

ELECTRICITY ACT, 2005

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ELECTIRICY ACT, 2005

A ACT ENTITLED

AN ACT to promote the development of the electricity sub-sector in The Gambia on the basis of the principles of a competitive and market-oriented economy, to regulate electricity service providers and the activities of persons required to be licensed and for matters connected therewith.

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ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

- Short title 1. This Act may be cited as the Electricity Act, 2005.
- Interpretation 2. In this Act, unless the context otherwise requires -
- 2001 No. 2 “Chairperson” means the Chairperson of the Board;
- “Authority” means The Gambia Utilities Regulatory Authority established under The Gambia Public Utilities Regulatory Authority Act, 2001;
- “Board” means the Board of the Authority;
- “Department of State” means the Department of State responsible for the electricity sub-sector;
- “direct consumer” means a person directly connected to the transmission grid at a delivery point, other than a distribution licensee;
- “dispatch licence” means a licence granted by the Authority to a licensee to exercise –

- (a) dispatch rights over generation licensees and others, if any, in order to meet the requirements of distribution licensees, direct consumers and others, if any; and
- (b) such other rights under this Act as are granted by the Authority in the licence;

“dispatch licensee” means a person who is granted a despatch licence under this Act;

“distribution licence” means a licence granted by the Authority to a licensee to –

- (a) receive electric energy deliveries from one or more grid delivery points and at one or more distribution receiving points; and
- (b) distribute electricity to consumers within a defined geographic area;

“distribution licensee” means a person who is granted a distribution licence;

“distribution receiving point” means a physical point at which a distribution licensee receives electric energy directly from a generation licensee, including from a generation licensee directly or indirectly owned or controlled by the distribution licensee when so permitted by the Authority;

“generation licence” means a licence granted by the Authority to a licensee to connect specified generation facilities either to the transmission grid at a grid receiving point or to a distribution receiving point;

“generation licensee” means a person who is granted a generation licence under this Act;

“grid delivery points” means the physical points at which the transmission licensee’s facilities are connected to the distribution licensee’s facilities and to the facilities of any direct consumer and, for purposes of exporting electricity, inter-connections with foreign electric systems;

“grid receiving point” means a physical point at which the transmission licensee receives electricity on the transmission grid, including, for purposes of importing electricity, inter-connections with foreign electric systems;

“licence” means a generation licence, a transmission licence, a dispatch licence or a distribution licence;

“licence fee” means the fee charged by the Authority on a person licensed under this Act;

“licensee” means a person who is granted a licence by the Authority;

“person” means a natural or juristic person;

2001 No. 2

“Regulatory Authority Act” means The Gambia Public Utilities Regulatory Authority Act, 2001;

“Secretary of State” means the Secretary of State responsible for the electricity sub-sector;

“service territory” means the geographical area within which a licensee is permitted to operate under a licence;

“transmission grid” means all the transmission facilities at 33 kV or higher, owned or controlled and operate, by a transmission licensee, as authorized in a transmission licence in effect, from time to time, which connects the grid receiving points to the grid delivery points and includes substations in The Gambia operating above 33kV and all transmission facilities, including –

- (a) substations, operating at 69 kV that are specifically identified in a transmission licence; and
- (b) all electric circuits operating at 69kV but not authorized for ownership and operation by a transmission licensee in any transmission licence;

“transmission licence” means a licence granted by the Authority to a licensee to own or control, and operate, the transmission grid, but not to dispatch electricity over the transmission grid; and

“transmission licensee” means a person who is granted a transmission licence.

Objectives

3. The objectives of this Act are to -

- (a) promote the generation, transmission, supply, dispatch and distribution of electricity in The Gambia;
- (b) set standards relative to electricity services;
- (c) promote electricity efficiency and supplies;
- (d) ensure sufficient and reliable electricity supplies for the population and the economy of The Gambia at just and reasonable rates;
- (e) establish cost-effective and reliable electricity supplies for all classes of consumers;
- (f) effect a transition to a private investor controlled and operated electricity sector in which, through competition, where feasible, and regulation in non-competitive markets, prices accurately reflect the costs of efficient production, transmission, dispatch, and distribution of electricity;
- (g) establish a framework for the regulation of the electric sector;
- (h) assign responsibility for overall policy development in the electric sector to the Department of State and relieve the Department of State from regulatory responsibilities in the electricity sub-sector;
- (i) encourage private sector investments in electric sector activities;

- (j) encourage domestic and foreign private capital participation in the electric sector;
- (k) promote competition in the electricity market; and
- (l) encourage the production of electricity through the use of renewable energy.

