

BILL No. 28 of 1997

Friday, 12th September, 1997

PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana.

12th September, 1997

The following Bill which will be introduced in the National Assembly is published for general information.

F. A. Narain,
Clerk of the National Assembly.



GUYANA

BILL No. 28 of 1997

ELECTRICITY SECTOR REFORM BILL 1997

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**A BILL
Intituled**

AN ACT to provide for a regular, efficient, coordinated and economical supply of electricity and for matters incidental thereto or connected therewith.

Enacted by the Parliament of Guyana: -

A.D. 1997

PART I

PRELIMINARY

1. (1) This Act may be cited as the Electricity Sector Reform Act 1997.
- (2) This Act shall come into force on such day as the Minister may by order appoint, and different days may be appointed for different provisions of this Act.

Short title and
commencement.

Interpretation.

2. In this Act -

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- (a) "Agency" means the Guyana Energy Agency established by section 3 of the Guyana Energy Agency Act 1997;
- (b) "appointed day" means the day on which this Act, or any provision thereof, comes into force in accordance with section 1(2);
- (c) "authorised area" means the geographical area within which a public supplier is authorised to supply electricity as set forth in a licence granted under section 4 or an exemption granted under section 3 to that public supplier;
- (d) "capital cost", in relation to any rural electrification agreed to by the Minister and a public supplier, means the cost of planning, erecting, installing and otherwise putting in place the works necessary to carry out the rural electrification and the capitalised value of any expenses likely to be incurred in maintaining such works to the extent that such expenses will not be recoverable by the public supplier as part of the rates to be charged by the public supplier for his supply of electricity to the public;

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- (e) "Commission" has the same meaning as in section 3 of the Public Utilities Commission Act 1997;
- (f) "competitor" or "competition", in relation to any licensee, means respectively any person other than the licensee, or the activities of any such person, authorised by a licence granted under section 4 or an exemption granted under section 3 to supply electricity;
- (g) "consumer" means any owner or occupier of premises to which a public supplier supplies, or has been requested to supply, electricity, or whose premises are connected, directly or indirectly, with any electric line or other electrical apparatus or installation of a public supplier through which electricity is, or is capable of being, supplied;
- (h) "independent power producer" means any person who generates electricity for the purpose of selling it to another public supplier for transmission, distribution or sale to consumers;
- (i) "licensee" means any person authorised by a licence granted under section 4 or an exemption granted under section 3 to supply electricity;
- (j) "local Government authority" has the same meaning as in section 5 of the Interpretation and General Clauses Act;
- (k) "Minister" means the Minister to whom the administration of this Act has been assigned;
- (l) "premises" means any land or any building or other erection wherever situated;

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- (m) "private purposes" means the supplying of electricity by any person to himself or any other person, or to premises, other than for public purposes, specified in a licence granted under section 4 or an exemption granted under section 3;
- (n) "private supplier" means any person who supplies electricity for private purposes;
- (o) "public supplier" means any person who supplies electricity for public purposes, which includes an independent power producer;
- (p) "public purposes" means supplying electricity to consumers within an authorised area specified in a licence granted under section 4 or an exemption granted under section 3;
- (q) "rural electrification" means the supply of electricity to any premises located, or to any geographical area whose nearest boundary lies, one mile or more from an existing electrical line of a public supplier;
- (r) "shares" means the ordinary shares and preference shares representing the equity capital of a public supplier;
- (s) "Strategic Investor" means a company or consortium that invests in the Guyana Electricity Corporation, Inc. pursuant to a Share Subscription Agreement and a Shareholders Agreement between the Government and such company or consortium;
- (t) "supplier" means any person supplying electricity;
- (u) "supply", whether used as a noun or a verb, includes the generation, storage, transmission, distribution, furnishing or sale of electricity;
- (v) "sustainability programme" means both an annual and a rolling five-year plan which set out, in the detail required under section 38, the manner in which a public supplier is to achieve and sustain the customer service, engineering and technical standards necessary for an efficient, co-ordinated and economical supply of electricity under a licence granted to such public supplier under section 4 or an exemption granted to such public supplier under section 3, and such programme is equivalent to a development and expansion programme under the Public Utilities Commission Act 1997;
- (w) "undertaking" means the assets and liabilities relating to the business of a public supplier;
- (x) "works" means land, buildings, machinery, equipment, inventory, electric lines, poles, apparatus, fittings, appliances, and any other matter, thing, right, interest or property, including movable, tangible and intangible property and intellectual property rights, owned or leased by a person and used by him, directly or indirectly, to supply electricity.

PART II

ELECTRICITY SUPPLY

Requirement for a licence and exemption therefrom.

3. (1) Subject to subsection (2), a person shall not supply electricity to himself or to any other person, or to any premises or geographical area, except under and in accordance with the terms of a licence granted under section 4.
- (2) Subsection (1) shall not apply to the use of or supply of electricity from any electricity generation capacity which -
- (a) was installed prior to the appointed day and which is used by a person for the principal purpose of supplying electricity to himself or for the sole purpose of supplying electricity at such times as there is a temporary interruption in the supply of electricity under a licence;
 - (b) is installed after the appointed day and is used to supply electricity, at such times as there is a temporary interruption in the supply of electricity under a licence, to hospitals, health care centers, the Guyana Defence Force, the Police Force, the Fire Service and other essential or emergency services as may be prescribed by the Minister by order;
 - (c) is installed in any vehicle, vessel or aircraft for the sole purpose of supplying electricity to that vehicle, vessel or aircraft;
 - (d) is, notwithstanding the repeal of the Electric Lighting Act, authorised by a licence issued prior to the appointed day under the said Act;
 - (e) is authorised by a licence issued prior to the appointed day under any law remaining in force on that day; or
 - (f) is electricity generation capacity of a class or description as may be prescribed by the Minister by order for the purposes of exempting it from subsection (1):

Provided that no order issued under paragraph (f) may contravene or nullify the provisions of a licence issued under section 4:

Provided further that, as to electricity generation capacity and equipment actually installed and in operation prior to the appointed day, the exemptions contained in this subsection shall not apply to any new or replacement electricity generation capacity or equipment sought to be installed or placed into operation after the appointed day.

- (3) (a) With regard to any electricity generation capacity which was installed prior to the appointed day, any person claiming an exemption under this section shall, within ninety days of the appointed day or within such longer period as the Minister may by

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order prescribe, give written notification to the Minister of such claim and the basis therefor in accordance with subsection (2).

- (b) With regard to any electricity generation capacity which a person is desirous of installing after the appointed day, any person claiming an exemption under subsection (2)(b), (c) or (f) shall, within ninety days prior to such installation, give written notification to the Minister and to the Agency of such claim, the basis therefor in accordance with such subsection (2)(b), (c) or (f), and the technical specifications of the electricity generation equipment which such person is desirous of installing.
- (c) The failure of a person to give notification to the Minister under paragraph (a) or (b), or to the Agency under paragraph (b), shall subject such person to the penalties provided for in section 53.
- (d) Within twenty-one days after receiving notification from any person under paragraph (a) or (b) and after consulting with the Agency in the case of notifications under paragraph (b), the Minister shall notify such person whether, in the Minister's opinion, such person qualifies for the exemption claimed, and, if so, grant the exemption claimed.

4. Subject to the provisions of this Act, the Minister may grant a licence, which may be an exclusive licence, authorising any person to supply electricity, for public or private purposes and for a period not to exceed twenty-five years, upon such terms and conditions as may be specified in the licence:

Authority to issue licences for supply of electricity

Provided that the Minister shall not grant a licence to an applicant for the supply of electricity for private purposes within an authorised area within which a public supplier has an exclusive licence to supply electricity unless the Minister, after consultation with such public supplier, is first satisfied that the regular and efficient supply of electricity by that public supplier to the applicant, or to any other person that the applicant proposes to supply with electricity, is not then or in the foreseeable future readily available on reasonable terms, and, if granted by the Minister, such licence shall be valid only for the term during which it is foreseeable that such public supplier will not be able to make electricity readily available to the private supplier on reasonable terms:

Provided further that, prior to granting a licence to an independent power producer for the generation of electricity, the Minister shall be satisfied -

- (a) that the governing bodies of both the independent power producer and the public supplier to which the independent power producer proposes to sell electricity for transmission and distribution to consumers have approved the terms and conditions upon which such electricity will be purchased by the public supplier, and such terms and conditions insofar as they relate to rates have further been approved by the Commission; and
- (b) that the terms and conditions so approved are commercially prudent and viable, enhance the system-wide capacity, reliability and efficiency of the public supplier, and are compatible with national energy policy:

Provided further that, subject to the terms of a public supplier's licence, the Minister may authorise the public supplier to purchase electricity from an independent power producer for resale to the public.

Terms and conditions of licences to supply electricity.

5. A licence issued by the Minister under section 4 may include -
- (a) the activities in which the licensee is permitted to engage, that is, the generation, storage, transmission, distribution, furnishing or sale of electricity;
 - (b) such limits within which, and conditions under which, electricity is to be supplied;
 - (c) in the case of a licence for the supply of electricity for public purposes, the authorised area within which the public supplier may supply electricity;
 - (d) in the case of a licence for the supply of electricity for private purposes, the person or persons, or the premises, to which the licensee may supply electricity;
 - (e) provisions for enforcing the performance by a licensee of his duties in relation to the supply of electricity by the imposition of fines and penalties, and for the revocation of the licence;
 - (f) the limitation on, or a mechanism for the calculation of, the prices to be charged by the licensee for the supply of electricity from time to time;
 - (g) provisions authorising inspection and inquiry from time to time by the Minister and the relevant local Government authorities;
 - (h) conditions requiring the licensee to render payment on the granting of the licence, or payments during the validity of the licence, or both, in such amounts as may be specified in the licence;
 - (i) where, in any area or part of an area in which any person is authorised to supply electricity under any licence, the person is not himself the local Government authority, any provisions and restrictions deemed expedient by the Minister for enabling the local Government authority within whose jurisdiction that area or part of an area is, to exercise any of the powers of the person licensed under section 4 with respect to the breaking up of any street repairable by that local Government authority within the area or part of an area and the alteration of the position of any pipes or wires under the street, and not being the pipes or wires of the licensed person, and for limiting the powers and liabilities of the licensed person in relation thereto;
 - (j) provisions granting the Government or, in any licence in which the licensee is not a local Government authority, a local Government authority a right of first refusal for the purchase of the undertaking and works of the licensee, and the procedures and principles governing such a purchase, upon expiration, revocation or termination of the licence;
 - (k) any other provisions relevant to the undertaking and works of the licensee upon expiration, revocation or termination of the licence;

- (l) generally such other provisions and conditions as the Minister may think fit:

Provided that -

- (a) the Minister may make regulations necessary for the implementation of a national energy policy;
- (b) any regulations so made by the Minister, to the extent that they do not contravene the terms and conditions of a licence, shall have the like effect in every respect as though they had been originally inserted in every licence authorising the supply of electricity; and
- (c) any such regulation repealed shall not affect any liability or penalty incurred in respect thereof prior to the date of the repeal, or any proceeding or remedy in relation thereto:

Provided further that any local Government authority within whose boundaries electricity is supplied under a licence may, subject to the prior approval of the Minister, make by-laws for further securing the safety of the public, and there may be annexed to such by-laws such penalties, not exceeding fifty thousand dollars, as the local Government authority may think necessary for any breach of the by-laws, and the aforesaid paragraph (b), in so far as it is applicable, shall mutatis mutandis apply to the making of such by-laws.

6. (1) An application for a licence shall be made in the manner, and shall be accompanied by such evidence and such fee (if any), as the Minister may by regulation prescribe.
- (2) No licence shall authorise the supply of electricity by any person within the jurisdiction of any local Government authority, not being itself the person applying for the licence to supply electricity, unless notice that that licence has been, or is intended to be, applied for has been given to the local Government authority by the applicant in the manner directed or approved by the Minister.
- (3) Every person applying for a licence shall, at his own expense, publish in a daily newspaper a notice of his application in the manner and including the particulars determined by the Minister.
- (4) The licence shall not be granted by the Minister until opportunity has been given to all parties likely to be affected by the granting or refusal to grant such licence to make representations or objections to the Minister with reference to the application, and until the Minister has requested and received the advice of the Agency in accordance with section 6 of the Guyana Energy Agency Act 1997, and in no case shall it be granted before the expiration of six weeks from the date of the first publication of the advertisement required under subsection (3).
- (5) If, after the application for the licence is made and before it is granted by the Minister, a petition is presented against its being granted, the petitioner shall be allowed to appear before the Minister and oppose its being granted.
- (6) On receipt of a petition opposing the granting of a licence or the advice of the Agency that the licence be refused, the Minister shall notify the

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for licence
applications.

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applicant accordingly and shall afford the applicant an opportunity to show cause why the licence should be granted.

- (7) Within fourteen days after the opportunity to be heard provided for in subsections (4) to (6), inclusive, the Minister, bearing in mind the guidelines specified in section 65, shall make a determination whether to grant or refuse the licence, and shall promptly notify the applicant of his determination.

Notice of granting of licence.

7. As soon as practicable after granting a licence, the Minister shall publish a notice of such grant in a daily newspaper and shall send a copy of the licence to the Agency, to the Commission and -
- (a) to the licensee;
 - (b) in the case of a licence for the generation of electricity by an independent power producer, to any licensee whose authorised area encompasses the area in which the independent power producer is authorised to generate electricity and to any licensee to whom the independent power producer is authorised by his licence to sell electricity;
 - (c) in the case of a licence for the supply of electricity for private purposes, to any licensee in whose authorised area the persons or premises to which the person is authorised to supply electricity for private purposes are located.

Disposition of charges for licences.

8. Any sums received by the Minister for applications for licences or in accordance with the provisions of any licence shall be paid into the Consolidated Fund.

Power to grant licences to local Government authorities.

9. Subject to this Act, a licence may be granted to a local Government authority, authorising it to supply electricity within any area not already being the authorised area in an exclusive licence granted to a public supplier, although the area or some part thereof may not be included within the local Government authority's own district.

Effectiveness of licences.

10. A licence shall be in writing and, unless revoked in accordance with any condition contained in the licence and section 16, shall continue in force and effect in accordance with its terms and conditions for such period as may be specified in the licence.

Prohibition on cessation of licensed operations.

11. Except where a licence expires or is revoked, suspended, cancelled or terminated in accordance with its conditions, no public supplier shall cease its operations or any part thereof without first obtaining the permission of the Minister and the Commission.

Activities requiring previous consent of the Minister.

