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OBJECTS AND REASONS

This Bill would revise the law relating to the supply and use of electricity, promote the generation of electricity from sources of renewable energy, enhance the security and reliability of the supply of electricity and provide for related matters.

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FIRST SCHEDULE
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BARBADOS

A Bill entitled

An Act to revise the law relating to the supply and use of electricity, to promote the generation of electricity from sources of renewable energy, to enhance the security and reliability of the supply of electricity and to provide for related matters.

ENACTED by the Parliament of Barbados as follows:

PART I
PRELIMINARY

Short title

1. This Act may be cited as the *Electric Light and Power Act, 2013*.

Interpretation

2. In this Act,

“affiliate”, in relation to a body corporate, has the meaning assigned to it by section 440 of the *Companies Act*, Cap. 308;

“business day” means a day other than a Saturday, Sunday or public holiday;

“Chief Technical Officer” means the Chief Technical Officer in the Ministry responsible for Works;

“Commission” means the Fair Trading Commission established by section 3 of the *Fair Trading Commission Act*, Cap. 326B;

“Committee” means the Electric Light and Power Advisory Committee established by section 4;

“connected”, in relation to a grid, means having a point of delivery in respect of the grid;

“control” has the meaning assigned to it by section 441 of the *Companies Act*, Cap. 308;

“cumulative installed capacity”, in relation to more than one generation system, means the sum of the installed capacity of the systems;

“electricity” means electric voltage, electric current, electric energy or any like agency;

“electric line” means a wire, conductor or other apparatus used for the purpose of conveying, transmitting or distributing electricity, with any casing,

coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same, or any part thereof, or any apparatus connected therewith, for the purpose of conveying, transmitting or distributing electricity;

“generation system” means a system for the generation of electricity;

“grid” means a system for the generation, transmission, distribution and supply of electricity;

“grid code” means the minimum technical and commercial requirements to be satisfied by a person who owns, controls or operates a grid or supplies electricity to, or receives electricity from, a grid;

“installed capacity” means the sum of the maximum rated electric output of each generator in a generation system, as determined by the manufacturer of the generator;

“licence” means a licence issued pursuant to section 6;

“licensee” means a person who holds a licence;

“Minister” means the Minister to whom responsibility for Energy is assigned;

“point of delivery” means the physical point at which a generation system is attached to a grid for the purpose of metering;

“public grid” means the grid to which the public has access for the supply of electricity;

“public utility” means the person who owns, controls or operates the public grid;

“renewable energy” means any form of energy that is replenished by natural processes at a rate that equals or exceeds its rate of use and includes solar energy, wind energy and energy from geophysical and biological sources;

“service provider” has the meaning assigned to it by section 2 of the *Fair Trading Commission Act*, Cap. 326B;

“telecommunications” has the meaning assigned to it by section 2 of the *Telecommunications Act*, Cap. 282B;

“telecommunications network” has the meaning assigned to it by section 2 of the *Telecommunications Act*, Cap. 282B;

“telecommunications service” has the meaning assigned to it by section 2 of the *Telecommunications Act*, Cap. 282B;

“works” includes electric lines and any buildings, machinery, engines, equipment or other things required to supply electricity.

PART II LICENSING

Licence required for supply of electricity in certain cases

3.(1) No person shall supply electricity to another except in accordance with a licence issued to the person.

(2) Subsection (1) does not apply to a person who supplies electricity to the public grid where the cumulative installed capacity of the generation systems owned, controlled or operated by the person for the supply of electricity does not exceed the amount set out in paragraph 1 of the *First Schedule*.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$100 000 or to imprisonment for 2 years or to both and where the offence is a continuing one, to a further fine of \$10 000 for every day or part of a day during which the offence continues after a conviction is first obtained.

Advisory Committee

4.(1) There is hereby established a committee to be called the Electric Light and Power Advisory Committee.

- (2) The *Second Schedule* applies to the constitution of the Committee and otherwise in relation thereto.
- (3) The functions of the Committee are to
 - (a) consider and make recommendations to the Minister in respect of applications for the issue or renewal of licences or for approval of assignments of licences or of rights thereunder; and
 - (b) advise the Minister on any other matter relevant to the administration of this Act.
- (4) A member of the Committee shall be paid such remuneration as the Minister determines.

Application for licence

- 5.(1) A person may, in such form as may be approved by the Minister, apply to the Minister for a licence to supply electricity.
- (2) An applicant shall submit with his application
 - (a) such information and documents as the Minister may require to determine whether a licence should be issued to the applicant; and
 - (b) such fee as may be prescribed.
- (3) Where the applicant is the public utility or proposes to operate a generation system the installed capacity of which equals or exceeds the amount set out in paragraph 2 of the *First Schedule*, the applicant shall publish, in at least 2 daily newspapers, at least twice at intervals of 2 weeks, notice of his application in such form and manner and with such particulars as the Minister may direct or approve.
- (4) An applicant to whom subsection (3) applies shall not be issued a licence until
 - (a) a period of 3 months from the date of the first publication of notice of his application pursuant to subsection (3) has expired; and

- (b) an opportunity has been given to all interested parties, during the period specified in paragraph (a), to make representations or objections to the Minister in relation to the application.