PART II - FUNCTIONS OF THE DEPARTMENT OF STATE

Functions of the
Department of
State

4. (1) The principal functions of the Department of State as regards the electric sector are to –
- (a) establish policies that promote an environment conducive to attracting investments in the electricity sub-sector in the short, medium and long term;
 - (b) promote a policy of restructuring and privatisation of State enterprises in the electricity sub-sector and establish competition in the electricity market;
 - (c) support scientific research and education in the electric sector;
 - (d) promote efficiency in the production, transmission and distribution of electricity and in the use of electricity by consumers, and create a comprehensive electricity conservation programme for The Gambia;
 - (e) monitor and recommend policies regarding the effect on the environment of all energy activities, and incorporate national environmental protection goals in the formulation and implementation of the electricity sub-sector policies;
 - (f) establish policies to promote the establishment of relationships between licensees and electric sector entities in foreign countries, and promote the establishment of

transit and import and export relationships in the electric sector.

- (g) establish policies –
 - (i) on direct subsidies for electric supplies to specific customer classes,
 - (ii) on priority institutional consumers of electricity, and
 - (iii) to enhance electricity security for The Gambia; and
- (h) establish a strategy for electric sector emergency situations.

(2) The Department of State is also responsible for all aspects of the electric sector of The Gambia that are not the subject of this Act, including the performance of the electric sector licensing functions that are not vested in the Authority or in any other Department of State or agency of the Government.

(3) The Department of State shall, in performing its functions under subsection (1), relinquish ownership rights, regulatory supervision and management control of, and operational activities in, the electric sector.

PART III – LICENCES AND LICENSING PROCEDURES

Restriction on generation, etc. of electricity without licence

5. (1) Except as provided in this Act, no person shall engage in electric generation, transmission, dispatch, or distribution activities without a valid licence issued by the Authority.

- (2) A licence is not required for -
 - (a) electricity generation solely for consumption at the site of the generating facility;
 - (b) electricity distribution or sub-distribution within a single premises or pursuant to a sub-metering arrangement within a single building

on a non-commercial basis.

Procedures for
the issuance of
licences

6. (1) An application for a licence under this Act shall be made to the Authority in accordance with-

- (a) the Regulatory Authority Act; and
- (b) subject to paragraph (a), such other procedures as the Authority may determine.

(2) The procedures shall specify the information to be submitted with an application for a licence, including information concerning the applicant's financial strength, credit rating, experience, and compliance with all laws and regulations, and any application fee required to be paid by the applicant.

Conditions for
issuance
of licences

7. (1) The Authority shall advise the Secretary of State to issue a licence only to a person who –

- (a) has established competence to operate within the electricity sub-sector;
- (b) is able to satisfy the service obligations under this Act and the conditions to be included in the licence; and
- (c) has satisfied the other requirements of the Regulatory Authority Act.

(2) The Authority shall specify in the licence-

- (a) the type of service to which the licence applies;
- (b) the location of the facilities or the territory to which the licence applies;
- (c) the duration of the licence;
- (d) all applicable licence conditions, including the requirement of timely payment of licence fees; and
- (e) the conditions for licence modification, suspension, or revocation.

(3) Subject to subsection (4), a licensee shall not discontinue service under a licence without the prior consent of the Authority.

(4) The prior consent of the Authority is not necessary in the case of a distribution licence, if interruption of service is due to non-payment by the customer, or to technical or safety reasons, or to the exercise of contractual rights.

(5) The licensee shall relinquish its licence at the time it receives approval for the discontinuation of service.

(6) No licensee is required to continue supplying electricity or other electric services in any case where another licensee, a direct consumer, or any other person has failed to meet its payment obligations under a contract or under an Authority approved tariff or terms and conditions for the provision of the service.

Rights and duties of licensees, and information filing

8. (1) A licensee shall comply with all –

- (a) the conditions set out in its licence;
- (b) the rules and regulations adopted by the Authority; and
- (c) the laws of The Gambia relating to environmental protection, safety, labour, health, taxes, and electric system performance and protection.