12. The following conditions shall be included in every licence granted and shall be deemed to have been agreed upon by the licensee -
- (a) (i) a licensee shall not, without the previous consent in writing of the Minister, acquire, by purchase or otherwise, the licence or the business

of, or for the purpose of supplying electricity associate himself with, any person supplying, or intending to supply, electricity under any other licence;

- (ii) before applying for such consent, the licensee shall give not less than one month's notice of his intention to apply for such consent to the Agency, and the Agency may present its views, orally or in writing, to the Minister on the proposed acquisition or association within thirty days of the licensee's notice:

Provided that nothing in these conditions shall be construed as requiring the consent of the Minister for the purchase of electricity by a public supplier from an independent power producer licensed under this Act to sell electricity to such public supplier;

- (b) a licensee shall not assign or encumber his licence, or transfer, or divest himself of, his rights or obligations under a licence, or any part thereof, without the previous consent in writing of the Minister;
- (c) no public supplier may, without the previous consent in writing of the Minister, lend funds or give credit to any of its officers or directors or to any company (except a public supplier subject to the regulatory powers of the Minister) if the corporation holds, directly or indirectly through any chain of ownership, five percent or more of the voting stock of the public supplier or renders any managerial, supervisory, engineering, legal, accounting or financial service to the public supplier, by -
- (i) becoming surety, guarantor or endorser upon any obligations, contingent or otherwise, of such officer, director or company,
- (ii) loaning funds, securities or other like assets to such officer, director or company,
- (iii) purchasing in the open market, or otherwise, any obligation upon which the officer, director or company may be liable solely or jointly with others;
- (d) any agreement relating to any transaction of the nature described in this section, unless made with or subject to the consent of the Minister, shall be void;
- (e) unless otherwise provided by the Minister in writing, this section shall extend to the renewal or extension of agreements existing on the appointed day.

- 13 (1) Subject to the first and second provisos to section 5 and this section, the Minister, after seeking the Agency's advice, may modify the terms and conditions of a licence if the holder of the licence consents to the modifications in writing
- (2) Before concluding any modifications to which the Minister and the licensee have agreed, the Minister shall give notice -
- (a) stating that he proposes to make such modifications and setting out their effect;

Modifications
of licences

- (b) stating the reasons why he proposes to make the modifications; and
- (c) specifying the period (not being less than thirty days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made.

- (3) A notice under subsection (2) shall be given by publishing it in a daily newspaper.

Extensions of licences.

14. (1) The Minister, upon the application of any licensee, may grant an extension of the licence for a period not exceeding fifteen years, at any time within one year previous to the expiry of the licence or any extension thereof or in accordance with the terms of the licence governing extensions, as the case may be.
- (2) Section 13(2) and (3), governing the procedure for modifications of licences, shall apply mutatis mutandis to proceedings for extensions under this section.
- (3) Subject to subsection (2) and within three months of receiving an application for an extension of a licence, the Minister shall determine whether to extend the licence and, within the same three month period, shall serve a notice of his determination upon the licensee.

Securing compliance with conditions of licences.

15. (1) Where the Minister is satisfied that a licensee has contravened or is likely to contravene a condition of his licence, he may, by notice in writing served on the licensee, require the licensee, within such period as shall be specified in the notice -
- (a) to take such steps as the Minister considers necessary to secure compliance with that condition or to avoid the likely contravention of that condition and, where there is a contravention of a condition, to make good any loss or damage in consequence of the contravention of that condition;
- (b) to lodge with the Accountant General such security as shall be specified in the notice for the due observance of that condition
- (2) A notice under subsection (1) shall state the relevant condition of the licence in respect of which it is to be served and the acts or omissions which, in the opinion of the Minister, constitute or are likely to constitute a contravention of that condition, and such notice shall be effective upon service on the licensee.

Suspension and revocation of licences.

16. (1) Subject to subsections (2) and (3), the Minister, in addition to the exercise of any power expressly conferred on him by a licence to suspend or revoke the licence, may, by notice in writing served on a

licencee in accordance with the terms of his licence or section 67, as the case may be, suspend or revoke the licence on any of the following grounds -

- (a) in the case of a licence for the supply of electricity for public purposes, that the licensee, in the opinion of the Minister, is not providing consumers in his authorised area with a regular and efficient supply of electricity in accordance with the provisions of this Act and the licence;
 - (b) in the case of a licence for the supply of electricity for private purposes, that the licensee is using the electricity supply facilities in a manner not authorised by the terms and conditions of his licence or in a manner that is constituting, or is likely to constitute, a nuisance;
 - (c) that the licensee has contravened, or failed to carry out within a reasonable time or discontinued the performance of, the terms or conditions of his licence, or has contravened the provisions of this Act or regulations made thereunder, or is supplying electricity in a manner not authorised by his licence;
 - (d) that the licensee has failed to pay any sum due and payable under the licence to the Accountant General and, after written notice, for a period of thirty days has not cured such failure;
 - (e) that the licensee has become bankrupt or compounds with his creditors or, in the opinion of the Minister the licensee's financial position causes him to be unable fully and efficiently to discharge the duties and obligations imposed on him by his licence;
 - (f) that the licensee has failed to comply with a notice under section 15(1) or an order of the High Court under section 18(4)(b) for securing compliance with any condition of the licence; or
 - (g) that the licence was obtained by fraud
- (2) Before serving a licensee with a notice of suspension or revocation under subsection (1), the Minister shall serve on the licensee a notice in writing and publish the notice in a daily newspaper, stating -
- (a) that he is considering serving a notice of suspension or revocation on the licensee on the grounds specified under subsection (1); and
 - (b) that the licensee and any person likely to be affected by a suspension or revocation may, within the period of thirty days from the date of the service of such notice on the licensee, make written and, if the licensee or affected person so desires, oral representations to the Minister.
- (3) The Minister shall consider any representations made by a licensee and any person likely to be affected by a suspension or revocation in response to a notice under subsection (2) before serving a notice of suspension or revocation of the licence.

- (4) After serving a notice of suspension or revocation in respect to a public supplier's licence, the Minister shall publish notice of it in a daily newspaper and in such other way as appears to him expedient for notifying consumers in the authorised area to which the licence relates.
- (5) A notice of suspension or revocation shall be effective on the expiration of thirty days from the date of service of the notice.
- (6) In addition to giving a notice of the suspension or revocation of a licence under this section, the Minister may impose such penalties upon the public supplier to whom such notice is given, such penalties not exceeding twenty-five percent of the value of the public supplier's undertaking as determined under section 19(3)(c).

Considerations for giving a notice of compliance, suspension or revocation.

- 17. With regard to any notice contemplated under section 15(1) or section 16(1), the Minister shall not give such notice to a licensee if he is satisfied -
 - (a) that the duties imposed on him by section 65 preclude the giving of the notice;
 - (b) that the licensee has agreed to take and is taking all such steps as it appears to the Minister to be appropriate for the licensee to take for the purpose of curing the contravention, failure or violation in question; or
 - (c) that the contravention, failure or violation in question is of a trivial or immaterial nature.

Appeal procedures.

- 18. (1) A licensee may appeal to the High Court against a notice under section 15(1) or section 16(1).
- (2) An appeal under subsection (1) shall be instituted by a licensee within the period of fourteen days from the effective date of the notice under section 15(2) or 16(5).
- (3) The Attorney General shall be the respondent to every appeal brought under subsection (1).
- (4) On an appeal brought under subsection (1), the High Court may, by order -
 - (a) quash or confirm the notice against which the appeal is brought, or
 - (b) where the notice is a notice under section 15(1), vary the requirements imposed by the notice;
 - (c) where the notice is a notice under section 16(1) and the High Court is satisfied that the appellant has contravened or is likely to contravene any of the conditions of his licence, but that such contravention does not warrant suspension or revocation of the licence, quash the notice and order the appellant -
 - (i) to take such steps as the High Court considers necessary to secure compliance with that condition and to make

good any loss or damage in consequence of a contravention of that condition;

- (ii) to lodge with the Accountant General such security as shall be specified in the order for the due observance of that condition.

19. (1) Unless otherwise provided in the licence of a public supplier, where the Minister declines to extend the term of the licence of the public supplier under section 14 or revokes the licence of the public supplier under section 16, and after any appeal by the public supplier of such decision by the Minister has been finally determined confirming the Minister's decision, the following provisions shall have effect, namely -

Purchase of undertaking

- (a) for a period of twenty-one days following the Minister's service of his decision or the final determination of an appeal upholding the Minister's decision, the Government shall have a right of first refusal to purchase the undertaking of the public supplier and, if the Government elects to purchase such undertaking, it shall, by written notice given to the public supplier within ten days of the expiration of the aforesaid twenty-one days of the Government's decision to effect such purchase, require the public supplier to sell his undertaking to the Government at a price to be determined and paid in accordance with subsection (3);
- (b) if the Government does not elect to purchase the undertaking of the public supplier and if any other person is willing to purchase such undertaking, the Government may, by notice in writing given to the public supplier within ten days of the expiration of the aforesaid twenty-one days of the Government's decision not to effect such a purchase, require the public supplier to sell his undertaking to such other person at a price to be determined and paid in accordance with subsection (3);
- (c) where the Government issues any notice under paragraph (b) requiring a public supplier to sell his undertaking, it may by such notice require the public supplier to deliver, and thereupon the public supplier shall deliver on the date specified in the notice, his undertaking, including all works, to the designated purchaser pending the determination and payment of the purchase price of the undertaking in accordance with subsection (3):

Provided that in any such case, the purchaser shall pay to the public supplier interest at the prevailing rate payable by commercial banks at the time of delivery, plus one percent per annum, on the purchase price of the undertaking for the period from the date of delivery to the date of payment of the purchase price;

- (d) where no notice has been issued under this subsection requiring a public supplier to sell his undertaking or where for any other reason no sale of the undertaking has been effected under this section, the public supplier shall have the option of selling or

otherwise disposing of his undertaking in such manner and at such price as he may think fit:

Provided that, if the public supplier does not exercise such option within thirty days from the expiration of the ten day period hereinbefore referred to in this subsection, the Government may forthwith cause the works of the public supplier on, in, under, over, along, or across any land or street to be removed and every such street to be reinstated, and may recover the cost of such removal and reinstatement from the public supplier.

- (2) Unless otherwise agreed to by the public supplier and the purchaser, and with the consent of the Minister in instances in which the Government is not the purchaser, where the undertaking of a public supplier is sold under subsection (1)(b), then upon the completion of the sale or on the date on which the undertaking is delivered to the intending purchaser under subsection (1)(c) -
- (a) the undertaking, including title or leasehold to all works and the liabilities of the undertaking, shall vest in the purchaser or the intending purchaser, as the case may be;
 - (b) the rights, powers, authorities, duties and obligations of the public supplier under his licence shall stand transferred to the purchaser, with any modifications that may be agreed between the purchaser and the Minister in accordance with section 13, and such purchaser shall be deemed to be the licensee:

Provided that where the undertaking is sold or delivered to the Government, the licence shall cease to have further operation.

- (3) The following provisions shall have effect as to the determination and payment of the purchase price for the undertaking of a public supplier pursuant to this section, namely -
- (a) where, after the revocation of a public supplier's licence under section 16, the undertaking of the public supplier is sold to the Government under subsection (1)(a) or to a person designated by the Government under subsection (1)(b), the purchase price to be paid by the Government or such person designated by the Government, as the case may be, shall be the fair market value of the undertaking, determined and paid in accordance with paragraphs (c) to (f), inclusive;
 - (b) within ten days after the Government's service of a notice upon a public supplier under subsection (1)(a) or (b), the Government, or the purchaser designated by the Government under subsection (1)(b), as the case may be, and the public supplier shall agree upon an independent and qualified valuator to determine the fair market value of the undertaking;
 - (c) the valuator appointed under paragraph (b) shall prepare and submit a report on the fair market value of the shares and submit copies of the same to the public supplier, the shareholders or other owners of the public supplier's undertaking, the Minister, and, if

the Government has designated a purchaser, to such designated purchaser;

- (d) the expenses incurred in determining the fair market value of an undertaking under the procedure set forth in paragraph (c) shall be borne by the public supplier and the purchaser of the undertaking equally;
 - (e) for purposes of this section, "fair market value" means, and shall be determined as, the value of the net assets sold, whether of the various equity shares of the undertaking or of the undertaking itself, in an open and unrestricted market immediately prior to the Minister's service of notice of the revocation or non-extension of the licence, and determined without reference to any minority interests that may exist or any controlling shareholders so as to provide a comprehensive value, and determined with reference to the capitalization of future earnings of the undertaking on a going concern basis or with reference to the net fair value of the undertaking's assets and liabilities;
 - (f) the purchase price for the sale of the undertaking of a public supplier shall be determined and paid in full to the public supplier within such time and in such manner as may be agreed upon between the public supplier and the purchaser and, where there is no such agreement, no later than twelve months after the Minister's service of written notice upon the public supplier under subsection (1) requiring such public supplier to sell his undertaking to the Government or to a person designated by the Government, as the case may be
- (4) Any difference or dispute regarding the determination and date for payment of a purchase price or any other matter arising under this section shall be determined by arbitration in the manner provided in section 64 (2)

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- (1) It shall be the duty of a public supplier to develop and maintain an efficient, co-ordinated and economical system of electricity supply, and to facilitate the use of new and renewable and alternate sources of electricity generation wherever commercially feasible.
- (2) Subject to section 46, in the case of a public supplier whose licence does not provide, either during the entire term of the licence or for any part of that term, for the exclusive right or a right of first refusal to generate electricity in an authorised area and whose licence authorises the transmission, distribution and sale of electricity, it shall be the duty of such public supplier to facilitate competition in the generation of electricity.
- (3) Except as otherwise provided in a licence granted under section 4 or an exemption granted under section 3, a public supplier may, in the course of its supply of electricity, locate and operate, outside its authorised area, its generating or power stations and any other facilities as it may consider necessary for providing the supply of electricity within its authorised area as required by the terms of its licence

General
powers
and duties
of licencees

- (4) Subject to the provisions of this Act, of any regulations made thereunder, and of any licence granted under this Act, a public supplier may, for the purpose of supplying electricity under its licence, acquire lands by agreement, construct works, acquire licences for the use of any patented or protected processes, inventions, machinery, apparatus, methods, materials, or other things, enter into contracts, and generally do all acts and things necessary and incidental to those authorised purposes.
- Supply of electricity by public suppliers.
21. Subject to the provisions of this Act and any regulations made thereunder, a public supplier shall, upon being requested to do so by the owner or occupier of any premises (hereinafter referred to as a "consumer") within such public supplier's authorised area -
- (a) provide a supply of electricity to those premises; and
 - (b) provide electric lines, meters and other apparatus as are necessary to supply electricity to the point of entry to those premises.
- Notice of requirement of a supply of electricity.
22. Where any consumer requires a supply of electricity as provided in section 21, he shall give to the public supplier a notice in writing specifying -
- (a) the premises for which the supply is required;
 - (b) the day on which the supply is required to commence;
 - (c) the maximum power which may be required at any time; and
 - (d) the minimum period for which the supply is required to be given.
- Contract for supply of electricity.
23. Where a public supplier receives a notice from a consumer under section 22, the public supplier shall give to that consumer a notice that -
- (a) states the extent to which the proposals specified in the consumer's notice are acceptable to the public supplier and specifies any counterproposals made by the public supplier;
 - (b) states whether the rates to be charged by the public supplier will be determined under sections 26 to 28, inclusive, or by a special agreement between the public supplier and the consumer under section 29, and specifies the rates to be charged or the proposed terms of the agreement;
 - (c) specifies any payment which that consumer will be required to make for the public supplier's provision of electric lines, meters or other apparatus as permitted under section 26(4);
 - (d) specifies any security deposit which the consumer will be required to give under section 28;
 - (e) specifies any other terms which that consumer will be required to accept under section 25 and the Third Schedule; and
 - (f) states the procedures for the resolution of any disputes between the public supplier and the consumer as provided for in Part X of the Public Utilities Commission Act 1997,
- Third Schedule
- No. of 1997

and the written acceptance of such notice by the consumer requiring a supply of electricity and the public supplier's supply of electricity pursuant thereto shall constitute a contract between such consumer and the public supplier for the supply of electricity in accordance with this Act and any regulations made thereunder.

