

Reform of the Grenada Electricity Sector

Presentation of the Draft Electricity Supply Act, 2015
Bill and the Draft Public Utilities Regulatory
Commission Act Bill

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A Brief Recent History of the Grenada Electricity Sector and Existing Legal Framework

Electricity Sector: Recent History

The 1994 Electricity Supply Act

- Grants an exclusive licence to Grenada Electricity Services Ltd. (Grenlec) to generate, transmit, distribute, and sell electricity in Grenada
- Includes the licence as part of the Act
- Lacks incentives to increase the supply of electricity from renewable energy sources
- Results in a lack of competition in generation of electricity
- Lacks provisions to encourage greater efficiencies in supply of electricity and to foster public participation
- Grenlec is essentially self-regulating

Grenada Electricity Services Ltd. (GRENLEC)

- Incorporated on 27 September 1960, with Grenada's government as a shareholder
- Grenada's government sold 50% of shares to a subsidiary of WRB Enterprises, Inc. (USA) in 1994

Electricity Sector: Recent History

The 1994 Public Utilities Commission Act (PUCA)

- Enacted concurrently with the 1994 Electricity Supply Act
- Applies to any public utility placed under its jurisdiction
- Allows for other laws to provide sector-specific regulations
- Creates a Public Utilities Commission, but the Commission was only briefly operational
- Includes provisions and procedures for hearing complaints against rates but not for rate setting.

Motivations for Reform

■ High Electricity Prices (Relative to Rest of World)

– From January 2011 to December 2014, electricity prices varied between US \$0.50/kWh and US \$0.68/kWh (source: GRENLEC's website).

- Prices in January 2015 are down to US \$0.48/kWh.

– From 2013 to 2014, industrial sector prices in the U.S. were around \$0.07/kWh, commercial sector prices were around \$0.10/kWh, and residential sector prices were around \$0.12/kWh (source: U.S. Energy Information Administration).

■ Desire to Accelerate the Production of Electricity from Renewable Energy Sources

■ Desire to Harmonise Laws with the Anticipated Eastern Caribbean Energy Regulatory Authority (ECERA) Treaty

DRAFT ELECTRICITY SUPPLY ACT, 2015 BILL

Draft Electricity Supply Act, 2015 Bill

The Act's Seven Parts:

1. Title and Definitions
2. Role of the Minister and the Public Utilities Regulatory Commission (“PURC”); Potential Transfer of Some Functions to ECERA
3. Framework for Increasing Renewable-Energy Supply and Efficiency in Use and Production of Electricity
4. Modernised Regulatory Structure for Licensing Electricity Suppliers
5. Provisions Regarding Licensees and Fundamentals of Licensee/Consumer Relationship
6. Penalties for Violations of the Act; Liabilities and Immunities of Licensees
7. Miscellaneous and Transitional Provisions

Part II: Functions of Minister and Commission; Potential Transfer of Some Functions to ECERA

Minister's Functions

- Oversee the establishment of national electricity sector policy
- Grant, modify, extend, suspend, and revoke licences and permits
- Act as the technical regulator of the electricity sector
- Carry out other functions, duties, and powers assigned to him or her in the Act, the implementing regulations, or any licence or permit
- May establish a National Electricity Advisory Committee
 - Committee would, among other responsibilities, provide advice on the establishment and development of national electricity policy.

Part II: Functions of Minister and Commission; Potential Transfer of Some Functions to ECERA

Public Utilities Regulatory Commission's Functions

- Act as economic regulator of the electricity sector
- Set rates charged by licensees and for self-generators' supply to grid
- Enforce licensee's compliance with its licence, service quality, and rates
- Resolve consumer complaints (and complaints by the Minister under the Public Utilities Regulatory Commission Act (PURCA))

Looking Ahead to Eastern Caribbean Energy Regulatory Authority (ECERA)

- Transfer of regulatory powers to ECERA as required to give effect to Grenada's commitments under the anticipated Treaty

Part III: Increasing Supply from Renewable Energy and Efficiencies in Use and Production

Two Fundamental Principles for the Electricity Sector

1. Increase the supply of electricity from renewable energy sources
2. Foster the efficient production and use of electricity

How to Accomplish the Two Fundamental Principles

- Prioritize licences for generation of electricity from renewable energy sources or for projects that would significantly reduce the cost of electricity
- Additional Principles for Minister in Performing Functions
 - Lower the carbon footprint; liaise with the Commission to regulate effectively/efficiently; identify desired fiscal incentives; integrate self-generators from renewable resources into the national electricity system; promote energy conservation; hold specialised education programmes; recommend updates to legislative and regulatory framework; engage in discussions for the establishment of ECERA; increase participation in other electricity-related international organisations.