Issue of licence

6.(1) The Minister may, upon payment of such fee as may be prescribed, issue to a person who satisfies the requirements of subsection (3), a licence granting a non-exclusive right to supply electricity for any purpose within any area and for such period as the Minister considers appropriate in the circumstances.

(2) In determining whether to issue a licence to an applicant, the Minister shall

- (a) consider the recommendation of the Committee in relation to the applicant; and
- (b) take into account, where relevant
 - (i) the current and projected demand for electricity;
 - (ii) the cumulative installed capacity of
 - (A) the generation systems that are a part of, or are connected to, the public grid;
 - (B) the generation systems of licensees; and
 - (C) the renewable energy generation systems that are a part of, or are connected to, the public grid, and of each type of renewable energy generation system, classified according to the source of renewable energy utilised; and
 - (iii) the purposes of this Act, being, among other things, to promote the generation of electricity from sources of renewable energy and to enhance the security and reliability of the supply of electricity.

- (3) The Minister shall not issue a licence pursuant to subsection (1) unless he is satisfied that
- (a) the facility and location intended to be used pursuant to the licence is safe and adequate for the purpose;
 - (b) the applicant possesses
 - (i) the financial capacity to build and maintain the facility;
 - (ii) the technical capability to operate the facility safely, reliably and efficiently; and
 - (iii) the capacity to prevent or minimise any damage to the environment that may arise out of the operations to be conducted under the licence;
 - (c) any planning permission required under the *Town and Country Planning Act*, Cap. 240 has been obtained; and
 - (d) the issue of a licence to the applicant would not result in the cumulative installed capacity of the renewable energy generation systems of all licensees being in excess of such amount as may be prescribed by the Minister, by Order, after consultation with the Chief Electrical Officer and the Commission.

Terms and conditions of licence

- 7.(1) The Minister may provide in a licence
- (a) the limits within which, and the conditions under which, electricity may be supplied including whether
 - (i) any of the provisions of Part III apply to the licensee;
 - (ii) electricity is to be generated only from sources of renewable energy;
 - (b) measures for securing
 - (i) a safe, regular and efficient supply of electricity; and

- (ii) the safety of the public from personal injury and from fire or other danger;
 - (c) for the prevention and mitigation of damage to property in connection with the supply and use of electricity;
 - (d) for inspection of the business of a licensee;
 - (e) for the enforcement of the performance by the licensee, of his obligations, by the imposition of penalties or otherwise; and
 - (f) such other conditions as the Minister considers appropriate in the circumstances.
- (2) A licence is subject to the following terms and conditions where applicable:
- (a) electric lines placed above or under the ground for the supply of electricity shall be adequately protected to the satisfaction of the Chief Electrical Officer and, where such insulation is found to be inadequate, defective or worn, shall be immediately repaired or replaced;
 - (b) poles and other structures to be used for the support of electric lines and that are in close proximity to a road shall be placed only in such positions as are in accordance with the standards approved by the Chief Technical Officer;
 - (c) a licensee shall not permit any part of a circuit to be connected with earth except so far as may be necessary for carrying out the obligations under his licence or this Act, unless the connection is
 - (i) approved by the Chief Electrical Officer; and
 - (ii) made in accordance with the conditions, if any, of the approval.
- (3) The Chief Electrical Officer shall, in imposing conditions pursuant to subsection (2)(c), have due regard to any existing use of earth connections for the purpose of telecommunications.

Amendment of licence

- 8.(1)** The Minister may amend a licence
- (a) with the agreement of the licensee; or
 - (b) where the licensee breaches a condition of the licence or of this Act.
- (2) Notwithstanding subsection (1)(b), the Minister shall not amend a licence without giving the licensee written notice of the intended action and the reason for it, and an opportunity to make representations in relation thereto.

Renewal of licence and notification of changes

- 9.(1)** A licence may be renewed, upon payment of such fee as may be prescribed, for such period as the Minister considers appropriate in the circumstances.
- (2) A licensee shall notify the Minister where
- (a) control of the licensee is transferred; or
 - (b) there is a material change in the circumstances of the licensee that impacts upon the ability of the licensee to conduct operations under his licence.

Assignment of licence etc

- 10.(1)** A licensee may, subject to subsection (4), assign his licence or any rights thereunder where the prior written approval of the Minister is first obtained; and the assignment shall be deemed to be a licence issued pursuant to this Act.
- (2) The Minister shall, within 60 days of receipt of an application for approval under subsection (1), determine the application and notify the licensee in writing of his decision.

- (3) For the purpose of determining an application referred to in subsection (2), the Minister
- (a) may require such information and documents as may be necessary to enable him to determine whether the proposed assignee is a suitable person to hold a licence; and
 - (b) shall take into account whether the proposed assignee satisfies the requirements of this Act for the issue of a licence.
- (4) Where it is proposed to assign a licence or any rights thereunder to a person other than an affiliate of the licensee, the Crown shall have the right of first refusal.
- (5) Where a dispute arises under this section, the dispute shall be determined by a judge in Chambers.
- (6) A licensee shall not, by virtue of an assignment referred to in subsection (1), be relieved of any obligations and liabilities which the licensee incurred prior to the assignment.
- (7) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction on indictment
- (a) in the case of the public utility, to a fine of \$10 000 000; and
 - (b) in any other case, to a fine of \$100 000.