24. Nothing in this Act shall require a public supplier to supply electricity to any premises if and to the extent that -
- (a) the public supplier is prevented from doing so by circumstances not within his control;
- (b) the public supplier might or would be in breach of this Act, the regulations made thereunder, or of the licence granted to him, and he has taken all reasonable steps to prevent such breach or violation; or
- (c) it is not reasonable in all the circumstances for the public supplier to be required to do so.
25. A public supplier may require any consumer who requests a supply of electricity to accept in respect of the supply any restrictions that must be imposed for the purpose of enabling the public supplier to comply with this Act, the regulations made thereunder, and the terms of the licence issued to him.
26. (1) Subject to the provisions of this Act, the rates to be charged by a public supplier for the supply of electricity by him shall be in accordance with such rates as may be fixed from time to time by the Commission in accordance with this Act and the Public Utilities Commission Act 1997
- (2) Subject to section 29, the rates to be charged by a public supplier shall not show undue preference for, or unduly discriminate against, any consumer or class of consumers similarly situated:
- Provided that different rates may be prescribed for different classes of consumers, whether by reference to the different purposes for which electricity is supplied, the different times of the day at which electricity is supplied, the different areas of supply or different parts of such areas, the extent to which the supply of electricity is taken up, or to any other relevant circumstance.
- (3) Subject to section 27, a rate for the supply of electricity by a public supplier, fixed by the Commission under subsections (1) and (2) and the Public Utilities Commission Act 1997 -
- (a) shall be disclosed in such a manner as to show the methods or formulae by which and the principles on which the charges are to be made as well as the prices which are to be charged;
- (b) shall be published in a daily newspaper;
- Exceptions to
requirement
to supply
electricity
- Power to
require
acceptance of
restrictions
upon supply
of electricity.
- Rates for
the supply of
electricity:
general
provisions.
No of 1997

- (c) may include a standing charge in addition to the charge for the actual electricity supplied;
- (d) may include a charge in respect of the availability of a supply of electricity and may vary to the extent that the supply is taken up;
- (e) may include a rent or other charge in respect of any electricity meter or other electrical apparatus or fitting provided by the public supplier on the premises to which he supplies electricity; and
- (f) may include an adjustment for increases in the cost of fuel.

Third Schedule

- (4) Subject to the Third Schedule, where any electric line or other electrical apparatus is provided by a public supplier pursuant to a request by any consumer for a supply of electricity, the public supplier may require any expenses reasonably incurred in providing such supply of electricity to be defrayed by the consumer requiring the supply.

Rates
for the
supply of

- 27. (1) For a period of one year from the appointed day, the rates to be charged by the Guyana Electricity Corporation, Inc., for the supply of electricity, shall be those specified in the Second Schedule.

Electricity:
Guyana Electricity
Corporation, Inc.
Second Schedule

First Schedule

- (2) After the period of one year from the appointed day, the First Schedule and the licence document issued by the Minister to the Guyana Electricity Corporation, Inc. under section 42(4)(b) shall govern the rates for the supply of electricity for existing and new services at any time charged and to be charged by the Guyana Electricity Corporation, Inc., and the mechanisms, formulae, principles and procedures whereby such rates shall be calculated and determined for all purposes under this Act and the Public Utilities Commission Act 1997.

No. of 1997

Power to
require security
for the payment
of sums due
for the supply
of electricity.

- 28. (1) Subject to this section, a public supplier may require any consumer who requests a supply of electricity to give reasonable security for the payment of any sums which may become due in respect of the supply or any electric line or other electrical apparatus provided by the public supplier, and if such consumer fails to give such security, the public supplier may, if he thinks fit, refuse to provide the supply of electricity or such electric line or other electrical apparatus.
- (2) Where any consumer has not given the security provided for in subsection (1), or where the security given by any consumer has become invalid or insufficient -
 - (a) the public supplier may by notice require that consumer, within ten days of the date of the notice, to give the public supplier reasonable security for the payment of any sum which may become due to him in respect of the supply; and

- (b) if that consumer fails to give such security the public supplier may, if he thinks fit, discontinue the supply for so long as the failure continues:

Provided that any notice given by a public supplier under this subsection shall include an explanation of the dispute resolution procedure provided for in Part X of the Public Utilities Commission Act 1997.

No. of 1997

- (3) Where any security is deposited with a public supplier in accordance with this section, the public supplier shall pay compound interest thereon at the rate of seven percent per annum:

Provided that no interest shall be payable by a public supplier under this subsection or under the Public Utilities Commission Act 1997 on any sum held by the public supplier for a period of less than six months.

No. of 1997

- (4) A security deposit shall be returned to the consumer who made it on the termination of the supply of electricity by the public supplier, subject to any deduction therefrom of any amounts due to the public supplier by that consumer.

- (5) A public supplier shall not be entitled to require security under this section if -

- (a) the consumer requiring the supply is prepared to take the supply through a pre-payment meter; and
 (b) it is reasonably practicable in all the circumstances, including the risk of loss or damage, for the public supplier to provide such a meter

29. (1) Notwithstanding anything in sections 21 to 28, inclusive, and the Third Schedule, a consumer who requires a supply of electricity may enter into a special agreement with a public supplier for the supply on such terms as may be specified in the agreement, and, upon approval by the Commission of such special agreement pursuant to section 40(2) of the Public Utilities Commission Act 1997, the public supplier may demand and receive money from such consumer in accordance with the terms of the special agreement

Special agreements for the supply of electricity Third Schedule No. of 1997

- (2) So long as a special agreement concluded and approved in accordance with subsection (1) is effective, the rights and liabilities of the parties to the agreement shall be those arising under the agreement and, to the extent that sections 21 to 28, inclusive, and the Third Schedule conflict with the terms of the agreement, the special agreement shall prevail.

Third Schedule

- (3) Any consumer who is a party to a special agreement with a public supplier under this section may give the public supplier a notice under section 22 requesting that, on the day on which the special agreement ceases to be effective, the public supplier commence providing such consumer with a supply of electricity in accordance with sections 21 to 28, inclusive.

Regulations for the supply of electricity to the public.
Third Schedule

Technical standards and powers applicable to public suppliers.

Acquisition of lands.
Cap 62:05.

30. The provisions of sections 21 to 29, inclusive, the Third Schedule and the regulations made under this Act shall have effect, subject to such restrictions, exceptions, modifications and conditions as may be included by the Minister in a licence, in relation to every licence granted to a public supplier under this Act.
31. North American technical standards shall apply to every licence granted under this Act, subject to such restrictions, exceptions, modifications and conditions as may be included by the Minister in a licence or embodied in regulations made under this Act.
32. (1) The Minister may in accordance with the Acquisition of Lands for Public Purposes Act compulsorily acquire land for and on behalf of a public supplier for the purpose of the proper and effectual exercise of a licence granted to the public supplier under section 4.
- (2) In order for the Minister to proceed under subsection (1), the public supplier shall expressly request the Minister to acquire the land, satisfying the Minister from documentary evidence, including plans and studies that the land is required so that the public supplier may adequately fulfill the conditions of his licence.
- (3) The Minister shall not proceed to acquire land under this section unless he is satisfied that the public supplier is able to make prompt payment to any person entitled to compensation for the land in consequence of such compulsory acquisition, of a sum which represents the fair market value of the land, where upon the land being vested in the State the land is transferred by deed to the public supplier by the Minister.
- (4) The Minister shall not acquire land under this section if the land belongs to another public supplier and is being used for the purpose of an installation necessary to carry on activities authorised by such other public supplier's licence, or it appears to the Minister that the land will be so used by such other public supplier and that the use will commence within the period of five years beginning with the proposed date of the commencement of the acquisition.
- (5) Where land is acquired under this section and the land is not used for the purpose for which it is acquired within a period of one year from the date of its transfer to the public supplier by the Minister under subsection (3), the Minister shall have the authority to re-vest by deed of transfer the land in the proprietor from whom it was compulsorily acquired subject to the refund of the compensation, and subsection (6) shall mutatis mutandis apply in relation to the revesting of the land as it applies on the transfer to the public supplier.
- (6) Where land is transferred to a public supplier under subsection (3), the land shall vest in the public supplier from the date of such transfer and -
- (a) a notice to that effect shall be published in the Gazette;
- (b) the deed of transfer shall be treated for all purposes as if it were a transport or other document effecting the conveyance of

immovable property, and the Registrar of Deeds shall take due notice thereof and shall make such annotations on the records as may be necessary, including an annotation that the public supplier shall not dispose of such land or any interest or right in or over it, except with the written consent of the Minister.

- (7) A public supplier who has acquired any land by virtue of this section shall not dispose of that land or of any interest in or right over it except with the consent of the Minister.
- (8) Subject to the preceding subsections, the Acquisition of Lands for Public Purposes Act, shall apply mutatis mutandis in relation to the acquisition of lands under this section as they apply in relation to an acquisition wholly under the Acquisition of Lands for Public Purposes Act, and for that purpose shall be construed with any necessary modifications, adaptations, qualifications and exceptions, and, without prejudice to the generality of the foregoing, subject, in particular, for the purpose of such application, to the following modifications -
- Cap 62 05
- (a) the proper and effectual exercise of his licence by a public supplier shall be deemed to be a public work, that is to say, whatever is to be done or constructed on the land shall be deemed to be a public work;
- (b) sections 7(2), 10, 24, 26, 27 shall not apply to an acquisition under this section;
- (c) in section 9(1) there shall be substituted for the words "and may at the same time or any subsequent time deposit a certificate under his hand to the effect that the National Assembly has voted the sum necessary for compensation" of the words "and shall at the same time, where the proprietor has received compensation, deposit a certified copy of the receipt therefor, where arrangements satisfactory to the proprietor have been made for the payment of compensation, deposit a certified copy thereof, or where compensation is to be determined, deposit a statement showing how and in what manner this is to be effected "
- (9) In this section "Minister" means the minister assigned responsibility for works.
33. (1) A public supplier from time to time for the purpose of constructing, maintaining and renewing any electric lines duly authorised, or any part or parts thereof, or for the purpose of erecting, removing, repairing or maintaining pillars or poles for stringing wires to convey electricity, may open and break up the soil and pavement of any road, street or bridge along the routes of those electric lines and may erect pillars, poles, lamps and works therein subject to the following conditions -
- Conditions under which a public supplier may break up streets
- (a) the public supplier shall give to the road authority notice of its intention, specifying the time at which it will begin to do so and the portion of the road, street or bridge proposed to be opened or broken up, the notice to be given seven days at least before the commencement of the work unless the work is to remedy a dangerous situation or a situation that imminently

threatens to interrupt the supply of electricity, in which case notice may be dispensed with.

- (b) the public supplier shall not open or break up the soil and pavement of any road, street or bridge, except under the superintendence and to the reasonable satisfaction of the road authority, unless that authority refuses or neglects to give superintendence at the time specified in the notice, or discontinues it during the work;
 - (c) the public supplier shall not erect any pillar or pole in a position to which the road authority objects;
 - (d) the public supplier shall pay all reasonable expenses to which the road authority is put on account of superintendence,
 - (e) the public supplier shall not, without the consent of the road authority, open or break up any road, street or bridge without providing reasonable facilities for the passage of the ordinary traffic on that road, street or bridge, to the satisfaction of the road authority.
- (2) When the public supplier has opened or broken up any portion of the road, street or bridge, it shall be under the following further obligations:
- (a) it shall with all convenient speed, and in all cases within four weeks at the most (unless the road authority otherwise consents in writing), complete the work on account of which it opened or broke up the road, street or bridge (subject to the construction, maintenance or removal of electric lines), and fill in the ground and make good the surface and, to the reasonable satisfaction of the road authority, restore the portion of the road, street or bridge, to as good condition as that in which it was before it was opened or broken up, and clear away all surplus paving, or other material or rubbish, occasioned thereby;
 - (b) it shall in the meantime cause the place where the road, street or bridge is opened or broken up to be protected at night.
- (3) If the public supplier aforesaid fails to comply in any respect with this section, it shall for each offence (without prejudice to the enforcement of specific performance of the requirements of this Act or to any other remedy against it) be liable to a fine of ten thousand dollars, and to a further fine of five hundred dollars for each day during which the failure to comply continues after the first day on which notice to comply therewith has been served on the public supplier.

Restriction as to
above-ground
works.

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Notwithstanding anything in this Act or in any written law, a public supplier shall not be authorised to place any electric line above ground, along, over or across any street, without the express consent of the local authority, and the local authority may require the public supplier to remove forthwith any electric line placed by it contrary to this section, or may themselves remove it, and recover the expenses of the removal from the public supplier in a summary manner; and where any electric line has been placed above ground by the public supplier in any position, a magistrate, upon complaint made, if he is of the opinion that that

line is or is likely to become dangerous to the public safety, may, notwithstanding any such consent as aforesaid, make an order directing and authorising the removal of the line by any person and upon any terms he thinks fit:

Provided that no local Government authority may remove, or require the removal of, any electric line that was put into place by a public supplier more than six months after such electric line was installed.

35. Subject to the provisions of this Act, a licence or any written law authorising a public supplier to supply electricity, and to any regulations made under this Act, a public supplier may alter the position of any pipes or wires, being under or upon any street or place authorised to be broken up by them, which may interfere with the exercise of its powers under this Act, on previously making or securing such compensation to the owners of the pipes or wires, and on complying with such conditions as to the mode of making the alterations as are, before the commencement of the alterations, agreed between the public supplier and the owners.
- Conditions under which a public supplier may alter position of pipes and wires.
36. (1) If a public supplier, in operating its works, considers that the position of any water or sewage main, drain, water-course, culvert, subway, defence, tube, wire, apparatus for telegraphic or other purposes (in this section referred to as "obstruction"), or of any other existing matter or thing, is likely to cause frequent interruption of such public supplier's undertaking by repairs or renewals and ought to be altered, the public supplier, in operating its works, shall not alter the position of any obstruction, but shall give notice to the person, body or local authority to whom any obstruction belongs, or under whose control any obstruction is, that the public supplier is of the opinion that the position of any obstruction should be altered, and if the person, body or local authority is unable to agree with the public supplier as to the necessity for, or the manner of, any alteration of the position of the obstruction, the matter shall be determined by arbitration.
- Mode of effecting alteration of position of "obstruction"
- (2) If the person, body or local authority agrees upon, or the award in an arbitration directs, the alteration of the position of any obstruction, the work of the alteration shall be immediately carried out by the person, body or local authority concerned.
- (3) A work of alteration shall be carried out in accordance with any plan agreed upon or directed by the award in the arbitration
37. (1) In the course of constructing and for the more effective working of its undertaking, a public supplier shall have power, by officers and servants duly authorised for that purpose in writing, to cut and remove from any street and to enter upon and to cut and remove from any private or public land any tree, or any branch, bough or other part thereof, growing on such land within one hundred feet of any supply line and which may tend to interfere with, endanger or otherwise prejudicially affect the working of its undertaking.
- Cutting trees and boughs
- (2) A public supplier shall make compensation to the owner of any tree so cut for any damage suffered by the owner or occupier in respect thereof, and the amount of such compensation shall, in the event of disagreement, be determined by arbitration.

