA-ES-08-2023-Guidelines-for-the-Inspection-of-Licencees-in-the-Electricity-Sector-Consultation-Document.pdf>

## **2. The Consultation Process and URCA’s Responses**

URCA considers the inspection of licensees’ facilities to be of public significance. As a result, URCA initiated the public consultation process and the Consultation Document was issued on 16 November 2023, which contained, inter alia, the draft Inspection Guidelines that URCA proposed to implement for the ES. URCA invited members of the public, licensees, stakeholders and interested parties to submit comments up to 16 December 2023.

In addition to a notice of the consultation being published in the major newspapers and on URCA’s website, URCA sent a copy of the Consultation Document directly to key stakeholders on 16 November, 2023.

Regrettably, URCA did not receive any comments on the Consultation Document.

## **3. Final Decision and Next Steps**

As a result of the consultation process, URCA has decided to establish a regime for the inspection of licensees’ facilities. Consequently, URCA hereby publishes the “Guidelines for the Inspections of Licencees in the Electricity Sector”, ES 14/2023, concurrently with this Statement of Results and Final Decision. For ease of reference the contents of this document are included in Annex A. The effective date of URCA’s final decision is on the date of publication. Failure to comply with these regulations may subject persons to the enforcement provisions in the Electricity Act, any other relevant law, and regulatory or other measures.

# **Annex A: Guidelines for the Inspection of Licensees in the Electricity Sector**

## **1. Introduction**

In exercise of the powers and duties conferred upon it by Section 38(3)(c) of the Electricity Act, 2015, (“the EA”) the Utilities Regulation and Competition Authority (“URCA”) hereby issues the following guidelines. These guidelines may be cited as the “Guidelines for The Inspection of Licensees in the Electricity Sector” (the “Guidelines”).

URCA is mandated to carry out periodic inspections of licensees to ensure inter alia, compliance with the EA, other competent legislation, and license conditions governing the operation of the of the licensee.

URCA proposes that inspections not unduly disrupt the operation of the licensee. Hence, the intent of the guidelines is to provide clarity on the process and requirements of the various parties involved in the inspection.

The following sections describe the types of inspections to be carried out and provide further information on the responsibilities of the licensee to facilitate the inspection.

## **2. Purpose**

The purpose of these Guidelines is to establish a fair, transparent and non-discriminatory approach that URCA will take when inspecting the generation, transmission, distribution and supply (GTDS) facilities of licensees and to provide guidance to licensees about the process and prior requirements necessary to prepare for the inspections.

## **3. Application**

These Guidelines apply to all types and classes of licences issued by URCA in the electricity sector.

## 4. Publishing obligation

These Guidelines shall come into effect upon publication.

## 5. Interpretations

Unless the context requires otherwise, the following shall have the meanings ascribed below:

**APESL** – means an Authorized Public Electricity Supplier that holds a License in the electricity sector issued by URCA.

**Inspections** – means the act of visiting a premises, plant or site for the purpose of investigating the activities being carried out at that location for the generation, transmission, distribution and supply of electricity including but not limited to the following, whether present at that premises, plant or site;

- equipment;
- records;
- facilities and buildings; and
- operations.

**Inspector**– means a person appointed by URCA to conduct inspections pursuant to these Guidelines. A person, for example, can be an employee of URCA, third party appointed by URCA, or a combination of both.

**Licensee** – means any holder of a license issued by URCA under the EA, as defined in the EA 2015.

**Notice of Inspection** – means written notice from URCA of the proposed inspection at the premises of the licensee covering one or more sites.

**PESL** – means Public Electricity Supplier Licensee.

**Premises** – means all building or property occupied by the Licensee or any associated company or subsidiary undertaking of the Licensee whether open to customers or not in the normal course of the Licensee’s business. A premise may include several geographical or functionally separate sites.