(2) A licensee shall endeavour to use resources efficiently, and provide generation, transmission, dispatch or distribution services, as applicable, in accordance with prudent utility practices.

(3) A licensee, shall submit to the Authority, and make available to the public –

- (a) an annual summary of the licensee's activities for the preceding year;

- (b) an annual work plan describing the licensee's anticipated activities for the following year; and
- (c) such other reports, statements and information, as the Authority determines to be necessary or appropriate.

(4) A licensee shall forward to the Department of state a copy of every summary, work plan and report submitted under subsection (3).

(5) A licensee who holds a generation licence shall submit to the Authority such reports, statements and information as the Authority deems necessary for the safe and reliable operation of the transmission grid and connected facilities.

Metering and
metering
equipment

9. (1) A licensee shall measure the quantity of electricity flowing through the licensee's facilities by using a metering equipment and procedures that satisfy standards and requirements specified in a licence issued under this Act or any other law.

(2) A licensee shall certify to the Authority that its metering equipment and meter testing facilities comply with all applicable standards and requirements.

(3) The Authority may conduct inspection of a licensee's metering equipment and meter testing facilities and may establish its own meter testing facilities, to ensure continued compliance by the licensee of the applicable standards and requirements.

Dispute
resolution

10. (1) A licensee, direct customer or customer of a distribution licensee that is party to a dispute relating to the supply of electric power services, whether under a tariff determined by the Authority under the Regulatory Authority Act or under a contract, may refer the dispute to the Authority for resolution.

(2) The Authority may, in its discretion, order that a dispute referred to it under this section be resolved in accordance with the provisions of any enactment relating to competition.

Bonds

11. The Authority may, before issuing a licence, or reinstating a suspended licence, require a licensee to provide a bond or any other form of financial security necessary to ensure that the licensee satisfies its service obligations and adheres to this Act and the conditions of the licence, including the payment of the licence fee.

Modification, suspension and revocation of licences

12. (1) Without prejudice to the Regulatory Authority Act, except where a licence is modified pursuant to its terms and conditions or suspended or revoked for non-compliance with its terms and conditions, the Authority may, with the approval of the Secretary of State, modify, suspend, or revoke a licence issued under this Act only with the prior consent of the licensee.

(2) The Authority may, on granting a new licence after a modification, suspension or revocation, require the licensee to comply with different or more stringent requirements than the requirements included in any prior licence.

Restrictions on multiple ownership of licences and no transactions

13. (1) No person shall hold more than one licence or own shares or have a business interest in any other entity that is licensed under this Act, without the prior approval of the Authority.

(2) A person who exercises, directly or indirectly, ownership or control of a generation licensee, transmission licensee, dispatch licensee or distribution licensee shall not own shares in any other licensee, without the prior approval of the Authority.

(3) A licensee shall not, without the prior written approval of the Authority, surrender, assign, or otherwise transfer its licence to any other person.

(4) The Authority may, for any reason consistent with the purposes of this Act and the public interest, approve, refuse or restrict the carrying on by the licensee of any of the following activities -

(a) a merger or a major acquisition or sale of its assets or securities;

- (b) an expansion of its business activities; and
- (c) a re- organization of its corporate structure.

(5) Where a person is authorized to hold more than one licence, or to exercise, directly or indirectly, ownership or control over more than one licensee -

- (a) the licensee shall maintain separate books of account under the name of each licensee, and where the licensed activities are not performed by separately incorporated entities, the books of account shall clearly identify the expenses and revenues attributable to each licensed activity; and
- (b) a default under one licence held by that person is deemed to constitute a default under each licence held by that same person.

Generation
licences

14. (1) The Secretary of State may, in accordance with the provisions of the Regulatory Authority Act, issue a licence that authorises the licensee to connect specifically identified generation facilities to-

- (a) the transmission grid for the purpose of supplying electric capacity or energy to a specific grid receiving point; or
- (b) the facilities of a distribution licensee for the purpose of supplying electric capacity or energy to a specific distribution receiving point.

(2) The duration of each licence shall be stated in the licence, subject to revocation by the Authority for the violation of a term or condition of the licence.