Revocation of licence

- 11.(1)** The Minister may revoke a licence where
- (a) the licensee
 - (i) made false statements of material facts or committed fraud in the application for the licence; or
 - (ii) wilfully or negligently failed to conduct, in accordance with this Act and the terms and conditions of the licence, the operations in respect of which the licence was issued; or

- (b) the Minister is satisfied that there is other just and reasonable cause for revoking the licence.
- (2) Notwithstanding subsection (1), the Minister shall not revoke a licence without giving the licensee written notice of the intended action and the reason for it, and an opportunity to make representations in relation thereto.

Register of licences and renewable energy generation systems

- 12.(1)** The Minister shall cause to be maintained a register that contains
- (a) a duplicate of each licence issued;
 - (b) a list of the renewable energy generation systems installed in Barbados, whether pursuant to a licence or otherwise, that includes the source of renewable energy utilised by, and the installed capacity of, each system; and
 - (c) such other information as the Minister considers appropriate for the purposes of this Act.
- (2) The register shall be open to public inspection.

PART III

INTERCONNECTION AND TARGETS FOR ELECTRICITY SUPPLY
FROM SOURCES OF RENEWABLE ENERGY

Interconnection

- 13.(1)** The public utility shall, in accordance with subsection (2), make interconnection services available to
- (a) another licensee; or
 - (b) another person who owns, controls or operates a renewable energy generation system,
- at the request of the other licensee or person.

- (2) Interconnection services referred to in subsection (1) shall be
- (a) offered at points along the public grid subject to
 - (i) the approval of the Chief Electrical Officer;
 - (ii) such agreement between the parties as may be approved by the Commission for the purpose; and
 - (iii) the payment of such fee as may be specified by the public utility and approved by the Commission in respect of interconnection;
 - (b) made available
 - (i) on terms and conditions that are reasonable, transparent and non-discriminatory; and
 - (ii) within a reasonable time.
- (3) The public utility shall purchase electricity from a licensee or other person referred to in subsection (1) at such rate as may be agreed by the parties and approved by the Commission.
- (4) Where parties fail to agree on the terms and conditions of an agreement referred to in this section or a dispute arises in respect of such an agreement, any party may, in writing, refer the matter to the Commission for determination.
- (5) Subsections (1), (2) and (3) are conditions of any licence issued for the operation of the public grid.

Targets for supply of electricity from sources of renewable energy

- 14.(1) The Minister may, by Order, after consultation with
- (a) the public utility;
 - (b) the Committee;
 - (c) the Commission; and
 - (d) such other persons as the Minister may deem appropriate,

prescribe the minimum and maximum amounts of electricity to be permitted by the public utility to be supplied to the public grid.

(2) Without prejudice to the generality of subsection (1), minimum and maximum amounts may be prescribed for electricity generated

- (a) from different sources of renewable energy; and
- (b) on different types of premises, whether domestic, commercial or otherwise.

PART IV

POWERS, OBLIGATIONS AND RESTRICTIONS IN RESPECT OF ELECTRICITY SUPPLY

Power to break up streets etc.

15.(1) Subsections (2) to (9) apply to

- (a) the public utility; and
- (b) any other licensee, where the Minister so provides in his licence.

(2) Subject to subsections (3) and (4) and to the terms and conditions of his licence, a licensee may, for the purpose of supplying electricity or for any matter related to such purpose

- (a) open and break up any street, road, bridge or pavement;
- (b) open and break up any sewer, drain or tunnel within, under or along any street, road, bridge or pavement;
- (c) lay down pipes, conduits, machinery and other apparatus; and
- (d) do such other things as he considers necessary or expedient in connection with paragraphs (a) to (c).

(3) A licensee shall not undertake an activity referred to in subsection (2) unless he

(a) gives to the Chief Technical Officer, 21 days' written notice of his intention to undertake the activity; and

(b) obtains the consent of the Chief Technical Officer for the activity.

(4) Where a licensee intends to undertake an activity referred to in subsection (2), the licensee shall give to the owners or occupiers of the premises that are likely to be affected by the activity, 7 days' written notice of his intention to undertake the activity.

(5) Notwithstanding subsections (3) and (4), where an emergency arises, the licensee may commence an activity referred to in subsection (2) without complying with subsections (3) and (4) but shall as soon as possible after

(a) the necessity for the activity has arisen; or

(b) the activity is begun,

notify the persons referred to in subsections (3) and (4) of the activity.

(6) Where the owners or occupiers referred to in subsection (4) cannot be identified or located after the licensee made reasonable efforts so to do, the licensee shall publish notice of the activity referred to in subsection (2) in at least 2 daily newspapers and the owners or occupiers shall be taken to have been thereby notified.

(7) A licensee shall

(a) fence any portion of any street, road, bridge or pavement that is broken up; and

(b) provide adequate warning devices to indicate the fact of disrepair.

(8) A licensee shall, without unnecessary delay, restore to the satisfaction of the Chief Technical Officer, any streets, roads, bridges, pavements, sewers and like structures that he disturbs pursuant to subsection (2).

(9) Where a licensee

- (a) fails to fence or provide adequate warning devices; or
- (b) delays in making restoration,

as required by subsection (7) or (8), as the case may be, the Chief Technical Officer may carry out the necessary work and recover from the licensee, all reasonable expenses incurred in carrying out the work.