Sustainability programmes.

38. (1) Every public supplier shall develop and maintain -
- (a) an annual sustainability programme; and
 - (b) a five-year sustainability programme that is revised on an annual basis, containing the information required by subsection (2).
- (2) The sustainability programmes developed and maintained by a public supplier shall contain detailed descriptions of and data on -
- (a) the plans and projections through which the public supplier will achieve and sustain the customer service, engineering and technical standards necessary for the public supplier's efficient, co-ordinated and economical supply of electricity under the terms of his licence;
 - (b) the benefits to be accrued to consumers of the service rendered, and the engineering and technical standards to be achieved and maintained, by the public utility as a result of the implementation of the programmes, and the rationale therefor;
 - (c) the period within which the programmes will be implemented;
 - (d) the operating costs and capital expenditures of the programmes;
 - (e) the sources and amounts of revenues necessary to finance the programmes, including the proposed or actual costs, terms and sources of any debt or equity financing commitments necessary to carry out the programmes and any bids actually, or anticipated to be, received by the public supplier;
 - (f) the reasonableness of the financing arrangements proposed for the programmes, and a description of any financing arrangements that the public utility may have rejected or declined to pursue, or that were unavailable to the public utility;
 - (g) the debt to equity ratio tolerances to be maintained by the public supplier in implementing the programmes;
 - (h) the timing, amounts and terms of any issuance of securities contemplated by the public utility for the financing of the programmes and the persons to whom they will, or are anticipated to, be offered or issued;
 - (i) the impact that the programmes are projected to have on rates charged by the public supplier;
 - (j) the impact that the programmes will have upon the natural and social environment;
 - (k) the extent to which the programmes facilitate the use of new and renewable and alternate sources of energy and the commercial feasibility thereof; and
 - (l) any other aspect of the programmes.

- (3) (a) Every public supplier shall, no later than sixty days prior to the end of each of its financial years, submit seven copies of its annual sustainability programme and a current version of its five-year sustainability programme, as approved by the governing body of the public supplier, to the Commission for approval in accordance with Part VII of the Public Utilities Commission Act 1997; No. of 1997
- (b) Concurrently with submission of its sustainability programmes to the Commission, a public supplier shall provide copies of such programmes to the Minister and to the Agency.
- (4) (a) The information required to be contained in a sustainability programme under subsection (2) shall be considered by the Commission, after receiving the views of the Minister and the Agency, if any, in the Commission's determination of whether to approve, reject or require modifications in the programmes submitted by a public utility, as provided in section 28(2) of the Public Utilities Commission Act 1997. No of 1997
- (b) In addition to the specific criteria mentioned in subsection (2) and section 28(2) of the Public Utilities Commission Act 1997, the Commission shall take into account prudential engineering standards and a reasonable assessment of costs and shall consider the environmental impact in making its decision whether to approve, reject or require modifications in the sustainability programmes of a public utility. No of 1997
- (5) During the course of its implementation of a sustainability programme approved by the Commission, a public supplier may make amendments to the programme to the extent, and only to the extent, that such amendments are required to address operational emergencies or causes which are outside the control of the public supplier and cannot be avoided by the exercise of due care, and are necessary in order to implement the programme or otherwise to supply electricity under the terms of the licence granted to the public supplier, in a commercially prudent manner

Provided that, prior to making such an amendment, the public supplier shall notify the Commission of its intention to make the amendment and the reason therefor and receive the Commission's approval, which shall be granted or denied within twenty-four hours of notification and shall not be unreasonably withheld:

Provided further that the public supplier shall include an explanation of, and relevant information and data on, such amendment in the sustainability programme that the public supplier next submits to the Commission for approval.

39. A public supplier shall keep and render its books, accounts, papers and other records in accordance with sections 48, 49 and 83(3) of the Public Utilities Commission Act 1997, and with any other applicable law. Keeping and rendering books, accounts, papers and other records No of 1997

Accounting and information reporting requirements.

No. 29 of 1991

40. (1) Within four months after the end of its financial year or within such longer period as may be determined by the Minister, where circumstances so justify, a public supplier shall deliver to the Minister -
- (a) the audited financial statements, auditor's report, and other reports, information and documents required to be submitted under sections 153 to 186, inclusive, of the Companies Act 1991 and the Schedules thereto;
 - (b) to the extent not otherwise expressly set forth in a report or statement prepared under paragraph (a), a report -
 - (i) projecting, in terms of indicators as to financial, investment, customer service and engineering and other technical performance, the performance of the public supplier and its subsidiaries, if any, for the current financial year;
 - (ii) in terms of such indicators, comparing the performance projected in such report for the financial year just ended, with the actual performance of the public utility and its subsidiaries, if any, for the financial year just ended; and
 - (c) any other information that the Minister may by regulation prescribe.
- (2) Subject to subsection (3)(b), a public supplier shall make available, and shall sell to any applicant for a price not exceeding the actual cost of printing, copies of the reports, statements, information and documents prepared under subsection (1).
- (3) (a) With regard to the reports, statements, information and documents submitted to the Minister under this Act and any regulations made thereunder, the Minister and the Agency shall have a duty to maintain in confidence any information contained in such materials that constitutes a trade secret or that may aid a competitor of the public utility, and the Minister and the Agency shall cooperate with the public supplier in that regard.
- (b) A public utility may omit from the copies of the materials that it is required to make publicly available under subsection (2) any information that constitutes a trade secret or that may aid a competitor of the public utility.
- (4) It shall be the duty of the Minister to require public suppliers to provide, and a public supplier shall have a duty to provide, such additional information as the Minister finds necessary -
- (a) to provide consumers and other members of the public with adequate information on the public supplier as such information affects their interests;
 - (b) to perform his duties and discharge his functions under this Act; and
 - (c) otherwise to assist in the formulation and carrying out of the national energy policy of Guyana in matters involving electricity.

41. A private supplier shall provide the Minister with such information and reports, in such form, as the Minister may determine or may by regulations prescribe.

Information and reports to be provided by private suppliers

PART III

REFORM OF THE ELECTRICITY SECTOR

42. (1) With effect from such appointed day as may be specified by the Minister by order, the Guyana Electricity Corporation shall be deemed to be a company subject to the Companies Act 1991 and shall no longer be subject to the Public Corporations Act 1988.

Conversion of the Guyana Electricity Corporation into a company subject to the Companies Act 1991 and related provisions.
No. 29 of 1991
No. 21 of 1988

- (2) The Guyana Electricity Corporation shall, on or before the appointed day in relation to this section, submit to the Registrar of Companies the articles of incorporation and the other documents that are required under sections 4, 67(1), 188(1) and 479 of the Companies Act 1991 to be filed by a company.

No. 29 of 1991

- (3) With effect from the said appointed day, the stock and equity interest in Guyana Electricity Corporation shall, notwithstanding anything in the Companies Act 1991, remain the same as on the date immediately before the appointed day, except for a change effected by the Minister pursuant to subsection (6).

No. 29 of 1991

- (4) With effect from the said appointed day, the abbreviation "Inc." shall be part of the name of the Guyana Electricity Corporation and -

(a) the following Acts shall stand repealed -

(i) the Electricity Act;

Cap. 56:01

(ii) the Electric Lighting Act;

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(b) the exclusive right granted to the Guyana Electricity Corporation under the Electricity Act shall remain in full force and effect for a period of twenty-five years from the appointed day and shall be deemed to be a licence issued under section 4 of this Act to the Guyana Electricity Corporation, Inc. and be subject to the provisions of this Act and any regulations made thereunder

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governing such licence, and within a period of thirty days from the appointed day, the Guyana Electricity Corporation, Inc. shall be formally issued with a licence under section 4 without the need for any application therefor on the part of the Guyana Electricity Corporation, Inc.

- (c) all of the persons who were directors of the Guyana Electricity Corporation immediately before the appointed day shall cease to be directors of that company.
- (5) Subject to the provisions of this Act and notwithstanding its incorporation as a company, and except as otherwise agreed between the Government and a Strategic Investor, from the appointed day -
- (a) a reference (express or implied) to the Guyana Electricity Corporation in any instrument made, given, passed, or executed before the appointed day shall be read and construed as a reference to the Guyana Electricity Corporation, Inc.;
 - (b) all contracts, agreements, conveyances, deeds, leases, licences, and other instruments, undertakings, and notices (whether or not in writing) entered into by, made with, given to or by, or addressed to the Guyana Electricity Corporation (whether alone or with any other person) before the appointed day and subsisting immediately before the appointed day shall, to the extent that they were previously binding on and enforceable, by, against, or in favour of the Guyana Electricity Corporation, be binding on and enforceable by, against, or in favour of the Guyana Electricity Corporation, Inc.;
 - (c) all assets and liabilities of the Guyana Electric Corporation immediately before the appointed day shall be transferred to the Guyana Electricity Corporation, Inc. in accordance with the agreements between the Government and the Strategic Investor;
 - (d) nothing effected or authorised by this Act -
 - (i) shall be regarded as placing the Guyana Electricity Corporation, Inc. or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
 - (ii) shall be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
 - (iii) shall be regarded as placing the Guyana Electricity Corporation, Inc. or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
 - (iv) shall release any surety wholly or in part from any obligation; or

(v) shall invalidate or discharge any contract or security; and

(e) any action, arbitration, proceedings, or cause of action which, immediately before the appointed day, was pending in which the Guyana Electricity Corporation was a party may be prosecuted, and without amendment of any writ, pleading, or other document, continued and enforced against or in favour of the Guyana Electricity Corporation, Inc.

(6) On the appointed day or within the thirty day period thereafter, and notwithstanding anything in the Companies Act 1991, the Public Utilities Commission Act 1997 or the articles of incorporation of the Guyana Electricity Corporation, Inc., the Minister may issue shares in the Guyana Electricity Corporation, Inc., to a Strategic Investor and may take any other action necessary to cause the share ownership in the Guyana Electricity Corporation, Inc., to be held fifty percent by or for the benefit of the Government and fifty percent by such Strategic Investor, and the directors of the Guyana Electricity Corporation, Inc. appointed subsequent to such change in the share ownership of the company shall accept the issuance of shares to the Strategic Investor and register such issuance in the books of the Guyana Electricity Corporation, Inc.

No 29 of 1991
No of 1997

43. The Minister may, at the request of the Guyana Electricity Corporation, Inc., or after consultation with directors, by order make such provisions as appear to him and such directors to be necessary or expedient to facilitate the transition of the Guyana Electricity Corporation, Inc., to a company subject to the Companies Act 1991.

Transitional
orders

Provided that no such order shall be made after the expiry of two years from the appointed day in relation to section 42.

44. With effect from the appointed day in relation to section 42, the Guyana Electricity Corporation, Inc. shall be -

(a) subject to the provisions of this Act; and

(b) operated in accordance with commercial principles, including but not limited to commercial procurement principles.

Applicability
of the Act
and
commercial
principles
to operations
of the Guyana
Electricity
Corporation,
Inc

45. With effect from the appointed day in relation to section 42 -

Employees

(a) for the purposes of every law, determination or agreement relating to the employment of each of the employees of the Guyana Electricity Corporation, such employment shall be deemed to have been unbroken and the period of service of each such employee with the Guyana Electricity Corporation, and every other period of service of that employee that is recognised as continuous service with the Guyana Electricity Corporation, shall be deemed to have been a period of service with the Guyana Electricity Corporation, Inc.,

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- (b) the terms and conditions of employment of each such employee shall, until varied, be identical with the terms and conditions of that employee's employment with the Guyana Electricity Corporation immediately before the appointed day and be capable of variation in the same manner;
- (c) no such employee shall be entitled to receive any payment or other benefit by reason of this Act; and
- (d) property held in trust or vested in any person under any provident, benefit, superannuation, or retirement or pension fund or scheme for the employees of the Guyana Electricity Corporation or their dependants or other persons immediately before the appointed day shall, on and after the appointed day, be deemed to be held in trust or vested in that person for those employees in their capacity as employees of the Guyana Electricity Corporation Inc. or their dependants or other persons on the same terms and conditions; and every reference in any instrument constituting that fund or scheme to the Guyana Electricity Corporation or an employee of the Guyana Electricity Corporation or a dependant of that employee or any other person shall be read and construed as a reference to the Guyana Electricity Corporation, Inc. or an employee of the Guyana Electricity Corporation, Inc., or a dependant of that employee or any other person, as the case may be; and any pension scheme that was, immediately before the appointed day, a registered pension scheme within the meaning of the law shall continue to be a registered pension scheme on and after the appointed day.

Projects for the generation of electricity.

46. With effect from the beginning of the eleventh year after the appointed day in relation to section 42 and subject to the second proviso of section 4, except as otherwise provided in a licence issued in accordance with section 4 or an agreement between the Government and a Strategic Investor, independent power production projects for the generation of electricity may be developed in and licensed for the area in which the Guyana Electricity Corporation, Inc., is authorised by section 42 to transmit and distribute electricity only if the governing bodies of the Guyana Electricity Corporation, Inc. and the independent power producer have first approved the terms and conditions upon which such electricity will be purchased by the Guyana Electricity Corporation, Inc., and such terms and conditions insofar as they relate to rates have further been approved by the Commission, and the Minister is satisfied that the criteria of paragraph (b) of the second proviso of section 4 will be met by the proposed independent power production project.

Extension of the Act to other electricity generation capacity.

47. The Minister may by order, which shall be subject to affirmative resolution of the National Assembly, apply the provisions of this Act, with such modifications, qualifications and exceptions as may be necessary, to any electricity generation capacity, whether in existence or to be established.

Construction or expansion of installations or capacity for electricity generation.

48. Except as otherwise provided in a licence granted pursuant to this Act, the consent of the Minister shall be required for the new construction or the expansion of any installation or capacity for the generation of electricity.

49. The Minister may, subject to the terms and conditions of a public supplier's licence, require a public supplier to implement rural electrification programmes from time to time for any premises or geographical area within the authorised area of such public supplier, and the public supplier shall accede to any such requirement, on terms and conditions agreeable to both the Minister and the public supplier, which may include the provision of funds by the Government for that purpose and, if applicable, the allocation of the capital costs of such programme between the Government and the public supplier:

Rural
electrification
programmes

Provided that the public supplier may not unreasonably reject terms and conditions proposed by the Minister.

50. (1) Every public supplier licensed to supply electricity pursuant to this Act shall be established and exist as a company under the Companies Act 1991:

Requirements
for corporate
form and
location of
headquarters
and books
and records
No 29 of 1991

Provided that a public supplier that is wholly or majority-owned by the Government shall not be subject to this requirement.