(3) A generation licensee shall comply with the following conditions, to -

- (a) subject to subsection (4), submit to the Authority, for review and approval, the rates, terms and conditions for any power sales contract it has with any other licensee;
 - (b) submit to the Authority, the technical, safety and interconnection standards for the proposed generation facility;
 - (c) if connected at a grid receiving point, make the licensed generation facilities available to the dispatch licensee at the receiving point for the safe, reliable, non-discriminatory and economic dispatch and operation of the transmission grid and connected facilities, pursuant to the terms of its power sales contract or its approved rates and terms and conditions of service;
 - (d) if connected at a distribution receiving point, make the licensed generation facilities available to the distribution licensee at the receiving point for safe, reliable, non-discriminatory and economic dispatch to supply the distribution licensee's load, pursuant to the terms of its power sales contract or its approved rates and terms and conditions of service;
 - (e) comply with all applicable requirements regarding the co-ordination of the operation of generation facilities with the transmission grid and distribution facilities, including reasonable instructions issued by the dispatch licensee or distribution licensee, as applicable; and
 - (f) comply with all other terms and conditions of the licence.
- (4) A review and approval shall not be required under subsection (3)(a) if the Authority determines that the generation licensee -
- (a) intends solely to export electricity from The Gambia; or

- (b) would not have a monopoly of a market power in all or any part of The Gambia and had the rates and the terms and conditions for its power sales contracts established through a competitive process.

(5) The conditions set out in subsection (3) are deemed to be part of the generation licence.

Transmission
licence

15. (1) The Secretary of State may, in accordance with the provisions of the Regulatory Authority Act, issue a licence granting a person the exclusive right or non-exclusive right to provide a transmission service using the transmission grid.

(2) The licensee shall identify the transmission system included in the transmission grid to be constructed, operated, and maintained by the licensee, which shall include the facilities between the grid receiving points and the grid delivery points.

(3) Where a generation licensee's facility has been, or is to be, directly connected to -

- (a) a distribution licensee's facilities at a distribution receiving point; or
- (b) a direct consumer's facilities,

the Authority may, after giving sixty days notice to the generation licensee, distribution licensee or direct customer, as applicable, deem the interconnection point to be a grid receiving point and a grid delivery point separated by a minimum section of the transmission grid for purposes of establishing parameters for transmission services.

(4) When a new transmission facility is required in the transmission grid, the transmission licensee shall apply for a modification to its licence proposing the new transmission facility.

(5) If, after a notice given and hearing held pursuant to the rules prescribed by the Authority, the Authority determines that the proposed facility is required and

that the proposed site or route for the facility, as may be amended at or following the hearing -

- (a) will reasonably minimize adverse impacts on the area concerned;
- (b) is consistent with the policies of the Department of State concerning the proposed route as expressed to the Authority during the hearing; and
- (c) complies with the requirements of this Act and regulations made under it,

the Authority shall issue to the transmission licensee a modified transmission licence which shall include the new transmission facility and authorize its construction at the approved site or on the approved route.

(6) If, after a hearing pursuant to subsection (4), the transmission licensee is authorized to construct a new transmission facility at an approved site or along an approved route, the transmission licensee shall be entitled to acquire, by the exercise of eminent domain, any land required to construct the new transmission facility at the approved site or along the approved route.

(7) In exercising the power of eminent domain, the transmission licensee shall comply with the law applicable to the State in similar proceedings.

(8) The duration of a transmission licence is shall be defined and be subject to revocation by the Authority for violation of any term or condition of the licence.

(9) A transmission licensee shall comply with the following conditions, to –

- (a) develop and maintain the transmission grid in a manner adequate to support the needs of generation licensees, dispatch licensees, distribution licensees and direct customers within The Gambia;

- (b) develop, provide to the Authority and make available to the public an investment programme;
- (c) develop and make available reasonable instructions for the safe, reliable, and non-discriminatory interconnection and operation of the transmission network and connected facilities;
- (d) charge only those rates, and impose only those terms and conditions of service, approved by the Authority under Part IV;
- (e) refrain from entering into any other business arrangement, either within or outside the electric sector, not related to performing those activities required or permitted to be performed under its licence, including the purchase for resale of electric capacity or energy; and
- (f) timely pay all licence fees imposed by the Authority; and
- (g) comply with all other terms and conditions of the licence.

(10) The conditions set out in subsection (9) are deemed to be part of the transmission licence.