Part III: Increasing Supply from Renewable Energy and Efficiencies in Use and Production

National Electrical Strategy

- Establishment is discretionary with the Minister
- Initiated and updated by the Minister, after wide-ranging consultations
- May include short-, medium-, and long-term steps necessary to implement national policies and principles
- Would be made publicly available

Ensuring the Interconnection of Independent Power Producers and Self-Generators with the National Grid

- Network licensees and independent power producers and self-generators must cooperate to determine and ensure safety of and capability to connect with the national grid
 - Intent is to ensure interconnection.

Part IV: Licensing

Any person who supplies electricity to others needs a licence, except for certain self-generators.

- Licence sets out parameters for the electricity-supply activities in which licensee may engage, the nature and capacity of the service to be supplied, the licence's term, and other provisions required by the Act or deemed appropriate by the Minister.
- Self-generators go through a streamlined-permitting process, intended to ensure safety.

Minister Has Authority to Grant Licences

- Licences not to exceed fifteen years
- Two types:
 1. Generate and store electricity and sell it to a network licensee.
 2. Transmit, store, distribute, furnish, and/or sell electricity to consumers.
- Generation licence is non-exclusive; network licence may be exclusive
- Minister and Commission review the terms of the power purchase agreement between independent power producer and network licensee
- Minister determines when to use a competitive selection process for a licence

Part IV: Licensing

Licensing Procedures

Before Licence Is Issued

- Regulations will prescribe procedures and fees for licensing applications
- After application, public notice and comment period
 - Public notice after approval, too
- Commission provides the Minister, in writing, with its views on whether the licence should be granted
- Licensee may not cease operations without Minister's permission

Part IV: Licensing

Licensing Procedures (cont.)

After Licence Is Issued

- Licensee activities requiring Minister's prior consent:
 - Acquiring licence or business of other person supplying electricity; assigning or transferring rights or obligations; loaning funds to officers, directors, or large stockholders.
- Modifications permitted
 - Licensee must consent in writing and Minister must seek Commission's views.
- Extensions: Request for extension made in the last year of the licence or in accordance with the licence's terms
- Commission to enforce compliance with the licence
- Minister has authority to suspend or revoke the licence for failure to comply with licensing provisions and for fraud
- Unless revoked, the licence remains in effect for its full term
- Minister has the same authority over permits as over licences

Part V: Provisions Regarding Licensees

Licensee's Fundamental Duties

- Maintain regular, efficient, coordinated, and economical supply of electricity; facilitate use of renewable energy; comply with the terms of the licence and of the Electricity Supply Act and Public Utilities Regulatory Commission Act and the laws' implementing regulations.

Supplying Electricity

- Licensee provides electricity in its authorised areas
 - Consumer may ask in writing for a new or different supply of electricity.
 - Licensee responds in writing, and consumer's final written acceptance creates a contract.
- The Act's provisions, including the Second Schedule and regulations, govern terms and conditions of every supply of electricity to consumers
- Certain exceptions exist to the requirement that the licensee must supply electricity, such as natural disasters or the prevention of damage to the electrical system

Part V: Provisions Regarding Licensees

Electricity Rates

- Rates must be fair and reasonable and in accordance with rates fixed by the Commission, with the regulations, and with the PURCA
- Minister makes regulations determining how the Commission will set rates
 - Commission must hold public meeting once a year to explain the reasons for the previous year's rates.
- A consumer may enter into a special agreement with a network licensee with different terms for the supply of electricity from those offered to consumers in general

Part V: Provisions Regarding Licensees

Operations

- Regulations to be made governing licensees' operations of electrical systems
 - The Third Schedule provides for availability, frequency, and voltage of a network licensee's electricity supply.
 - Consumer electricity consumption is determined by a meter, and the Fourth Schedule governs a network licensee's metering of electricity.

- A network licensee (and any person with a generation and network licence) must maintain an annual and a five-year sustainability programme
 - The programme to contain data on customer service; engineering, financial and technical standards; use of renewable energy sources; benefits to consumers; expansion of the licensee's electrical system; operational and other costs, and impact of activities on the natural and social environment.