- (2) Every public supplier shall have its headquarters and shall maintain its books and records in Guyana.

PART IV

MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

51. (1) Except as otherwise provided in this Act or any regulations made thereunder, a supplier shall, in the exercise of its powers pursuant to this Act or a licence or exemption granted thereunder, cause as little detriment and inconvenience, and do as little damage, as may be possible, and shall make full compensation to any person caused damage, loss or injury by the wilful or negligent act or default of the supplier in the exercise of those powers.
- (2) A supplier shall save harmless all persons by whom any street is repairable, and the officers and servants (if any) of such persons, from all damage and costs in respect of any damage, loss or injury referred to in subsection (1).
- (3) Except as otherwise provided in this Act, any regulations made thereunder, or in any written contract to which the supplier is a party, a supplier shall not be liable in any suit, action, indictment, or other proceeding or to any penalty whatsoever in respect of any damage, loss or injury occurring by reason of the vibration or noise of any reciprocating engine, steam turbine or generating unit which is lawfully used by the supplier, unless that damage, loss or injury is due to the wilful or negligent acts or defaults of the supplier or its servants or agents.
- (4) Subject to subsection (3), nothing in this Act shall exonerate a supplier from any indictment, action or other proceeding for nuisance in the event of any nuisance being caused by him.

Liabilities and
immunities
of suppliers
and others

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- (5) Any dispute or difference arising under this section shall be determined by arbitration in accordance with section 64.
- Immunity of persons operating water works and sewerage systems. 52. No person with authority over the operation of a water works or a sewerage system shall be liable in any suit, action, or other proceeding whatsoever at the instance of anyone in respect of damage to property or other loss occasioned by failure or deficiency in the operation of such water works or sewerage system by reason of failure or deficiency in the supply of electricity by any supplier.
- Penalty for unauthorised supply of electricity. 53. (1) A person who generates, stores, transmits, transforms, distributes, furnishes, sells, resells or otherwise supplies electricity to any person, premises or area shall be guilty of an offence unless he is authorised to do so by a licence or an exemption granted pursuant to this Act.
- (2) A person guilty of an offence under this section shall be liable upon summary conviction to a fine of one hundred thousand dollars and to imprisonment for a term of six months; and if the offence of which he is convicted is continued after conviction, he shall be guilty of a further offence and liable to a fine of twenty thousand dollars for every day on which the offence is continued, and the Minister shall take such steps and employ such persons as may be necessary to forcibly or otherwise enter upon, seize, take possession and cease the operations of any works utilised by such person for the unauthorised generation, storage, transmission, transformation, distribution, furnishing, sale, resale or other supply of electricity.
- Penalty for unauthorised electric lines or other apparatus or installations. 54. Except in pursuance of the powers granted to a public supplier by section 20(3), any person who lays down any electric line or apparatus or constructs any electrical installation outside the area or premises in or on which he is authorised to supply electricity by a licence or an exemption granted pursuant to this Act shall be guilty of an offence and shall be liable upon summary conviction to a fine of fifty thousand dollars; and if the offence of which he is convicted is continued after conviction, he shall be guilty of a further offence and liable to a fine of ten thousand dollars for every day on which the offence is continued.
- Penalty for obstruction of public suppliers' activities. 55. Except as otherwise provided in another penalty provision in this Act or any regulations made thereunder, any person who without due cause obstructs or attempts to obstruct a public supplier in the performance of any of the powers or obligations conferred or imposed upon it by this Act or any regulations made thereunder or a licence shall be guilty of an offence and liable on summary conviction to a fine not exceeding thirty-five thousand dollars and to imprisonment for a period not exceeding six months.
- Penalty for unauthorised cessation of operations. 56. Any public supplier who ceases its operations or any part of them in violation of section 11 shall be guilty of an offence and liable upon summary conviction to a fine of one million dollars.

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| 57. | Any licensee who violates, or any director, treasurer or other officer or agent of a public supplier who makes or votes to authorise a transaction in violation of, section 12 shall be guilty of an offence and upon summary conviction shall be subject to a fine not exceeding twenty thousand dollars | Penalty for unauthorised transactions |
| 58. | Any public supplier who fails to maintain and submit, in the manner prescribed, the sustainability programmes required under section 38 shall be guilty of an offence and upon summary conviction shall be subject to a fine not exceeding forty thousand dollars. | Penalty for failing to maintain and submit sustainability programmes |
| 59 | A licensee who fails to maintain or provide the documents and other information required under sections 40 and 41 shall be guilty of an offence and shall be liable to a fine not exceeding forty thousand dollars, and if the offence of which he is convicted is continued after conviction, he shall be guilty of a further offence and liable to a fine of five thousand dollars for every day on which the offence is continued | Penalty for failure to maintain or provide documents and other information. |
| 60. | Except as otherwise provided in this Act or any regulations made thereunder, if any offence of which a person is convicted is continued by such person after conviction, he shall be guilty of a further offence and liable to a fine of three thousand dollars for every day on which the offence is continued. | Penalty for continuing offences |
| 61. | Except as otherwise provided in this Act or in regulations made thereunder, no proceeding shall be instituted in respect of an offence except by or on behalf of the Minister. | Power to institute proceedings |
| 62. | Any fines paid under this Act shall be paid to the Accountant General. | Payment of penalties |
| 63. | All penalties imposed by or under this Act or any regulations made thereunder, the recovery of which is not otherwise specially provided for, may be recovered under the Summary Jurisdiction Acts. | Recovery of penalties not specified |
| 64. | (1) Except as otherwise provided in this Act, any regulations made thereunder or any licence or exemption issued by the Minister, or any written agreement to which the parties to the dispute are also parties, where any matter is directed, by this Act or by such regulation, licence or exemption or by such written agreement, to be determined by arbitration, that matter shall be determined by an engineer or other fit and competent person as arbitrator, to be appointed in the manner provided in the Arbitration Act, and the reference to arbitration shall be deemed to be a submission within the meaning of the Arbitration Act which shall apply to such arbitration, except as otherwise expressly provided | Arbitration general; disputes concerning purchase of undertaking

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Duties of
the Minister.

- (2) (a) Unless otherwise provided in a licence or exemption issued under this Act, any difference or dispute arising under section 19 shall, unless the parties to the difference or dispute concur in the appointment of a single arbitrator, be determined by three arbitrators, one of whom shall be appointed by the Government, or by the person designated by the Government under section 19 (1)(b), as the case may be, and another by the public supplier, and those two arbitrators shall appoint the third arbitrator, but in case those two cannot agree upon the appointment of a third arbitrator, that arbitrator shall be appointed by the Chancellor of the Judiciary.
- (b) The reference to arbitration in section 19 shall be deemed to be a submission within the meaning of the Arbitration Act, which, except as expressly varied by paragraph (a), shall apply to such arbitration, except as otherwise expressly provided in a licence or exemption issued under this Act.
65. In carrying out the provisions of this Act, the Minister shall have a duty to act in a manner best calculated -
- (a) to secure a regular, efficient, coordinated and economical supply of electricity and to ensure that all reasonable demands for electricity are satisfied;
- (b) to protect the interests of consumers of electricity supplied by persons authorised by licences to supply electricity in respect of -
- (i) the prices charged and other terms of supply;
- (ii) the continuity of supply;
- (iii) the quality of the electricity supply services provided; and
- (iv) the provision of electricity in rural areas;
- (c) to ensure that, in relation to the powers regarding licences for the supply of electricity granted to him pursuant to this Act, public suppliers are able to finance the activities that they are authorised by their licences to carry on, and to obtain the rate of return, if any, provided for in their licences or a written agreement with the Government, or, if no rate of return is provided for in a licence or such written agreement, to obtain a reasonable rate of return on capital invested;
- (d) to promote efficiency and economy on the part of persons authorised by licences to supply electricity, including, but not limited to, promotion of the use of new and renewable and alternative energy sources wherever feasible;
- (e) to promote the efficient use of electricity by consumers;
- (f) to protect the public from dangers arising from the supply of electricity;

- (g) to take into account the effect on and protection of the physical environment with regard to activities connected with the supply of electricity;
- (h) to enforce the provisions of this Act and any licence or exemption granted pursuant to this Act; and
- (i) to carry out national energy policy.

66. (1) The Minister shall, at such premises and in such form as he may determine, maintain a register of - Maintenance of registry.
- (a) every licence and every exemption granted to any person;
 - (b) every modification, suspension, or revocation of a licence;
 - (c) every direction or consent given or determination made by the Minister under this Act;
 - (d) every notice or order, and every revocation of such notices and orders, made by the Minister under this Act,
- and such register shall be open for inspection by any person during normal working hours.

- (2) In making an entry in the register as provided for in subsection (1), the Minister shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of any person, where publication of that matter would or might, in the opinion of the Minister, seriously and prejudicially affect the interests of that person, including the interest in maintaining the confidentiality of trade secrets and information that might aid a competitor, of a public supplier

67. (1) Except as otherwise provided in a licence granted under this Act, any notice or other document required or authorised by virtue of this Act to be served on any person may be served - Notices
- (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address; or
 - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) on the corporate secretary of that body; or
 - (c) if the person is a partnership, by serving it in accordance with paragraph (a) on a partner or a person having the control or management of the partnership business.

- (2) For the purposes of this section and section 9 of the Interpretation and General Clauses Act in its application to this section and unless otherwise provided in a licence or exemption under this Act, the proper address of any person on whom a notice or other document is to be served shall be his last known address, except that - Cap 2:01
- (a) in the case of service on a body corporate or its secretary, it shall be the address of the registered or principal office of the body;

- (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the address of the principal office of the partnership,

and for the purpose of this subsection the principal office of a company registered outside Guyana or of a partnership carrying on business outside Guyana is its principal office within Guyana.

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- (3) If a person to be served by virtue of this Act with any notice or other document by another has specified to that other an address within Guyana other than his proper address (as determined pursuant to subsection (2)) as the one at which he or someone on his behalf will accept such documents, that address shall also be treated as his proper address for the purposes of this section and section 9 of the Interpretation and General Clauses Act.
- (4) If the name or address of any owner or occupier of premises on whom a notice or other document is to be served cannot, after reasonable inquiry, be ascertained, such document may be served by -
 - (a) addressing it to him by the description of "owner" or "occupier" of the premises, which premises shall be specified or described in the address; and
 - (b) either leaving it in the hands of a person who is or appears to be resident or employed on the premises or leaving it conspicuously affixed to a building on the premises.
- (5) This provision shall not apply to any notice or document, the service of which is provided for by rules of court.

Saving.

- 68. Notwithstanding the repeal of any Act by section 42, subsidiary legislation made thereunder shall continue in force as if they were regulations made under section 69 of this Act to the extent that their continuance is necessary for the administration of this Act, in particular for public suppliers to conduct authorised activities under sections 3 or 4 or otherwise to fulfill their obligations under this Act, until amended or revoked under the aforesaid section 69.

Authority to make regulations.

- 69. The Minister may make regulations for giving effect to this Act with regard to -
 - (a) the promotion of efficiency and economy on the part of persons authorised by licences or exemptions to supply electricity;
 - (b) the use of new and renewable and alternative energy sources wherever commercially feasible;
 - (c) the promotion of the efficient use of electricity by consumers;
 - (d) the protection of the public and property from dangers arising from the supply of electricity, including -
 - (i) the safety of the public from personal injury or from fire or otherwise;

- (ii) the protection of persons and property by reason of contact with or the proximity of, or by reason of the defective or dangerous condition of, any appliance, apparatus or installation used in the supply of electricity;
 - (iii) the reporting and investigation of electricity-related accidents and damage, and failures to supply electricity;
 - (iv) the methods of wiring of premises,
 - (v) the types of electrical apparatus and installations that may be used,
 - (vi) the qualifications, examination, licensing and registration to be required of electricians and electrical engineers, technicians and inspectors;
 - (vii) the inspection, testing and maintenance of works, supply lines, meters, accumulators, fittings, installations, supply lines, and apparatus constructed and placed on any public land or private premises;
 - (viii) the prevention of any telephone, other telecommunications or electric signalling line, or the current in such line, from being injuriously affected by any appliance, apparatus or installation used in the supply of electricity;
 - (ix) the units or standards for the measurement of electricity and the limits of error,
 - (x) the frequency, type of current and pressure of electricity to be generated or supplied;
- (e) in addition to sections 39 to 41, inclusive, the information that a licensee, or persons exempt from the licencing requirements of this Act, must provide to the Minister or to consumers;
- (f) the engineering, operational and other technical standards applicable to public suppliers;
- (g) the creation, maintenance and disposition of any funding provided by the Government for the supply of electricity to low income or disabled persons;
- (h) the effect on and protection of the physical environment with regard to activities connected with the supply of electricity;
- (i) the supply of electricity for private purposes;
- (j) any matter concerning application for and the granting, modification, extension, revocation, and suspension of licences for the supply of electricity and concerning exemptions from the requirement to obtain a licence for the supply of electricity;
- (k) the keeping, by persons authorised by a licence or by exemption to supply electricity, of maps, plans and other drawings, diagrams and schematics and their production for inspection or copying;

- (l) the mitigation of any natural disaster or other civil emergency that disrupts or is likely to disrupt the supply of electricity;
- (m) subject to the provisions of this Act, the reform of the electricity sector;
- (n) the penalties for contravention of any regulation made under this section; and
- (o) any other matter necessary to establish and carry out national policy on matters involving electricity or the provisions of this Act.

Amendment of Schedules.

70. The Minister may by regulations, which shall be subject to affirmative resolution of the National Assembly, amend any of the Schedules.

FIRST SCHEDULE S. 27(2)

Tariffs for the Supply of Electricity and Tariff Adjustment Mechanism for Existing and New Services

- Guyana Electricity Corporation, Inc. -

Part A

Preliminary

No. of 1997

1. This Schedule, in conjunction with the Licence, shall govern the rates for the supply of electricity for existing and new electricity generation capacity at any time charged and to be charged by the Guyana Electricity Corporation, Inc., and the mechanisms, formulae, principles and procedures whereby such rates shall be calculated and determined for all purposes under this Act and the Public Utilities Commission Act 1997.