(10) A person who, without reasonable excuse, hinders or obstructs an employee or agent of a licensee in the conduct of an activity pursuant to this section is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for 12 months or to both.

(11) Nothing in this Act authorises a licensee to carry out an activity referred to in subsection (2) in respect of a street, road, bridge or pavement or a sewer, drain or tunnel within, under or along any street, road, bridge or pavement, that is not repairable by the Chief Technical Officer, without the consent of the person by whom it is repairable.

Power to alter positions of pipes and wires

16.(1) Subsections (2) and (3) apply to

- (a) the public utility; and
- (b) any other licensee, where the Minister so provides in his licence.

(2) Subject to this Act, the *Utilities Regulation Act*, Cap. 282 and his licence, a licensee may alter the position of any pipes or wires that

- (a) are under or upon any street or place that the licensee is authorised to break up; and
- (b) may interfere with the exercise of the powers of the licensee under this Act.

- (3) A licensee shall
- (a) prior to altering the position of any pipes or wires, make or secure such compensation to the owner of the pipes or wires; and
 - (b) comply with such conditions as to the mode of making the alterations referred to in paragraph (a),
- as may, prior to the commencement of the alterations, be agreed upon by the licensee and the owner of the pipes or wires.
- (4) Any dispute with respect to the compensation or conditions referred to in subsection (3) shall be referred to the Commission for determination.
- (5) Any other person may, in the same manner as that provided for a licensee in subsections (2) and (3), alter the position of any pipes or wires of a licensee that
- (a) are under or upon any street or place that the person is authorised to break up; and
 - (b) may interfere with the lawful exercise of any power vested in the person.

Restrictions on works above ground

- 17.(1)** Notwithstanding anything in this Act, a licensee shall not, without the consent of the Chief Technical Officer, place an electric line above ground and along, over or across a street.
- (2) Where a licensee contravenes subsection (1), the Chief Technical Officer may
- (a) require the licensee forthwith to remove the electric line placed contrary to that subsection; or
 - (b) remove the electric line and recover from the licensee, the expense of such removal.

(3) Where a licensee places an electric line above ground in any position, a magistrate may, on the application of the Chief Technical Officer, if the magistrate is satisfied that the line is, or is likely to become, dangerous to the public, order the removal of the line by such person and upon such terms as he thinks fit.

Restrictions on placement of electric lines etc.

18.(1) Where

- (a) an electric line or other work is laid down or erected in, over, along, across or under a street for the purpose of supplying electricity, or in any other position for such purpose, in such a manner as not to be entirely enclosed within a building or buildings; or
- (b) an electric line or other work laid down or erected as described in paragraph (a) is used for the purpose of supplying electricity otherwise than in pursuance of a licence,

the Minister may, if he thinks fit, by written notice to be served upon the person who owns, uses or is entitled to use the electric line or other work, require that the line or other work be continued and used only in accordance with such conditions and subject to such measures for the protection of the public and the telecommunications network as the Minister may, by or in pursuance of the notice, determine.

(2) Where a person fails to comply with the conditions or measures referred to in subsection (1), the Minister may require the person to remove the electric line or work.

(3) Subsection (1) does not apply to an electric line or other work laid down or erected by an owner or occupier of premises in order for electricity generated upon the premises to be supplied to another part of the premises.

Restrictions on use of electric lines

19.(1) Where an electric line or other work is used for the supply of electricity in such a manner as adversely to affect the telecommunications network or telecommunications service, the Minister may, by written notice to be served upon the person who owns, uses or is entitled to use the electric line or work, require that the supply be continued only in accordance with such conditions and measures for the protection of the network and service, as the Minister may, by or in pursuance of the notice, determine.

(2) Where a person fails to comply with the conditions or measures referred to in subsection (1), the Minister may require the supply of electricity through the electric line or other work forthwith to be discontinued.

(3) Subsection (1) does not apply to an electric line or other work laid down or erected and used for the supply of electricity in accordance with a licence.

Service of section 18 or 19 notice

20.(1) A notice authorised to be served upon a person pursuant to section 18 or 19 may be served

(a) personally; or

(b) by

(i) courier service;

(ii) post;

(iii) facsimile;

(iv) electronic mail; or

(v) such other method as may be prescribed by the Minister by Order.

(2) A notice served by post shall be deemed to have been served at the time when the letter containing the notice would be delivered in the usual course of

post, and in proving such notice, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post.

Penalty for failure to comply with section 18 or 19 notice

21.(1) A person who, without reasonable excuse, fails to comply with the requirements of a notice served upon him pursuant to section 18 or 19 is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for 2 years or to both.

(2) A magistrate may, in addition to any fine imposed pursuant to subsection (1), order the removal of any electric line or other work specified in the notice, by such person and upon such terms as the magistrate thinks fit.

Protection of property of government, licensees and service providers

22.(1) A licensee shall not lay down an electric line or do any other work for the supply or use of electricity whereby the telecommunications network or the pipes or other works of the Crown or of other licensees or service providers are or may be adversely affected.