Dispatch licence 16. (1) The Secretary of State may, in accordance with the provisions of the Regulatory Authority Act, issue a licence granting a person –

- (a) the exclusive right or a non-exclusive right to operate a central dispatching control centre for the transmission grid, including the right to install and maintain such equipment as is necessary to operate the control centre; and
- (b) a non-exclusive right, within The Gambia, to purchase and resell electric capacity, electricity and transmission services to distribution licensees, direct consumers

and other foreign or domestic persons as required or permitted by the Authority.

(2) The duration of a dispatch licence shall be defined and be subject to revocation by the Authority for violation of any term or condition of the licence.

(3) A dispatch licensee shall comply with the following conditions, to –

- (a) plan for and secure adequate electric supplies, including electric supplies from foreign persons, and transmission services to satisfy the needs of distribution licensees and direct customers;
- (b) develop and co-ordinate with all other licensees, under the supervision of the Authority, contingency and emergency plans consistent with Department of State policy to be implemented in contingency situations or when an emergency is declared by the President of the Republic of The Gambia;
- (c) develop and provide to the Authority and make available to the public an investment programme;
- (d) charge only those rates and impose only those terms and conditions of service approved by the Authority;
- (e) refrain from entering into any other business arrangements, either within or outside the electric sector, not related to performing those activities required or permitted to be performed under its licence, including the purchase for resale of electric capacity or energy; and
- (f) comply with all other terms and conditions of the licence.

(4) The conditions set out in subsection (3) are deemed to be a part of the dispatch licence.

(5) Where a distribution licensee or direct customer has contracted directly with -

- (a) one or more generation licensees or other foreign or domestic persons to meet part or all of its electric supply requirements; or
- (b) the transmission licensee for transmission capacity,

a dispatch licensee shall not be responsible for obtaining back-up or stand-by electric supplies or transmission capacity under the condition set out in subsection (3)(a), unless the distribution licensee or direct customer has paid the appropriate rates approved by the Authority for the services.

Distribution
licence

17. (1) The Secretary of State may, in accordance with the provisions of the Regulatory Authority Act, issue a licence granting a person the exclusive right to engage in the distribution of electric power within a defined contiguous geographic region.

(2) The duration of each licence shall be defined and be subject to revocation by the Authority for violation of any term or condition of the licence.

(3) Where one or more parts of a distribution licensee's distribution system are not connected to the transmission grid, the distribution licensee shall own, maintain and operate a local control centre for each non-connected portion of the distribution system under its control.

(4) A distribution licensee shall comply with the following conditions, to -

- (a) extend distribution services to consumers, consistent with the eligibility criteria established by the Authority and with the distribution licensee's investment programme;

- (b) operate a local dispatching control centre for balancing loads with electric supplies received at distribution receiving points;
- (c) obtain sufficient –
 - (i) transmission capacity from the transmission licensee or the dispatch licensee, when available, and
 - (ii) capacity and electric supplies from generation licensees, other foreign or domestic persons, and the dispatch licence (if providing those services),to meet its customers' requirements on a least cost, continuous and reliable basis;
- (d) establish procedures approved by the Authority for obtaining and terminating service, metering, billing and collection;
- (e) develop and provide to the Authority, and make available to the public an investment programme;
- (f) charge only those rates, and impose only those terms and conditions of service approved by the Authority under Part IV;
- (g) make available to the public in the licensee's offices –
 - (i) the licensee's licence and approved tariffs,
 - (ii) the licensee's approved conditions of service governing procedures for obtaining and terminating services,
 - (iii) the licensee's approved terms of service governing metering, billing and collection, and

(iv) a description of the performance standards applicable to the licensee, including outage standards and time required to connect new customers;

(h) timely pay all license fees imposed by the Authority; and

(i) comply with all other terms and conditions of the licence.

(5) The conditions set out in subsection (4) are deemed to be a part of the distribution licence.

(6) If the Authority revokes a distribution licence for -

(a) delays in the payment by the distribution licensee of any fees, as required by the Authority;

(b) failure of the distribution licensee to render satisfactory service under its distribution licence; or

(c) non-compliance with the terms and conditions of the distribution licence,

the Department of State may, at its option, purchase for a sum equal to a fair market value all or any part of the distribution system properties of the distribution licensee, other than cash, accounts receivable, bonds, notes, stocks or other securities owned or held by the distribution licensee.

(7) The distribution licensee is not entitled to any payment for the value of its distribution licence or for the valuation of good will.