2. (1) In this Schedule -

(a) "allowable rate of return" means the sum of the weighted average cost of equity, the weighted average cost of Government equity and the weighted average cost of debt where -

- (i) weighting attributable to equity multiplied by the target rate of return on equity is equal to weighted average cost of equity;
- (ii) weighting attributable to Government equity multiplied by the target rate of return on Government equity is equal to weighted average cost of Government equity; and
- (iii) weighting attributable to debt multiplied by the average interest rate is equal to weighted average cost of debt,

and where the weighting attributable to each of equity, Government equity and debt is calculated in accordance with the Licence;

- (b) "allowable return" means the allowable rate of return multiplied by the rate base;
- (c) "average debt" means the sum of (i) and (ii), divided by two, where-
 - (i) is the book value of debt outstanding, stated at the rate of exchange in effect at the date of issuance for debt denominated in a foreign currency, minus the book value of any deferred foreign exchange gains, plus the book value of any deferred foreign exchange losses plus the amount of paid up capital or credited as paid up capital on any preference shares, at the commencement of the financial year under review; and
 - (ii) is the book value of debt outstanding, stated at the rate of exchange in effect at the date of issuance for debt denominated in a foreign currency, minus the book value of any deferred foreign exchange gains, plus the book value of any deferred foreign exchange losses plus the amount of paid up capital or credited as paid up capital on any preference shares, at the end of such financial year;
- (d) "average interest rate" means the total interest expense, including realized foreign exchange gains or losses on the payment of interest, amortization of any debt premium or discount, amortization of any guarantee fees in respect of debt, and any other applicable loan charges considered, by internationally accepted accounting standards, to be an expense for the year under review, plus any dividend paid or accumulated in the year on any preference shares, divided by average debt;
- (e) "basic energy rate" means the charge per kilowatt hour, as prescribed by or calculated in accordance with this Schedule, billed for electricity supplied excluding any fuel surcharge;
- (f) "certificate of compliance" means a document issued by the independent firm of accountants appointed in accordance with paragraph 13;
- (g) "certificate of noncompliance" means a document issued by the independent firm of accountants appointed in accordance with paragraph 13;
- (h) "Commission" means the Public Utilities Commission established by section 5 of the Public Utilities Commission Act 1997; No. of 1997
- (i) "Company" means the Guyana Electricity Corporation, Inc.;

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- (j) "consumer price index" means the general consumer price index for Guyana as calculated by the Bank of Guyana on an annual basis;
 - (k) "equity" means the aggregate of -
 - (i) the amount paid up or credited as paid up on the share capital of the Company, excluding the amount paid up or credited as paid up, on any preference shares; and
 - (ii) the amount standing to the credit of reserves of the Company (including, without limitation, any share premium account, capital redemption reserve funds and any credit balance on profit and loss account) and any other sum which, by internationally accepted accounting principles, is treated as part of equity (but excluding for these purposes, the amount paid up, or credited as paid up, on any preference shares);
 - (iii) less any Government Equity;
 - (l) "final return" means the final return determined in accordance with the Licence;
 - (m) "Government Equity" means the aggregate of-
 - (i) the amount paid up, or credited as paid up, by the Government on the share capital of the Company, excluding the amount paid up, or credited as paid up, by the Government, on any preference shares, and
 - (ii) the amount standing to the credit of the Government in respect of reserves of the Company (including without limitation any share premium account, capital redemption reserve funds and any credit balance on profit and loss account) and any other sum which, by internationally accepted accounting principles, is treated as part of Government equity (but excluding for these purposes, the amount paid up, or credited as paid up, on any preference shares);
 - (n) "independent firm of accountants" and "independent accountants" mean the accountants appointed by the Commission and the Company in accordance with paragraph 13;
 - (o) "interim rate of return" means the net operating income of the Company in any financial year divided by the rate base and expressed as a percentage as calculated in accordance with the Licence;
 - (p) "interim return" means the interim return determined in accordance with the licence;
 - (q) "Licence" means the licence document issued by the Minister to the Company under section 42(4)(b) of the Act;

- (r) "rate base" means the total amount of qualifying assets of the Guyana Electricity Corporation, Inc. in any financial year for purposes of determining the annual adjustment in the rate or price of electricity services, and shall include the qualifying amount of inventory, fixed assets, working capital, prepaid amounts and other qualifying assets, to be calculated in accordance with the Licence;
- (2) For any other term used in this Schedule and not defined herein but which is defined in section 2 of the Act, the definition in section 2 of the Act shall apply.
- (3) For any other term used in this Schedule and not defined herein but which is defined in the Licence, the definition in the Licence shall apply.

Part B

Tariffs for the Company's Supply of New and Existing Services

3. (1) Subject to the Act, with effect from the appointed day, the Company shall charge for electricity and services supplied in accordance with the rates prescribed in the Second Schedule, and such Second Schedule shall remain in effect until amended in accordance with this Schedule and the Licence. Second Schedule
- (2) The Company shall submit to the Minister and to the Commission, with respect to its financial year ended on the thirty-first day of December, 1998, the documents specified in paragraph 5(1) on or before the thirty-first day of January, 1999, and the documents specified in paragraph 7(1) on or before the thirtieth day of April, 1999, and the requirements of paragraphs 5 and 7 shall apply to such documents.
4. The Company's allowable rate of return and target rate of return shall be calculated in accordance with the Licence.
5. (1) Subject to paragraph 7 and commencing with the end of the 1998 financial year, within twenty-eight days after the end of each of its financial years, the Company shall submit to the Commission an interim return in the form prescribed in the Licence -
- (a) containing the relevant information in relation to the operations of the Company during the particular year; and
- (b) certifying that the interim rate of return for that year was calculated in accordance with the Licence,
- together with the Company's unaudited internal management accounts for the financial year with respect to which the interim return is made
- (2) Where the interim return is not submitted to the Commission within the time specified in subparagraph (1), or if the Company, before the interim return is submitted, demands payment for electricity supplied for any

Second Schedule

purpose in the current financial year, the Company shall charge for electricity supplied at the basic energy rate in force at the end of the financial year immediately preceding the current financial year, such rate being either a rate provided for in the Second Schedule or a rate previously approved pursuant to paragraph 9.

- (3) Where the interim rate of return for any financial year exceeds that permitted under the allowable rate of return calculated in accordance with the Licence, then in respect of that financial year, the Commission shall, in respect of the month in which the relevant interim return is submitted and in respect of subsequent months, subject to paragraph 7, permit the Company to decrease the basic energy rate as prescribed in Part A of the Second Schedule in respect of each kilowatt hour consumed; and any such decrease shall be independent of any fuel cost adjustment that may be provided for in the Licence.
- (4) Where the interim rate of return for any financial year is less than the allowable rate of return calculated in accordance with the Licence, then with respect to that financial year the Commission shall, in respect of the month in which the relevant interim return is submitted and in respect of subsequent months, subject to paragraph 7, permit the Company to increase the basic energy rates chargeable for each kilowatt hour consumed; and any such increase shall be independent of any fuel cost adjustment that may be provided for in the Licence.
- (5) The decrease and increase in basic energy rates referred to in subparagraphs (3) and (4), respectively, must be effected in accordance with the formulae prescribed in the Licence.
- (6) Subject to paragraphs 9 and 10, any decrease in rates under subparagraph (3) or increase under subparagraph (4) shall become effective in relation to any bill issued in respect of the month in which the relevant interim return is submitted to the Commission and in respect of subsequent months.
- (7) Where there is a conflict between this paragraph and the prescriptions of the Licence, the Licence shall prevail.

6 Where -

- (a) the Company, before the interim return is submitted to the Commission, demands payment for electricity supplied for any purpose in the current financial year; and
- (b) the Company charges for electricity supplied at the basic energy rates in force at the end of the financial year immediately preceding the financial year,

then any decrease under paragraph 5(3) or increase under paragraph 5(4) is effective from the beginning of the then-current financial year, but any such decrease or increase must be distributed and allocated equally on a monthly basis over the remaining months in the current financial year:

Provided that the Company submitted its interim return to the Commission within the time limitations provided in paragraph 5(1).

7. (1) The Company shall, not later than the thirtieth day of April of each financial year, submit to the Commission the following -
- (a) a full set of audited accounts for that financial year comprising an income statement, balance sheet and a statement of change in financial position, plus accompanying notes and other statements duly approved by the Company's directors and reported on by the Company's auditors;
 - (b) a final return in the same form as that prescribed for the interim return in the Licence, which must be compiled with reference to the Company's audited accounts;
 - (c) a certificate of compliance or a certificate of non-compliance issued by an independent firm of accountants appointed pursuant to paragraph 13.
- (2) A certificate of compliance or a certificate of non-compliance issued by the firm of accountants referred to in subparagraph (1)(c) must state whether or not the accountants are able to certify that the final return is in compliance with the prescriptions of the Licence, and the reasons therefor.
8. Where a certificate of non-compliance is delivered to the Company, the Company and the independent accountant must each, within fourteen days of such receipt, complete and deliver to the Commission separate reports setting out the reasons for the issuance of the certificate.
9. (1) Subject to subparagraph (2) and in accordance with the principles, formulae and accounting mechanisms set forth in the Licence, the Commission, upon receipt of the documentation set forth in paragraph (7)(1)(a) and (b), a certificate of compliance or a certificate of non-compliance and the reports referred to in paragraph 8, shall review the documentation submitted, the certificate and the reports, if any, and make a final determination, within thirty days of such receipt, as to the relevant adjustments to the basic energy rates, which rates must be implemented by the Company within fourteen days of the receipt of the determination of the Commission
- (2) The basic energy rates established on the basis of the interim return shall remain in effect pending the determination by the Commission pursuant to subparagraph (1).
10. (1) Independent of any fuel cost adjustment that may be provided for in the Licence, the Commission shall adjust the basic energy rate levied by the Company to reflect any differences between the interim return and the final return or, as the case may be, any other basic energy rates determined under paragraph 9(1); but in the absence of any requirement for any such adjustment, the basic energy rates chargeable by the Company pursuant to the interim return shall remain in effect
- (2) Where any adjustments are required, such adjustments become effective in relation to any bill issued by the Company after the end of the fourteen

day period provided for in paragraph 9(1), and, if permitted by the Licence, such adjustments shall take into account the final deficit return or final excess return, if any, for the previous year, calculated in accordance with the final return certificate; and any adjustment to the basic energy rates previously determined under paragraph 5(3) or 5(4), if required, must be distributed and allocated equally on a monthly basis over the remaining months in the then-current financial year.

- (3) Basic energy rates adjusted in accordance with paragraph 5(3) and (4) and which may be further adjusted in accordance with subparagraph (1) shall remain in force until an adjustment is made in accordance with paragraph 9 and this paragraph.
11. (1) In addition to the review procedure set forth in the preceding paragraphs and in accordance with the principles, formulae and accounting mechanisms set forth in the Licence, the Commission may, at the end of every three year period, review the basic energy rates charged by the Company in accordance with sections 35 and 43 of the Public Utilities Commission Act 1997 -
- No. of 1997
- (2) A review for the purposes of subparagraph (1) -
- (a) shall determine the accuracy or otherwise of the application of the basic energy rate calculation for the three year period ending immediately prior to the commencement of the review;
- (b) if the Commission elects to undertake a review as permitted in subparagraph (1), such review must commence within ninety days after the end of the last financial year of such period in respect of which the review is to be conducted
- (3) The Commission shall complete a report on the review provided for in subparagraphs (1) and (2) within sixty days from the date of commencement of the review.
- (4) Nothing in this paragraph shall permit the Commission to review or amend -
- (a) the adjustment of basic energy rates on an annual basis in accordance with this Schedule; or
- (b) the allowable rate of return or the basic energy rate formula or otherwise alter the revenue the Company is entitled to derive in accordance with the terms of the Licence.
- (5) For the purposes of subparagraph (1), the three year period must be reckoned from the commencement of the Act.
12. (1) Subject to the foregoing paragraphs, the Commission may by order amend the Second Schedule.
- (2) The Company shall give effect to an order made by the Commission pursuant to subparagraph (1).

13. (1) For the purposes of this Schedule and subject to subparagraph (2), the Commission shall, after an opportunity for the Company and any other interested party to be heard, appoint an independent firm of accountants, other than the Company's auditors, for the purposes of paragraphs 7 and 8.
- (2) The firm of accountants to be appointed under subparagraph (1) must be registered with the Institute of Chartered Accountants of Guyana.
- (3) The accountants so appointed must issue to the Company certificates of compliance or certificates of non-compliance, as the case may be, and prepare reports, if necessary, as set forth in paragraph 7
14. (1) Notwithstanding any other provision in this Schedule or the Public Utilities Commission Act 1997, the percentage rate of increase in the basic energy rates may not in any financial year, until and in respect of the financial year ending on the thirty-first day of December, 2001, the calculations for which shall be made pursuant to this Schedule in the financial year 2002, exceed that percentage amount derived from the addition of the annual percentage rate of general inflation, as measured by the consumer price index for the immediately preceding calendar year, plus 6.5%
- (2) Subject to the approval of the Commission --
- (a) the Company may elect to increase basic energy tariffs in any financial year at a rate less than that rate of increase which may otherwise be permitted by this Schedule.
- (b) the Company may elect to decrease basic energy tariffs in any financial year at a rate greater than that rate which may otherwise be required by this Schedule,
- (c) where the Company elects to increase basic energy rates in any financial year at a rate less than that otherwise permitted, or decreases such basic energy rates by an amount greater than required, the amount of such revenue foregone may be added to the rate calculation for the next following year only as a notional expense as provided in the Licence,
- (d) the amount of such revenue foregone shall be calculated as the net product of --
- (i) in the case of an increase in the basic energy rates, the percentage increase otherwise permitted by this Schedule, less that percentage actually implemented, or
- (ii) in the case of a decrease in the basic energy rates, the percentage decrease actually implemented less the percentage decrease otherwise required by this Schedule,

multiplied by the gross revenue earned on the sale of electricity and services of the Company for the year in question, plus a further amount added for the actual percentage general inflation rate as measured by the consumer price index experience in the year in question.

SECOND SCHEDULE Ss. 3(1), 5(2)

Electricity Supply Tariff Notice

- Guyana Electricity Corporation, Inc. -

Subject to the Act, with effect from the appointed day, the following rates shall be in effect until they are changed in accordance with the First Schedule.

Part A

Tariff 'A'	--	(Residential)		
		Fixed Charge	--	\$150 per month
		Energy Charge	--	\$15.91 per kwh
Tariff 'B'	--	(Commercial)		
		Fixed Charge	--	\$1 000 per month
		Energy Charge	--	\$23.00 per kwh
Tariff 'C'	--	(Small Industries)		
		Demand Charge		\$750 per kVA
		Energy Charge Up to 4000 kwh + 120 kwh per kVA of billing		\$21.28 per kwh
		For additional consumption per month	--	\$18.63 per kwh
Tariff 'D'	--	(Large Industries)		
		Demand Charge		\$750 per kVA
		Energy Charge Up to 4000 kwh + 120 kwh per kVA of billing	--	\$20.13 per kwh
		For additional consumption per month	--	\$17.48 per kwh
Tariff 'E'	--	(Street Lighting)		
		Energy Charge	--	\$17.09 per kwh

Part B

Survey fee	--	\$700
Security deposit	--	\$2000 per kVA up to 1.5 kVA installed, and \$3000 per kVA where installed capacity is in excess of 1.5 kVA.

$$\text{kVA} = \frac{\text{Volts} \times \text{Amperes} \times \text{Phase}}{1000}$$

THIRD SCHEDULE S .23, 26(4), 29(1), 30**Public Electricity Supply Regulations**

1. These Regulations may be cited as the Public Electricity Supply Regulations and shall come into operation on such day as the Minister may by order appoint in accordance with section 1(2)
2. (1) In these Regulations -
 - (a) "appropriate meter" means an electricity meter of a pattern and construction which, having regard to the characteristics of the supply of electricity and of the charges therefor, are particularly suitable for such supply and which is installed and connected with the service lines in a manner approved by a Government Electric Inspector, and every reference to a "meter" in this Schedule includes "appropriate meter";
 - (b) "consumer" means any owner or occupier of premises to which a public supplier supplies, or has been requested to supply, electricity, or whose premises are connected, directly or indirectly, with any electric line or other electrical apparatus of a public supplier through which electricity is, or is capable of being, supplied;
 - (c) "installation", in relation to a consumer, means every electrical appliance, wire, circuit, wall socket, equipment, machine, motor and other apparatus on the premises to which a public supplier supplies electricity and which is not the property of the public supplier.
- (2) For any other term used in this Schedule which is defined in section 2, the definition in section 2 shall apply
3. A public supplier shall maintain, and shall make available free of charge, the forms necessary for a consumer to apply for a supply of electricity in accordance with sections 22 and 23.