**Records** – means the information kept by a licensee in relation to its licensed activities, including but not limited to:

- a. fuel and lubricating oil received, stored, and consumed and dates of receipt, usage and consumption,
- b. engine operations – including hours of operation, availability, and non-availability,
- c. major equipment maintenance records including partial and major overhauls,
- d. pressure and temperature readings and measurements of major equipment,
- e. safety records including any major oil spills and recovery, major incidents, and outcomes of those incidents; safety reports and compliance with the EA in this regard,
- f. voltage and current including power generated and transmitted,
- g. capacities including capacity of mechanical and electrical equipment and whether exceeded or not.
- h. Customer information.
- i. Accounting information.

**Site** – means any office, generating station, fuel tank farm, electrical substation, transmission line, substation or control room or other facility utilised by a Licensee for its licensed activities,

**Year** – means a calendar year which may differ from the fiscal year of the Licensee.

## **6. Types of Inspections:**

Following are examples of the types of inspections for which the Guidelines apply.

- Safety Inspections, whether related to accidents or major incidents or normal operations,
- Environmental Inspections,
- Licensee Compliance Inspections.



Where necessary, the types of inspections may be combined by URCA. URCA will give a Licensee prior written notice of its intent to combine inspections in its Notice of Inspection.

## **6.1 Safety Inspections**

Safety Inspections are carried out in relation to major incidents or accidents at the site or in relation to general operational safety audit of the site by URCA. The Licensee is expected to comply with established industry specific guidelines, the license conditions, and any other guidelines that URCA may from time to time prescribe. Safety Inspections are carried out at the premises and/or site of the Licensee on an individual basis. Among other things, the inspector will gather information related to subsections 6.1.1. to 6.1.7. below.

### **6.1.1 Personal Protective Equipment (PPE)**

Part of the assessment will include a review of the Licensees' procedures including the provision of PPE for its employees. In addition, a review of procedures in place to ensure that only employees dressed in PPE are allowed on the plant and to operate equipment.

### **6.1.2 Communications**

Part of the assessment will include a review of the Licensees' procedure for prompt communication of information gained from an accident/incident investigation throughout the utility and to the relevant statutory bodies. And, where appropriate or required by the license condition or other statutory requirement, whether the licensee has a procedure for communicating to the public, media and persons impacted by the accident or major incident.

### **6.1.3 Conduct of Safety Inspections**

Part of the assessment will include a review of the Licensees' procedure that requires general safety inspections/technical audits to be conducted at its premises and/or sites at regular (at least quarterly) intervals.

### **6.1.4 Permit Systems**

Part of the assessment will include a review of the Licensees' procedure to obtain answers to the following questions;

- Does the Licensee have adequate authorized personnel at the site with the requisite experience and skill?
- Does the Licensee have a procedure that is used to identify the requirements for site-specific permits and special work practices (WPs) for work associated with: confined spaces, energy sources, hazardous materials, flammable atmospheres, hot work, excavation?
- Does the Licensee retain copies of issued permits kept on file in accordance with regulatory requirements and best industry practices?
- Does the Licensee have policies and procedures in place that allows only staff with the appropriate skill set and experience to issue permits to work?

#### **6.1.5 Safety Orientation**

Part of the assessment will include a review of the Licensees' procedure for orienting and educating employees on relevant safety rules prior to starting new or different work assignments.

#### **6.1.6 Colour Coding and Signage**

Part of the assessment will include a review of the Licensees' procedure to allocate the appropriate signs and colour coding to be used to reinforce safety rules and work processes.

#### **6.1.7 Safety Review**

Part of the assessment will include a review of the Licensees' procedure for analysing the premises and/or site's significant operations.

### **6.2 Environmental Inspections**

Environmental Compliance Inspections will be carried in relation to environmental stewardship of the Licensee and compliance with Section 6 (2)(f) of the EA (2015), and consistent with relevant environmental law, the requirements of the Department of Environmental Planning and Protection, environmental best practice, and stipulations in the licence condition.

Environmental Compliance Inspections may be carried out at each individual premise and/or site or location of the Licensee.