(8) The fair market value of the distribution system properties payable by the Department of State to the distribution licensee is determined as follows -

(a) the Department of State and the distribution licensee shall each, within thirty days after the date of revocation of

the distribution licence, designate in writing and deliver to the other the name of a disinterested independent appraiser;

(b) each appraiser shall make its own independent appraisal of the system to be purchased; and

(c) on completion of the appraisal, the appraisers shall exchange their appraisals and each appraiser shall send a copy of his or her appraisal to the Department of State and the distribution licensee, and thereafter, negotiate a fair market purchase price.

(9) If, one hundred and twenty days after the negotiation, the Department of State and distribution licensee fail to agree on a "fair market value" purchase price, the Department of State may exercise its powers of eminent domain to acquire such of the distribution system properties of the distribution licensee as the Department of State determines are required to provide continuous uninterrupted service in the distribution licensee's area of supply.

(10) in this section -

"fair market value" means the sum which would be paid by a willing purchaser to a willing seller dealing at "arm's length" determined as provided in subsection (9).

PART IV – TARIFFS

Tariffs and terms and conditions of service

18. The Authority may, in accordance with the provisions of Regulatory Authority Act, determine, review, approve, modify or refuse the tariffs and the terms and conditions of service provided by licensees, except as otherwise provided in this Act.

Tariff principles

19. (1) The Authority shall, in determining tariffs for electricity power services under section 18,, take into account the need to –

- (a) protect consumers against monopolistic prices;
- (b) provide licensees with an opportunity to recover-
 - (i) the efficient costs of providing services, including prudently incurred capacity, transmission, fuel, operating, and maintenance costs,
 - (ii) the principal and interest on money borrowed for prudent investments and working capital, and
 - (iii) a just and reasonable profit on invested equity, sufficient to attract financing for capital improvements and new construction;
- (c) encourage efficiency in internal operations and management practices by allowing a licensee's financial returns to increase as a result of the licensee having minimized its costs of providing service, if the licensee meets all the requirements of its licence concerning the provision and quality of service;
- (d) adhere to Department of State policy relating to priority institutional consumers for electricity supply, but no Department of State policy shall prevent a licensee from exercising any right granted in its licence to disconnect service to any person for failure to meet his or her payment obligations under any contract or approved terms and conditions of service;
- (e) adhere to Department of State policy relating to subsidies to the extent that funds have been expressly made available to the licensee for that purpose within a reasonable period;

- (f) reflect cost and other appropriate differences between classes of customers and type of service, subject to applicable direct subsidies; and
- (g) provide for costs to be recovered from each customer class in proportion to the costs of serving that class.

(2) The Authority may, in imposing a condition under subsection (1), consider -

- (a) each licensee's tariff application and establish different tariffs for each customer class to reflect the quantity of peak, average or overall usage, the season, the time of day, the types of services purchased or similar parameters; and
- (b) performance-based tariffs, including value added tariffs, revenue indexing, price indexing, and other innovative tariff methodologies, if the Authority finds that the use of those methodologies is in the interest of the licensee and its consumers.

Rules for tariff applications

20. The Authority shall make rules for licensees concerning –

- (a) the evidentiary requirements for tariff applications, including audited financial information;
- (b) the time frames for tariff applications and decisions;
- (c) the procedures for customers and other interested parties to comment on tariff applications;
- (d) the procedures for the Authority to obtain additional information as necessary to evaluate tariff applications; and
- (e) refund protection for customers while decisions on tariff are pending.

Tariff
adjustments

21. (1) The Authority may require a licensee who has cost of service-based tariffs to submit an application for adjustment to rates at intervals of not less than one year from the date of issuance of the licence or of the licensee's last filed rate application, as applicable, whichever is later.

(2) Where the Authority has approved a performance-based tariff for a licensee, the Authority may require the licensee to submit an application for an adjustment to the rates at an interval of not less than seven years from the date of issuance of the licence or of the Authority approving the performance-based tariff, as applicable, whichever is later.

(3) The Authority shall consider a rate application filed by a licensee at any time if the application entails a reduction of rates or an increase due to events beyond the control of the licensee.

Commencement
of new tariffs

22. A tariff shall, if approved by the Authority, come into force ninety days after the date of submission to the Authority of the application for review and approval, subject to refund, if any, of any tariff paid before the determination of the application.