(2) Before an electric line is laid down or any work is done within 9 feet of any part of the telecommunications network or of the pipes or other works of the Crown or of other licensees or service providers (other than the repairs or the laying of connections with mains where the direction of the electric lines so laid down crosses the lines of the telecommunications network or the pipes or other works of other service providers, at right angles at the point of shortest distance and continues the same for a distance of 6 feet on each side of such point), the licensee shall, not more than 28 nor less than 7 business days before commencing such work, give written notice to the Minister or the other licensees or service providers affected, as the case may be, specifying the course and nature of the work including the gauge of any electric lines.

(3) The licensee shall comply with any reasonable requirements, whether general or specific, as may be made by the Minister or the other licensees or service providers, as the case may be, for the purpose of preventing the

telecommunications network or the pipes or works of the Crown or of the other licensees or service providers from being adversely affected by the work.

(4) Any dispute with respect to a requirement referred to in subsection (3), between the licensee and the Minister or the other licensees or service providers, shall be referred to a judge in Chambers for determination.

(5) A licensee who contravenes subsection (1), (2) or (3) is guilty of an offence and is liable on summary conviction to a fine of \$1 000 for every day during which such contravention continues or, if telecommunications or the supply of water or gas is wilfully interrupted, \$5 000 for every day on which such interruption continues.

(6) It is a defence to a charge under subsection (5) for a person to prove that

- (a) the immediate execution of the works was required to avoid an accident or was otherwise a work of emergency; and
- (b) he forthwith served on the Minister or on the other licensees or service providers affected, as the case may be, written notice of the execution thereof, stating the reason for executing the same without previous notice.

(7) For the purposes of this section, the telecommunications network or the pipes or works of the Crown or of other licensees or service providers shall be deemed to be adversely affected by a work if telecommunications or the supply of water or gas by means of such pipes or works is, whether by induction or otherwise, in any manner affected by the work or by any use made of the work.

Use of electricity

23.(1) Subject to section 25, a licensee shall not control or interfere with the manner in which the electricity he supplies is used.

(2) No person shall

- (a) use the electricity supplied to him for any purpose; or
- (b) deal with the electricity in any manner,

so as unduly or improperly to interfere with the electricity supplied to another.

(3) Any dispute arising out of subsection (1) or (2) between a licensee and a person entitled to be supplied with electricity under this Act shall be referred to the Commission for determination.

Power of entry, inspection etc.

24.(1) A licensee may, at any reasonable time, enter any premises to which he supplies or has supplied electricity, to

- (a) inspect the electric lines, meters, capacitors, fittings, works and apparatus for the supply of electricity, belonging to the licensee;
- (b) ascertain the quantity of electricity consumed or supplied; or
- (c) remove any electric lines, meters, capacitors, fittings, works or apparatus belonging to the licensee, where a supply of electricity is no longer required or the licensee is authorised to discontinue the supply of electricity to the premises.

(2) A licensee shall repair any damage caused by an entry or inspection or the removal of anything pursuant to subsection (1).

Discontinuation of electricity supply

25. Notwithstanding anything contained in the *Utilities Regulation Act*, Cap. 282, where a person fails or refuses to pay a charge for electricity or any other sum payable by him to a licensee in respect of the supply of electricity to him, or engages in an act capable of affecting the safety, reliability, security or correct recording of the supply of electricity, the licensee may discontinue the supply of electricity and for the purpose, cut or disconnect any electric line or other work through which the electricity may be supplied until

- (a) the charge or other sum, together with any expenses incurred by the licensee in so cutting off the supply of electricity, is fully paid; and

- (b) all requirements for the safe restoration of an accurately metered supply of electricity are met.

Electric lines not subject to distress in certain cases

26. Electric lines, meters, capacitors, fittings, works or apparatus belonging to a licensee and placed on premises not in the possession of the licensee for the purpose of supplying electricity shall not be subject to removal or disconnection by a landlord or to distress or any other remedy of a landlord for rent of the premises against any person in whose possession the premises may be.

Damaging work with intent to cut off supply

- 27.** A person who, without lawful excuse
- (a) damages an electric line or other work with intent to cut off a supply of electricity; or
 - (b) tampers with an electric line or other work and the tampering results in the disruption of service or the incorrect measurement or recording of the amount of electricity used or impacts on safety,

is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 2 years or to both.

PART V

MISCELLANEOUS

Saving of certain privileges

- 28.(1)** Subject to subsection (2), nothing in this Act or in a licence shall
- (a) affect the exclusive right of the Crown in respect of telecommunications services;

- (b) authorise or enable any person to
 - (i) transmit any message;
 - (ii) perform any of the incidental services of receiving, collecting or delivering messages; or
 - (iii) give to any other person any power, authority or facility of any kind whatever in connection with the transmission of messages or the performance of any of the incidental services of receiving, collecting or delivering messages.
- (2) Subsection (1) shall not apply in respect of communications that are directly transmitted along electric lines solely for the purpose of the management of the grid.

Fees

29. A licensee shall pay to the Accountant-General in respect of a licence issued under this Act, such annual fee as may be prescribed.

Recovery of penalties, fees and expenses

- 30.** Any
- (a) penalty imposed pursuant to this Act;
 - (b) fee payable pursuant to section 29 that remains unpaid for a period of 3 months after the date on which it becomes payable; or
 - (c) expense incurred by the Chief Technical Officer pursuant to section 15(9) or 17(2),

is recoverable as a debt due to the Crown in civil proceedings before a magistrate for District "A" notwithstanding that the amount sought to be recovered exceeds the normal monetary limit on the jurisdiction of the magistrates' courts.