### **6.3 Licensee Compliance Inspections**

Compliance Inspection can include verification of the Licensees compliance with the requirements of the law (e.g. EA 2015), regulations (e.g. procurement), and the conditions contained in the license. The inspection may include a visit to the premises to assess, for example, the plant and equipment of the Licensee. Such an inspection may be the result of the occurrence of technical disturbances such as major outages which affect the quality of service being delivered to consumers or other breaches.

Licensing Inspections will be carried out to ensure, among other things, compliance with the Electricity Suppliers license issued by URCA, which include inter alia:

- Technical service levels (T&D and Supply);
- Duty to secure long-term electricity supply system security and reliability;
- Merit Order Dispatch;
- Long Term Planning Procedures and Standards; and
- Codes of Practice (See PESL condition 43.7 and APESL condition 42.7).

Licensing inspections can also be carried out on the organization as a whole and may include visits to various premises and/or sites that URCA will identify in advance of the on-site inspection.

More specifically Inspections will be undertaken of APESLs in the Family Islands to ensure compliance with the requirements of the Customs Act, as referenced indirectly in the EA 2015 section 32(3), for goods and materials imported by the licensee that received special treatment under.

## **7. Inspection Frequency**

URCA or inspectors appointed by URCA, may perform inspections from time-to-time with the minimum frequency indicated in the following schedule. It may be necessary for follow-up inspections to be performed which are not indicated in the table below, however licensees will be notified by URCA about the need for follow-up inspections.

Item	Type of Inspection	Frequency
1	Safety Inspection	Annually
2	Environmental Inspection	Every 3 years
3	Licensee Compliance Inspection	Annually

## 8. Proposed Format for Inspections

### 8.1 Inspection Procedure

This section describes the format of the inspection and lays out the steps in the inspection process that licensees are expected to follow.

Inspection Task in Sequence	Conditions and capacities needed to carry out the task
Set the mandate of the inspection	<p>Clear authority that sets the scope of the inspections</p> <p>Communication to special licensees of the regulatory mandate.</p> <p>Coordinate with other inspectorates, where necessary (for example in environmental inspections) to avoid duplication.</p>

<b>Inspection Task in Sequence</b>	<b>Conditions and capacities needed to carry out the task</b>
Supply competent Inspectors	<p>Where necessary recruit suitably inspectors.</p> <p>Provide specific information so that inspectors know the history and conditions of the site to be inspected.</p>
Set the goals of the inspection	<p>Provide a framework of clear goals and targets for the performance of the inspectorate as a whole.</p> <p>Demonstrate how these goals relate to the regulatory mandate of the licensees.</p> <p>Relate these goals to the specific actions of the inspector.</p>
Select the site to be inspected	<p>Select the site to be inspected based on prior activity or other contemporaneous criteria. (For example, a previous oil spill in the case of an environmental inspection)</p> <p>Communicate the reason for the selection to the inspector and licensee.</p>

<b>Inspection Task in Sequence</b>	<b>Conditions and capacities needed to carry out the task</b>
<p>Establish the authority of the inspector and the purpose of the inspection to the business manager</p>	<p>Display official credentials when entering a site.</p> <p>Provide a telephone contact line to verify inspector credentials by calling a central office.</p> <p>Explain in an opening meeting the authority, purpose, and scope of the inspection.</p> <p>Provide copies of regulations to be used, or explain where copies can be found</p>
<p>Carry out inspection using transparent procedures</p>	<p>Hold a meeting onsite prior to the inspection to make introductions, go over the objectives and activities. Include a safety briefing where appropriate.</p> <p>Permit manager and employees to accompany inspector.</p> <p>Make a written record of all observations and tests.</p> <p>Permit manager to check calibration of all testing equipment.</p>
<p>Explain what was found and next steps</p>	<p>Explain in a closing meeting what was found, the conclusions of the inspection, and the process of finalizing the inspection</p>