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4. (1) Prior to supplying electricity to any consumer requiring a supply of electricity pursuant to section 22, a public supplier may require such consumer to provide, in a form satisfactory to the public supplier -
- (a) in any case in which the supply of electricity is requested for a building or erection and, in order to supply electricity, the public supplier would be required to place electric wires or other electrical apparatus over, on or under land not owned by the owner or occupier of such building or other erection, documentation as to the identity of the person holding legal title to such land (other than a governmental authority) and permission from such legal title holder for the placement of the electric wires or other electrical apparatus over, on or under such land;
 - (b) in any case in which a consumer requires a supply of electricity as the owner of premises, documentation that such consumer holds legal title to the premises;
 - (c) in any case in which a consumer requires a supply of electricity as the occupier of premises, documentation that such consumer is authorised to occupy the premises by -
 - (i) the Central Housing and Planning Authority; or
 - (ii) the legal title holder of such premises.
- (2) It shall be the duty of any person, from whom a consumer requests documents in order to provide them to a public supplier under subparagraph (1), promptly to provide the documents to the consumer or the public supplier.
- (3) In addition to any documentation required by a public supplier under subparagraph (1), a consumer applying for a supply of electricity shall obtain any other necessary permissions and licences for the public supplier's entry upon the premises, and for the erection, attachment or installation of such electricity meters, electric lines and other electrical apparatus as may be required by the public supplier for the safe supply of electricity to the premises.
5. A public supplier shall not be required to connect a supply of electricity before -
- (a) the consumer requiring the supply has accepted the notice given by the public supplier in accordance with section 23 and has provided any documentation requested by the public supplier under paragraph 4
 - (b) the premises and installation to which it is to be connected have been approved by the public supplier and the Government Electric Inspector; and

- (c) the consumer has paid the security payable in respect thereof and has complied with any other applicable provisions of the Act and these Regulations.
6. No person shall be entitled to assign the benefit of his supply contract, or his right to a supply of electricity under section 23 of the Act, nor shall he sell or supply or cause to be sold or supplied to any other person or premises any electricity supplied, without first obtaining the written approval of the public supplier.
7. (1) Subject to subparagraphs (2) and (3) and paragraph 8, a public supplier may recover from a consumer any charges due to him in respect of the supply of electricity, or in respect of the provision of any electricity meter, electric line or other electrical apparatus.
- (2) Nothing in this Act shall be construed as preventing a public supplier from billing a consumer retroactively for electricity consumption for a maximum period of six months prior to the issuance of such a bill, upon the presentation of reasonable evidence that the consumer was not previously billed for such consumption, and the rates reflected in such a bill should be those in effect at the time the consumption of electricity occurred
- (3) Notwithstanding anything in paragraph 8 -
- (a) whenever a transformer is installed by a public supplier for the purpose of supplying electricity to a single consumer, the public supplier shall be entitled to require such consumer to pay all or a part of the cost of the transformer and its installation;
- (b) whenever a consumer's installation is connected to a public supplier's transformer through which three or fewer other consumers are supplied with electricity and those consumers, or any of them, paid all or a part of the cost of the transformer and its installation, the public supplier shall be entitled to require such consumer to bear a pro rata portion of the cost of the transformer and its installation, and if the public supplier so assesses such consumer, the public supplier shall allocate the consumer's payment of the assessment pro rata to such other consumers, or any of them;
- (c) notwithstanding the payment of any assessment made under subparagraphs (a) and (b), the transformer shall remain the property of the public supplier;
- (4) No fee shall be payable by a consumer for the installation of a meter where the supply of electricity is to be provided for a period exceeding six months, but, in any other case, a public supplier may make a charge for such installation.

8. If requested by a consumer for premises sixty feet or less from an existing electrical line of a public supplier, such public supplier shall supply electricity to the point of entry of the premises -
- (a) within twenty-one days after the consumer has complied with paragraph 5; and
 - (b) without charge for installing the electric lines or other electrical apparatus necessary to provide the supply to the point of entry of the premises.
9. If requested by a consumer for premises more than sixty feet but less than one mile from an existing electrical line of a public supplier, such public supplier shall supply electricity to the point of entry of such premises -
- (a) within six months after the consumer has complied with paragraph 5; and
 - (b) the public supplier may require the consumer to bear the cost of installing the electrical lines or any other electrical apparatus necessary to provide such supply beyond sixty feet from the existing electrical line.
10. Without prejudice to a public supplier's rights under these Regulations to collect from a consumer any charges due -
- (a) a supply contract may be terminated at any time by the consumer to whom the public supplier supplies electricity by such consumer giving to the public supplier not less than seven days notice in writing;
 - (b) every consumer shall give notice that he intends to quit the premises to which electricity is being supplied by a public supplier at least twenty-one days prior to the date on which the consumer actually quits such premises, and such notice shall state the date on which the consumer requests that the supply of electricity be terminated.
11. (1) Any electricity meter, electric line or other electrical apparatus installed by a public supplier in order to provide a supply of electricity pursuant to this Act shall remain the property of the public supplier, notwithstanding that they may be fixed or fastened to any part of the premises on or in which they may be situated.
- (2) A public supplier may use any electric line or other electrical apparatus connected to premises to which electricity is supplied for the purpose of supplying electricity to another premises.
- (3) No electricity meter, electric line or other electrical apparatus which is the property of a public supplier shall be subject to distress or be liable to be taken in execution under process of any court or any proceedings in bankruptcy against the person (other than the public supplier who owns them) on whose premises they may be.

12. (1) Every consumer shall be responsible for maintaining his installation in a safe condition to the satisfaction of the public supplier and the Government Electric Inspector.
- (2) Neither the connection of the supply of electricity to, nor the approval, inspection or testing of, a consumer's installation or apparatus, or any part thereof, shall imply any warranty that the installation or apparatus, or part thereof, is safe or suitable for any purpose, and neither a Government Electric Inspector, the Government, nor a public supplier shall be liable for any injury, loss or damage resulting directly or indirectly from any defect or inadequacy in a consumer's installation or apparatus.
- (3) Where the supply contract between a consumer and a public supplier requires the public supplier to supply the consumer with a maximum power of any specified amount, the consumer shall not be entitled to alter that maximum except upon giving one month's prior notice in writing to the public supplier, and if such alteration is approved by the public supplier, the terms and conditions of the consumer's supply may be varied as may be appropriate, with the consumer to bear any expense reasonably incurred by the public supplier in respect of the electric lines or other apparatus by which electricity is supplied to the consumer's premises consequent on the approved alteration.
- (4) A public supplier may install protective apparatus on a consumer's premises for the purpose of disconnecting the supply of electricity in the event that the consumer's installation is being, or may be, used in a manner likely to cause a demand for electricity that exceeds the public supplier's installed capacity for the area in which the premises are situated.
- (5) If any apparatus that is a part of a public supplier's system is damaged or fails to operate due to a defect in a consumer's installation, the public supplier may make such alteration or repair to the consumer's installation as is necessary to prevent against further damage or to overcome the failure, and the consumer shall reimburse the public supplier for the cost of such alteration or repair and of any such damage to the public supplier's system.
- (6) A public supplier may, intentionally and temporarily, reduce the quantity of electricity supplied to any consumer if, due to an unforeseen circumstance beyond the public supplier's control, it reasonably appears to the public supplier that the supply of electricity generated is or will be insufficient to enable the public supplier to carry out its obligations to supply electricity under this Act or the terms of its licence.
- (7) A public supplier, at its own discretion, may temporarily discontinue or disconnect the supply of electricity to a consumer's premises for the purpose of testing or effecting repairs or alterations to the public supplier's system, or to its or the consumer's installation on the premises, or in the event of an occurrence affecting or likely to affect the proper working of such system or installation.

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- (8) Except as otherwise provided in the Act, these Regulations, or a licence, a public supplier shall not be entitled to prescribe any special form of installation to be used by a consumer, or to control or interfere with the manner in which electricity supplied to a consumer is used:

Provided that no consumer may use any installation, or the electricity supplied to him, in any manner so as to damage the property of a public supplier or to interfere with the supply of electricity to any other consumer, or in contravention of the Act, any regulations made thereunder, or a licence issued under the Act.

13. (1) Any Government Electric Inspector and any official authorised by a public supplier may at all reasonable times, on the production of some duly authenticated document showing his authority, enter any premises to which electricity will be, is being, or has been, supplied by the public supplier for the purposes of -
- (a) installing, inspecting, repairing, altering or removing any electricity meter, electric line, or other electrical apparatus on the premises;
 - (b) ascertaining the quantity of electricity supplied;
 - (c) connecting or disconnecting the supply of electricity;
 - (d) carrying out any other purpose of the Act or these Regulations,

and every consumer shall ensure that such persons are permitted to enter the premises at all reasonable times for those purposes.

- (2) Any official exercising the powers of entry conferred by this paragraph may be accompanied by such persons as may be necessary or expedient for the purpose for which the entry is made.
14. (1) Unless some other method of measuring the amount of electricity supplied to a consumer's premises shall have been agreed in writing between a consumer and a public supplier, the public supplier shall give the supply through, and measure the supply given by means of, an appropriate meter installed by the public supplier, and if the consumer refuses or fails to take his supply through an appropriate meter, the public supplier may refuse to give or may discontinue the supply of electricity.
- (2) Unless otherwise agreed to by the public supplier, all electricity supplied to a consumer's premises at any one tariff rate shall be supplied through one, and only one, meter.
- (3) The point of supply of electricity and the location of any meter shall be installed on a consumer's premises in a position determined by the public supplier, with the approval of the Government Electric Inspector, unless in all the circumstances the public supplier and the Government Electric Inspector determine it is more reasonable to place it outside those premises or in some other position.

- (4) In addition to any meter which may be placed upon a consumer's premises to ascertain the amount of electricity supplied, a public supplier may place upon such premises any meter or other apparatus necessary to ascertain or regulate either the amount of electricity supplied or the number of hours during which such supply is given or the maximum power taken by the consumer or any other quantity or time connected therewith.
- (5) If a consumer requests that the supply of electricity to his premises should be by a method other than that which the public supplier would ordinarily adopt, the public supplier may, in its discretion, agree to the consumer's request, and the consumer shall pay to the public supplier all costs and expenses incurred in providing the supply which are in excess of the estimated cost to the public supplier of providing the supply by the means it would ordinarily adopt.
- (6) A public supplier may remove any meter that has been tampered with or that has been damaged, by a consumer or otherwise, or any meter that is registering inaccurately:

Provided that, where a public supplier removes a meter under this subparagraph, he shall keep it safely until the Government Electric Inspector authorises him to destroy or otherwise dispose or utilise it.

- (7) A public supplier may require the replacement of any meter installed or may affix a substituted meter, where its replacement or substitution -
- (a) is necessary to secure compliance with the Act or these Regulations; or
- (b) is otherwise reasonable in all the circumstances.
- (8) Every consumer shall be responsible for the safekeeping of the public supplier's meters and all other apparatus installed on his premises for the supply of electricity, and a consumer shall not connect, disconnect, tamper with, alter or otherwise interfere with or permit any person, other than an officer or servant of the public supplier, to interfere with a public supplier's meter or other apparatus.
- (9) The consumer shall be responsible for any damage to or loss or destruction of a public supplier's meter or apparatus or other installation on the consumer's premises caused otherwise than by force majeure or by any act within the control of the public supplier, and the consumer shall pay to the public supplier the replacement cost resulting from any such damage, loss or destruction.
15. (1) Every public utility shall supply its consumers every month, or at such other intervals as may be directed by the Commission in relation to any consumer or class of consumers, with a bill showing the sum payable by the consumer on account of the public supplier's

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supply of electricity during the preceding month, or during such other period as may be directed by the Commission.

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- (2) A public supplier may include in a consumer's bill for the supply of electricity any unpaid charges for work done or services rendered by the public supplier in or about the consumer's supply, including administrative charges for collection and charges for bounced checks, and such charges shall remain subject to the terms and conditions of payment for the supply of electricity under these Regulations and the Public Utilities Commission Act 1997.
- (3) A public supplier's accidental omission to dispatch any bill shall not release a consumer from responsibility for the charges for electricity supplied, work done or services rendered to or for such consumer.
- (4) Except where otherwise expressly agreed between a consumer and a public supplier, every bill shall be payable within twenty-one days of the issue of the bill, and if payment in full is not made within that period, the public supplier may -
 - (a) without notice, disconnect the supply in question, as well as any supply of electricity provided to the same consumer at another premises;
 - (b) assess a single penalty charge in the amount of no more than five hundred dollars;
 - (c) assess the expense of disconnecting any supply of electricity under paragraph (a); and
 - (d) charge interest on the amount remaining unpaid after the twenty-one day period, at the rate of eight percent per annum or at such other rate as may be specified by the Commission,

and, where the consumer renders payment in full of any bill more than twenty-one days after issuance of such bill, any disconnection effected within one working day after the public supplier's receipt of such payment shall be deemed to have been properly made.

- (5) For purposes of these Regulations, a bill shall be deemed to be issued when it is posted.
16. (1) Subject to subparagraphs (2) and (3) and paragraph 17, sums billed to and payable by a consumer shall be for actual electricity supplied and shall be determined by reading the meter through which electricity is supplied to such consumer's premises:

Provided that, if a consumer requests and takes a supply of electricity for a period not exceeding six months, the public supplier supplying the electricity may require that such consumer pay in advance the whole or part of the estimated cost of providing such supply.