Grid Code

31. The public utility shall, subject to the approval of the Commission and the Chief Electrical Officer, issue a grid code.

Review of decisions

32.(1) A person who is aggrieved by a decision of the Minister under this Act may, within 14 days of being notified of the decision, apply for a review of the decision.

(2) The filing of an application pursuant to subsection (1) does not operate as stay of the decision unless the Minister so provides.

(3) The Minister may, on a review of a decision, confirm, modify or reverse the decision or any part of the decision; and, where such a decision may not be made without a hearing, the decision shall not be reviewed without a further hearing.

Minister may make Regulations etc

33.(1) The Minister may make Regulations for

- (a) the form and manner in which an application for the issue or renewal of a licence or for approval of an assignment of a licence or of a right thereunder is to be made;
- (b) the information and documents to be submitted with an application;
- (c) the publication of such notices and advertisements as may be required in respect of an application;
- (d) the manner in which and the time within which representations or objections in relation to an application are to be made;
- (e) the holding, in such cases as the Minister thinks fit, of enquiries in relation to applications;

- (f) the fees to be paid in respect of applications for and licences issued under this Act including different fees for different classes of licence and different annual fees in respect of different classes of licence;
 - (g) the limits within which and the conditions under which electricity is to be provided;
 - (h) securing
 - (i) a safe, regular and efficient supply of electricity;
 - (ii) the protection of the public from personal injury, nuisance, fire and other danger;
 - (i) for the prevention and mitigation of damage to property in connection with the supply of electricity;
 - (j) for the inspection of the business and facilities of a licensee;
 - (k) for enforcement of the performance by the licensee, of his obligations by the imposition of penalties or otherwise; and
 - (l) any other matter necessary or convenient to give effect to this Act.
- (2) The Minister may, by Order, amend the *First* and *Second Schedules*.

Application of certain Acts

34.(1) This Act shall be read together with the *Fair Trading Commission Act*, Cap. 326B and the *Utilities Regulation Act*, Cap. 282.

(2) The *Fair Trading Commission Act* shall apply in respect of any dispute referred to the Commission under this Act.

Repeal of Cap. 278

35.(1) [*The Electric Light and Power Act is repealed.*]

(2) Notwithstanding subsection (1), the Orders set out in the First, Second and Third Schedules to the *Electric Light and Power Act*, Cap. 278 and the *Electric Light and Power Order, 1981* (S.I. 1981 No. 216)

(a) shall continue in force to the extent that they were in force prior to the commencement of this Act; and

(b) may be amended or revoked by the Minister, by Order, as if they were Orders made under this Act.

(3) Notwithstanding section 3, for as long as the Orders set out in the First, Second and Third Schedules to the *Electric Light and Power Act*, Cap. 278 continue in force, the public utility shall not be held to be in breach of that section and shall be treated for the purposes of this Act as if it were a licensee under this Act.

(4) Nothing in subsection (1) or (2) shall restrict any right given to, or remove any obligation imposed on, the public utility under this Act, and where there is a conflict between the Orders set out in the First, Second and Third Schedules to the *Electric Light and Power Act*, Cap. 278 and this Act, this Act shall prevail.

Consequential amendments

36. The enactment set out in the first column to the *Third Schedule* is amended in the manner set out opposite thereto in the second column.

Commencement

37. This Act shall come into operation on a day to be fixed by Proclamation.

FIRST SCHEDULE

(Section 3)

INSTALLED CAPACITY

- 1.** The installed capacity is, for the purpose of section 3(2)
 - (a)* 5 kilowatts for systems used for the generation of electricity for domestic purposes only; and
 - (b)* 100 kilowatts for systems used for the generation of electricity for any other purpose.

- 2.** For the purpose of section 5(3), the installed capacity is 1 megawatt.

SECOND SCHEDULE*(Section 4)***ELECTRIC LIGHT AND POWER ADVISORY COMMITTEE**

1. The Committee shall comprise
 - (a) *ex officio*
 - (i) the Permanent Secretary in the Ministry with responsibility for Energy;
 - (ii) the Chief Energy Conservation Officer;
 - (iii) the Chief Electrical Officer;
 - (iv) the Chief Town Planner; and
 - (b) 5 persons appointed by the Minister by instrument in writing from among persons qualified and experienced in accounts, engineering or law or such other area as, in the opinion of the Minister, is relevant to the discharge of the functions of the Committee.
2. The Minister shall appoint a person to be Chairman and another to be Deputy Chairman, of the Committee.
3. A member of the Committee, other than an *ex officio* member
 - (a) shall, subject to this *Schedule*, hold office for a term of 3 years and is eligible for reappointment; and
 - (b) may resign his office by instrument in writing addressed to the Minister, transmitted through the Chairman; and from the date of the receipt of the instrument by the Minister, unless some other date is mentioned in the instrument, shall cease to be a member.