Inspection Task in Sequence	Conditions and capacities needed to carry out the task
Finalize results of the inspection	Via correspondence to the licensee, explain the results of the inspection and necessary actions required to be taken by the licensee as a result of the findings of the inspection.
Make available appeals and due processes	Allow licensees the ability to query and/or challenge findings through the request of a further review by URCA.
Follow-up inspections to ensure that major problems are corrected	Schedule limited follow up inspections to quickly assess compliance in problem areas
Monitor results of inspections	Track incidence of non-compliance to determine effects of inspections

## 8.2 Inspectors

Inspections will normally be carried out by an employee or employees of URCA; however, URCA reserves the right to appoint Inspectors in accordance with the EA (2015). In particular, section 37(2)(n) of the EA provides that URCA may “engage inspectors as required at the costs of the licensees, to conduct inspections of public electricity suppliers for compliance with the terms and condition of their licenses”.

Inspections may be carried out by more than one person with differing areas of specialty, experience, and expertise to preserve efficiency and effectiveness of the inspection on behalf of URCA by the persons so engaged.

The Inspector appointed by URCA, whether an employee or a third party, is acting as an agent of URCA during the inspection. The inspector has the right to view all areas of the licensee inclusive of all

generation assets and machinery and to request relevant information inclusive of documents and permits associated with the operation of the plant.

### **8.3 Notice of Inspection**

Prior to commencing the inspection process, URCA will provide a written Notice of Inspection to the licensee. Unless extenuation circumstances require it, or with prior agreement between the parties, the Notice of Inspection will be issued not less than ten (10) working days prior to the planned date of the inspection. The Notice of Inspection will include, inter alia, the following information:

- proposed date of the inspection,
- name of the inspector(s),
- proposed premises/site to be inspected,
- type of inspection; and,
- information required to be submitted by the Licensee to URCA in advance of the inspection.

### **8.4 Assistance to be provided to URCA**

PESs and APESs shall provide assistance to URCA, per Condition 30.1 (a) of the PESL and Condition 29.1 (a) of the APESL, respectively, as follows:

- a. For 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. For 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 time specified by URCA; and,
- c. To permit a person authorized by URCA to carry out such inspection and/or audit.



## **8.5 Cost of Inspections**

It is the intention of URCA that the cost for planned inspections be incorporated into and covered in the annual fees for the Electricity Sector, where such costs can be reasonably budgeted. Where unplanned inspections are required and / or further inspections are necessary as a follow up to a planned inspection, URCA reserves the right to recover the cost from the relevant Licensee per the provisions in their licensee or other supporting legislation.

## **8.6 Inspection Reports**

Upon conclusion of the inspection by URCA an inspection report will be prepared and submitted to the licensee. The report will include all findings of the inspection inclusive of areas where the licensee is performing well and those areas in need of improvement.

### **8.6.1 Licensee Response.**

Licensees shall have a period of four (4) weeks to respond to the contents of the report. If deemed appropriate the response period may be adjusted to reflect the nature / complexity of the matters contained in the report. The response shall address each area where deficiencies have been noted and provide an explanation of how the deficiency will be remediated, and a timeline for remediation. The responses may also contain objections to the findings and alternative positions. URCA will review the response and provide its final decision and next steps or determination and order (as appropriate) within four (4) weeks of receiving the final response.

### **8.6.2 Non-Compliance and Enforcement**

One of the objectives of inspections is to ensure compliance. It is intended to provide guidance to the Licensee on the actions required to remedy a condition that is not in keeping with the law, regulations, or licensee conditions. A Licensee who commits an offence is subject to the provisions of the EA Part XV. A licensee who commits a breach, or fails to remedy a breach, may be subject to a fine to be assessed per the Guidelines for the Electricity Sector on the Assessment of Fines for Breaches, EA 05/2022.<sup>2</sup>

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<sup>2</sup> ES-05-2022-SOR-Guidelines-on-the-Assement-of-Fines-for-Breaches.pdf (Available at [www.urcabahamas.bs](http://www.urcabahamas.bs))