Uniform
accounting
standards

23. (1) The Authority shall establish a uniform and standardized system of accounts based on internationally accepted accounting standards which shall be used by all licensees for financial and economic reporting to the Authority.

(2) The Authority shall use the financial and economic reporting by licensees, and its own analysis using the system of accounts, as the basis for calculating tariffs.

PART V – MISCELLANEOUS PROVISIONS

Regulations

24. The Authority may, with the approval of the Secretary of State, make regulations for the better carrying out of the purposes of this Act.

Repeal of
Cap. 66:01

25. The Gambia Utilities Corporation Act is hereby repealed and regulations made under it are hereby revoked.

Transitional
provisions:
existing
operations, and
interim licences
and fees

26. (1) A person who is engaged in activities requiring a licence under this Act on the day this Act comes into force is deemed to hold an interim licence for the purposes of those activities for a period of two years, unless the interim licence is extended, modified or earlier terminated by the Authority.

(2) An interim licence shall permit an interim licensee to continue to undertake the activities requiring the licence.

(3) An interim licence is not transferable.

(4) The Authority may by rule, regulation, or order, impose such requirements on one or more interim licensees as it deems appropriate, including -

(a) the payment of interim licence fees; and

(b) any requirement the Authority may by rule, regulation, or order, or as a condition to granting a licence, impose on a licensee under this Act.

(5) The Authority may by order extend, modify, or terminate an interim licence for the purpose of effecting a re-organization of the electricity sub-sector or for the purpose of effecting an orderly transition of the electricity sub- sector under this Act.

(6) Notwithstanding the provisions of section 12, an interim licence may be modified or terminated by the Authority without regard to the performance of the interim licensee during the duration of the interim licence.

(7) The Authority may, on its own volition or application from the Department of State, licensee, or an interim licensee, establish a procedure for the extension, modification or termination of an interim licence.

(8) The Authority shall, when considering a material modification or the termination of an interim licence, give prior notice to the Department of State and the interim licensee, and provide an opportunity for the Department of State and the interim licensee to be heard.

(9) An interim licensee may, before the expiration of an interim licence, apply to the Authority for the appropriate licence, as applicable.

(10) The tariffs of interim licensees in force on the day this Act comes into force shall remain in effect until determined by the Authority, and the Authority is deemed to have determined the rate changes for each interim licensee to the same extent as the Authority may impose an interim licence fee on that interim licensee.

(11) The Authority may impose interim licence fees on one or more interim licensees and publish the licence fees applicable, but the Authority –

- (a) shall not impose interim licence fees on the basis of load forecasts;
- (b) may impose interim licence fees for any period; and
- (c) shall calculate the interim fees on such basis as the Authority reasonably determines is likely to cover its budgeted expenses for its next budget period.

OBJECTS AND REASONS

The objectives of the Bill, among others, are to –

- (a) promote the generation, transmission, supply, dispatch and distribution of electricity in The Gambia for public, domestic and industrial purposes;
- (b) set standards relative to electricity services;
- (c) promote energy efficiency and supplies;
- (d) assure sufficient and reliable electric supplies for all classes of consumers;
- (e) establish cost-effective and reliable electric supplies for all classes of consumers;
- (f) determine adequate rates, charges and fees in relation of electricity and relative methods of collection thereof for services rendered to all classes of users; and
- (g) effect a transition to a private investor controlled and operated electricity sector in which, through competition, where feasible, and regulation in non-competitive markets, prices accurately reflect the costs of efficient production, transmission, dispatch, and distribution of electricity.

The responsibility for overall policy development in the electric sector rests with the Department of State, which will, among other things, be responsible for –

- (a) establishing policies that promote an environment conducive to attracting investments in the construction and rehabilitation of the electric sector in the short, medium and long term;
- (b) promoting efficiency in the production, transmission and distribution of electricity and in the use of electricity by consumers, and creating a comprehensive electricity conservation programme for The Gambia;

- (c) monitoring and recommending policies regarding the effect on the environment of all energy activities, and incorporating national environmental protection goals in the formulation and implementation of energy programmes.

The Gambia Public Utilities Regulatory Authority is vested with the power to administer the Bill in accordance with the provisions of the Bill and The Gambia Public Regulatory Authority Act, 2001.

YAHYA A.J.J. JAMMEH
PRESIDENT OF THE REPUBLIC OF THE GAMBIA
AND SECRETARY OF STATE FOR ENERGY