4. The Minister may by instrument in writing
 - (a) appoint a person to act temporarily in the place of a member appointed by him where the member is temporarily absent or unable to act;
 - (b) revoke the appointment of a member appointed by him where he is satisfied that the member is
 - (i) incapacitated physically or mentally to such an extent as to impair his ability to perform his duties or is otherwise unable or unfit to perform his duties; or
 - (ii) is guilty of serious misconduct in relation to his duties.
5. A person who is appointed to fill a vacancy created by the death, resignation or removal from office of a member holds office only for the unexpired term of the member.
6. The appointment, resignation, death or removal from office of a member shall be notified in the *Official Gazette*.
7. The Committee shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Committee determines.
8. Five members of the Committee shall constitute a quorum.
9. The Chairman, or in his absence, the Deputy Chairman, shall preside at meetings of the Committee.
10. Where the Chairman and the Deputy Chairman are absent from a meeting, the members present shall elect a member from among their number to preside at the meeting.

- 11.** Decisions of the Committee shall be by a majority of votes, and where the voting is equal, the Chairman or other person presiding at the meeting shall, in addition to an original vote, have a casting vote.
- 12.** The Minister may by instrument in writing appoint a person to perform the functions of secretary to the Committee.
- 13.** All documents made by, and all decisions of, the Committee may be signified under the hand of the Chairman or any member of the Committee authorised to act in that behalf or by the secretary of the Committee.
- 14.** Subject to this *Schedule*, the Committee may regulate its own procedure.

THIRD SCHEDULE*(Section 36)***CONSEQUENTIAL AMENDMENTS**

Column 1	Column 2
Enactment	Amendments
<i>Fair Trading Commission Act, Cap. 326B</i>	<p>1. In section 4</p> <p>(a) delete subsection (1) and substitute the following:</p> <p style="padding-left: 40px;">"(1) The functions of the Commission are to</p> <p style="padding-left: 40px;">Cap. 282. (a) enforce the <i>Utilities Regulation Act</i>;</p> <p style="padding-left: 40px;">(b) enforce any laws relating to consumer protection and fair competition which the Commission has jurisdiction to administer; and</p> <p style="padding-left: 40px;">(c) discharge the functions with which it is charged under the <i>Electric Light and Power Act, 2013.</i>";</p> <p>Act 2013-</p> <p>(b) in subsection (3)</p> <p>(i) in paragraph (j), delete the word "and" in the second place where it appears;</p>

THIRD SCHEDULE - (Cont'd)

Column 1	Column 2
Enactment	Amendments
<i>Fair Trading Commission Act, Cap. 326B - (Cont'd)</i>	<p>(ii) in paragraph (k), delete the fullstop and substitute the words "; and"; and</p> <p>(iii) insert after paragraph (k), the following:</p> <p style="padding-left: 40px;">"(l) hear and determine disputes referred to it pursuant to the <i>Electric Light and Power Act, 2013</i>.";</p> <p>(c) in subsection (5)</p> <p>(i) in paragraph (b), delete the word "and";</p> <p>(ii) in paragraph (c), delete the fullstop and substitute the words "; and"; and</p> <p>(iii) insert after paragraph (c), the following:</p> <p style="padding-left: 40px;">Act 2013- "(d) in the <i>Electric Light and Power Act, 2013</i>."; and</p> <p>(d) in subsection (6), insert after the word "Act" in the second place where it appears, the words ", the <i>Electric Light and Power Act, 2013</i>".</p>

THIRD SCHEDULE - (Concl'd)

Column 1	Column 2
Enactment	Amendments
<p><i>Fair Trading Commission Act, Cap. 326B - (Concl'd)</i></p>	<p>Cap. 282.</p> <p>Act 2013-</p> <p>2. In section 5(1), delete the words "and the <i>Utilities Regulation Act</i>" and substitute the words ", the <i>Utilities Regulation Act</i> and the <i>Electric Light and Power Act, 2013</i>".</p> <p>3. In section 6(3)</p> <p>(a) in sub-paragraph (ii), delete the word "and";</p> <p>(b) insert after sub-paragraph (ii), the following:</p> <p style="padding-left: 40px;">"(iii) such provisions of the <i>Electric Light and Power Act, 2013</i> as relate to the functions of the Commission; and"; and</p> <p>(c) renumber sub-paragraph (iii) as sub-paragraph (iv).</p>

EXPLANATORY MEMORANDUM

Electric Light and Power Bill, 2013

The *Electric Light and Power Bill, 2013* seeks primarily to revise the law relating to the supply and use of electricity, to promote the generation of electricity from sources of renewable energy and generally, to enhance the security and reliability of the supply of electricity.

The principal change to the law for which the Bill provides is the establishment of a licensing regime for persons who wish to generate electricity and supply it to others. Under the current *Electric Light and Power Act, Cap. 278*, permission to supply electricity, where required, may only be granted through a special Act or through a provisional Order that must subsequently be confirmed by an Act. The aim of the new regime is to make easier the process of acquiring such permission. The Bill makes it clear, moreover, that a licence may provide for the generation of electricity from sources of renewable energy.

Another significant feature of the Bill is its provision for the public utility to make interconnection services available to both licensees and other persons who may wish to supply electricity to the public grid. Agreements in respect of interconnection services must have the approval of the Fair Trading Commission. The Commission is also empowered to determine the majority of disputes that may arise under the legislation.

Finally, the Bill generally updates the language in the current Act in line with the terminology currently employed in respect of utility services. Penalties to be imposed for offences have also been increased.