- (2) If, for any reason not within a public supplier's control, the public supplier is unable to secure access to read a meter on a consumer's premises, the public supplier may determine the amount of electricity supplied to the premises on the basis of the average monthly consumption of electricity by the consumer during the previous three months.
- (3) If, for a period exceeding two months, a public supplier is unable to read a meter on a consumer's premises due to tampering with the meter or the consumer's failure to ensure that the public supplier has access to the relevant meter, the public supplier shall have the option
 - (a) without notice, to disconnect the supply of electricity to the consumer's premises, and the supply shall not be reconnected until the meter is repaired, re-secured or re-sited on the premises to the satisfaction of the public supplier and the Government Electric Inspector, with the consumer to bear the cost of such repair, re-securing or re-siting of the meter; or
 - (b) to continue the supply of electricity and determine and bill for the amount of electricity supplied on the basis of the estimation made under subparagraph (2) until such time as the public supplier is able to repair, re-secure or re-site the meter or to secure access to the meter, and any such estimation shall be conclusive as to the amount payable by the consumer, who shall also bear the cost of any necessary repair, re-securing or re-siting of the meter

- 17 (1) If, for reasons other than tampering with a meter or the consumer's failure to ensure that the public supplier has access to the relevant meter, a public supplier is unable to read a meter on the consumer's premises or is satisfied that the meter has not accurately registered the amount of electricity supplied to a consumer's premises, the public supplier may determine the amount of electricity supplied on the basis of the average monthly consumption by the consumer during the previous three months:

Provided that the public supplier may determine the amount of electricity supplied pursuant to this subparagraph for a period of no more than two consecutive months, during which the public supplier shall remedy its inability to read the relevant meter or repair, re-secure or re-site such meter in order to ensure that it is accurately registering the amount of electricity supplied

- (2) (a) If a consumer has reason to believe that the meter through which electricity is supplied to his premises is not registering accurately, he may so notify the public supplier in writing to that effect
- (b) If the public supplier is satisfied that the meter may be registering inaccurately, it shall test the meter and carry out any repair that may be necessary without charge to the consumer

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- (c) If the meter tested pursuant to this subparagraph shall be found to be accurate, the consumer shall pay a standard testing fee therefor.
18. (1) If any difference arises between any consumer and a public supplier as to any registering or reading of a meter or any other matter provided in paragraphs 16 and 17, such difference shall be determined on application of either party by a Government Electric Inspector, and the decision of the Government Electric Inspector, including his decision as to which party shall bear the cost of such proceeding, shall be final and binding on the parties.
- (2) In the absence of proof of tampering with the meter or of fraud on the part of the consumer or the public supplier as to the issue to be determined under subparagraph (1), the register of the relevant meter within the parameters previously prescribed by a Government Electric Inspector shall be conclusive.
- (3) Except with the approval of the Government Electric Inspector, no meter, which is the subject of a proceeding to resolve a difference between a consumer and a public supplier, shall be removed or altered by the public supplier or the consumer until after the difference is resolved by agreement of the parties to the difference or by the Government Electric Inspector under this paragraph.
19. If a consumer quits any premises at which electricity has been supplied to him by a public supplier without giving by a public supplier without giving the notice required under paragraph 10(b), in such a manner that the notice is received by the public supplier at least twenty working days before the consumer quits the premises, such consumer shall be liable to pay the public supplier all charges in respect of the supply of electricity to the premises accruing up to whichever of the following first occurs -
- (a) the second working day after the public supplier receives the notice required under paragraph 10(b); or
- (b) the day from which any subsequent owner or occupier of the premises requires the public supplier to supply electricity to the premises.
20. If a consumer quits any premises at which electricity has been supplied to him by a public supplier without first paying all charges due from him in respect of the supply, or the provision of any electricity meter, electric line or other electrical apparatus, or any other charge permitted by these Regulations or the Commission, the public supplier may refuse to furnish such consumer with a supply of electricity at any other premises until he pays the amounts due:

Provided that such public supplier shall not be entitled to require payment of amounts due from a consumer pursuant to this paragraph from the next consumer requiring a supply of electricity to the premises.

21. In addition to a public supplier's right to discontinue the supply of electricity and recover charges due therefor under paragraph 15(4), a public supplier may, without notice, discontinue the supply of electricity to

a consumer's premises or to any other premises owned or occupied by such consumer and recover any amounts due for so doing from such consumer -

- (a) if the consumer fails to comply with any term of his supply contract or the Regulations made under the Act;
- (b) if the consumer intentionally or by culpable negligence damages or allows to be damaged any electricity meter, electric line or other electrical apparatus belonging to a public supplier on the consumer's premises; or
- (c) if there is no valid contract in force in relation to such supply of electricity.

22. Without prejudice to a public supplier's right to discontinue the supply of electricity under these Regulations, an owner of premises, to which a public supplier supplies electricity under a supply contract between the public supplier and the occupier of such premises (such occupier not being the owner of the premises), shall have no authority or right to cause the public supplier to discontinue such supply, except upon presentation to the public supplier of evidence that the occupier is occupying the premises contrary to law, and, except upon the owner's presentation of such evidence, a public supplier shall not discontinue a supply of electricity to such occupier

23. If a consumer is being supplied with electricity by a public supplier at two or more premises and the supply of electricity to one or more of such premises has been disconnected at the consumer's request, or otherwise pursuant to these Regulations, the public supplier may include, in its bills for the supply of electricity to such premises which remain connected, any amount due in respect of the disconnected supply, and the total amount included in the bill shall be deemed to be the charge for the supply of electricity to the connected premises.

24. If a supply of electricity to a consumer's premises is disconnected under these Regulations, the supply shall be reconnected only after -

- (a) the consumer shall have paid in full all amounts due to the public supplier, including the cost of disconnecting and reconnecting any supply of electricity;
- (b) the consumer shall have -
 - (i) paid the public supplier for any damage to the public supplier's electricity meter, electric lines or other apparatus,
 - (ii) rectified any failure to comply with any term of his supply contract or any provision of the Act or these Regulations, and
 - (iii) a valid supply contract shall be in force as to such supply of electricity; and
- (c) the consumer has given any security as may be required by the public supplier under section 28 of the Act

25. Upon the consumer's compliance with paragraph 24, a public supplier shall be required to reconnect any supply of electricity that has been disconnected pursuant to these Regulations within two working days of such compliance.
26. Where a supply of electricity to any premises has been disconnected pursuant to these Regulations, no person other than the public supplier shall, without the written consent of the public supplier, restore the supply.

Penalties and Liabilities

27. In addition to the penalties in the Act, the following penalties shall apply to violations of these Regulations -
- (1) Any person who fails to provide to a consumer the documents required by a public supplier under paragraph 4(1) and (2) except where such documents are not available to such person or it is unreasonable in the circumstances to require such person to provide them, shall be guilty of an offence and upon summary conviction shall be liable to a fine not exceeding ten thousand dollars and to imprisonment for six months.
 - (2) Any person who provides fraudulent documents to a public supplier requiring such documents under these Regulations shall be guilty of an offence and upon summary conviction shall be liable to a fine not exceeding ten thousand dollars and to imprisonment for six months.
 - (3) Any person who assaults, molests, hinders or obstructs any Government Electric Inspector, any official of a public supplier, or any accompanying person authorised under paragraph 13(2) in making or attempting to make any entry or inspection or in executing any of the works authorised by the Act or these Regulations, shall be guilty of an offence and upon summary conviction shall be liable to a fine not exceeding ten thousand dollars and to imprisonment for six months.
 - (4) Any person who maliciously, intentionally or by culpable negligence damages or allows to be damaged any electricity meter, electric line or other electrical apparatus belonging to a public supplier or any public light or other electric installation for the benefit of the public, or who otherwise maliciously, intentionally or by culpable negligence causes any interruption to the supply of electricity, or incites any other person to do so, shall be guilty of an offence and on summary conviction shall be liable to a fine not exceeding ten thousand dollars and to imprisonment for six months.
 - (5) Any person who intentionally, fraudulently or by culpable negligence alters the register of any meter used for measuring the amount of electricity supplied to any premises by a public supplier or who prevents such meter from duly registering the amount of electricity supplied shall be guilty of a felony and on summary conviction shall be liable to a fine not exceeding ten thousand dollars and to imprisonment for one year.

- (6) Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes, or uses, any electricity shall be guilty of an offence and on summary conviction shall be liable to a fine not exceeding ten thousand dollars and to imprisonment for one year.
- (7) Any person whose supply of electricity may have been disconnected for any reason permitted by these Regulations and who shall himself restore, or who shall procure any other person to restore or to apply for a supply of electricity in the name of such other person but for the benefit of himself, shall be guilty of a felony and on summary conviction shall be liable to a fine not exceeding ten thousand dollars and to imprisonment for six months.
- (8) Any person who removes or alters a meter that is subject to a proceeding under paragraph 18 shall be guilty of an offence and upon summary conviction shall be liable to a fine not exceeding ten thousand dollars and to imprisonment for six months.
28. Where any person is prosecuted for an offence under the Act or these Regulations, the possession by him (either on his premises or otherwise) of artificial means or any other apparatus for causing an alteration of the register of a meter or the prevention of the meter from duly registering, or for abstracting, diverting, wasting, consuming or using electricity, shall, if the meter was in his custody or under his control or if the artificial means or other apparatus was so placed on his premises so as to alter or prevent the registration of the meter or to abstract, divert, waste, consume or use electricity, be *prima facie* evidence that the alteration, prevention, abstraction, consumption or use was intentionally, fraudulently, or willfully caused by him.
29. If any offence of which a person is convicted is continued by such person after conviction, he shall be guilty of a further offence and liable to a fine of two thousand dollars for every day on which the offence is continued.
30. In addition to the penalties imposed in the Act and these Regulations, a public supplier may recover from any person the amount of any loss sustained by the public supplier due to such person's damaging, or allowing to be damaged, any electricity meter, electric line or other apparatus or installation belonging to the public supplier, or due to such person's alteration of the registration of any electricity meter or prevention of its due registration or unauthorised reconnection of an electricity supply, or due to such person's abstraction, diversion, waste, consumption or use of electricity, and such person shall be liable to compensate the public supplier for the replacement value of such property of the public supplier
31. The penalties and liabilities imposed in these Regulations are without prejudice to any other right or remedy for the protection of a public supplier or the punishment of the offender, and any penalties for violations of these Regulations, the punishment for which or the recovery of which is not otherwise specially provided for herein, may be imposed or recovered under the Summary Jurisdiction Acts.
32. (1) Subject to subparagraph (2), a public supplier who fails or refuses to supply electricity to any consumer otherwise than as authorised by this Act or any regulations made thereunder, shall be liable on summary conviction, in respect of each consumer in respect of whom he fails or refuses to supply electricity, to a fine of five

thousand dollars for each day during which the offence is continued.

- (2) In any proceedings under subparagraph (1), it shall be a defence for the public supplier charged to prove -
- (a) that such supply of, or failure or refusal to supply, electricity was due to -
 - (i) an unavoidable accident;
 - (ii) latent wear and tear to the public supplier's electrical apparatus or installation;
 - (iii) overloading due to any unauthorised connection, directly or indirectly, to the public supplier's or the consumer's system, apparatus or installation;
 - (iv) the reasonable requirements of the public supplier in the proper performance of its obligations under a licence or this Act; or
 - (v) defects in any electrical apparatus or installation not provided by the public supplier; and
 - (b) that it took all reasonable precautions and exercised all due diligence to avoid such unauthorised supply of, or failure or refusal to supply, electricity.
- (3) Any difference or dispute arising between a public supplier and a consumer under this paragraph shall be determined by arbitration as provided in section 64.

EXPLANATORY MEMORANDUM

The Electricity Sector Reform Bill 1997 (ESRA) repeals and replaces the two major laws that currently govern Guyana's electricity sector, i.e., the Electricity Act, which created and regulated Guyana Electricity Corporation (GEC) as a wholly Government-owned corporation, and the Electric Lighting Act, which was originally enacted in the late 1800's. The Bill consists of four major parts and three Schedules that comprehensively reform the electricity sector. Following a preliminary part that provides definitions of the terms utilized in the law, Part II of the Bill creates a modernized regulatory structure for the Government's licensing of the supply of electricity by both public suppliers (such as GEC and independent power producers) and private suppliers (such as individuals and companies that self-generate for emergency purposes or that are outside of the GEC franchise area). Part II ensures that, unless terminated in accordance with its terms or revoked in accordance with its provisions, a licence will remain in effect for the full term for which it is granted. Part II also contains detailed standards and procedures for monitoring compliance with the terms of licences for the supply of electricity, for modifying, extending, suspending or revoking licences; and for appealing a suspension or revocation of a licence. To ensure that licence-holders are treated equitably upon the revocation, termination or non-renewal of their licences, Part II also contains a provision establishing the principles and procedures through which the Government, or its designee, can purchase -- at fair market value -- the shares of a public supplier. This provision also ensures that, if the Government does not exercise its right to purchase (or designate a purchaser of) the public supplier's shares, the public supplier is free to sell its business as it sees fit.

Part II of the ESRA continues with provisions governing the principles upon which public suppliers of electricity, e.g., companies that supply electricity to consumers, are empowered and are required to operate. It empowers public suppliers in areas such as the erection and maintenance of their lines and other installations and, with the Government's assistance, the acquisition of land for use in supplying electricity to the public. Part II, as supplemented by new Public Electricity Supply Regulations appended as the Third Schedule to the Bill, defines the relationship between public suppliers and consumers in such comprehensive areas as formation of contracts to supply electricity, the charges that can be levied for electricity, billing parameters, the use of electricity meters, penalties for the theft of electricity or destruction of a public supplier's property, and dispute resolution between public suppliers and consumers. Part II also defines the broad principles governing the rates that can be charged to consumers by public suppliers, and, as an integral part of the transaction between the Government and the Strategic Investor in GEC, the First and Second Schedules to the Bill in conjunction with GEC's licence, set forth the specialized procedures, principles and formulae for the Public Utilities Commission's determination of the rates that GEC will be permitted to charge consumers. Part II concludes with provisions that require all public suppliers to maintain annual and rolling five-year sustainability programs that must be submitted to the Public Utilities Commission on an annual basis for approval. The concluding sections of Part II also set forth the types of books, records, accounts and performance statistics that must be maintained by a public supplier and submitted to the Government and made available to the public on an annual basis.

Part III of the Bill accomplishes the reform of the Guyana electricity sector necessary to effect GEC's transition from a statutorily-created, wholly

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Government-owned corporation to a corporation governed by the Companies Act 1991 and operated in accordance with commercial principles. Part III also empowers the Minister to issue shares in GEC to the Government and the Strategic Investor, concurrent with the closing of the investment in GEC, and to issue orders as necessary to effect the orderly transition of GEC to a Companies Act corporation. Part III effects the continuation of the GEC's exclusive right to supply electricity (which otherwise would have been extinguished with repeal of the Electricity Act), and extends that right for a period to twenty-five years in accordance with a licence to be issued by the Government at the closing with the Strategic Investor. (The licence will be exclusive for transmission and distribution for twenty-five years, but exclusive as to generation of electricity for only the first ten years of the twenty-five year licence term.) Finally, Part III sets forth the principles governing such matters as rural electrification and the relationship between GEC and independent power producers.

Part IV of the Bill defines the Minister's regulatory powers and, by their definition, limits those powers to areas that are appropriate to governmental regulations, e.g., public safety, the definition of technical standards and the procedure for licensing the supply of electricity, environmental protection, and matters affecting national energy policy. Part IV also requires that, before taking any action authorized or required by the Act, the Minister apply a test that balances the consumers' interest, public safety, the financial health of electricity providers, investor interest in achieving a guaranteed or reasonable rate of return on capital invested, and the national interest in enforcing the Bill, protecting the environment and carrying out national energy policy. Part IV also defines an electricity suppliers liability and immunity from liability during the course of supplying electricity and establishes arbitration procedures for the resolution of disputes by arbitration. Finally, Part IV sets forth the penalties for violations of the Act.

SAMUEL A. HINDS
President.