Part V: Provisions Regarding Licensees

Powers for Network Licensees

- Network licensee may erect pipes, electric lines, or other installations on or under any land
 - Requirement of notice to land owner; land owner sends objections to the Minister.
- Act includes provisions to protect electrical supply from interference
- Network licensee may erect pipes and electric lines along any road, street, or bridge in Grenada, subject to the Chief Technical Officer's satisfaction
 - Excavation and breaking up of a road, street, or bridge must be done with all deliberate speed (and, unless given consent in writing, within four weeks).
 - Licensee must repair.
- Network licensee must pay compensation for damage to property
- Government may acquire land on behalf of a network licensee for the proper and effectual exercise of a network licence

Part V: Provisions Regarding Licensees

Oversight of Licensee

■ **Government Electricity Inspector**

- Periodically inspects and tests electric lines and electrical plants; examines generation, transmission, and distribution of electricity; directs licensee or self-generator not to supply electricity to any installation that is unsafe, fails to comply with the Act, or would interfere with the efficient supply of electricity.

■ **Accounting**

- Licensee must keep proper books and accounts.
- Licensee must deliver to the Minister and Commission copies of audited financial statements and reports, as well as a report containing future projections and comparison between the past year's projection and actual performance.

■ **Inspection of Electrical Systems**

- Authorised personnel, on twenty-four-hours' notice, may enter any land to inspect the electrical system to verify compliance with the Act.

Part VI: Liabilities, Immunities, and Penalties

Liabilities and Immunities of Licensees

- Licensee: Must provide full compensation for direct damage, loss, or injury caused by willful or negligent act in the exercise of licensee's powers pursuant to the Act or a licence
- Network licensee: Must provide full compensation for direct damage, loss, or injury suffered by any consumer

Disputes Between Network Licensees and Consumers

- Commission resolves all disputes between network licensees and consumers
- The PURCA and its regulations establish the dispute procedures
- Appeals process based on section 18 of the PURCA

Part VI: Liabilities, Immunities, and Penalties

Penalties for Violations of the Following Activities:

- Unauthorised supply of electricity
- Unauthorised electric lines or other installations
- Obstruction of licensees' activities, without due cause
- Unauthorised cessation of operations by any licensee
- Unauthorised transactions
- Failing to maintain or submit sustainability programmes
- Failing to maintain or provide documents, reports, and other information
- Self-generator or key facility's failure to file a report or obtain a permit
- General Penalty
 - For any person found guilty of an offence under the Act for which no penalty is specified.
- Minister has sole power to institute proceedings for an offence, unless the Act or regulations provide differently

Part VII: Miscellaneous and Transitional Provisions

- **Grants the Minister Authority To Make Regulations**
 - Protection of consumers; technical and operational standards for supplying electricity; protection of the public and property; rates-setting; metering; environmental standards; information that licensees and self-generators must provide; licence and permit applications; grant, modification, extension, suspension, and revocation processes; maps, diagrams, schematics, and other drawings that a licensee must keep and for inspection or copying; weather-proofing equipment and systems; responses to natural disasters and emergencies affecting the electricity supply; the electricity sector's reform; fees and penalties; and any other matter necessary to establish and carry out national electricity policy.

- **Grants the Minister Authority to Give Directions**
 - General or specific directions, to (1) preserve security and operation of electrical systems and (2) mitigate effects of any civil emergency or address any matter of national security or public order.

- **Directs Minister, when carrying out the Act's provisions, to act in a manner best calculated to carry out national electricity policy, protect the environment, protect the public, and enforce the Act's provisions**

Part VII: Miscellaneous and Transitional Provisions

Registry

- Minister to establish and maintain a registry of licences and permits, as well as changes to and determinations made about licences and permits
- Registry to be open to anyone for inspection
- Provides for protection of confidential and commercially sensitive information

Amending Schedules

- Minister may amend the Schedules or eliminate a Schedule and replace it with regulations

Part VII: Miscellaneous and Transitional Provisions

Issuance of Licences on the Commencement Date

- New licences under the new Act to be issued on commencement date of Act to existing licensees
- GRENLEC → Non-exclusive licence to generate electricity and non-exclusive licence to transmit and distribute electricity
 - grants right to self-generators to supply electricity to themselves.
- Preserves existing way-leaves, rights-of-way, and easements necessary for a network licensee to carry out its licensed activities