PART I - PRELIMINARY

- Clause 1:** provides the short title of the Act.
- Clause 2:** provides definitions for certain terms used in the Act.

PART II - LICENSING

- Clause 3:** makes it an offence to supply electricity to another person except in accordance with a licence. Persons who supply electricity to the public grid at levels below the amounts prescribed in the *First Schedule* are, however, exempt from this requirement.
- Clause 4:** establishes a committee to advise the Minister, among other things, on the issue and renewal of licences. The *Second Schedule* provides for the constitution of the committee and for other matters concerning the committee.
- Clause 5:** provides for the making of an application for a licence. Similar to the existing law, notice of an application would have to be published and persons given an opportunity to make representations or objections in respect of the application. This requirement to publish, however, applies only in relation to applications for licences with respect to utility scale generation of electricity.
- Clause 6:** provides for the issue of licences and the criteria that the Minister must take into account in determining whether to issue a licence.
- Clause 7:** stipulates the terms conditions subject to which a licence is issued and the additional terms and conditions that the Minister may incorporate in a licence. In particular, this clause empowers the Minister to require a licensee to generate electricity

from sources of renewable energy.

- Clause 8:** provides for the amendment of licences.
- Clause 9:** provides for the renewal of licences and requires a licensee to notify the Minister of certain changes in the circumstances of the licensee. These include material changes that may impact upon the licensee's ability to conduct operations under his licensee.
- Clause 10:** permits a licensee, with the approval of the Minister, to assign his licence. Where, however, the public utility wishes to assign its licence to a person other than an affiliate, the Crown has the right of first refusal. This clause also makes it an offence to assign a licence without the approval of the Minister.
- Clause 11:** empowers the Minister to revoke a licence on certain grounds.
- Clause 12:** requires the establishment of a register of licences and of renewable energy generation systems.

PART III - INTERCONNECTION AND TARGETS FOR ELECTRICITY SUPPLY FROM SOURCES OF RENEWABLE ENERGY

- Clause 13:** requires the public utility, subject to such agreements as may be approved by the Fair Trading Commission, to make interconnection services available to other licensees and persons, other than licensees, who own or operate renewable energy generation systems.

Clause 14: empowers the Minister to prescribe levels of electricity generated from sources of renewable energy that the public utility must allow to be supplied to the public grid.

PART IV - POWERS, OBLIGATIONS AND RESTRICTIONS
IN RESPECT OF ELECTRICITY SUPPLY

Clause 15: retains the right of the public utility, for the purpose of supplying electricity, to break up streets. The Minister may also grant the same power to another licensee. Any street that is broken up must be repaired to the satisfaction of the Chief Technical Officer.

Clause 16: retains the right of the public utility, for the purpose of supplying electricity, to alter the position of pipes and wires. Again, the Minister may grant the same power to another licensee.

Clause 17: maintains the existing position that the consent of the relevant functionary must be obtained to place electric lines above ground and along, over or across a street.

Clause 18: also maintains the existing position as regards certain other restrictions on the placement of electric lines and the power of the Minister, by notice, to require corrective measures.

Clause 19: similarly, in keeping with the existing law, provides for the Minister by notice to require a person to take corrective measures where an electric line is used in such a manner as adversely to affect telecommunications.

- Clause 20:** provides for the service of a notice pursuant to clause 18 or 19 and increases the number of methods by which a notice may be served.
- Clause 21:** like the current law, makes it an offence to fail to comply with a notice in relation to the placement or use of electric lines.
- Clause 22:** provides, like the current Act, for the protection of the telecommunications network and the pipes and other works of the Crown and of other providers of utility services.
- Clause 23:** provides, as in the existing law, that a licensee must not, among other things, control or interfere with the manner in which the electricity he supplies is used.
- Clause 24:** empowers a licensee, in a manner similar to what currently obtains, to enter premises to which he supplies electricity to ascertain the quantity of electricity used and inspect lines, meters and other apparatus.
- Clause 25:** provides, as in the existing Act, for the recovery of charges for electricity and for disconnection for failure to pay such charges. This clause also provides for disconnection where a person engages in an act capable of affecting the safety, reliability or correct recording of a supply of electricity.
- Clause 26:** maintains the protection against distress in relation electric lines and other apparatus.
- Clause 27:** prohibits, as in the current Act, unlawful damage to electric lines.

PART V - MISCELLANEOUS

- Clause 28:** saves certain privileges of the Crown as regards telecommunications.
- Clause 29:** provides, as in the existing Act, for the payment of an annual fee.
- Clause 30:** provides, among other things, for the recovery of penalties.
- Clause 31:** provides for the public utility, subject to the approval of the Fair Trading Commission and the Chief Electrical Officer, to issue a grid code.
- Clause 32:** provides for a review of certain decisions.
- Clause 33:** empowers the Minister to make Regulations.
- Clause 34:** provides for the application of the *Utilities Regulation Act*, Cap. 282 and the *Fair Trading Commission Act*, Cap. 326B.
- Clause 35:** repeals the *Electric Light and Power Act*, Cap. 278 but saves the Orders made under the Act.
- Clause 36:** provides for consequential changes to be made to the *Fair Trading Commission Act*, Cap. 326B. These changes are set out in the *Third Schedule*.
- Clause 37:** provides for the Act to come into operation on a day to be fixed by Proclamation.