Repeals the 1994 Electricity Supply Act

DRAFT PUBLIC UTILITIES REGULATORY COMMISSION ACT, 2015 BILL (PURCA)

General Summary of PURCA

- Repeals and replaces the 1994 Public Utilities Commission Act (PUCA)
- Is an integral part of the larger comprehensive reform of the electricity sector
- Contains references throughout to “other written laws,” to ensure that sector-specific Acts involving the new Public Utilities Regulatory Commission and the new PURCA will harmonise and be read together
- Adds many features of public utilities regulation that are not present in the 1994 PUCA

Summary of PURCA's New Features

PURCA's Additions That Are Not Present in PUCA

- Part II: Number of Commission Members; Ethics Rules; Expert Compensation
- Part III: Commission's Rate-Setting Regulations and Broader Jurisdiction; Preparation for ECERA
- Parts IV and V: Updated Penalty Provisions; New Methods To Fund the Commission

New Features of PURCA Part II

The Public Utilities Regulatory Commission may consist of either three or five members

- PUCR requires that the Commission consist of five members
- The Commission will continue to consist of members with professional expertise
- One person (if the Commission is three members) or two people (if the Commission is five members) from the general public and/or consumer organisations
- Commissioners with professional expertise may be full-time appointments

New Features of PURCA Part II

Expansion of Ethics Rules

- Prohibits fulltime Commissioners and temporary appointees from holding another position in the Government
- Prohibits fulltime Commissioners and temporary appointees, in the five years preceding appointment, from holding any senior position in a public utility under the Commission's jurisdiction
- Prohibits a Commissioner from discussing with a public utility under the Commission's jurisdiction his or her employment by the public utility
- Prohibits a Commissioner or Senior Employee or Consultant of PURC from working for a public utility for five (5) years after ceasing to be a Commissioner or Senior Employee or Consultant of PURC.

New Features of PURCA Part II

Retention of Experts and Other Professional Persons

- In addition to appointing committees, the Commission may retain experts and other professionals to report to the Commission
- Payment of experts or professionals is approved by the Minister or provided for in the Commission's budget
- Experts and professionals that the Commission retains are subject to the same conflict-of-interest rules that apply to members of the Commission
- Experts and professionals also may be retained for research purposes

New Features of PURCA Part III

Regulation of Rates

- Like the PUCA, the PURCA empowers the Commission to set rates charged by a public utility under its jurisdiction
- For the first time, the regulation of GRENLEC's rates will be under the Commission's jurisdiction
- The PURCA works in conjunction with the rate-related regulations to be issued under the Electricity Supply Act, in determining rate-setting mechanisms and procedures for the electricity sector

New Features of PURCA Part III

Broader Jurisdiction

- The PURCA broadens the Commission's jurisdiction to hear and determine any matter assigned to it under other laws and those laws' regulations
- The Commission's jurisdiction includes the ability to hear and resolve disputes between consumers and public utilities

Looking Ahead to ECERA

- Some of the Commission's functions may be transferred to a regional body with regulatory authority over the utility as provided for in any Treaty or international agreement for that purpose signed by Grenada

New Features of PURCA Parts IV and V

Updated Penalty Provisions

- Penalty provisions of the PUCA are updated (so as to keep up with inflation) to increase fines against public utilities and their directors, officers, and employees who violate the Act's requirements
- Updated fines are included for failure to furnish information, making false returns, and contravening regulations

Harmonisation with Other Laws To Avoid Duplication of Efforts

- The PURCA requires public utilities to furnish reports and other information
- Commission must coordinate with other laws to avoid an unnecessary duplication of effort by a public utility in the furnishing of information to governmental bodies

New Features of PURCA Parts IV and V

Consideration of How To Fund the Commission and Its Proceedings

- Possibility of requiring the Commission to prepare an annual operations budget to be submitted to Parliament for approval
 - In contrast to the PUCA's vague language for Parliamentary approval of funding
- Possibility of having an annual assessment on public utilities to cover operating costs, to the extent there are costs not covered by Parliament's appropriations
 - Will not exceed a small percentage of each public utility's gross revenue
- Possibility of requiring that a public utility bear any excess costs related to an investigation, proceeding, or action taken by the Commission involving that public utility.
 - Only occurs if the other sources of funding do not cover the investigation, proceeding, or action.